

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION  
**REQUEST FOR PROPOSAL**

URBAN FEDERAL AID PROJECT NO. NHU-6-986(131) (PCN-22682)

0.234 Miles

GRADING, AGGREGATE BASE, PCC PAVEMENT, STRUCTURE IMPROVEMENTS, STORM SEWER, SANITARY  
SEWER FORCEMAIN, SIDEWALK, SIGNING, PAVEMENT MARKING, TRAFFIC SIGNALS, LIGHTING, CITY  
UTILITIES

COLUMBIA RD, FROM BNR STRUCTURE OVERPASS TO NEAR 4TH AVE N (GRAND FORKS)

GRAND FORKS COUNTY

DBE Race Conscious Goal - 6.00%

**BID OPENING:** The bidder's proposal will be accepted via the Bid Express on-line bidding exchange at [www.bidx.com](http://www.bidx.com) until **09:30AM Central Time on March 12, 2021.**

Prior to submitting a Proposal, the Bidder shall complete all applicable sections and properly execute the Proposal Form in accordance with the specifications.

**Proposal Form of:**

\_\_\_\_\_  
(Firm Name)

\_\_\_\_\_  
(Address, City, State, Zipcode)

(For official use only)

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**Project:** NHU-6-986(131) (PCN-22682)

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The company, firm, corporation, or individual hereby acknowledges that it has designated a responsible person or persons as having the authority to obligate the company, firm, or individual, through electronic or paper submittal, to the terms and conditions described herein and in the contract documents. The designated responsible person submitting this proposal shall be hereafter known as the bidder. By submitting this proposal, the bidder fully accepts and agrees to all the provisions of the proposal. The bidder also certifies that the information given in this proposal is true and the certifications made in this proposal are correct.

The bidder acknowledges that they have thoroughly examined the plans, proposal form, specifications, supplemental specifications, special provisions and agrees that they constitute essential parts of this proposal.

The bidder acknowledges that all line items which contain a quantity shall have a unit price bid. Any line item which is bid lump sum shall contain a lump sum bid price.

The bidder acknowledges that they understand that the quantities of work required by the plans and specifications are approximate only and are subject to increases and decreases; the bidder understands that all quantities of work actually required must be performed and that payment therefore shall be at the prices stipulated herein; that the bidder proposes to timely furnish the specified materials in the quantities required and to furnish the machinery, equipment, labor and expertise necessary to competently complete the proposed work in the time specified.

#### **NON-COLLUSION AND DEBARMENT CERTIFICATION**

The bidder certifies that neither he/she, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid.

By submitting this proposal, the bidder certifies to the best of his/her knowledge and belief that he/she and his/her principles:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
- b. 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 perform 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

**Project:** NHU-6-986(131) (PCN-22682)

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- c. 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 b. of the certification; and
  - d. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or Local) terminated for cause or default

Where the prospective bidder is unable to certify to any of the statements in this certification, the bidder shall submit an explanation in the blanks provided herein. The explanation will not necessarily result in denial of participation in a contract:

Explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the prequalified bidder's status changes, he/she shall immediately submit a new fully executed non-collusion affidavit and debarment certification with an explanation of the change to the Contract Office prior to submitting the bid.

Failure to furnish a certification or an explanation will be grounds for rejection of a bid.

**BID LIMITATION (Optional)**

The bidder who desires to bid on more than one project on which bids are to be opened on the same date, and who also desires to avoid receiving an award of more projects than the bidder is equipped to handle, may bid on multiple projects and limit the total amount of work awarded to the bidder on selected projects by completing the "Bid Limitation".

The Bid Limitation must be filled in on each proposal form for which the Bidder desires protection. Each such proposal must be covered by a proposal guaranty.

The bid limitation can be made by declaring the total dollar value of work OR total number of projects a bidder is willing to perform.

The Bidder desires to disqualify all of his/her bids on this bid opening that exceed a total dollar value of \$ \_\_\_\_\_

OR

that exceed a total number of \_\_\_\_\_ projects.

The Bidder hereby authorizes the Department to determine which bids shall be disqualified.

**Project:** NHU-6-986(131) (PCN-22682)

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**PERMISSIBLE DISCOUNT (optional)**

Only when invited to do so in the Request for Proposal by Special Provision, Bidders are permitted to offer a discount on a specific project (discount project) if they are awarded the contract on one or more additional projects bid at the same bid opening time and date. The bidder must present the proposal so that it can be considered with or without the discount. The bid or discount offered on the "discount project" will not affect the determination of the low bid of any other project.

When discounts are offered, they must be presented as a reduction in the unit price for one or more items of work in the specified proposal (discount project).

Space for Offering Discounts:

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Item No: \_\_\_\_\_

Description: \_\_\_\_\_

Unit: \_\_\_\_\_

Proposal Quantity: \_\_\_\_\_ Unit Price Reduction: \$ \_\_\_\_\_ Discount: \$ \_\_\_\_\_

Item No: \_\_\_\_\_

Description: \_\_\_\_\_

Unit: \_\_\_\_\_

Proposal Quantity: \_\_\_\_\_ Unit Price Reduction: \$ \_\_\_\_\_ Discount: \$ \_\_\_\_\_

Item No: \_\_\_\_\_

Description: \_\_\_\_\_

Unit: \_\_\_\_\_

Proposal Quantity: \_\_\_\_\_ Unit Price Reduction: \$ \_\_\_\_\_ Discount: \$ \_\_\_\_\_

TOTAL DISCOUNT \_\_\_\_\_

It is understood that the discount will only apply if awarded under the conditions as listed above and signed by the bidder.

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**RECEIPT OF ADDENDA ACKNOWLEDGEMENT**

We hereby acknowledge receipt of the following addenda:

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

**PROPOSAL GUARANTY**

A proposal guaranty is required. The proposal guaranty must comply with Section 102.09, "Proposal Guarantee" of the Standard Specifications.

TYPE OF PROPOSAL GUARANTY APPLIED TO THIS PROJECT (Check one):

\_\_\_\_\_ Annual Bid Bond\*

\_\_\_\_\_ Single Project Bid Bond

\_\_\_\_\_ Certified or Cashier's Check

\*Annual Bid Bond is required when submitting proposals electronically

BID ITEMS

Project: NHU-6-986(131) (PCN-22682)

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
001	103	0100	CONTRACT BOND	L SUM	1.				
002	201	0352	REMOVAL OF TREES & BRUSH	L SUM	1.				
003	202	0105	REMOVAL OF STRUCTURE	L SUM	1.				
004	202	0111	REMOVAL OF CONCRETE	L SUM	1.				
005	202	0114	REMOVAL OF CONCRETE PAVEMENT	SY	12,689.				
006	202	0130	REMOVAL OF CURB & GUTTER	LF	2,687.				
007	202	0132	REMOVAL OF BITUMINOUS SURFACING	SY	225.				
008	202	0151	REMOVE PRECAST CONCRETE BARRIER	LF	78.				
009	202	0174	REMOVAL OF PIPE ALL TYPES AND SIZES	LF	992.				
010	202	0210	REMOVAL OF MANHOLES	EA	6.				
011	202	0235	REMOVAL OF CATCH BASIN	EA	9.				
012	203	0101	COMMON EXCAVATION-TYPE A	CY	2,962.				
013	203	0109	TOPSOIL	CY	274.				
014	203	0138	COMMON EXCAVATION-SUBCUT	CY	550.				
015	210	0099	CLASS 1 EXCAVATION	L SUM	1.				
016	210	0210	FOUNDATION FILL	CY	352.				

BID ITEMS

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Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
017	251	0300	SEEDING CLASS III	ACRE	.540				
018	253	0201	HYDRAULIC MULCH	ACRE	.540				
019	265	0100	STABILIZED CONSTRUCTION ACCESS	EA	1.				
020	302	0100	SALVAGED BASE COURSE	TON	6,894.				
021	302	0120	AGGREGATE BASE COURSE CL 5	TON	615.				
022	550	0300	8IN NON-REINF CONCRETE PVMT CL AE-DOWELED	SY	9,810.				
023	602	0130	CLASS AAE-3 CONCRETE	CY	66.				
024	602	1133	CONCRETE BRIDGE APPROACH SLAB	SY	121.500				
025	602	7000	SPECIAL SURFACE FINISH	SF	2,165.				
026	612	0115	REINFORCING STEEL-GRADE 60	LBS	11,159.				
027	612	0116	REINFORCING STEEL-GRADE 60-EPOXY COATED	LBS	1,341.				
028	624	0140	PIPE RAIL	LF	30.				
029	702	0100	MOBILIZATION	L SUM	1.				
030	704	0100	FLAGGING	MHR	40.				
031	704	1000	TRAFFIC CONTROL SIGNS	UNIT	2,516.				
032	704	1052	TYPE III BARRICADE	EA	43.				



BID ITEMS

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Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
033	704	1054	SIDEWALK BARRICADE	EA	14.				
034	704	1060	DELINEATOR DRUMS	EA	35.				
035	704	1067	TUBULAR MARKERS	EA	41.				
036	704	1087	SEQUENCING ARROW PANEL-TYPE C	EA	2.				
037	708	1540	INLET PROTECTION-SPECIAL	EA	18.				
038	708	1541	REMOVE INLET PROTECTION-SPECIAL	EA	18.				
039	709	0100	GEOSYNTHETIC MATERIAL TYPE G	SY	11,031.				
040	714	0110	PIPE CONC REINF 12IN CL III	LF	244.				
041	714	0205	PIPE CONC REINF 15IN CL III	LF	73.				
042	714	0310	PIPE CONC REINF 18IN CL III	LF	52.				
043	714	0820	PIPE CONC REINF 30IN CL III	LF	510.				
044	714	0905	PIPE CONC REINF 36IN CL III	LF	155.				
045	714	9720	UNDERDRAIN PIPE PVC PERFORATED 4IN	LF	320.				
046	714	9910	FLAP GATE 18IN	EA	1.				
047	722	0110	MANHOLE 60IN	EA	8.				
048	722	0120	MANHOLE 72IN	EA	1.				

BID ITEMS

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Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
049	722	0130	MANHOLE 84IN	EA	1.				
050	722	1110	MANHOLE RISER 60IN	LF	84.				
051	722	1120	MANHOLE RISER 72IN	LF	11.				
052	722	1130	MANHOLE RISER 84IN	LF	12.				
053	722	3500	INLET-TYPE 1	EA	8.				
054	722	6140	ADJUST GATE VALVE BOX	EA	11.				
055	722	6160	ADJUST INLET	EA	10.				
056	722	6200	ADJUST MANHOLE	EA	10.				
057	724	0270	REMOVE GATE VALVE & BOX	EA	2.				
058	724	0315	GATE VALVE & BOX 10IN	EA	2.				
059	724	0420	HYDRANT-RELOCATE	EA	1.				
060	724	0891	WATERMAIN MODIFICATIONS	L SUM	1.				
061	724	7150	PLUG VALVE & BOX	EA	1.				
062	724	9024	FORCEMAIN 10IN	LF	90.				
063	724	9032	FORCEMAIN 24IN	LF	175.100				
064	724	9040	FORCEMAIN - BORED	LF	534.800				

BID ITEMS

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Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
065	724	9110	PLUG FORCEMAIN	LF	759.				
066	724	9115	FORCEMAIN CONNECTION	EA	2.				
067	724	9120	FORCEMAIN BYPASS	L SUM	1.				
068	724	9125	FORCEMAIN DRAIN DOWN	L SUM	1.				
069	724	9130	FORCEMAIN ARV SRUCTURE	EA	1.				
070	724	9135	REMOVE FORCEMAIN ARV STRUCTURE	EA	1.				
071	724	9156	24IN 45DEG BEND	EA	4.				
072	724	9168	24IN X 24IN X 10IN TEE	EA	2.				
073	740	0160	WATERPROOFING MEMBRANE	SY	380.				
074	744	0050	INSULATION BOARD	CF	424.				
075	748	0190	CURB & GUTTER-TYPE I 30IN	LF	2,348.				
076	750	0100	SIDEWALK CONCRETE	SY	1,774.				
077	750	0110	SIDEWALK BRICK PATTERN	SY	118.				
078	750	0210	CONCRETE MEDIAN NOSE PAVING	SY	2.				
079	750	0250	CONCRETE MEDIAN PAVING COLORED W/BRICK PATTERN	SY	8.				
080	750	1000	DRIVEWAY CONCRETE	SY	42.				

BID ITEMS

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Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$	000	\$\$\$\$	00
081	752	0640	FENCE CHAIN LINK RESET	LF	30.				
082	752	0911	TEMPORARY SAFETY FENCE	LF	500.				
083	754	0110	FLAT SHEET FOR SIGNS-TYPE XI REFL SHEETING	SF	437.				
084	754	0112	FLAT SHEET FOR SIGNS-TYPE IV REFL SHEETING	SF	13.800				
085	754	0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	LF	107.				
086	754	0592	RESET SIGN PANEL	EA	2.				
087	754	1104	REMOVE SIGN FOUNDATION	EA	1.				
088	762	0112	EPOXY PVMT MK MESSAGE	SF	224.				
089	762	0113	EPOXY PVMT MK 4IN LINE	LF	3,897.				
090	762	0114	EPOXY PVMT MK 6IN LINE	LF	1,048.				
091	762	0117	EPOXY PVMT MK 24IN LINE	LF	318.				
092	770	0020	CONCRETE FOUNDATION-HIGHWAY LIGHTING	EA	9.				
093	770	0210	CABLE TRENCH-TYPE I	LF	2,560.800				
094	770	0330	2IN DIAMETER RIGID CONDUIT	LF	2,560.800				
095	770	0504	UNDERGROUND CONDUCTOR NO4-TYPE RHW	LF	5,601.600				
096	770	0605	UNDERGROUND CONDUCTOR NO6-TYPE THW	LF	2,800.800				

BID ITEMS

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Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
097	770	1666	LT STD 6FT MA 30FT MT HT BREAKAWAY	EA	9.				
098	770	4210	LED LUMINAIRE	EA	1.				
099	770	4211	LED LUMINAIRE - TYPE A	EA	9.				
100	770	4212	LED LUMINAIRE - TYPE B	EA	8.				
101	770	4560	REMOVE LIGHT STANDARD	EA	8.				
102	770	4570	REMOVE STREET LIGHT LUMINAIRE	EA	14.				
103	770	4582	REMOVE CONCRETE FOUNDATION	EA	8.				
104	770	7001	LT POLES & LUMINAIRES-SUPPLY ONLY	EA	1.				
105	770	9270	MODIFY EXISTING FEED POINT	EA	2.				
106	772	9200	IT SYSTEM	EA	1.				
107	772	9811	TRAFFIC SIGNAL SYSTEM - SITE 1	EA	1.				
108	772	9812	TRAFFIC SIGNAL SYSTEM - SITE 2	EA	1.				
109	920	0090	LIFT STATION	EA	1.				
110	920	3018	STAIRWELL MODIFICATION	EA	2.				
111	930	9612	SPALL REPAIR	SF	230.				
112	970	0365	SHELTER	EA	2.				

**BID ITEMS**

**Project: NHU-6-986(131) (PCN-22682)**

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Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
113	970	1011	LANDSCAPE PLANTINGS	L SUM	1.				
114	970	2017	HOT WING MAPLE	EA	2.				
115	970	2202	SPRING SNOW CRABAPPLE	EA	1.				
116	990	0210	TEMPORARY PEDESTRIAN WALKWAY	L SUM	1.				
			<b>TOTAL SUM BID</b>						

**Project:** NHU-6-986(131) (PCN-22682)

**Type of Work:** GRADING, AGGREGATE BASE, PCC PAVEMENT, STRUCTURE IMPROVEMENTS, STORM SEWER, SANITARY SEWER FORCEMAIN, SIDEWALK, SIGNING, PAVEMENT MARKING, TRAFFIC SIGNALS, LIGHTING, CITY UTILITIES

**County:** GRAND FORKS

**Length:** 0.2340 Miles

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**TIME FOR COMPLETION:**

The undersigned Bidder agrees, if awarded the contract, to prosecute the work with sufficient forces and equipment to complete the contract work within the allowable time specified as follows:

**WORKING DAY CONTRACT:** NA working days are provided. The Department will begin charging working days beginning NA or the date work begins on the project site, whichever is earlier.

**CALENDAR DAY CONTRACT:** NA calendar days are provided. The completion date will be determined by adding NA calendar days to NA or the date work begins on the project site, whichever is earlier.

**COMPLETION DATE CONTRACT** The project completion date is 11/01/2021 \*. The Department provides a minimum of NA working days. The Department will begin charging working days beginning NA or the date work begins on the project site, whichever is earlier.

**\*THIS DATE IS FOR ALL WORK.**

**THERE IS AN INTERIM COMPLETION DATE OF AUGUST 14, 2021. REFER TO NOTE 100-P01 COMPLETION DATES FOR ADDITIONAL TIME REQUIREMENTS OF THE INTERIM COMPLETION DATE AND INTERSECTION CLOSURES. LIQUIDATED DAMAGES FOR FAILURE TO COMPLETE THE WORK ARE ALSO INCLUDED.**

**Project:** NHU-6-986(131) (PCN-22682)

**Type of Work:** GRADING, AGGREGATE BASE, PCC PAVEMENT, STRUCTURE IMPROVEMENTS, STORM SEWER, SANITARY SEWER FORCEMAIN, SIDEWALK, SIGNING, PAVEMENT MARKING, TRAFFIC SIGNALS, LIGHTING, CITY UTILITIES

**County:** GRAND FORKS

**Length:** 0.2340 Miles

**UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISE (M/WBE):**

The undersigned Bidder certifies that the information given on behalf of the Bidder in Special Provision, "Utilization of Disadvantaged Business Enterprise" (M/WBE), is true and correct and that the bidder has met the assigned goals or has met the good faith effort requirements of the Special Provision.

**CONTRACT EXECUTION:**

The undersigned Bidder agrees, if awarded the contract, to execute the contract form and furnish a contract bond within fifteen calendar days, as determined by NDCC Section 1-02-15, after date of notice of award, in accordance with the provisions of Sections 103.05 and 103.06 of the Standard Specifications.

**AFFIDAVIT:**

**STATE OF** \_\_\_\_\_ )  
 ) **ss.**  
**COUNTY OF** \_\_\_\_\_ )

The undersigned bidder, being duly sworn, does depose and say that they are an authorized representative of \_\_\_\_\_

of \_\_\_\_\_, a  
CONTRACTOR NAME  
MAILING ADDRESS

- Individual       Partnership       Joint Venture       Corporation

and that they have read, understand, acknowledge, and accept the entire proposal form; and that all statements made by said bidder are true and correct.

\_\_\_\_\_, TITLE \_\_\_\_\_  
BIDDER MUST SIGN ON THIS LINE

\_\_\_\_\_  
TYPE OR PRINT SIGNATURE ON THIS LINE

Subscribed and sworn to before me this day.

\_\_\_\_\_  
COUNTY

(Seal)

\_\_\_\_\_  
STATE      DATE

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires \_\_\_\_\_



# **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**

Job # 10, NHU-6-986(131)

Grading, Aggregate Base, PCC Pavement, Structure Improvements, Storm Sewer, Sanitary Sewer Forcemain, Sidewalk, Signing, Pavement Markings, Traffic Signals, Street Lighting, City Utilities

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SP DBE Program – Race Conscious dated February 1, 2018

E.E.O. Affirmative Action Requirements dated March 15, 2014

Appendix A of the Title VI Assurances dated September 8, 2020

Appendix E of the Title VI Assurances dated September 8, 2020

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Contract

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Performance Bond

# NOTICE

**TO: All prospective bidders on all North Dakota Department of Transportation Highway Construction Projects.**

Contractors moving construction equipment to NDDOT highway construction projects are subject to the Road Restriction Policy with the following modifications:

- A. The contractor may purchase up to 10 single trip permits for each NDDOT highway construction project at a cost ranging from \$20 to \$70 each. These permits must be purchased from the Motor Carrier Division of the Highway Patrol at the central office of the NDDOT in Bismarck, North Dakota.
- B. The \$1 per mile fee will not be charged for Gross Vehicle Weights (GVW) exceeding 105,500 pounds, 105,500 pounds, and 105,000 pounds for highways Restricted by Legal Weights, 8 Ton, and 7 Ton highways respectively.
- C. The \$5 per ton per mile fee will be charged only for loads exceeding a GVW of 130,000 pounds, 120,000 pounds, 110,000 pounds and 80,000 pounds for highways Restricted by Legal Weights, 8 Ton, 7 Ton, and 6 Ton highways respectively.
- D. The maximum weights per axle for each of the class restrictions still apply. If it is shown that more axles cannot be added, movement may be authorized; however, a \$1 per ton per mile fee will be charged for all weight in excess of the restricted axle limits.
- E. These construction equipment single trip permits apply to State and US Highways only.
- F. The District Engineers and Highway Patrol will select the route of travel.
- G. Contractors moving equipment to other than NDDOT highway construction projects are subject to all fees as shown in the Road Restriction Permit Policy.
- H. Contractors must call the Highway Patrol prior to movement of all overweight loads on all State and US Highways.

ROAD RESTRICTION PERMITS

Permits shall be issued for the movement of non-divisible vehicles and loads on state highways which exceed the weight limits during spring road restrictions. The issuance of permits may be stopped or posted weights changed at any time based on the varying conditions of the roadways. Permits can be obtained from the Highway Patrol.

RESTRUCTION CLASSIFICATIONS WITH ALLOWABLE AXLE WEIGHTS AND GROSS VEHICLE WEIGHTS	PERMIT AND TON/MILE FEES
<p>Highways Restricted by Legal Weight</p> <p>Single Axle -- 20,000 lbs.                      Tandem Axle -- 34,000 lbs.                      Triple Axle -- 48,000 lbs.                      4 Axles or more -- 15,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 105,500 lbs.</p> <p>Note: The above weights apply to state highways restricted by legal weights, other than interstate highways, in areas where road restrictions are in force. When the gross weight of an axle grouping exceeds 48,000 pounds, the \$1 per ton per mile shall apply to all weight in excess of 15,000 pounds per axle.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>105,501 lbs. to 130,000 lbs. GVW -- \$1 per mile</p> <p>Over 130,000 lbs. GVW -- \$1 per mile <b>plus</b> \$5 per ton per mile for that weight exceeding 130,000 lbs. GVW</p> <p>Exceeding axle limits -- \$1 per ton per mile</p>
<p>8-Ton:</p> <p>Single Axle -- 16,000 lbs.                      Tandem Axle -- 32,000 lbs.                      3 Axles or more -- 14,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 105,500 lbs.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>105,501 lbs. to 120,000 lbs. GVW -- \$1 per mile</p> <p>Over 120,000 lbs. GVW -- \$1 per mile <b>plus</b> \$5 per ton per mile for that weight exceeding 120,000 lbs. GVW</p> <p>Exceeding restricted axle limits -- \$1 per ton per mile</p>
<p>7-Ton:</p> <p>Single Axle -- 14,000 lbs.                      Tandem Axle -- 28,000 lbs.                      3 Axles or more -- 12,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 105,500 lbs.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>105,500 lbs. to 110,000 lbs. GVW -- \$1 per mile</p> <p>Over 110,000 lbs. GVW -- \$1 per mile <b>plus</b> \$5 per ton per mile for that weight exceeding 110,000 lbs. GVW</p> <p>Exceeding restricted axle limits -- \$1 per ton per mile</p>
<p>6-Ton:</p> <p>Single Axle -- 12,000 lbs.                      Tandem Axle -- 24,000 lbs.                      3 Axles or more -- 10,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 80,000 lbs.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>\$5 per ton per mile for all weight exceeding 80,000 lbs. GVW</p> <p>Exceeding restricted axle limits -- \$1 per ton per mile</p>
<p>5-Ton:</p> <p>Single Axle -- 10,000 lbs.                      Tandem Axle -- 20,000 lbs.                      3 Axles or more -- 10,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 80,000 lbs.</p>	<p>No overweight movement allowed</p>

## **SINGLE UNIT FIXED LOAD VEHICLES SUCH AS TRUCK CRANES AND WORKOVER RIGS**

- A. Permit Fee and Ton Mile Fee for Self-Propelled Fixed Load Vehicles .
1. Permit Fee: \$25 per trip
  2. \$1 per ton per mile for all weight in excess of restricted axle limits or in excess of legal limits on state highways in areas where road restrictions are in force. When the gross weight of an axle grouping exceeds 48,000 pounds, the \$1 per ton per mile shall apply to all weight in excess of 15,000 pounds per axle (see weight classification chart in section C.)
  3. **\$5 per ton per mile** for all movements exceeding the following gross vehicle weight limits:
    - a. 105,500 lbs. GVW on unrestricted state highways, other than interstate highways, in areas where road restrictions are in force.
    - b. 105,500 lbs. GVW on 8-ton highways.
    - c. 105,500 lbs. GVW on 7-ton highways.
    - d. 80,000 lbs. GVW on 6-ton highways.
    - e. No overweight movement allowed on 5-ton highways
- B. Permit Fees for Work-Over Rigs and Special Mobile Equipment Exceeding 650 but not 670 Pounds Per Inch Width of Tire.
1. Permit Fee:
    - a. \$50 per trip on work-over rigs up to 650 pounds per inch width.
    - b. \$75 per trip on work -over rigs that exceed 650 but not 670 pounds per inch width of tire.
  2. The work-over rig shall be stripped to the most minimum weights.
  3. A minimal number of state highway miles shall be used.
  4. District engineer approval shall be obtained prior to movement when vehicle exceeds restricted axle weights by more than 5,000 pounds.
  5. A validation number ending in TM must be obtained from the Highway Patrol prior to using a self-issue single trip movement approval form.
  6. The ton mile shall be waived .

# NOTICE

## U.S. DEPARTMENT OF TRANSPORTATION

### "HOT LINE"

As part of its continuing investigation into Highway Construction Contract Bid Rigging and abuses in the Disadvantaged Business Enterprise Program, the Inspector General for the Department of Transportation (DOT) has established a "HOT LINE" to receive information from contractors, suppliers, or anyone with knowledge of such activities.

The toll-free "HOT LINE" telephone number is 1-800-424-9071 and will be manned during normal working hours (8 a.m. to 5 p.m. EST). This operation is under the direction of DOT's Inspector General. All information will be treated confidentially and anonymity will be respected.

#### CALL

Inspector General's 'HOT LINE'  
Toll Free 1-800-424-9071  
Washington, DC Area:  
202-366-1461  
Fax: 202-366-7749

#### WRITE

Inspector General  
Post Office Box 23178  
Washington, DC 20026-0178  
  
Email: [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov)

The field office address and telephone number for NORTH DAKOTA is:

#### CHICAGO REGIONAL OFFICE

Special Agent-in-Charge  
Commercial: 312-353-0106  
111 N. Canal St., Suite 677  
Chicago, Illinois 60606

10/1/2014

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
PRICE SCHEDULE FOR MISCELLANEOUS ITEMS (PS-1)**

The Contractor agrees to accept the following unit prices for each listed item of work and or material when no project contract unit price exists for that item. Each price listed will be full compensation for the cost of labor, material and equipment necessary to provide the item of work and/or material, complete in place, including (but not limited to) royalty, disposal of unsuitable material, equipment rental, sales tax, use tax, overhead, profit, and incidentals.

Each listed item is referenced to the Standard Specifications by Section number and Section name.

SECTION NO.	SECTION NAME	ITEM NAME	PRICE PER ITEM
107.08	Haul Roads	Water	\$27 per M Gal
107.08	Haul Roads	Bitumen for Mix	Invoice Price <sup>1</sup> + 10%
107.08	Haul Roads	Bituminous Mix	\$42 per Ton <sup>2</sup>
107.08	Haul Roads	Aggregate Base	\$17 per Ton <sup>2</sup>
203.01 B	Rock Excavation	Rock Excavation	\$11 per CY
203.01 C	Shale Excavation	Shale Excavation	Common Excavation Price + \$1.00 per CY
203.01 D	Muck Excavation	Muck Excavation	\$9 per CY
203.05 H.3	Embankment	Overhaul	\$1.40 per CY - Mile
260	Silt Fence	Mucking Silt Fence	\$3.90 per LF
260	Silt Fence	Removal of Silt Fence <sup>3</sup>	\$4.25 per LF
261	Fiber Rolls	Mucking of Fiber Rolls	\$3.90 per LF
261	Fiber Rolls	Removal of Fiber Rolls <sup>3</sup>	\$4.25 per LF
420.04 E	Bituminous Seal Coat	Blotter Sand	\$27 per Ton <sup>2</sup>
430.04 G	Hot Mix Asphalt (Exc. Material Hauled to Disposal Area)	Bituminous Mixture	Machine Placed: Bid or Invoice Price + \$31 per ton Hand Placed: Bid or Invoice Price + \$48 per Ton
704	Temporary Traffic Control	Flagging	\$32 per MHR

<sup>1</sup>Price paid for bituminous material will be invoice price plus freight costs.

<sup>2</sup>Price Includes haul up to 10 miles. Payment for haul exceeding 10 miles will be according to Section 109.03 E, "Force Account." The haul distance for aggregate base and bituminous mix will be based on the average haul. The haul distance for blotter sand will be from the point where the haul begins to the point where it enters the project.

<sup>3</sup>This is only for pre-existing items that were not installed under the Contract.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION SPECIAL PROVISION:  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

**PROJECT NHU-6-986(131) (PCN-22682)**

**RACE/GENDER CONSCIOUS GOAL** The DBE goal for this project is: **6.00%**

<b>NDDOT Contact Information</b>	
Contractor Sign In & Submit Advertisements at: <a href="https://apps.nd.gov/dot/cr/csi/login.htm">https://apps.nd.gov/dot/cr/csi/login.htm</a>	Amy Conklin, DBE Program Administrator 701-328-3116 - or - <a href="mailto:aconklin@nd.gov">aconklin@nd.gov</a>
Submit quotes and post bid documentation to: <a href="mailto:subquotes@nd.gov">subquotes@nd.gov</a> or Fax: 701-328-0343	Ramona Bernard, Civil Rights Division Director 701-328-2576 - or - <a href="mailto:rbernard@nd.gov">rbernard@nd.gov</a>
Search DBE Directory <a href="https://dotnd.diversitycompliance.com/">https://dotnd.diversitycompliance.com/</a>	All times are stated in Central Time. <b>The day of the bid opening is not counted as one of the business days.</b>

**PURPOSE**

These provisions:

1. Provide an explanation of the federal law and outline the obligations to comply with the Federal DBE requirements applicable to this contract,
2. Explain the process NDDOT will follow to evaluate bidders' efforts to obtain DBE participation
3. Provide the standards NDDOT will use to measure compliance with the requirements
4. Identify sanctions for failing to comply with DBE program requirements.

**This Special Provision is written per 49 CFR Part 26 and Appendix A – Guidance Concerning Good Faith Efforts.**

Contract award will be made to the lowest responsive bidder whose proposal substantially complies with the requirements prescribed herein, has submitted all required documentation and who has met the goal for DBE participation, or has demonstrated, to the satisfaction of the Department, adequate good faith efforts to do so.

**QUOTES:**

All bidders and all subcontractors over \$500,000 (regardless of whether they are apparent low bidder or their quote was used on a project in this bid opening) should submit a completed [SFN 52013-List of Businesses Submitting Quotes](#) (Form B), or a spreadsheet containing all the information on Form B by 4:00 pm CST within 5 business days after the bid opening. **(Copies of quotes are no longer accepted)** This process is necessary in identifying “ready, willing, and able” contractors upon which to base the NDDOT Triennial DBE Goal. The number of contractors and the types of work they have bid/quoted will be used in the calculation of the DBE goal for each goal setting period.

**All subcontractors, suppliers, manufacturers, regular dealers, vendors, and brokers should fax or email quotes to the Department no later than 9 PM the day before each bid opening.**

**All DBEs quoting on this project MUST submit all quotes and a list of contractors they quoted to NDDOT no later than 9 PM the day before each bid opening.**

Prime contractors preparing to bid on NDDOT highway projects have requested that quotes be sent to them the day before the bid opening by:

- 2 PM Central - Suppliers (brokers/regular dealers), vendors, & manufacturers
- 5 PM Central - Subcontractors under \$500,000
- 8 PM Central - Subcontractors over \$500,000



## **REQUIREMENTS FOR ALL BIDDERS:**

- ALL BIDDERS are strongly encouraged to submit all documentation at the time of bid opening.
- Must submit Form A with bid package at the time of bid opening.
- Completed [Form B](#), or a spreadsheet containing all the information on Form B, should be submitted by 4:00 pm CST within 5 business days after the bid opening.
- Prime contractors are strongly encouraged to submit their bid documentation in one electronic file. Forms incorrectly submitted could result in a technicality, forcing the Department to award to the next responsive bidder.

## **REQUIREMENTS FOR ALB WHEN THE PROJECT DBE GOAL IS MET AT THE TIME OF BID OPENING:**

- Follow REQUIREMENTS FOR ALL BIDDERS above, and in addition, include:
- Must submit [SFN 52160 Notification of Intent to use \(Form C\)](#) for DBE's used in all tiers of subcontracting by 4:00 pm CST 2 business days after the bid opening.

## **REQUIREMENTS FOR ALB WHEN THE PROJECT DBE GOAL IS NOT MET AT THE TIME OF BID OPENING:**

- Follow REQUIREMENTS FOR ALL BIDDERS above, and in addition, include:
- A cover letter, submitted with SFN 60829 explaining actions taken attempting to meet the project goal. See Page 3, questions # 1-8 to help explain your actions in the cover letter. Cover letter must be submitted by 4:00 pm CST 2 business days of the bid opening.
- SFN 60829, [Contractor Good Faith Efforts Documentation](#), (GFE) **and** supporting documentation must be submitted by 4:00 pm CST 2 business days of the bid opening. Failure to demonstrate GFE may cause the Department to "Not Award".
- If a non-DBE is used over a DBE, or a prime wants to self-perform, a bid differential table in [SFN 60829](#) should be completed, showing a comparison of like items, (apples to apples) along with the reason for not using the DBE. (Primes may need to supplement the DBE or Non-DBE quote to get an apples to apples comparison). Any Bid Differential (BD) that does not clearly address all items quoted by the DBE, the non-DBE, prime or combination of quotes, will not be considered.
- Must submit [Form C](#) for DBE's used in all tiers of subcontracting & non-DBE's used in a bid differential by 4:00 pm CST 2 business days after the bid opening.

## **GOOD FAITH EFFORTS**

The bidder is responsible for taking actions toward achieving the project goal as required by 49 CFR Appendix A to Part 26 – Guidance Concerning Good Faith Efforts. Therefore, it is a bidder's responsibility to either achieve the project goal at the time of bid opening, or to follow a course of actions that would, by their scope, intensity, and appropriateness, reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

NDDOT will measure the bidder's efforts by actions demonstrated/taken prior to submitting their bid. The description and documentation of these efforts must adequately show NDDOT that the bidder took all necessary and reasonable steps to achieve the DBE goal.

The efforts employed by the bidder should be those that one could reasonably expect if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal.

The following questions are not intended to be a checklist or an exhaustive list of what is considered in evaluating GFE, but will help organize your explanation of your efforts to obtain DBE participation in your cover letter.

- 1) Did you use the DBE Directory to solicit DBEs who are certified to perform the work on the project?
- 2) Did you send timely written (fax, e-mail, etc.) solicitation notices to certified DBE's?
- 3) Did you maintain a follow-up log to track responses to your initial solicitations?
- 4) Did you provide DBEs with information about the plans, specifications, and requirements of the contract so they are able to respond to your solicitation in a timely manner?
- 5) Did you solicit DBE participation for work you could have self-performed?
  - a. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable.
- 6) Did you ask your firm's subcontractors to solicit DBE work for the subcontractors' portion of the project?
- 7) Did you receive and evaluate all quotes given? If not, what are your reasons?
  - a. The quotes **must be** converted to an acceptable format, whether the quotes are calculated by ton-mile, hour, acre or square mile.
- 8) **Did you advertise** using one or both of the following options? Submit a copy with your Good Faith Efforts documentation.

**OPTION 1:** Place an advertisement soliciting DBE participation using the electronic DBE Advertisement System.

- o Submit the required information online at <https://apps.nd.gov/dot/cr/csi/login.htm> no later than noon, 15 calendar days before the bid opening.

**OPTION 2:** Directly contact by email or fax, all DBEs certified in the specific work type (NAICS) required for the job.

- o Make contact with DBEs no later than 5 pm 7 calendar days before the bid opening.
- o Use the DBE Directory to determine the DBE firms certified in the work to be subcontracted.

Either method of advertisement must:

- o Provide the name, email address, telephone, and fax number of the company contact who will be available to discuss and/or receive quotes.
- o Offer assistance to DBEs in interpreting plans; quantities; expected overtime; project scheduling; pit and batch plan locations, length of haul, type of road; method of measurement (seeding by the mile or acre, hauling by hour or by ton-mile) or other issues that may affect a price quote.

**Indicate your intention to bid** and/or receive quotes on specific jobs by using the Department's Bid Opening Sign in System

- o The **Bid Opening Sign-In** web application located at <https://apps.nd.gov/dot/cr/csi/login.htm>.

Sign-In opens at 8 am 7 calendar days prior to the bid opening and closes at 11 AM the day before the bid opening.

- o Fill in the online form fields as required.
- o Log in to download the "Bid Opening Contact Report" at <https://apps.nd.gov/dot/cr/csi/public/listBidOpenings.htm>

## **EVALUATION OF GOOD FAITH EFFORTS**

Proposals may be considered irregular and may be rejected by the Department if there is non-compliance with the DBE requirements, or submitted documentation is incorrect or received after 4:00 pm CST 2 business days after the bid opening. The Department reserves the right to waive minor irregularities and/or certain elements of this special provision.

Federal regulations require the Department to scrutinize a bidder's documented good faith efforts (see appropriate actions on pages 3-4).

If the Committee determines the ALB has adequately demonstrated GFE, the committee will recommend "Award".

If the Committee determines the ALB has not adequately demonstrated GFE, the committee may recommend "Not Award". Some of the factors considered are:

1. Whether the ALB fails to meet the contract goal, but others meet it
2. If the ALB fails to meet or exceed the average DBE participation of other bidders
3. If the ALB fails to submit adequate GFE documentation by 4:00 pm CST 2 business days after the bid opening
4. If the ALB submits no documentation of its good faith efforts (GFE)
5. If the ALB submits incorrect forms

Upon notification of a recommendation for a Not Award determination, the Director's designee(s) will consider the Committee's recommendation. If the Designee(s) agrees with the Committee's recommendation, the Designee(s) will contact the ALB to inform them of the determination, the reasons for it, and that administrative reconsideration is available.

### **Administrative Reconsideration 49 CFR § 26.53 (d)**

- An in-person reconsideration meeting is available at the ALB's request.
- The Director's designee(s) will consider any information submitted prior to or presented at the hearing as to whether the ALB met the goal or made adequate efforts to do so.
- The NDDOT reconsideration decision will be made by the Director's designee(s), who will not have taken part in the original determination.
  - If the Director's designee(s) determines the ALB made adequate good faith efforts to meet the goal, the job will be recommended for award.
  - If the Director's designee(s) determines that the ALB has failed to sway the decision from "Not Award", the ALB will receive written notice of the decision.
- Director will make the final decision and may exercise such discretion as deemed appropriate.
- The decision is not subject to administrative appeal to the U.S. Department of Transportation (49 CFR § 26.53(d)(5)).

## **POST-AWARD REQUIREMENTS**

### **FEDERAL AUTHORITY**

The following paragraph must be included in all subcontracts of all tiers in accordance with 49 CFR § 26.13(b):

The contractor or all tiers of subcontractors 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 § 26.13 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 NDDOT deems appropriate which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible

It is the prime contractors' responsibility to ensure all tiers of subcontractors, brokers, manufacturers, suppliers, vendors, and regular dealers comply with the requirements of this special provision. In addition, the prime contractor has the responsibility to monitor DBE performance on the project, and to ensure that the DBE performs a commercially useful function (CUF).

## **PRIME CONTRACTOR’S MONITORING, RESPONSIBILITIES, REPORTING**

For the life of the project, the prime contractor is responsible for the DBEs listed on [Form C](#) and for the specific spec/code items or products that the prime committed to during the award process.

The prime is responsible to:

- Report payments to DBEs used to meet the project goal. **Payments on the contract must be entered and stored in the CCS. Use of CCS on the project eliminates the requirement to submit SFN 60638 and SFN 14268.**
- Invite and encourage all subcontractors and all DBEs listed on [Form C](#) to the pre-construction conference.
- Provide minutes to any DBE not in attendance at the pre-construction conference.
- Ensure their firm as well as any subcontractors, manufacturers, and regular dealers/suppliers comply with the requirements of this special provision.
- Provide all subcontractors with Proposed Project Schedules and any necessary updates.
- Monitor DBE performance on the project.
  - [Submit SFN 60597, DBE Performance – Commercially Useful Function](#) (CUF) Certification to the project engineer with [SFN 5682- Prime Contractor’s Request to Sublet](#). Project engineers will not approve Requests to Sublet without the CUF Certification.
- Maintain project records and documentation of payments to DBEs for three years following acceptance of the final payment from NDDOT (per FHWA-1273, Section II Nondiscrimination #11).
  - This reporting requirement also applies to any certified DBE.
  - NDDOT may perform interim audits of contract payments to DBEs to ensure that the actual amount paid to DBEs equals or exceeds the dollar amount stated on [Form C](#).
  - Make these records available for inspection, upon request, by an authorized representative of the NDDOT or USDOT.

**If SFN 60597, and reports of payment are not received in a timely manner, progress payments will be withheld from the prime until submitted.**

If award of the contract is made based on the contractor’s good faith efforts, the goal will not be waived; the contractor must make good faith efforts throughout the duration of the project.

The prime contractor shall not terminate or replace a DBE subcontractor without the Department’s prior written consent. 49 CFR 26.53(f) (1) i.

The Department’s contract includes a provision stating:

- (A) That the contractor shall utilize the specific DBEs listed to perform the work and/or supply the materials unless the contractor obtains written consent; and
- (B) That, unless the Department’s consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

SFN 60595 - Replacement Approval Request must be submitted and approved prior to replacement of each DBE firm(s), or Non-DBE/BD(s), or any work the prime originally intended to self-perform prior to the commencement of any replacement work. No payment will be made if work commences without written approval. The form may be accessed at the Department’s website: <http://www.dot.nd.gov/forms/sfn60595.pdf>

If the prime has not achieved the goal and additional work becomes available, the prime must follow the replacement approval request process using [SFN 60595](#).

## **EXCEPTION FOR REPLACEMENTS DUE TO PUBLIC NECESSITY**

When replacement work is required as a matter of public necessity, (e.g., safety, storm water issues), the contractor must immediately notify the project engineer and the DBE or Non-DBE/BD intended at the time of award. If the DBE or Non-DBE/BD is unable to perform the work within the time specified by permit or administrative rule, the DBE or Non-DBE/BD must notify the prime immediately; and, within one business day, a written explanation must be submitted to the prime with a copy to the project engineer. The project engineer refers all replacement approval requests to the Assistant District Engineer (ADE). In a case of public necessity, the ADE has the authority to allow the contractor to self-perform the replacement work or to find another contractor to complete it.

## TERMINATION FOR CAUSE

A DBE or Non-DBE/BD may not be terminated without the Department's prior written consent. (49 CFR 26.53(f)(1)(I))

The Department will provide such written consent if the Department agrees that the contractor or subcontractor has good cause to terminate the DBE firm or Non-DBE/BD.

Circumstances which may be considered good cause for termination include when the listed DBE or Non-DBE/BD:

- Fails or refuses to execute a written contract
- Fails or refuses to perform the work of its subcontract in a way consistent with the contract and/or with normal industry standards, provided, that good cause does not exist if the failure or refusal of the listed DBE or Non-DBE/BD to perform its work on the subcontract results from the bad faith or discriminatory action of the prime or subcontractor
- Fails or refuses to meet the prime contractor's reasonable nondiscriminatory bond requirements
- Becomes bankrupt, insolvent, or exhibits credit unworthiness
- Is ineligible to work on public works projects because of Federal Highway Administration suspension and debarment proceedings.
- Is ineligible to receive DBE credit for the type of work required
- Dies or becomes disabled with the result that the listed DBE or Non-DBE/BD is unable to complete its work on the contract
- Other documented good cause that the Department determines compels the termination of the listed DBE or Non-DBE/BD

Good cause does not exist if the prime contractor or subcontractor seeks to terminate a DBE or Non-DBE/BD which was relied upon to obtain the contract so that the contractor can self-perform the work for which the DBE or Non-DBE/BD was engaged or so that the contractor can substitute another DBE or Non-DBE contractor after contract award.

The contractor must immediately give written termination notice to DBE or the Non-DBE/BD. At the same time, SFN 60595 and its supporting documentation must be provided to the project engineer for review and analysis of the reasons for the intended termination.

The contractor must give the DBE or Non-DBE/BD 5 business days to respond to the termination notice. Within that time, the DBE or Non-DBE/BD should respond with a written explanation of their reasons and/or objections to the proposed termination and specifically address why the Department should deny the contractor's request. This explanation should be submitted in reply to the contractor with a copy to the project engineer.

The project engineer will send the contractor's SFN 60595, the DBE or Non-DBE/BD's written response(s) and any other accompanying documentation to the Civil Rights Division (CRD). If the CRD concurs that a termination is warranted, the contractor must seek a DBE to perform the work.

All DBEs currently certified in the specific area of work to be performed, must be contacted in writing or by phone, and quotes solicited. If available, a DBE will be selected to perform a dollar value of work, equal to the value of the commitment not achieved, unless the contractor can demonstrate the DBE quote is unreasonable, using the same comparison in section "Good Faith Efforts Documentation."

Upon receipt of appropriate written GFE documentation, and prior to commencement of any replacement work, CRD will consider the contractor's efforts and provide a final written decision to the project engineer.

In instances where trucking replacements are sought, DBEs and/or Non-DBEs as allowed by regulation must be selected to cover all the trucking required until sufficient participation is met.

## **UNFULFILLED OBLIGATIONS**

The Department requires [SFN 60595](#) and its supporting documentation when a contractor, DBE, or Non-DBE/BD does not fulfill her or his obligations in any of the following situations:

- The prime contractor is unable to perform the full amount of work committed to be completed, by the prime's workforce and equipment, at the time of award, or
- The DBE or Non-DBE/BD to which the prime contractor committed using at the time of award, is unable to perform the full amount of work, or
- The DBE or Non-DBE/BD withdraws voluntarily from the project and provides to the prime written notice of its withdrawal.

[SFN 60595](#) and its supporting documentation must be provided to the project engineer for review and analysis. If the DBE or Non-DBE/BD is not able to perform, the prime contractor must provide written documentation from the DBE or Non-DBE/BD as to the reasons. The project engineer refers all replacement approval requests to the ADE. The Civil Rights Division will provide a written final determination to the project engineer.

If the Department concurs that a substitution is warranted, the prime contractor will seek a DBE to perform the work. All DBEs currently certified in the specific area of work to be performed, must be contacted in writing or by phone, and quotes solicited. If available, a DBE will be selected to perform a dollar value of work, equal to the value of the commitment not achieved, unless the contractor can demonstrate the DBE quote is unreasonable, using the same bid differential comparison in section "Good Faith Efforts Documentation."

In instances where trucking replacements are sought, DBEs and/or Non-DBEs as allowed by regulation must be selected to cover all the trucking required until sufficient participation is met.

The prime contractor is responsible for any additional costs incurred as a result of the prime contractor's failure or the subcontractor quoting over \$500,000 to fulfill the original commitment or the DBE or Non-DBE/BD's failure to perform.

## **NON-COMPLIANCE, FAILURE TO PERFORM, AND SANCTIONS**

If the Department determines that a contractor should be sanctioned, the Department will provide written notice to the contractor informing them of the sanction for the following:

- Not submitting required documentation in a timely manner
- Not paying a DBE or non-DBE subcontractor in a timely manner
- Not having a DBE perform the specified dollar amount of work (subject to plan quantity changes) tasks or bid items
- For otherwise not fulfilling the requirements of this DBE special provision
- Repeated instances of failure to perform the contract requirements
- Repeated instances of late contract-related payments
- documented fraudulent practices

If the Department determines that a DBE should be sanctioned, the Department will provide written notice to the DBE informing them of the sanction for the following:

- Failure to perform work as specified in the contract
- Failure to pay contract-related bills in a timely manner
- Failure to perform a commercially useful function
- Failure to notify the prime contractor orally and in writing if they are unable to perform a commercially useful function
- Otherwise not fulfilling the requirements of this DBE special provision

If sanctions are applied, the contractor or the DBE may make a written request to the Department for reconsideration. The contractor or the DBE must provide a written statement defending their actions within 3 business days.

If the Department does not receive a written request for reconsideration, or if the contractor or DBE does not provide sufficient evidence that the provisions have been met, the Department may suspend the contractor or the DBE

bidding or quoting privileges and not allow the contractor or the DBE to participate in one or more scheduled bid openings after the date the sanction is imposed.

Further sanctions which may be imposed by the Department for failure on the part of the contractor may include, but are not limited to:

- Withhold the contractor's progress payment until the contractor complies with all DBE contract provisions
- Deduct, from the contractor's progress payments, the dollar amount of DBE participation committed to but not achieved by the contractor
- Find the contractor in default
- Liquidated damages
- Disqualifying the contractor from future bidding
- Take other corrective action determined by the Department to be appropriate
- Any combination of the above.

## **NDDOT MONITORING AND ENFORCEMENT MECHANISMS**

The Department will bring any false, fraudulent, or dishonest conduct in connection with the DBE program to the attention of USDOT. USDOT may pursue action as provided in 49 CFR § 26.107. Actions include referral to the Department of Justice for criminal prosecution or referral to the USDOT Office of Inspector General for action under suspension and debarment, or Program Fraud and Civil Remedies rules. The Department will also consider similar action under its own legal authority, including responsibility determination in future contracts.

## **COMMERCIALLY USEFUL FUNCTION**

DBEs are required to perform a commercially useful function (CUF). CUF refers to those services the DBE is certified to perform. Certified services for each DBE are listed in the online DBE Directory. It is a DBE's responsibility to immediately notify the prime contractor in writing if the DBE is unable to perform a CUF or the services indicated on [Form C](#).

The contractor must certify that DBEs working on the prime's contract are performing a commercially useful function. Submit [SFN 60597, DBE Performance – Commercially Useful Function](#) Certification to the project engineer with [SFN 5682 - Contractor's Request to Sublet](#). Project engineers will not approve the Requests to Sublet without the CUF Certification. A review of the certification must be performed by the project engineer to determine whether the contract dollar value of the DBE's work may be counted toward the project goal.

The Department counts participation to a DBE contractor toward DBE goals only if the DBE is performing a CUF on that contract.

- A. A DBE performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installation and paying for the material itself. 49 CFR § 26.55(c)(1)
- B. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. 49 CFR § 26.55(c)(2)
- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, the Department must presume that it is not performing a CUF. 49 CFR § 26.55(c)(3)
- D. When a DBE is presumed not to be performing a CUF as provided in paragraph C (above), the DBE may present evidence to rebut this presumption. 49 CFR § 26.55(c)(4)
- E. The Department's decisions on CUF matters are subject to review by Federal Highway Administration, but are not administratively appealable to USDOT. 49 CFR § 26.55(c)(5)

## **COUNTING RACE/GENDER CONSCIOUS DBE PARTICIPATION - 49 CFR § 26.55**

The Department does not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE. 49 CFR § 26.55 (h)

The Department will count DBE participation toward our overall annual goal as provided in 49 CFR § 26.55 as noted below.

1. The Department will use the following factors in counting DBE trucking participation.
  - A. For purposes of this section, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE. 49 CFR § 26.55(d)(7)
  - B. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract. 49 CFR § 26.55(d)(1)
  - C. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract and receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs. 49 CFR § 26.55(d)(2-3)
  - D. The DBE may lease trucks and drivers from another DBE firm and receives credit for the total value of the transportation services the lessee DBE provides. 49 CFR § 26.55(d)(4)
  - E. The DBE may also lease trucks with drivers and is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the services under items 1C and 1D. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. 49 CFR § 26.55(d)(5)

Example to 1D: DBE Firm X uses two of its own trucks on a contract. It leases two trucks with drivers from DBE Firm Y and six trucks **with drivers** from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.

- F. The DBE may lease trucks without drivers from a non-DBE truck leasing company and if the DBE uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example to paragraph 1F: DBE Firm X uses two of its own trucks and drivers on a contract. It leases two additional trucks and drivers from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks. 49 CFR § 26.55(d)(6)

2. Only the value of the work actually performed by the DBE counts toward the project goal when a DBE participates in a contract provided the DBE is certified in this work.
  - A. The Department counts the entire amount of that portion of a construction contract, or other contract not covered by item 2. B, that is performed by the DBE's own forces. Included are the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate). 49 CFR § 26.55 (a)(1)
  - B. The Department counts the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service for which they are certified, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, if the Department determines the fee to be reasonable and not excessive. 49 CFR § 26.55 (a)(2)
  - C. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is also a DBE. 49 CFR § 26.55 (a)(3)



3. The Department counts expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:
  - A. If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies toward DBE goals. 49 CFR § 26.55 (e)(1)(i)
  - B. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals. 49 CFR § 26.55 (e)(2)(i)
  - C. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of 3B (above) 49 CFR § 26.55 (e) (2) (ii) (C)
  - D. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, if the Department determines the fees to be reasonable and not excessive. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals. 49 CFR § 26.55 (e) (3)
  - E. The Department determines the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expediter) on a contract-by-contract basis. 49 CFR § 26.55 (e)(4)
4. If a firm is not currently certified in ND at the time of the execution of the contract, the Department does not count the firm's participation toward any DBE goal. 49 CFR § 26.55 (f)
5. The Department does not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward the Department's overall annual goal. 49 CFR § 26.55 (g)

## DEFINITIONS

The definitions specified below apply only to this Special Provision and may contain differences from NDDOT Standard Specifications.

**Achievement** means any DBE certified service dollar amount committed to at the time of award. Any achievement must be supported by a request to sublet and Monthly DBE Payment Records for each DBE.

**Aggregate providers** are considered subcontractors rather than regular dealers/suppliers, regardless of the amount of their quote.

**Apparent low bidder (ALB)** means the bidder whose bid is read as low bid at the bid opening.

**Bid differential (BD)** means written documentation provided by the low bidder comparing a Non-DBE quote to a DBE quote.

**Bid Opening Sign-In System** means the Department's online system to which all prime contractors and subcontractors must register to indicate their interest in quoting or bidding prior to each bid opening.

**Bidder/prime contractor** means bidders who are submitting proposals on this project, regardless of the size of the highway construction projects; a contractor intending to serve as the prime contractor.

**Blanket quote** means when a business provides the same quote, for all projects, at a bid opening, using the same price, at one rate, not project specific. Blanket quotes for the construction season are not allowed, i.e. trucking, striping, signing, construction supplies, etc.

**Commercially Useful Function** describes a DBE's responsibilities and involvement in a project, see section Commercially Useful Function of this SP.

**Commitment** means the dollar amount of work the DBE will complete according to the bidder's submitted proposal.

**Contractor** means all DBE and Non-DBE firms, including prime contractors, subcontractors (under/over \$500,000), brokers, vendors, regular dealers/suppliers, and manufacturers at any tier.

**DBE Goal** means a percentage of the total contract targeted for the hiring of DBE subcontractors to do specific bid items for which the DBE has been certified to perform. Project goals are set by assessing the project's bid items, location, whether DBEs are available to do the work.

**DBE Participation** means the percentage achieved when the dollar amount committed to the DBE is divided by the dollar amount of all contract items.

**DBE Participation Review** summarizes the prime's participation at the time of award. A replacement approval request must be submitted to substitute a firm for any DBEs reported as being used at the time of award.

**Department** means the project owner regardless of whether the owner is NDDOT, a city or a county project.

**Disadvantaged business enterprise or DBE** means a for-profit small business concern that is certified by the Department and listed in the DBE Directory available on the Department's web site. DBEs must first be certified in the work intended before any DBE achievement may be counted toward the project goal.

**Equipment supplier** is a firm which provides equipment for sale or lease, without operators, and whose primary business function is equipment sales or leasing.

**Good Faith Efforts (GFE)** means efforts made by the prime contractor to achieve a DBE goal. This includes but is not limited to providing assistance to DBEs in preparing their quotes, advertise, sign in, etc.

**Manufacturer** means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications. 49 CFR § 26.55 (e) (1) (ii)

**Materials** means aggregate, steel, petroleum products, concrete, asphalt, and other construction supplies.

**NAICS Codes** means industry codes assigned by North American Industry Classification System. When certified, DBE businesses are assigned NAICS codes which are identified in the DBE Directory.

**NDDOT Certification & Compliance System (CCS)** refers to the online compliance reporting system whereby contractors report/submit job related payments, commitments, and Utilization Plan documentation.

**Non-DBE** means a contractor, subcontractor, supplier (broker or regular dealer), vendor, or manufacturer that has not been certified as a DBE by the NDDOT Uniform Certification Program.

**Non-DBE used in bid differential (Non-DBE/BD)** means a Non-DBE which, at the time of award, was approved for use due to a price comparison with a DBE. A [Form C](#) with the Non-DBE/BD must be included in the DBE Good Faith Efforts Review documentation. A replacement approval request must be submitted when the Non-DBE/BD is unable to complete the work.

**Positive Contact** means active and documented solicitation of DBE and other subcontractors. Advertising the prime's intention to bid or contacting individual DBEs is deemed a positive contact.

**Project owner** means any political subdivision such as a city or county which provides match to federal highway funds and uses NDDOT's electronic bidding system to let their projects to bid. The Department "owns" state projects.

**Quoter** means a DBE or a Non-DBE subcontractor (under/over \$500,000), brokers, vendors, regular dealers/suppliers, and manufacturers at any tier who submits quotes to another contractor.

**Race/Gender Conscious (RGC)** goals are those focused specifically on assisting DBEs.

**Responsible Bid Proposal** means a bidder's proposal in which the project goal has been achieved, or the bidder demonstrates Good Faith Efforts (GFE) as outlined in this Special Provision.

**Subcontractor** means any firm intending to perform work, or intending to perform work and supply the materials, which were intended for their work on the project. All subcontractors must attach a list of DBE subcontractors intended for use to their quote when submitting it to the prime contractor.

**Subcontractor quoting over \$500,000** means a subcontractor whose quote is over \$500,000 on any project and who is not a supplier, broker, vendor, regular dealer, or manufacturer. All aggregate providers are considered subcontractors, regardless of the amount of their quote.

**Supplier** means a party providing goods, services, and supplies on the project.

**Broker** means an agent who, without having custody of the property, a) negotiates contracts of purchase, work, lease, or sale; b) buys and sells goods; or c) negotiates between buyers and sellers. See Counting DBE Participation section.

**Regular Dealer** means a DBE firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. See Counting DBE Participation section.

**Tier** means various levels of contractors on the job. For example a prime contractor's subcontractor (B) is referred to as the second tier. When B subcontracts with C, C becomes the third tier, etc.

**Tied quote** means the quote will be considered only if all of the bid items are included.

**Untied quote** means that any item or group of items quoted may be used for price noted on the quote whether one or all are used.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
EEO AFFIRMATIVE ACTION REQUIREMENTS**

**March 15, 2014**

Bidders shall become familiar with the following requirements and be prepared to comply in good faith with all of them:

**APPENDIX A**

Notice or Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246).

1. The Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:
  - a. Goals for Female Participation in Each Trade – Statewide . . . . .6.9%
  - b. Goals for Minority Participation in Each Trade by County:  
Barnes, Cass, Dickey, Eddy, Foster, Griggs, LaMoure, Logan,  
McIntosh, Ransom, Richland, Sargent, Steele, Stutsman, Traill . . . . .0.7%
  - Grand Forks . . . . .1.2%
  - Benson, Cavalier, Nelson, Pembina, Ramsey, Towner, Walsh . . . . .2.0%
  - Burleigh, Morton . . . . .0.4%
  - Adams, Billings, Bowman, Dunn, Emmons, Golden Valley, Grant,  
Hettinger, Kidder, Mercer, Oliver, Sheridan, Sioux, Slope, Stark, Wells . . .1.3%
  - Bottineau, Burke, Divide, McHenry, McKenzie, McLean, Mountrail,  
Pierce, Renville, Rolette, Ward, Williams . . . . .4.4%

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a),

and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall notify the Office of Federal Contract Compliance Programs, in writing, within ten working days of award of any subcontract in excess of \$10,000. The notification shall include the name, address, and telephone number of the subcontractor and their employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

Notification should be sent to:

U.S. Department of Labor/ESA  
OFCCP  
Denver District Office  
1244 Speer Boulevard  
Denver, Colorado 80202  
Phone: 720-264-3200  
Fax: 720-264-3211

4. As used in this "Notice" and in the contract for this project, the "covered area" is the State of North Dakota.

## **APPENDIX B**

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 proposal 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:

- (1) Black (all persons having origins in any of the Black African racial groups, not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin, regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (4) 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 of 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 proposal from which this contract resulted.
  3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
  4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 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. The Contractor is expected to make substantially uniform progress toward its goals in each craft.
  5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
  6. In order for the nonworking training hours of apprentices and trainees to be counted

in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor. (Training programs approved by the North Dakota Department of Transportation are recognized 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 union have employment opportunities available, and maintain a record of the organization's 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 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 therefore, along with whatever additional actions the Contractor may have taken.
  - d. Provide immediate written notification to the Director when the union with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to

the sources compiled under 7b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the Company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the Company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the Company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site 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 it with the 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 minorities 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 the Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these 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 non-segregated 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 obligation.
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 work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
  9. Goals for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minorities, 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, termina-



tion, 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 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).

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

## **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**

### **SPECIAL PROVISION**

### **CARGO PREFERENCE ACT (CPA)**

#### **DESCRIPTION**

The Federal Highway Administration (FHWA) in partnership with the Federal Maritime Administration (MARAD) has mandated the implementation of 46 CFR 381 making the cargo preference requirements applicable to the Federal Aid Highway Program.

The requirements of this Special Provision apply to items transported by ocean vessel.

#### **CONTRACT REQUIREMENTS**

##### **A. General**

Utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. Gross tonnage is computed separately for dry bulk carriers, dry cargo liners, and tankers.

Furnish a legible, English language copy of a rated 'on-board' commercial ocean bill-of-lading for each shipment of cargo described in the previous paragraph. Furnish the bill-of-lading within 20 days following the date of loading for shipments originating in the United States and within 30 working days following the date of loading from shipments originating outside the United States.

Furnish bills-of-lading to the Engineer and to the following:

Division of National Cargo  
Office of Market Development  
Maritime Administration  
Washington, DC 20590

##### **B. Subcontracts**

Include the language in Section "A, General" of this Special Provision in all subcontracts issued pursuant to this contract.

**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 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 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.

5. 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

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 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

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 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.



**CONTRACT SPECIAL PROVISION  
MANDATORY USE OF  
AUTOMATED CERTIFIED  
PAYROLL**

**All contractors** on NDDOT federal-aid projects, including city/county projects, must file weekly Certified Payrolls, as required under Davis-Bacon and Related Acts (DBRA). **The NDDOT requires the use of LCPtracker, a paperless online system for entering and filing these certified payrolls. Certified payrolls in paper form will no longer be accepted, and all contractors must file their payroll electronically.**

After award, the Prime Contractor (Prime) must:

1. Designate an individual as Prime Approver for the project. The Prime Approver will oversee DBRA payroll for all subcontractors of all tiers on the project. A contractor may inform the NDDOT Civil Rights Division (CRD) that the same individual will be Prime Approver on all projects. CRD will set up the Prime Approver Account for the project. Thereafter, the Prime Approver will have the responsibility to use the Account to approve all payroll on the project. Until payroll is approved by the Prime Approver, it cannot be viewed by the NDDOT and it is not deemed submitted to the NDDOT.
2. The prime contractor has the responsibility to assign subcontractors within the LCPtracker system to the project and to ensure that all subcontractors are aware of the necessity to file payrolls electronically and are set up within the system. Any subcontractor not on Approved Subcontractor List or the Qualified Contractor List must register and be placed one of these lists before entry of the subcontractor into LCPtracker. These lists may be found at <https://www.dot.nd.gov/pacer/qualified.htm> and <https://www.dot.nd.gov/pacer/registered.htm>. Only Prime Approvers or the CRD may enter subcontractors into LCPtracker.
3. The prime contractor has the responsibility to see that all required payrolls are filed by subcontractors of all tiers. If payroll is rejected or project staff otherwise requests a correction of payroll by any subcontractor on the project, the prime contractor has a responsibility to see that corrected payroll is submitted.
4. For further information on certified payroll, go to the NDDOT Labor Compliance/LCPtracker page at <https://www.dot.nd.gov/divisions/civilrights/laborcompliance.htm>. On this page, contractors will find a Getting Started on LCPtracker Guide and a Prime Approver Guide. Recorded trainings are also available on this page for both contractors and prime approvers. Contractors can obtain an LCPtracker user name and password by calling the NDDOT Civil Rights Division at (701) 328-2605 or (701) 328-2576.

09/06/2017

**CONTRACT SPECIAL PROVISION  
MANDATORY USE OF ONLINE  
DBE PROJECT PAYMENT REPORTING**

Payments made to all tiers of subcontractors must be reported electronically using the B2GNow system. Paper forms (Monthly Record of DBE Project Payments – SFN 60638) will no longer be accepted.

After award, the Prime Contractor (Prime) must:

1. Create a new account if not already in the system. Create a user for each employee who will use the system. If there is no account already set up, you can email Customer Support directly from the Account Lookup page. Your email address will be your user ID. Customer Support will email you with the information you need to log in.
2. Once the project has been awarded and the Utilization Plan (UP) has been created in the system and assigned to the contractor it must be filled out and submitted. An automated email message will be sent to a designated individual within the company alerting them that a UP is pending. Log into the system using the link provided in the email. For each contract the Prime must add all DBE and non-DBE subs being used on the project. When all information has been provided submit the UP. Civil Rights will review the UP and if everything is in order it will be approved. If changes need to be made the UP will be returned to the contractor and they will have 7 days to make the necessary adjustments and resubmit. If DBE or non-DBE subcontractors are added after the initial UP is set up the Prime can submit a request for them to be added.
3. Once the UP is submitted the project is “locked in” after Financial Management has processed the project in their system. After a UP is locked in payments from NDDOT to the Prime are reported through the system. The Prime must start reporting DBE and non-DBE subcontractor payments through the system in accordance with prompt pay guidelines outlined in the contract.
4. A user manual for UP’s and recording project payments is available to the contractors within the system. After login they can go to View>>My Utilization Plans and they will find the guide on the top of the Utilization Plan screen. They do not have to have a current UP assigned to them to see this guide. The guide is also on the actual UP page when a UP is assigned to them.
5. For further information on the Certification and Compliance System, go to the NDDOT Civil Rights page at <https://www.dot.nd.gov/divisions/civilrights/civilrights.htm>. There is various training available on a regular basis, to sign up for training go to the main Certification and Compliance System page and click the “Training and Events” box. Contractors that need to obtain an account or need subcontractors set up within the system should call the NDDOT Civil Rights Division at (701) 328-3116 or email [civilrights@nd.gov](mailto:civilrights@nd.gov)

10/3/2017

## NOTICE:

Electrical work done outdoors on highway construction projects is covered by the Line Construction rates rather than Electrician rates. When electrical work is performed on or within a commercial building only, such as a rest area, the job classification Electrician is to be used. Any other electrical work on a federal-aid highway construction project in North Dakota is covered by the line construction rates. The minimum wage and fringe amount stated in the attached wage determination within this proposal is required for such classification.

Apprentices in Line Construction: Apprentices in Line Construction must be classified and paid as Apprentice Linemen with a percentage of journeyman's pay that reflects the apprentice's progress level of training. Additionally, they must be enrolled in a bona fide lineman Apprentice Program regardless if they are also enrolled in an indoor Electrical Apprentice Program.

Electrical work may not be done by any Laborer classification under the ND Century Code. The Group 2 Laborer, Conduit Layer may only handle low voltage data or telephone lines and may not install or handle electrical conduit.

For assistance or questions concerning Davis-Bacon Wages and Requirements, go to:

<https://www.dot.nd.gov/manuals/civilrights/davisbacon.pdf>

Or contact:

Civil Rights Division  
North Dakota Department of Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700  
Phone: 701-328-2605      Email: [civilrights.nd.gov](mailto:civilrights.nd.gov)

NDDOT's *Davis-Bacon Wage and Payroll Requirements Handbook* is available at:  
[www.dot.nd.gov/manuals/civilrights/davisbacon.pdf](http://www.dot.nd.gov/manuals/civilrights/davisbacon.pdf)

U.S. DEPARTMENT OF LABOR

<small>STATE</small> NORTH DAKOTA	<small>COUNTY</small> STATEWIDE	20210054 Page 1 <small>DATE OF DECISION</small> 01-01-21
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	Basic Hourly Rates	Fringe Benefits Payments
		H & W/Pensions
<b>CARPENTERS</b>	\$30.60	\$ 7.60
<b>CEMENT MASONS/FINISHERS</b>	30.60	7.60
<b>LINE CONSTRUCTION:</b>		
Lineman	43.50	5.75 + 29%
Cable Splicer	43.50	5.75 + 29%
Line Equipment Operator	36.93	5.75 + 29%
Groundman	24.62	5.75 + 29%
<b>ELECTRICIANS:</b>		
Electrician	34.92	11.40 + 11.5%
Cable Splicer (Adams, Billings, Bottineau, Bowman, Burke, Divide, Dunn, Emmons, Golden Valley, Grant, Hettinger, McHenry, McKenzie, Mclean, Mercer, Mountrail, Oliver, Pierce, Renville Rolette, Sheridan, Sioux, Slope, Ward and Williams Counties)	36.67	11.40 + 11.5%
Electrician	32.35	11.35 + 11.5%
Cable Splicer (Barnes, Benson, Cavalier, Dickey, Eddy, Foster, Grand Forks, Griggs, Kidder, La-Moure, Logan, McIntosh, Nelson, Pembina, Ramsey, Ransom, Richland, Sargent, Steele, Stutsman, Towner, Traill, Walsh, and Wells Counties)	33.97	11.35 + 11.5%
Electrician	34.70	11.40 + 11.5%
Cable Splicer (Burleigh, Morton and Stark Counties)	34.64	11.40 + 11.5%
Electrician (Cass County)	14.72	3.40
<b>WELDERS:</b>		
Receive rate prescribed for craft performing operation to which welding is incidental		

**LABOR RATES**

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**LABORERS:**

**Group 1**

General Construction Laborers: Sack Shaker (cement and mineral filler), pipe handler, drill runner tender, salamander heater and blower tender, light truck, pickup driver, flaggers and pilot car drivers

**Group 2**

Semi Skilled Laborer: bulk cement handler, conduit layer, telephone or electrical, form setter (pavement), gas electric or pneumatic tool operator, chipping hammer, grinders and paving breakers (tamper-dirt), concrete vibrator operator, chain saw operator, concrete curing man (not water), bituminous worker (shoveler, dumper, raker and floated), kettleman, (bituminous or lead), concrete bucket signalman, power buggy operator, brick and mason tender, multi-plate pipelayer, culvert pipe layers, carpenters tenders

**Group 3**

Caisson Worker: Bottom Man (Sanitary sewer, storm sewer, water and gas liners); Concrete Mixer Operator (one bag capacity); Mortar Mixer

**Group 4**

Drill Runner (includes Wagon Chum or Air Track); Pipe Layers (sanitary sewer, storm sewer, water, and gas lines); Powderman, gunite and sandblast; Nozzleman; Rein forcing Steel Sellers/Tiers; Concrete Finisher Tender

**POWER EQUIPMENT OPERATORS:**

**Group 1**

All Cranes, 60 tons and over; Cranes doing piling, sheeting, dragline/clam work; Derrick (Guy and Stiff), Gentry Crane Operator; Helicopter Operator; Mole Operator or Tunne Mucking Machine; Power Shovel; 3-1/2 CY. and over; Traveling Tower Crane)

**Group 2**

All Cranes 40 tons and up to 59 tons; Backhoe Operator 3 CY. and over; Creter Crane; Dredge Operator 12" and over; Equipment Dispatcher; Equipment Dispatcher, Finish Motor Grader; Front End Loader Operator 8 CY. and over;; Master Mechanic (when supervising 5 or more Mechanics), Mon-O-Rail Hoist Operator, Power Shovel up to and including 3 CY. and Tugboat

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$22.65	\$ 3.15
22.90	3.15
23.05	3.15
23.80	3.15
31.05	18.00
29.65	18.00

**LABOR RATES**

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**POWER EQUIP. OPERATORS: (CONT.)**

**Group 3**

All Cranes 39 tons and under; Asphalt Paving Machine Operator; Asphalt Plant Operator; Automated Grade Trimmer; Backhoe Operator, 1 CY. up to and including 2-1/2 CY.; Boom Truck Hydraulic 8 tons and over; Cableway Operator; Concrete Batch Plant Operator (electronic or manual); Concrete Mixer Paving Machine Operator; Concrete Paver Bridge Decks; Concrete Pump; Concrete Spreader Operator and Belt Placer; Crushing Plant Operator; Dozer Operator; Dredge Operator or Engineer 11" and under; Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 3-1/2 CY up to and including 7-1/2 CY; Gravel Washing and Screening Plant Operator; Locomotive, all types; Mechanic or Welder(Heavy Duty); Motor Grader Operator; Pavement Breaker (Non-Hydro Hammer Type, Pipeline Wrapping, Cleaning and Bending Machine Operator; Power Actuated Auger and Horizontal Boring Machine Operator, 6" and over; Refrigeration Plant Engineer; Rota Milling Machine (Surface Planer), 43" and over; Scraper Operator; Slip Form Concrete Paving Operator; Tandem Pushed Quad 9 or similar; Tractor with Boom Attachment; Trenching Machine Operator, 100 H.P. and over).

**Group 4**

Articulated/Off Road Hauler; Asphalt Dump Person; Asphalt Paving Screen Operator; Backhoe, up to and including 1/2 CY; Boring Machine Locator; Console Board Operator Curb Machine Operator; Distributor Operator (Bituminous), Forklift Operator; Front End Loader, 1-1/2 CY up to and including 3 CY; Grade Person; Gravel Screening Plant Operator (not Crushing or Washing); Greaser; Lazar Screed Operator; longitudinal Float and Spray Operator; Micro Surfacer Machine; Motor Grader Operator (Haul Roads); Paving Breaker Hydro Hammer Type; Pugmill Operator; Push Tractor; Roller, Steel and Rubber on Hot Mix Asphalt Paving; Rotomilling Machine (Surface Planer), up to and including 42"; Rumble Strip Machine; Sand and Chip Spreader, Self-Propelled Sheepsfoot Packer with or without Blade Attachment; Self Propelled Traveling Soil Stabilizer; Sheepsfoot Packer with Dozer Attachment 100 H.P. and over; Shouldering Machine; Slip Form, Curb and Gutter Operator, Slurry Seal Machine; Tamping Machine Operator; Tie Tamper and Ballast Machine; Trenching Machine Operator, 46 H.P. up to and including 99 H.P.; Truck Mechanic; Tub Grinder; Well Points; Fuel/ Lube Operator

**Group 5**

Boom Truck, A-Frame or Hydraulic 2 tons up to and including 7 tons; Broom Self-Propelled; Concrete Saw (power operated); Cure Bridge Operator; Front End Loader Operator, less than 1-1/2 CY; Mobile Cement Mixer; Power Actuated Auger and Horizontal Boring Machine Operator, up to and including 5"; Roller (on other than hot mix asphalt

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$29.40	\$18.00
29.25	18.00

**LABOR RATES**

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**POWER EQUIP. OPERATORS: (CONT.)**

**Group 5 (CONT.)**

paving); Oilers; Vibrating Packer Operator (Pad Type) (Self Propelled); Water Spraying Equipment, Self Propelled; Skidsteer Operator with attachments

**Group 6**

Assistant/Apprentice Operator; Brakeman or Switchman; Dredge or Tugboat Deckhand; Drill Truck Gravel/Testing Operator; Form Trench Digger (Power); Guniting Operator Gunall; Paint Machine Striping Operator; Pickup Sweeper, 1 CY and over Hopper Capacity; Scissor Jack {Self -Propelled) Platform Lift; Straw Mulcher, Blower and straw press; Stump Chipper Operator; Tillage Equipment Operator; Tractor Pulling Compaction or Aerating Equipment and no till drills; Trenching Machine Operator, up to and including 45 H.P.

**TRUCK DRIVERS:**

Single-Axle Truck

Tandem- and Tri-Axle Truck

Tandem- and Tri-Axle Semi Lowboy

Off Road Heavy Duty End Dumps, 20 Yards and Under

Euclid, Over 20 Yards

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$28.40	\$18.00
27.10	18.00
29.12	14.95
29.24	14.95
29.55	14.95
29.55	14.95
31.07	14.95

Unlisted classifications needed for work not included within the scope of the classifications listed may be added alter award only as provided in the labor standards contract clauses [29 CFR, 5.5 (a) (1) (ii)].

# NORTH DAKOTA DEPARTMENT OF TRANSPORTATION (NDDOT)

## 2017 ON-THE-JOB TRAINING PROGRAM SPECIAL PROVISION

The bidder's signature on the proposal sheet indicates the bidder agrees to take part in the On-the-Job Training (OJT) Program and to follow the OJT Program Manual and Special Provision. Contractors that fail to do so will be subject to suspension of progress payments or sanctions up to and including revocation of bidding privileges.

OJT is training conducted in a highway construction work environment designed to enable minority, female, and economically disadvantaged individuals to learn a bona fide skill and qualify for a specific occupation through demonstration and practice.

After a training program and trainee candidate have been approved, the contractor begins training its regular employee according to the approved program. The goal of this training is to retain the trainee as a permanent employee. OJT involves individuals at the entry level. Training is designed to help participants reach their fullest potential and become self-sufficient in the job.

### I. POLICY STATEMENT

The purpose of the OJT Program is to provide training in the highway construction industry for minority, female, and economically disadvantaged individuals, from this time known as the targeted group. Pursuant to 23 Code of Federal Regulations Part 230, Subpart A, Appendix B - Training Special Provisions, this program provides for on-the-job training aimed at developing journey-level workers in skilled trades.

The Contractor shall take all necessary and reasonable steps to ensure that minorities and women have the opportunity to compete for and participate as trainees or apprentices and to develop as journey-level workers employed in the skilled trades.

Contractors should select a training program(s) based on their company's employment/staffing needs as stated in the OJT Program Manual.

### II. INTRODUCTION/PROGRAM BACKGROUND

The OJT Program was originally prepared through the cooperative efforts of the Associated General Contractors of North Dakota (AGC); the Federal Highway Administration (FHWA); the North Dakota Department of Transportation (Department); and, other program stakeholders.

Successful operation of the OJT Program requires contractors to follow uniform and basic training procedures, keep records of trainee progress, and report each trainee's completion or termination.

### III. ASSIGNED OJT POSITIONS

A. Trainee positions are assigned contractors based only on federal highway dollars awarded from October 1 to September 30. Trainee assignments are not project specific; that means the contractor may train program participants on any project where training opportunities exist.

The number of trainee positions assigned will be determined by formula based on calculations involving particular project specification numbers on applicable projects. The types of projects NOT applicable in the calculation to assign trainee positions are:

- County-only or state-only funded projects
- Emergency relief, concrete pavement repair (CPR), electrical, rest area, signing, striping projects
- Projects subject to Tribal Employment Rights Ordinances (TERO)
- Projects not let through NDDOT bid openings



- B. Contractors will receive the number of positions assigned and links to resources necessary for completion of program requirements via email.
- C. The number of trainee positions assigned to each contractor will increase proportionately, as shown below, for any applicable federally funded projects awarded to them.

For all federal highway dollars awarded from October 1 to September 30:

6,000,000 to 15,000,000	1	trainee
15,000,001 to 23,000,000	2	trainees
22,000,001 to 31,000,000	3	trainees
31,000,001 and above	4	trainees

A maximum of four (4) trainee positions in a federal fiscal year will be assigned to any prime contractor regardless of dollar amount. Carryover positions from a prior construction season are not included in the four trainee maximum, e.g., a contractor with one carryover and four assigned positions may have a total five trainees.

Failure to follow this OJT Special Provision and the accompanying OJT Program Manual may result in suspension of progress payments or sanctions up to and including revocation of bidding privileges.

#### IV. FUNDING

The Department will establish an OJT fund annually from which contractors may bill the Department directly for eligible trainee hours. The funds for payment of trainee hours on federal-aid projects will be made available based on 23 USC 504(e) to a maximum of \$100,000. The funds for payment of trainee hours on state-aid only projects will be allocated to a maximum of \$10,000.

#### V. ONLINE RESOURCES

*OJT Program Manual:* Includes program requirements, wage rates, and curriculum:  
<https://www.dot.nd.gov/divisions/civilrights/docs/ojtprogram.pdf>

*SFN 60226 Request for On-the-Job Training Program and Trainee Approval:*  
<http://www.dot.nd.gov/forms/sfn60226.pdf>

*SFN 51023 Voucher for On-the-Job Training Program Hourly Reimbursement:*  
<http://www.dot.nd.gov/forms/sfn51023.pdf>

Davis-Bacon and Related Acts (DBRA) Handbook: <https://www.dot.nd.gov/manuals/civilrights/davisbacon.pdf>

#### VI. APPROVALS REQUIRED

- A. Requests for Training Programs and Trainee Approvals must be submitted to Civil Rights Division (CRD). Contractors must request and receive program and trainee candidate approval in order to pay trainees less than the established Davis-Bacon wage for the job classification concerned. No training program hours will count toward the fulfillment of an assigned trainee position or be eligible for reimbursement without prior approval. No retroactive approval will be granted.
  - 1. Submit SFN 60226 *Request for On-the-Job Training Program and Trainee Approval* with each trainee's employment application. <http://www.dot.nd.gov/forms/sfn60226.pdf> and the pre-approved training curriculum for each trainee position assigned by April 1 or within fifteen (15) calendar days of notification of any additional position assignments.
  - 2. Submit SFN 7857 *Application for Eligibility, Job Service North Dakota (JSND)* approval of an economically disadvantaged individual for participation in the OJT Program.

- B. Pre-approved curriculum: NDDOT's OJT Program Manual contains pre-approved training curriculum for a number of skilled trade positions. Contractors should select a training program(s) based on their company's employment/staffing needs.
- C. Customized curriculum: To request a training curriculum not included in the pre-approved curriculum, submit a written request for approval by NDDOT and FHWA.

The request must include:

- A training curriculum, including the classification requested, minimum number of hours required, and type of training the individual will receive to achieve journey-level worker status.
- A minimum wage scale.

If approved, each new classification must comply with the provisions specified in the OJT Program Manual. No hours worked prior to approval will be credited toward completion of the customized training program. Training programs for classifications not covered by the Davis-Bacon and Related Acts (DBRA) will be considered on a limited basis.

The contractor may commence its "customized" training as of the date of the written approval.

- D. Union apprenticeship and on-the-job training programs registered with the Bureau of Apprenticeship and Training (BAT), U.S. Department of Labor, may be used for trainee positions assigned under the OJT Program, provided the trainees or apprentices are minority, female, or economically disadvantaged. Nonminority males not certified as economically disadvantaged may only be used when the contractor has requested and received approval, from the Department, for additional trainee positions. The apprenticeship indenture agreements serve as the trainee's job application and must be provided prior to any hours being credited toward OJT Program completion.
- E. Power Equipment Operators:

The contractor may train an individual on a combination of equipment if each piece of equipment falls within the same groups of power equipment operators identified in the training curricula (groups 1-3 and groups 4-6). These power equipment operator groups are referenced to the federal DBRA wage rates contained in the contract proposal. As an example, a "utility operator" may receive training on a broom, a front-end loader less than 1½ cubic yards, or other piece of equipment that is used around a paver if each piece falls within either groups 1-3 or groups 4-6. When multiple wage rates apply, the trainee's wage will be based on the equipment being operated at the time or on the highest of the applicable wage rates.

Use of the classification "pickup machine operator (asphalt dump-person)" as a group 4 power equipment operator is considered standard industry practice. The classification is defined as: "Operates the controls on the pickup machine that runs in front of the paver, trips the levers on the dump trucks, and balances the loads for the paver. The pickup machine operates on similar principles as a shouldering machine."

- F. Contractors not qualifying for the OJT Program, or contractors desiring to train more than the allotted number of trainees, may apply to the Department for additional trainee positions. Approval of additional positions will be at the sole discretion of the Department. The Department will take into consideration whether there is enough work for the trainee to successfully complete the curriculum and whether the contractor will be exceeding the allowable ratio of trainees to journey-workers (generally considered to be one trainee or apprentice to every three to five journey-workers).

The additional positions may be filled by individuals outside of the targeted groups. The contractor may pay the reduced training rates to additional trainees outside of the targeted groups, but will not receive hourly reimbursement for any individuals who are outside the targeted groups.

## VII. NDDOT'S RESPONSIBILITIES

- A. The NDDOT OJT supportive services (OJTSS) consultant will monitor excerpts from the weekly certified payrolls submitted with the monthly vouchers for reimbursement. This includes weekly payrolls from

contractors working on state funded only projects. On contracts where certified payrolls are not required and not available for supporting documentation, contractors may enter trainee wages, hours in training, and the project control number(s) (PCN) in a spreadsheet to support their reimbursement vouchers. In this case, contractors should work with OJTSS to assure that all information required for payment is provided. The OJTSS consultant will assess when the trainees have completed the specified number of hours and their wages are increased accordingly. The OJTSS consultant will also assure that applicable fringe benefits are paid either directly to the trainees or for the trainee into approved plans, funds, or programs.

- B. The OJTSS consultant is charged with visiting trainees and monitoring their progress under the OJT Program. To facilitate the on-site visits, the OJTSS consultant will contact contractors for the location of the trainees weekly.

## VIII. CONTRACTOR'S RESPONSIBILITIES

- A. Consistently demonstrate efforts to recruit, hire, and train candidates for the OJT Program.
- B. Assign each trainee to a particular person—either a supervisor or an employee proficient in the skills to be trained—who shall see that the trainee is given timely, instructional experience. This person must be familiar with the OJT Program, keep proper records, and ensure completion of the required training hours in accordance with the training curriculum.
- C. Appoint a company employee who will be available and responsive to weekly contacts by the OJTSS consultant. OJTSS monitors the status of assigned trainee positions (e.g., program and trainee approvals, trainees' progress, etc.). The OJTSS consultant will contact the individual listed on the company's approved SFN 60226 Request for OJT Trainee Approval. This person must reply to communications from the Department and the OJTSS consultant in a timely manner.
- D. Make trainees available to the OJTSS consultant for at least two on-site visits during the construction season.
- E. Make the trainer and project superintendent available to the OJTSS consultant for at least two on-site visits each construction season.
- F. Make trainees aware they are formally enrolled in the OJT program.
- G. Identify trainees on the payroll excerpts, for example: "grp. 4 roller operator trainee." This includes trainees in job classifications not covered by DBRA. Handwritten notes are appropriate for identification.
- H. Notify the Department when a trainee completes the number of hours required to graduate from the OJT Program. The Department will issue the trainee a certificate of completion and a wallet-sized card as proof of the graduate's successful training program completion.
- I. Notify the Department to "propose graduation" or discontinue the training period of a trainee who has completed 90% or more of their hours and thereafter advance the trainee to journey-worker status.
- J. Elect to upgrade proficient trainees from one power equipment operator group or truck driver group to another, with the approval of CRD. Fewer hours are required to complete the upgraded position.

Minimum number of hours required:

Power Equipment Operator Groups 4-6 to Groups 1-3 = 400 hrs.

Class C Truck Driver to Class B = 200 hrs.

Class B Truck Driver to Class A = 200 hrs.

Depending on the variety of experience the trainee has gained under the previous curriculum, the difference in the hours may be deducted from the actual operation of the piece of equipment or truck. The contractor will need to review the trainee's past performance in order to make this determination.

- K. May hire commercial driver's license (CDL) holders as truck driver trainees. Those having over-the-road driving experience, with little or no highway construction experience, may be considered to have completed

the Class C truck driver training curriculum and, therefore, are eligible to be upgraded to a Class B truck driver trainee, with the approval CRD.

- L. May transfer trainees from one project to another in order to complete the OJT Program. If transfers are made, CRD must be notified and provided with the name of the trainer. The training hours will count toward overall OJT Program completion.
- M. May train trainees on municipal, private, out-of-state projects or other non-highway work. These training hours must be paid at the OJT minimum wage scale to count toward their OJT Program completion; however, no program reimbursement will be made for those hours.
- N. May delegate or reassign trainee positions to subcontractors, with the acceptance of the subcontractors and the approval of CRD. The prime contractor must verify that the trainee will be able to accumulate enough hours to complete his or her training program. If approved, the subcontractor must obtain training program and trainee approval from CRD before the trainee begins work under the OJT program. Program reimbursement will be made directly to the prime contractor. The trainee position will remain the responsibility of the prime contractor.
- O. May use trainees on projects subject to TERO requirements as part of the core crew or as part of the skilled labor supplied by the contractor. The training hours will count toward overall OJT Program completion; however, no program reimbursement will be made for those hours unless it is a NDDOT let project.
- P. May not use one trainee to simultaneously fill multiple trainee positions
- Q. May use a trainee on a piece of equipment in groups 1-3 or groups 4-6 for one assigned trainee position, then once that trainee has completed the program, the trainee may be trained on a different piece of equipment in groups 1-3 or groups 4-6 to fulfill a second assigned trainee position. When a trainee is used for a second time within a group, the contractor must pay that trainee at the higher wage rate as described in paragraph B under Wage Rates (page 8).

#### IX. CLASSROOM TRAINING

- A. Classroom training may be used to train employees. Each classroom training curriculum must be pre-approved by CRD if the contractor wishes to count the classroom hours as training hours and be reimbursed.  
  
Submit a proposed classroom training curriculum to CRD for approval. Define the type of training the individual will receive, classroom training curriculum, and the minimum number of hours required. The Department will determine the number of hours of credit each trainee will receive toward their training. No retroactive approval will be granted.
- B. Contractors will be reimbursed for classroom training hours after the trainee has completed 80 hours of work on highway construction projects.
- C. Reimbursement for classroom training will be limited to 60 hours per trainee per construction season. Reimbursement for classroom training required under the NDDOT Transportation Technician Qualification Program will be at the NDDOT discretion.
- D. The minimum wage scale to be used for classroom training will be that of the first federal-aid highway construction project on which the trainee will be employed. If the trainee is already employed on a federal-aid highway construction project, the trainee will be paid in accordance with the minimum wage scale applicable to that project. However, if the first project on which the trainee will be employed is a state funded only contract, the minimum wage scale to be used for the classroom training will be that of the appropriate DBRA wage in effect at the time of award of the state funded contract.

#### X. WAGE RATES

- A. When the contractor is submitting the trainee's hours toward training program, wages paid shall in no case

be less than that of those stated in the approved curriculum. A trainee working on a state funded only project, must be paid the DBRA wage rate in effect at the time of award for the type of work the trainee is performing as a trainee.

- B. The minimum wage rates shall not be less than 80% of the journey-worker rate for the first two quarters of training, 85% of the journey-worker rate for the third quarter, and 90% of the journey-worker rate for the fourth quarter.
- Under the power equipment operator training curricula only, once a trainee has completed a training curriculum in either groups 1-3 or groups 4-6, the contractor may enroll the trainee in another training curriculum on a different piece of equipment in either groups 1-3 or groups 4-6.
  - The minimum wage rate under the trainee's second program shall not be less than 85% of the journey-worker rate for the first two quarters of training, 90% of the journey-worker rate for the third quarter, and 95% of the journey-worker rate for the fourth quarter.
  - For the purpose of the OJT Program, a quarter is 25% of the hours the trainee works toward completion of their approved program. The first two quarters of a 550-hour training curriculum would end after 275 hours, the third quarter after 138 hours, and the fourth after 137 hours.
- C. At any time hours are being attributed toward the completion of the approved training program, trainees shall be paid full fringe benefit amounts, where applicable, in accordance to DBRA requirements.
- D. At the completion of the OJT Program, the trainee shall receive the wages of a skilled journey-worker.

## XI. RECRUITMENT AND SELECTION

- A. Prerequisites:  
Trainees must possess basic physical fitness for the work to be performed, dependability, willingness to learn, ability to follow instructions, and an aptitude to maintain a safe work environment.
- B. Licenses:  
Truck driver trainees must possess appropriate driver permits or licenses for the operation of Class A, B, and C trucks. When an instructional permit is used in lieu of a license, the trainee must be accompanied by an operator who:
1. Holds a license corresponding to the vehicle being operated;
  2. Has had at least one year of driving experience; and
  3. Is occupying the seat next to the driver.
- C. Recruitment:
1. Place notices and posters setting forth the contractor's Equal Employment Opportunity (EEO) Policy and the availability of the OJT Program in areas readily accessible to employees, applicants for employment, and potential employees.
  2. Employ members of the targeted group (minority, female, or economically disadvantaged individuals) for all trainee positions assigned in accordance with the OJT Program. Additional positions requested by the contractor may be filled by individuals outside of the targeted groups.
  3. Conduct systematic and direct recruitment through public and private employee referral sources.
  4. Screen present employees for upgrading to higher skilled crafts. A present employee may qualify as a trainee; however, no work hours will be reimbursed or counted toward program completion prior to training program and trainee approval by CRD.
- D. Selection:
1. Hire and enroll OJT trainee candidates who qualify as an individual in the targeted group.

2. Select a training program(s) based on their company's employment/staffing needs.
3. Individuals in the targeted group having experience in the selected curriculum may be eligible to participate in the OJT Program providing they:
  - Are not or have not been journey-workers in the selected curriculum, and/or
  - Have not been previously trained in the selected curriculum.
4. Non-minority males who are economically disadvantaged must obtain written certification from Job Service North Dakota (JSND) to qualify for the OJT Program. Contractors wishing to hire and enroll economically disadvantaged candidates must provide JSND's certification along with SFN 60226 and the employment application when requesting trainee approval.
  - JSND is the only agency that may certify an individual as economically disadvantaged. If JSND refers the candidate to the contractor, written certification under this category will be provided to the contractor at the time of the interview.
  - Any person wishing to obtain this certification must apply to JSND and complete the Workforce Investment Act Program's Application for Eligibility (SFN 7857). A contractor recruiting a candidate who may qualify must contact the Workforce Investment Act Program Manager at JSND. JSND contacts are also online:  
<http://www.dot.nd.gov/divisions/civilrights/docs/jobservice-workforce-invest-contacts.pdf>

## XII. BASIS OF PAYMENT

- A. Contractors will be paid \$4.00 for each hour of training in accordance with the OJT Program Manual.
- B. Reimbursement will be made directly to the contractor. Complete SFN 51023 Voucher for On-the-Job Training Program Hourly Reimbursement for each trainee. Attach excerpts from the weekly certified payrolls showing the trainee's hours, rate of pay, and how applicable fringe benefits were paid. Excerpts from weekly payrolls are also required for state funded only projects. Vouchers without excerpts from payrolls will not be paid until the excerpts are provided. If the excerpts from the payrolls are not provided within one week, the voucher will not be paid and the trainee's hours will not be credited toward completion.  
<http://www.dot.nd.gov/forms/sfn51023.pdf>
- C. On contracts where certified payrolls are not required and not available for supporting documentation, contractors may enter trainee wages, hours in training, and the project control number(s) (PCN) in a spreadsheet to support their reimbursement vouchers. In this case, contractors should work with OJTSS to assure that all information required for payment is provided.
- D. Submit completed vouchers to CRD for approval and processing by the fifteenth (15<sup>th</sup>) calendar day of every following month the trainee is employed under the OJT Program.

Regardless, all vouchers for trainee hours worked on state funded only projects from July 1 to June 30 must be received by CRD no later than July 15 in order to be reimbursed. All vouchers for trainee hours worked on federally funded projects from October 1 to September 30 must be received by CRD no later than October 15 in order to be reimbursed. This is due to state and federal end-of-the-year budget fiduciary requirements.

## XIII. FAILURE TO PROVIDE THE TRAINING OR HIRE THE TRAINEE AS A JOURNEY-WORKER

- A. The contractor is required to consistently demonstrate efforts to recruit, hire, and train candidates for the OJT Program.
- B. If the contractor does not show in a timely manner good faith efforts to recruit, hire, and train candidates in the targeted group, the Department may withhold progress payments
- C. If payments have been made, the Department will deduct the amount paid from the contractor's progress

payment.

- D. No payment shall be made to a contractor for failure to provide the required training or failure to hire the trainee as a journey-worker when such failure is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this OJT Program Special Provision.
- E. Hiring a trainee to begin training as soon as feasible after start of work is evidence of a contractor's good faith efforts to comply with the OJT Program requirements. Additional evidence supporting a contractor's good faith efforts would be to keep the trainee employed as long as training opportunities exist in the approved work classification or until the trainee has completed his or her training program.
- F. It is not required that all trainees be employed for the entire length of the construction season. A contractor will have fulfilled its responsibilities under this OJT Special Provision if it has provided acceptable training to the number of trainees assigned.

#### XIV. UNFILLED OR INCOMPLETE TRAINEE POSITIONS

- A. By October 1, provide written explanation of the firm's good faith efforts for unfilled or incomplete trainee assignments to CRD. CRD will decide, on a case-by-case basis, whether to carry the assigned positions over to the next construction season.
- B. Positions carried over from the previous construction season must be among the first positions filled at season startup. To notify CRD of the trainee's rehiring, submit *SFN 60226 Request for On-the-Job Trainee Approval*, marking 'Check if Carryover Trainee' in the Approved Training Program section of the form. There is no need for the training position or a returning trainee to be re-approved.
- C. Sanctions, up to and including revocation of bidding privileges, may be imposed on the contractor for failure to provide sufficient explanation and documentation for reasons assigned trainee positions when unfilled or incomplete.

#### XV. DEFINITIONS

Carryover Position: Incomplete trainee position carried forward from a prior program year.

Carryover Trainee: Trainee scheduled to continue training hours under prior year's approved program.

CRD: NDDOT's Civil Rights Division administers the NDDOT On-the-Job Training Program.

Good Faith Efforts: Documentation supporting a contractor's efforts to fulfill the program requirements, e.g., new hires list, advertising examples/locations, current employees reviewed for upgrades, etc.

Journey-worker: A worker employed in a trade or craft who has attained a level of skill, abilities, and competencies recognized within the industry.

OJT Supportive Services (OJTSS): Department contractor providing in-person oversight, support, and guidance to contractors and trainees to increase the effectiveness of approved training programs.

Trainee: A person who receives training through an apprenticeship program or other FHWA approved program.

Trainer/Supervisor: Contractor's employee assigned to train, supervise, and support a trainee.

## NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

### SPECIAL PROVISION

#### TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES

##### 1. GENERAL

Install, maintain and remove appropriate Temporary Erosion and Sediment Control Measures (ESCMs).

##### Definitions:

**A. Temporary Erosion and Sediment Control Measures** are to be installed and maintained before and during the term of the land disturbance activity. These items are removed when permanent erosion and sediment ESCMs are installed.

**B. Permanent Erosion and Sediment Control Measures** are to be installed and maintained once the project is completed so that the applicable permits can be terminated.

In some instances, individual temporary and permanent erosion and sediment ESCMs for a site may consist of identical ESCMs. In these cases, the temporary erosion and sediment ESCMs may be used as the permanent erosion and sediment ESCMs if they meet the following criteria:

1. The ESCM was installed correctly,
2. Is in a functional condition,
3. Has had all accumulated sediment removed.

**C. The Stormwater Pollution Prevention Plan (SWPPP)** is the document that identifies potential sources of sediment or other pollution from construction activity and ensures practices are used to reduce the contribution of pollutants from construction site runoff.

**D. Contractor Controlled Areas** are project areas not included in the contract, but are obtained and solely controlled by the Contractor (e.g., concrete or asphalt batch plants, concrete washout areas, equipment staging yards, material storage areas, excavated material disposal areas, Contractor furnished borrow areas, etc.).

**E. Maintenance** is any action taken to keep an ESCM in working condition. These actions may consist of repairing failures of the ESCM itself.



**F. Noncompliance** is any action or inaction that violates the regulations imposed by the applicable permits or the requirements of this special provision and other contract documents. Failure of an ESCM does not necessarily constitute noncompliance as long as the ESCM is repaired, replaced or supplemented within the timelines established in the applicable permits and no sediment is discharged from the site or into a water of the state.

## 2. CONSTRUCTION REQUIREMENTS

Develop a SWPPP specific to the project. The creation of the SWPPP is a cooperative effort between the NDDOT who creates the project plan sheets and the Contractor who creates a complete SWPPP which incorporates the plan sheets and the Contractor's means and methods. The project plan sheets by themselves do not meet the requirements of a complete SWPPP and should not be considered as such. The Contractor has the flexibility to modify the design and implementation of the temporary erosion and sediment controls to match the Contractor's means and methods and/or field conditions. These changes must be documented in the SWPPP and meet all regulatory requirements.

Obtain appropriate permit coverage for the activities conducted in Contractor Controlled Areas. A permit will be required for these areas regardless of their size. The NDDOT will have no responsibility for these areas. Provide copies of the completed and signed Notice of Intent submitted for permit coverage to the Engineer before activities in these areas commence. Do not commence activities in these areas until after permit coverage has begun. Provide copies of Permit Coverage Letters for these areas to the Engineer within 7 days of receiving them from the regulating agency.

Install perimeter erosion and sediment ESCMs according to the plans/SWPPP prior to site disturbance.

Change the location of temporary erosion and sediment ESCMs to fit the field conditions.

Update the SWPPP as work progresses, or as directed by the Engineer. Update the SWPPP to show changes due to revisions in work schedules or sequence of construction. Update the site map to reflect erosion and sediment ESCMs that have been installed, changed, or removed.

Do not rely on perimeter ESCMs as the sole method of controlling erosion. As the project progresses, install temporary erosion and sediment ESCMs within the perimeter ESCMs to control erosion resulting from the construction of the project.

Use temporary erosion and sediment ESCMs to prevent contamination of adjacent streams or other watercourses, lakes, ponds or other areas of water impoundment.

Coordinate temporary erosion and sediment ESCMs with the construction of permanent erosion and sediment ESCMs to provide continuous erosion control. Do not install temporary erosion and sediment ESCMs when permanent erosion and sediment ESCMs are able to be installed. Once the permit is terminated or transferred to the Department, the maintenance of the permanent erosion and sediment ESCMs becomes the responsibility of the NDDOT.

Install stabilization ESCMs (mulch, seeding and mulch, etc.) in areas that have been disturbed where work has temporarily or permanently ceased following the timelines established in the applicable permits. If implementation of stabilization is precluded by snow cover, undertake such measures as soon as conditions allow.

Maintain the effectiveness of the temporary erosion and sediment ESCMs as long as required to contain sediment runoff. Inspect the temporary erosion and sediment ESCMs and complete the inspection and maintenance reports every 14 days and within 24 hours of a rainfall event of 0.25 inch or more. During prolonged rainfall (more than 1 day), conduct an inspection within 24 hours of the first day of the event and within 24 hours after the end of the event. Inspections are required only during normal business hours. Install a rain gauge to monitor rainfall amounts as required by the appropriate permit.

Correct any deficiencies in the ESCMs within the timelines established in the applicable permits. If conditions do not permit access to the ESCM, corrective actions can be taken by installing additional ESCMs. Correct the original deficiencies as soon as conditions allow access to their location without causing additional damage to the slopes. In the inspection logs, document the conditions that prohibit access.

Provide copies of all inspections, documentation, record keeping, maintenance, remedial actions, and repairs required by the applicable permits to the Engineer. Provide inspection and maintenance reports within 3 working days after an inspection has been conducted.

Provide, at the preconstruction conference, documentation of any Subcontractor hired for erosion control showing that the Subcontractor's on site supervisor is certified through the NDDOT Erosion & Sediment Control Construction Certification Training. This certification must be maintained by the Subcontractor's onsite supervisor through the term of the contract. The Engineer will provide a verification of their certification through the NDDOT Erosion & Sediment Control Construction Certification Training at the preconstruction conference and will maintain that certification through the term of the contract.

Provide immediate written notification to the Engineer of proposed changes to the erosion control plan or SWPPP. The Engineer will review the proposed changes and determine if they are adequate. Documentation of maintenance and inspections that does not affect the erosion control plan or SWPPP does not require approval by the Engineer.

Remove the temporary devices when directed by the Engineer or when permanent erosion and sediment controls are installed.

### **3. Erosion and Sediment Control Supervisor.**

**A. General.** Designate an erosion and sediment control supervisor. Provide the name and contact information for the supervisor at the preconstruction meeting. If this erosion and sediment control supervisor becomes unavailable on the project, designate a replacement supervisor. Notify the Engineer if this supervisor changes and provide the contact information for the new supervisor.

**B. Qualifications.** The supervisor shall be:

1. An employee of the Prime Contractor;
2. Familiar with installation, maintenance and removal of ESCMs and the requirements of the erosion and sediment control plans, applicable permit requirements, specifications, plans and this provision; and
3. Competent to supervise personnel in erosion and sediment control operations.
4. Certified through the NDDOT Erosion & Sediment Control Construction Certification Training and maintain that training throughout the term of the contract.

**C. Duties.** The supervisor shall:

1. Provide erosion and sediment control as required by the SWPPP, Plans, and Specifications.
2. Be on the site to supervise the installation, operation, inspection, maintenance, and removal of the erosion and sediment ESCMs.
3. Update the SWPPP as work progresses to show changes due to revisions in work schedules or sequence of construction, or as directed by the Engineer. Update the site map to reflect erosion and sediment ESCMs that have been installed, changed, or removed.
4. Propose changes to improve erosion and sediment control.
5. Be accessible to the job site within 24-hours.
6. Provide the Engineer with documentation of all erosion and sediment control activities and inspections as required above.

#### 4. PERFORMANCE

Correct all areas of noncompliance within 24 hours after notification of noncompliance. If corrective actions are not taken within 24 hours, the Engineer may:

1. Assess a contract price reduction of \$500 per day per instance;
2. Have deficiencies corrected by another Contractor and deduct the cost of the work from the monies due or to become due to the Contractor;
3. Suspend all work; or
4. Withhold payment on other contract items/pay estimates.

These actions will be applied until deficiencies have been corrected.

#### 5. BASIS OF PAYMENT

ESCM installation will be paid for at the contract unit price for erosion and sediment control for the appropriate items and sections. The plans will detail the required ESCMs for temporary and permanent installations. The same bid items may be used for temporary and permanent ESCMs.

ESCM items will be measured as specified in the "Method of Measurement" portion of the appropriate section of the specifications.

ESCM item removal will be paid for at the contract unit price for "Remove \_\_\_\_\_" in the appropriate section of the specifications.

Include the costs for labor, materials, maintenance, equipment, disposal, adherence to the permit, and SWPPP modifications in the respective pay items.

When the Engineer directs the replacement of temporary erosion and sediment ESCMs that are no longer functional because of deterioration or functional incapacity and those items were installed as specified in the Contract or as directed by the Engineer, the Department will pay for replacement ESCMs

No payment will be made for replacing temporary erosion and sediment ESCMs that the Engineer determines are ineffective because of improper installation, lack of maintenance, or the Contractor's failure to pursue timely installation of permanent erosion and sediment ESCMs as required in the Contract.

No payment will be made for replacing temporary erosion and sediment ESCMs due to contractor operations. Include the cost to move Flotation Silt Curtain as work progresses in the price bid for "Flotation Silt Curtain".

Erosion and sediment controls for Contractor Controlled Areas are the responsibility of the Contractor and will not be paid for by the Department.

Removal of sediment from silt fence and fiber rolls will be paid for at the price listed in the "Price Schedule PS-1."

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**SPECIAL PROVISION**  
**LOCAL AGENCY CONTRACTS**

References to NDDOT, Department, Director, or Engineer in the Standard Specifications for Road and Bridge Construction and other portions of the Contract must be construed as referring to the Owner of the project.

If the Contractor intends to file a claim for additional compensation for work or material not covered by the Contract, the Contractor is required to prosecute the claim in accordance with the Standard Specifications for Road and Bridge Construction, Section 104.05, "Claims for Adjustment". The provisions of Section 104.05 D, "Conditions Precedent to Contractor's Demand for Arbitration", are not applicable to this Contract, nor are the provisions of North Dakota Century Code §24-02-26 et seq. regarding arbitration applicable, as the North Dakota Department of Transportation is not a party to the Contract.

## NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

### SPECIAL PROVISION

### LIMITATIONS OF OPERATIONS

#### DESCRIPTION

Section 108.05, "Limitations of Operations" is no longer valid. Use this Special Provision in its place.

#### 108.05 LIMITATION OF OPERATIONS

##### A. General.

Perform the work in a manner and sequence that minimizes interference to traffic, and with due regard to the location of detours and provisions for handling traffic. Do not begin work to the prejudice or detriment of work already started; the contract may require a section of roadway to be finished before starting additional sections if the opening of the section is essential to public convenience.

If the prosecution of the work is discontinued, provide the Engineer at least 24-hours notice before resuming operations.

##### B. Holidays.

Unless the contract allows work on holidays, perform work on holidays only with the Engineer's prior written approval. Submit a written request to the Engineer by noon 2 business days before the requested holiday.

##### C. Night-time Operations and Extended Hours.

###### 1. General.

When performing work in low light conditions, implement proper safety precautions and provide adequate lighting for the performance and inspection of the work.

###### 2. Nighttime Operations.

Unless the contract allows for nighttime operations, perform work at night only with the Engineer's prior written approval.

Submit a written request to the Engineer a minimum of 7 calendar days before anticipated nighttime operations. The Engineer may deny the request or delay approval if it would require additional staffing considerations. If nighttime operations requires the Engineer to hire additional forces, nighttime operations may not be allowed for up to 30 days from the receipt of the request.

When requesting to perform nighttime operations, include a plan to ensure the safety of all individuals on the project site, including the Contractor's and subcontractor's workers, Department representatives, and the traveling public.

The Department bears no liability for costs or delays resulting from the Engineer's approval, rejection, or delay for staffing purposes of a request to perform nighttime operations.

**3. Extended Hours.**

Extended hours are allowed before sunrise with verbal notice given to the Engineer the previous day. Extended hours are allowed after sunset with verbal notice given to the Engineer that same day.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**SPECIAL PROVISION**

**FEDERAL PROHIBITION ON CERTAIN TECHNOLOGICAL HARDWARE**

**DESCRIPTION**

This Special Provision details technological items that are prohibited from use on Department contracts. The contents of this SP take precedent over requirements regarding affected equipment in all other contract documents.

**CONTRACT REQUIREMENTS**

**A. Technological Equipment Prohibitions.**

Equipment, services, and systems using telecommunications equipment or services are prohibited from containing equipment produced by:

- Huawei Technologies Company;
- ZTE Corporation; and
- Any subsidiary or affiliate of the named entities.

Video surveillance and telecommunications equipment are prohibited from containing equipment produced by:

- Hytera Communications Corporation;
- Hangzhou Hikvision Digital Technology Company;
- Dahua Technology Company; and
- Any subsidiary or affiliate of the named entities.

**B. Contractor Certification.**

The Prime Contractor must complete the information below, sign this Special Provision, and submit the signed document to the Engineer at the preconstruction conference. This signature affirms that no prohibited products will be used in the project.

Project Number(s): \_\_\_\_\_

PCN(s): \_\_\_\_\_

Company Name: \_\_\_\_\_

Signatory Name (printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**SPECIAL PROVISION**  
**CITY OF GRAND FORKS STANDARD SPECIFICATIONS**

**Project: NHU-6-986(131); PCN 22682**

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the state of North Dakota.

City of Grand Forks Standard Specifications	Dale R. Bergum  WFW Engineers	<i>This document was originally issued and sealed by Dale R. Bergum, Registration Number PE-3713, on 01/27/2021 and the original document is stored at the office of Webster Foster &amp; Weston Consulting Engineers</i>
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**1. SUMMARY**

- A. The City of Grand Forks has Standard Specifications to cover the domestic wastewater collection portions of the project.

**2. GENERAL**

- A. All related requirements in these portions of the City of Grand Forks Standard Specifications not included in this special provision will default to the NDDOT Standard Specifications for Road and Bridge Construction. This includes references to legal requirements, quality assurance, product delivery, storage, and handling, submittals, substitutions, and other references omitted from the City of Grand Forks Standard Specifications.

- B. Payment and measurement for sanitary forcemain items shall be in accordance with the City of Grand Forks Standard Specifications for the following items:

SPEC	CODE	NDDOT PAY ITEM	CITY OF GRAND FORKS SPECIFICATION
724	6874	24IN 45 DEG BEND	33 31 01 - Underground Sewage Piping
724	6989	24IN X 24IN X 10IN TEE	33 31 01 - Underground Sewage Piping
724	7150	PLUG VALVE & BOX	33 31 01 - Underground Sewage Piping
724	9024	FORCEMAIN 10IN	33 31 01 - Underground Sewage Piping
724	9032	FORCEMAIN 24IN	33 31 01 - Underground Sewage Piping
724	9040	FORCEMAIN - BORED	33 31 01 - Underground Sewage Piping 33 05 23.13 - Horizontal Directional Drilling
724	9110	PLUG FORCEMAIN	33 31 01 - Underground Sewage Piping
724	9115	FORCEMAIN CONNECTION	33 31 01 - Underground Sewage Piping
724	9120	FORCEMAIN BYPASS	33 31 01 - Underground Sewage Piping
724	9125	FORCEMAIN DRAIN DOWN	33 31 01 - Underground Sewage Piping
724	9130	FORCEMAIN ARV STRUCTURE	33 05 16 - ARV Structures 09 96 00 - Coatings
724	9135	REMOVE FORCEMAIN ARV STRUCTURE	33 05 16 - ARV Structures

- C. Pay item names comply with standard NDDOT naming conventions as listed above.

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**33 05 23.13      Horizontal Directional Drilling**

**33 31 01          Underground Sewage Piping**

**SECTION 09 96 00**

**COATINGS**

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## SECTION 09 96 00

### COATINGS

#### PART 1 - GENERAL

##### 1.01 DESCRIPTION

- A. Work Included: Provide coating where shown on Drawings, as specified herein, and as needed for a complete and proper installation.
- B. Do not coat the following unless specifically noted otherwise:
  - 1. Moving parts of operating units electrical parts, linkages, sensing devices, and motor shafts.
  - 2. Stainless steel, chrome plate, copper, bronze, galvanized surfaces, and similar finished materials.
  - 3. Plastic and PVC piping.
- C. Do not coat over any code-required labels such as UL and Factory Mutual, or any equipment identification, performance rating, name, or nomenclature plates.

##### 1.02 REFERENCES

- A. Referenced publications found within this specification shall be the latest revision unless otherwise specified; and applicable parts of the referenced publications shall become a part of this specification as if fully included.
  - 1. SSPC: The Society for Protective Coatings (SSPC):
    - a. SSPC-SP13/NACE No. 6 Surface Preparation of Concrete;
  - 2. ASTM International (ASTM):
    - a. ASTM D-4263 Standard Test Method for Indicating Moisture in Concrete by the Plastic Sheet Method;
    - b. ASTM G-210 Standard Practice of Operating the Severe Wastewater Analysis Testing Apparatus;

##### 1.03 SUBMITTALS

- A. Product Data: For each product specified, submit manufacturer's specifications including application recommendations and other data needed to prove compliance with the specified requirements. Also submit SWAT data for coatings used in the ARV Structure.

##### 1.04 PRODUCT HANDLING

- A. All coatings and supplies shall be transported and stored in accordance to manufacturer's instructions. The material shall be protected from temperatures below 55 degrees F and above 90 degrees F, or as otherwise specified by the manufacturer. Transportation and storage of materials sensitive to cold, shall be done in a manner to prevent damage by cold. Contractor is responsible for making arrangements to acquire storage for supplies and equipment.
- B. All materials shall be brought to the job site in the original sealed and labeled containers of the coating manufacturer, and shall be subject to inspection by Engineer.

## COATINGS

### 1.05 QUALITY ASSURANCE

- A. If any requirements of this specification conflict with a referenced standard, the more stringent requirement shall apply.
- B. Applicator qualifications
  - 1. Applicator shall have five or more years of experience in successfully completed coating system applications similar in material and extend to those indicated for this project.
  - 2. Prior to preconstruction, bidders must provide for Engineer Approval a list of 5 successful projects completed within the past 5 years with the products specified herein and project contact information (Engineer, Owner and General Contractor).
- C. Use only products of the approved Manufacturer. Use products of one manufacturer in any one resurfacing system with compatible materials. Provide same material product for touch-up as for original material.
- D. Make available all locations and phases of the work for access by the Engineer or other personnel designated by the Engineer. The Contractor shall provide ventilation and egress to safely access the coating work areas for inspection. Inspection by the Engineer or others does not limit the Contractor's responsibilities for quality control inspection and testing as specified herein or as required by the Manufacturer's instructions.
- E. All portions of coatings installation shall be performed and completed by the coatings contractor. Sub-contracting any portion of the coating work specified herein shall not be allowed.
- F. Specified System is the minimum standard of quality for this project. Submissions of alternative manufacturers shall be approved by the Engineer and owner in writing ten days prior to bid date.

### 1.06 ARV STRUCTURE COATING SYSTEM REQUIREMENTS

- A. Coating shall be tested in accordance to ASTM G-210 containing 500 ppm H<sub>2</sub>S, 10,000 ppm CO<sub>2</sub>, 5,000 ppm CH<sub>4</sub>, 10% H<sub>2</sub>SO<sub>4</sub>, 4,000 ppm NaCl @ 150 F for 28 days. The autoclave testing must be performed by an independent laboratory. Initial impedance shall be no less than 10.0 log-Z at 0.01 Hz (ohms cm<sup>2</sup>). There shall be no blistering, cracking or delamination. Final impedance shall be no less than 8.0 log-Z at 0.01 Hz at the end of the 28-day exposure.
- B. Testing shall be completed by an independent nationally known, reputable testing laboratory. Test results shall be submitted along with the coating submittal package.

## PART 2 - PRODUCTS

### 2.01 COATINGS AND COATING PRODUCTS

- A. The coatings and coating products of PPG Industries, Inc. (Pittsburgh Paints), Tnemec Company, Inc., Sherwin Williams Company, Diamond Vogel Paints, Raven Lining Systems, or other specific coating manufacturer mentioned in this specification are set up as standards for quality. The usual "or approved equal" clause shall apply. No requests for substitutions will be considered which decreases the film thickness designated and/or the number of coats to be applied, or decreases the quality of the coating specified.
- B. Materials used throughout shall be the product of one manufacturer unless otherwise specified. All application and surface preparation shall be done in strict compliance with manufacturer's instructions and specifications for the materials and surfaces involved.

**COATINGS**

- C. After approval of materials by Engineer there shall be no substitutions.
- D. All materials shall be in accordance with current federal and/or local regulations concerning use of lead in coatings, hydrocarbon emission, and other hazardous substances. Coatings containing lead in excess of Federal Standards will not be allowed for use on this project.

**2.02 EQUIPMENT**

- A. Contractor shall be fully responsible for having his equipment comply with current OSHA regulations, and in supervising his personnel to assure their compliance with respect to operating that equipment safely, and for wearing proper type of eye protection, face masks and respirators, gloves, etc., as required by the product being applied.
- B. Contractor shall furnish lighting to insure all surfaces to be coated will be properly illuminated.
- C. Equipment must not be left where they would interfere with other workmen or lift station operations.

**2.03 OTHER MATERIALS**

- A. Provide other materials, not specifically described but required for a complete and proper installation, as selected by Contractor but subject to the approval of the Engineer.

**PART 3 - EXECUTION**

**3.01 GENERAL REQUIREMENTS**

- A. It is the purpose of this Section of the specifications to cover surface preparation, the surfaces to be coated, types and qualities of coatings to be applied and the amount of materials to be applied for each coat.
- B. Coating shall be done at such times as the Contractor and Engineer may agree upon in order that neat and quality work be obtained.
- C. All surface preparation shall be observed by the Engineer prior to application of coating. Any coatings applied to areas not specifically observed by the Engineer shall be removed, the surface prepared as specified and after the preparation is observed the coatings shall be applied. Contractor shall make his access equipment available for use by Engineer personnel for observation.
- D. All coating shall be done in accordance with coating manufacturer's instructions.
- E. Individual requirements of each type of material used shall be honored. Coatings shall be applied under conditions which yield good results. Contractor shall stop work immediately if problems arise that will prevent obtaining a good quality job. Coating manufacturer shall then be contacted to determine what measures can be taken to correct the problem.
- F. Contractor shall maintain humidity and temperature within the proper limits as suggested by coating manufacturer. These limits shall be maintained for a minimum of 24 hours prior to, and until coating is fully cured.
- G. Contractor shall check applied coating with a wet mil thickness gauge to insure Contractor's compliance to the minimum dry film requirements. Contractor shall keep records of these checks and records shall be made available to Engineer.



## COATINGS

- H. Upon completion, remaining unused material will become property of the Owner. Seal material as required for storage, mark contents with color, type, location, and shelf life, and store on site where required by the Owner. Provide a minimum of one gallon of each system component and color used.

### 3.02 SURFACE PROTECTION

- A. Contractor shall provide protection for all surfaces that may become damaged from sand blasting operations or coating over spray.
- B. Protect or remove and replace all hardware, accessories, lighting and electrical fixtures, plumbing fixtures, and any other type of fixture, material or equipment that may become splattered or damaged.
- C. Special considerations shall be given to the following surfaces to provide for protection from damage by blasting, from lodged or settled sand particles, or from coating over spray:
  - 1. Factory coated surfaces, aluminum, stainless steel, plastic, copper, brass and glass surfaces;
- D. Care shall be used during blasting so as not to damage any surface. Contractor is responsible to determine if blasting will cause damage to any surface and shall report this to Engineer. If damage is probable, an alternative method of surface preparation will be directed by Engineer.
- E. Contractor shall be fully responsible for removal of all coating spills, splatters, etc. on floors, material, hardware, walls, equipment and other finished surfaces.
- F. Premises shall be left clean and free from all rubbish, waste blast material, foreign material and accumulated material.

### 3.03 SURFACE PREPARATION

- A. GENERAL:
  - 1. All specified surface preparation shall be performed in accordance with the latest version of the SSPC, NACE, ICRI, ACI and other standards referenced in this section.
  - 2. Surface preparation shall be scheduled so that dust and other contaminants from the cleaning process will not fall on wet, newly applied areas.
  - 3. Prepare concrete joint and install chemical resistant sealant following concrete restoration per Manufacturer recommendations where specified.
- B. All surfaces shall be clean, dry, and free from contaminants or other foreign material before applying coatings.
- C. Surface defects or imperfections shall be reported to Engineer before applying coatings.
- D. No coating shall be applied to any surface that has not been properly prepared.
  - 1. Before applying any coating to any surface, remove all rust, scale, oil, grease, dirt and all foreign material that will disrupt adhesion, quality and appearance of the finished coating.
  - 2. Metal doors and frames, and other similar surfaces that have rough surfaces shall be made smooth by sanding or filing before applying any coating.
  - 3. Any surface condition that will interfere with the performance of the coating shall be reported to Engineer.
  - 4. Primer shall be applied promptly to properly prepared surfaces to eliminate reformation of rust.
- E. All concrete and masonry surfaces shall be free from all dirt, oil, grease, chalking, previous coatings, excess mortar, and other contaminants. All large cracks, voids and other surface imperfections shall be pointed up. All soluble salts and efflorescence and mildew shall be removed. Surfaces shall be abrasive blast cleaned to a minimum surface profile as recommended by the Coating Manufacturer

**COATINGS**

in order to prepare the surface for adherence of the coating system. Acid etching will be allowed for horizontal surfaces only where brush blasting is impractical.

- F. After cleaning, surfaces shall be cleaned of all dust, sand, and loose particles by vacuuming. If the Contractor elects to blow off the surfaces with air, it shall be oil-free air and the method shall conform to OSHA requirements.
- G. Plug and grout all holes on concrete surfaces prior to coating. Provide a smooth and even finish.

**3.04 MIXING AND TINTING**

- A. Tinting and thinning shall be done in accordance to manufacturer's instructions and specifications.
- B. No job site tinting shall be allowed unless approved by Engineer.
- C. If tinting is required it shall be a type as recommended by coating manufacturer.
- D. All tinting, thinning and mixing shall be done where floor and immediate surroundings are completely protected.
- E. When tinting, mixing and thinning must be done on job site, Contractor must take all precautions to protect surrounding surfaces from damage.

**3.05 APPLICATION**

- A. Surfaces shall not be coated if moisture content of surface exceeds the limit recommended by coating manufacturer. Appropriate measures shall be taken to comply with these limits.
- B. Each coat of material applied by spray shall be applied only by skilled painters to assure a uniform finish. All fixtures, hardware, flooring, furnishings and other finished surfaces shall be protected from coating over spray.
- C. Crevices, sharp corners and other hard to apply areas shall be back-rolled/back-brushed in conjunction with the field-applied prime coat. This includes, but is not limited to, between pipe flanges, pipe flange/barrel joints, equipment fittings, and other narrow openings.
- D. Each coat shall be thoroughly cured according to manufacturer's instructions regarding temperature, humidity and time before applying further coats.
- E. Each coat shall be uniformly applied and shall not be less than the minimum dry film rate as specified. Deficiency in film thickness shall be corrected by application of additional coats of paint.
- F. There shall be no visible evidence of runs, sags, cloudiness, spotting, holidays, laps, brush marks, or other imperfections.
- G. Final coat of material must appear uniform. All coating edges adjacent to other colors or materials shall be clean and sharp, with no over lapping.
- H. Spot coating to correct soiled or damaged coating surfaces will be allowed only when touch up spot is blended into surrounding finish and is invisible to normal viewing. Otherwise, re-coat entire section to corners or visible stopping point. Touch up shall be accomplished by same method used in applying the original coating.
- I. Concrete and masonry surfaces shall be aged a minimum of 30 days and shall pass a dryness test in accordance to ASTM D-4263 Test Method for Indicating Moisture by the Plastic Sheet Method,

**COATINGS**

prior to surface preparation and application of any coating unless otherwise recommended by coating manufacturer.

- J. It is the responsibility of the Contractor to ensure that environmental conditions recommended by the Manufacturer before application of any materials or coatings. This may include, but is not limited to:
  - 1. Air Temperature
  - 2. Surface Temperature
  - 3. Relative Humidity
  - 4. Ventilation
- K. All equipment and procedures used for lining system application shall be as recommended by the Manufacturer.
- L. Unless specified elsewhere herein, the Contractor shall comply with the Manufacturer's most recent written instructions with respect to the following:
  - 1. Mixing of All Materials.
  - 2. Protection and Handling of All Materials.
  - 3. Recoat Limitation and Cure Times.
  - 4. Minimum Ambient and Substrate Temperatures, Substrate's Degree of Dryness, Relative Humidity, and Dew Point of Air.
  - 5. Application.
  - 6. Final Curing.
  - 7. Use of Proper Application Equipment.
- M. Curing of Lining System: The applied lining system shall be protected from damage during curing and shall be cured as recommended by the Manufacturer.
- N. Apply the resurfacing and lining system in accordance with the Manufacturer's instructions for severe wastewater lining system, where applicable.

**3.06 FIELD QUALITY CONTROL INSPECTION AND TESTING**

- A. Inspection by the Engineer or others does not limit the Contractor's responsibilities for quality control inspection and testing as specified herein or as required by the Manufacturer's instructions.
- B. Contractor to perform the quality control procedures listed below in conjunction with the requirements of this Section.
  - 1. Inspect all materials upon receipt to ensure that all are supplied by the approved Manufacturer.
  - 2. Provide specified storage conditions for the restoration materials and applicable solvents.
  - 3. Inspect and record findings for the degree of cleanliness of substrates used. The pH of the concrete substrate will be measured using pH indicating papers. The pH testing is to be performed once every 50 sq. ft. Acceptable pH values shall be between 9.0 and 11.0 as measured by a full-range (1-12) color indicating pH paper with readable color calibrations and a scale at whole numbers (minimum). Use Hydrion Insta-Check Jumbo 0-13 or 1-12 or equal. The paper shall be touched to the surface once using moderate gloved finger pressure. The surface shall not be wiped or moved laterally to disturb the surface during pH testing. Following the one touch, lift the paper vertically to not "wipe" the surface. Compare the color indicated with the scale provided and record the pH. Spot check any areas that may be questionable with phenolphthalein.
  - 4. Inspect and record substrate profile (anchor pattern). Surfaces shall be abraded, at a minimum, equal to the roughness of CSP5 in accordance with ICRI Guideline 03732 and SSPC-SP13/NACE No. 6.
  - 5. Measure and record ambient air temperature once every two hours of each shift using a thermometer and measure and record substrate temperature once every two hours using an infrared or other surface thermometer.

**COATINGS**

6. Measure and record relative humidity and dew point temperature every two hours of each shift using a sling psychrometer in accordance with ASTM E-337.
7. Provide correct mixing of restoration materials in accordance with the Manufacturer's instructions.
8. Inspect and record that the "pot life" of restoration materials is not exceeded during installation.
9. Verify curing of the restoration materials in accordance with the Manufacturer's instructions.
10. For all wet well surfaces, upon full cure, the installed coating shall be checked by high voltage spark detection in accordance with NACE RP0188, and the Manufacturer's printed application guide to verify a pinhole-free surface. Areas which do not pass the spark detection test shall be corrected at no cost to the Owner and rechecked upon cure.
11. Upon completion of the coating installation, the restored area shall be cleaned and prepared to permit close visual inspection by the Engineer or the Engineer's representative. Any and all deficiencies or defective work (not in compliance with this section or related sections) will be marked for repair or removal/replacement by the Contractor at no additional cost to the Owner.

**3.07 COATING SCHEDULE**

- A. All vent piping shall be coated as specified below:
  1. Color:
    - a. Safety Yellow.
  2. Coating System:
    - a. First Coat: Polamide Epoxy Zinc Rich Primer, 4 mils dry film
    - b. Second Coat: Polamide Epoxy, 6 mils dry film
    - c. Third Coat: Aliphatic Acrylic Polyurethane, Semi-Gloss or Gloss, 6 mils dry film
  
- B. Interior of ARV Vaults.
  1. Color:
    - a. White / Light Grey / Light Blue Gloss Finish.
  2. Coating System:
    - a. First Coat: MortarClad series 218 by Tnemec or Raven 760 by Raven Lining Systems, trowel applied at 1/16" to 1/4".
    - b. Second Coat: Perma-Shield FR Series 436 or Perma-Glaze Series 435 by Tnemec or Raven 405 by Raven Lining Systems, 50 mils minimum dry film thickness.
  3. Application
    - a. Prepare and apply as per manufacturer's recommendations for immersion service of concrete.
  
- C. Exterior of ARV Vaults.
  1. Color:
    - a. Black.
  2. Coating System:
    - a. First Coat: Polyamide epoxy – coal tar, 16-20 mils dry film.
  3. Application
    - a. Prepare surface with high pressure water. After dry, spray and back-roll coal tar.

**END OF SECTION 09 96 00  
Coatings**

## SECTION 33 05 16

### ARV STRUCTURES

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## **SECTION 33 05 16**

### **ARV STRUCTURES**

#### **PART 1 - GENERAL**

##### **1.01 DESCRIPTION**

- A. Work Included: Provide structure sections, top slabs, castings, external joint seals, preformed joint sealer, steps and associated Work where shown on Drawings, as specified herein, and as needed for a complete and proper installation.
- B. Frames and covers, and all other salvageable parts removed, but not reused on this contract, shall be delivered to Owner at the City Wastewater Department Yard unless otherwise specified.

##### **1.02 SUBMITTALS**

- A. Submit manufacturer's specifications and other data needed to prove compliance with the specified requirements.
- B. Submit Shop Drawings detailing dimensions, vault arrangement showing base slabs, barrel, steps and castings.

#### **PART 2 - PRODUCTS**

##### **2.01 AIR RELEASE VALVE STRUCTURES**

- A. Provide new air release valve structures where indicated on drawings. Construct structures of 72" precast reinforced concrete manhole.
- B. Provide precast integral concrete base and top precast slabs as shown on drawings. Rubber ring gaskets shall be used at all joints. Gasket material shall conform to ASTM C443 or preformed joint sealer may be used such as Ram-Nek, Kent-Seal No. 2, or approved equal to provide a waterproof joint.
- C. The interior of air release structures including the ceiling, and walls shall be painted or coated as specified in Section 09 96 00, Paragraph 3.07.
- D. Monolithic structure base section shall be constructed with water stop integral between the flat base and wall section. Water stop shall be PVC, W.R. Meadows #4316, Vinylex RB4316, or approved equal.

##### **2.02 STEPS**

- A. PS1-PF-DF as manufactured by M.A. Industries, or approved equal. Install straight and plumb at 12 inch center to center spacing. Sections with improper step spacing or alignment will not be allowed for use on this project.

## ARV STRUCTURES

### 2.03 ACCESS COVER

- A. Furnish aluminum access cover where indicated on Drawings. Access cover shall be a single leaf aluminum access cover, as manufactured by Flygt Corporation, Halliday Products, Bilco Company, Red River Fabricating, or approved equal.
- B. Frame shall be 1/4" aluminum, mill finish with bituminous coating to be applied to exterior of frame by manufacturer. Door leaf shall be 1/4" aluminum diamond plate reinforced with aluminum stiffeners as required to withstand a live load of 300 pounds per square foot.
- C. All hardware shall be Type 316 stainless steel. The door shall open to 90 degrees and lock automatically in that position.
- D. A vinyl grip handle shall be provided to release the cover for closing.
- E. Provide hasp to receive padlock.

### 2.04 EXTERNAL JOINT SEAL

- A. External joint seals shall meet, or exceed, the requirements of ASTM C-877, Type II. External joint seals shall be MacWrap External Joint Sealers as manufactured by MarMac Manufacturing Co. Inc., ConSeal CS-212, or pre-approved equal conforming to the following requirements: They shall be a minimum of 8" wide, and be provided with manufacturer's approved primer.
- B. External joint seal shall be used on all joints of the ARV Structure.

### 2.05 MANHOLE ADAPTER

- A. Provide manhole adapters for installation of all PVC and Polyethylene pipes passing through manhole.
- B. Manhole adapters shall be PVC manhole adapters as manufactured by GPK Products, Inc., or rubber boots meeting ASTM C923 manufactured by Press-Seal Gasket from Indiana, or NPC from New Hampshire or approved equal.

### 2.06 NON-SHRINK GROUT

- A. Non-shrink grout shall be used for mortaring pipes in structure walls.
- B. Non-shrink grout shall be (3) parts Type I Portland Cement and (9) parts sand.

### 2.07 OTHER MATERIALS

- A. Provide other materials, not specifically described but required for a complete and proper installation, as selected by Contractor but subject to the approval of the Engineer.

## PART 3 - EXECUTION

### 3.01 INSTALLATION OF STRUCTURE

- A. Install structure on compacted granular material. Base shall be level and uniformly supported allowing the vault to be plumb.
- B. Install gaskets between structure sections. Install exterior joint seal on all joints.

**ARV STRUCTURES**

- C. Install preformed joint sealer between top section and flat top (if used).
- D. Grout all pipes into the structure wall.
- E. Grout all lift holes.

**PART 4 - MEASUREMENT**

**4.01 DESCRIPTION**

- A. Measure the Section items listed in the bid schedule and the following as applicable.
- B. Earthwork associated with these bid items are incidental to the bid items and shall not be paid for separately.

**PART 5 - PAYMENT**

**5.01 DESCRIPTION**

- A. The accepted quantities will be paid at the contract price per unit of measurement as follows:

<b>Pay Item</b>	<b>Pay Unit</b>
Forcemain ARV Structure	EA
Remove Forcemain ARV Structure	EA

- B. Include the cost of removing the existing structure with associated pipe and couplings, all adapters, couplings, tapping sleeve, pipe, ARV, access cover, brick, and coatings in the Forcemain ARV Structure bid item.

**END OF SECTION 33 05 16  
ARV Structures**



**SECTION 33 05 23.13**

**HORIZONTAL DIRECTIONAL DRILLING**

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## **SECTION 33 05 23.13**

### **HORIZONTAL DIRECTIONAL DRILLING**

#### **PART 1 - GENERAL**

##### **1.01 DESCRIPTION**

- A. Work Included: The work specified in this section consists of furnishing and installing underground utilities using the horizontal directional drilling (HDD) method of installation, also commonly referred to as directional boring or guided horizontal boring. This work shall include all services, equipment, materials, and labor for the complete and proper installation, testing, restoration of underground utilities and environmental protection and restoration.
- B. Related Work:
  - 1. Section 33 31 01 "Underground Sewage Piping".

##### **1.02 QUALITY ASSURANCE**

- A. Requirements: The personnel performing horizontal directional drilling operations shall prove they have successfully installed a minimum 10,000 feet of pipe to line and grade.
- B. Comply with requirements of railway, highway, utility or other agency as applicable having jurisdiction with right-of-way.

##### **1.03 SUBMITTALS**

- A. Work plan: Prior to beginning work, the Contractor must submit to the Engineer a general work plan outlining the procedure and schedule to be used to execute the project. Plan should document the thoughtful planning required to successfully complete the project.
- B. Material: Shop Drawings on material to be used shall be submitted to Engineer. Material shall include the pipe, fittings and any other item which is to be an installed component of the project.
- C. References: Contractor shall submit a minimum of three references that he has completed installations to line and grade by horizontal directional drilling method. References shall contain client's name, address, phone number, contact person and project name.
- D. Records: Contractor shall maintain a daily project log of drilling operations and a guidance system log with a copy given to Engineer at completion of project.

#### **PART 2 - EQUIPMENT REQUIREMENTS**

##### **2.01 DESCRIPTION**

- A. The directional drilling equipment shall consist of a directional drilling rig of sufficient capacity to perform the bore and pullback the pipe, a drilling fluid mixing and delivery system of sufficient capacity to successfully complete the crossing, a guidance system to accurately guide boring operations and trained and competent personnel to operate the system. All equipment shall be in good, safe operating condition with sufficient supplies, materials and spare parts on hand to maintain the system in good working order for the duration of this project.

## HORIZONTAL DIRECTIONAL DRILLING

### 2.02 DRILLING SYSTEM

- A. Drilling Rig: The directional drilling machine shall consist of a hydraulically powered system to rotate, push and pull hollow drill pipe into the ground at a variable angle while delivering a pressurized fluid mixture to a guidable drill (bore) head. The machine shall be anchored to the ground to withstand the pulling, pushing and rotating pressure required to complete the crossing. The hydraulic power system shall be self-contained with sufficient pressure and volume to power drilling operations. Hydraulic system shall be free of leaks. Rig shall have a system to monitor and record maximum pullback pressure during pullback operations. The rig shall be grounded during drilling and pullback operations.
- B. Drill head: The drill head shall be steerable by changing its rotation and shall provide the necessary cutting surfaces and drilling fluid jets.

### 2.03 GUIDANCE SYSTEM

- A. The Guidance System shall be of a proven type and shall be setup and operated by personnel trained and experienced with this system. The Operator shall be aware of any magnetic anomalies and shall consider such influences in the operation of the guidance system if using a magnetic system.

### 2.04 DRILLING FLUID SYSTEM

- A. Mixing System: A self-contained, closed, drilling fluid mixing system shall be of sufficient size to mix and deliver drilling fluid composed of bentonite clay, potable water and appropriate additives. Mixing system shall be able to molecularly shear individual bentonite particles from the dry powder to avoid clumping and ensure thorough mixing. Mixing system shall continually agitate the drilling fluid during drilling operations.
- B. Drilling Fluids: Drilling fluid shall be composed of clean water and an appropriate additive. Water shall be from a clean source with a pH of 8.5 – 10. Water of a lower pH or with excessive calcium shall be treated with the appropriate amount of sodium carbonate or equal. The water and additives shall be mixed thoroughly and be absent of any clumps or clods. No hazardous additives may be used. Drilling fluid shall be maintained at a viscosity sufficient to suspend cuttings and maintain the integrity of bore wall.
- C. Delivery System: The delivery system shall have filters in-line to prevent solids from being pumped into the drill pipe. Connections between the pump and drill pipe shall be relatively leak-free. Used drilling fluid and drilling fluid spilled during drilling operations shall be contained and properly disposed of. A berm, minimum of 12" high, shall be maintained around drill rigs, drilling fluid mixing system, entry and exit pits and drilling fluid recycling system (if used) to prevent spills into the surrounding environment. Pumps and or vacuum trucks(s) of sufficient size shall be in place to convey excess drilling fluid from containment areas to storage facilities.

### 2.05 OTHER EQUIPMENT

- A. Pipe Rollers: Pipe rollers, if required, shall be of sufficient size to fully support the weight of the pipe during pullback operations. Sufficient number of rollers shall be used to prevent excess sagging of pipe.
- B. Pipe Rammers: Hydraulic or pneumatic pipe rammers may only be used if necessary and with the authorization of Engineer.

**HORIZONTAL DIRECTIONAL DRILLING**

**PART 3 - EXECUTION**

**3.01 DESCRIPTION**

- A. The Engineer must be notified 48 hours in advance of starting work. The Directional Bore shall not begin until the Engineer is present at the job site and agrees that proper preparations for the operation have been made. The Engineer approval for beginning the installation shall in no way relieve the Contractor of the ultimate responsibility for the satisfactory completion of the work as authorized under the Contract.

**3.02 PERSONNEL REQUIREMENTS**

- A. All personnel shall be fully trained in their respective duties as part of the directional drilling crew and in safety, and be familiar with "Horizontal Directional Drilling Good Practices Guidelines" by the HDD Consortium.

**3.03 DRILLING PROCEDURE**

- A. Location: Install pipe by horizontal directional drilling where shown on Drawings. Open excavation at these locations will not be allowed.
- B. Site Preparation: Prior to any alterations to worksite, Contractor shall photograph or video tape entire work area, including entry and exit points. One copy of which shall be given to Engineer and one copy to remain with Contractor for a period of one year following the completion of the project. No alterations beyond what is required for operations are to be made. Contractor shall confine all activities to designated work areas. No push or receiving pits will be allowed under proposed pavement areas.
- C. Drill Path Survey: Drill path will be surveyed by Engineer with entry and exit stakes placed in the appropriate locations as requested by Contractor. If Contractor is using a magnetic guidance system, drill path will be surveyed for any surface geo-magnetic variations or anomalies by Contractor. Pipe shall be installed at the grade as shown on Drawings. Any deviation from the specified grade shall be corrected by Contractor if requested by Engineer.
- D. Environmental Protection: Contractor shall place silt fence between all drilling operations and any drainage, wetland, waterway or other area designated for such protection by state, federal and local regulations. Additional environmental protection necessary to contain any hydraulic or drilling fluid spills shall be put in place, including berms, liners, turbidity curtains and other measures. Contractor shall adhere to all applicable environmental regulations. Fuel or oil may not be stored in bulk containers within 200' of any water-body or wetland.
- E. Safety: Contractor shall adhere to all applicable state, federal and local safety regulations and all operations shall be conducted in a safe manner. Safety meetings shall be conducted at least weekly.
- F. Pipe: Pipe will be placed on pipe rollers before pulling into bore hole with rollers spaced close enough to prevent excess sagging of pipe. Every precaution for keeping the pipe clean and for proper assembly of joints shall be taken while installing pipe
- G. Pilot Hole: Pilot hole shall be drilled on bore path with no deviations greater than 5% of depth over a length of 100'. In the event that pilot does deviate from bore path more than 5% of depth of 100', Contractor will pull-back and re-drill from the location along bore path before the deviation. In the event that a drilling fluid fracture, inadvertent returns or returns loss occurs during pilot hole drilling operations, Contractor shall cease drilling, wait at least 30 minutes, inject a quantity of drilling fluid with a viscosity exceeding 120 seconds as measured by a March funnel and then wait another 30 minutes.

**HORIZONTAL DIRECTIONAL DRILLING**

- H. Reaming: Upon successful completion of pilot hole, Contractor will ream bore hole.

<u>Pipe Diameter</u>	<u>Reamer Diameter</u>
< 8"	Product + 4"
8" to 24"	Product x 1.5
> 24"	Product + 12"

- I. Pull-Back: After successfully reaming bore hole to the required diameter, Contractor will pull the pipe through the bore hole. In front of the pipe will be a swivel. Once pull-back operations have commenced, operations must continue without interruption until pipe is completely pulled into bore hole. During pull-back operations Contractor will not apply more than the maximum safe pipe pull pressure at any time. In the event that pipe becomes stuck, Contractor will cease pulling operations to allow any potential hydro-lock to subside and will commence pulling operations. If pipe remains stuck, Contractor will notify Engineer. Engineer and Contractor will discuss options and then work will proceed accordingly.

**3.04 SITE RESTORATION**

- A. Following drilling operations, Contractor will de-mobilize equipment and restore the work site to original condition. All excavations will be backfilled with pipe bedding material to a depth of 6 inches above newly installed pipe and compacted to 95% of modified proctor. Landscaping will be restored to original.

**PART 4 - MEASUREMENT**

**4.01 DESCRIPTION**

- A. Measure the Section items listed in the bid schedule and the following as applicable.
- B. Earthwork associated with these bid items are incidental to the bid items and shall not be paid for separately.

**PART 5 - PAYMENT**

**5.01 DESCRIPTION**

- A. The accepted quantities will be paid at the contract price per unit of measurement as follows:

<b>Pay Item</b>	<b>Pay Unit</b>
Forcemain – Bored	LF

- B. Include the cost of all bore pits, pipe, and all fittings in the Forcemain – Bored bid item.

**END OF SECTION 33 05 23.13  
Horizontal Directional Drilling**

**HORIZONTAL DIRECTIONAL DRILLING**

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**SECTION 33 31 01**

**UNDERGROUND SEWAGE PIPING**

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## SECTION 33 31 01

### UNDERGROUND SEWAGE PIPING

#### PART 1 - GENERAL

##### 1.01 DESCRIPTION

- A. Work included: Provide underground piping for sewer system including pipe, fittings, valves, connections and miscellaneous materials required where shown on Drawings, as specified herein, and as needed for a complete and proper installation.
- B. Related work:
  - 1. Section 33 05 23.13 "Horizontal Directional Drilling".

##### 1.02 SUBMITTALS

- A. Submit manufacturer's specifications and other data needed to prove compliance with the specified requirements.
- B. Submit joint type and associated materials for all piping.

##### 1.03 PRODUCT HANDLING

- A. Pipe shall be stored, handled, and installed in conformance to pipe manufacturer's recommendations.
- B. Use proper unloading and handling procedures to prevent damage to pipe and coating.
- C. Carefully protect joint material from injury while handling and storing pipe. Support pipe to keep weight off joint material. Pipe with joints deformed, gouged or otherwise impaired, shall not be used.

##### 1.04 WARRANTY

- A. Contractor shall replace at no additional cost to Owner, any equipment, valves or pipe that is defective, misaligned, deflected beyond limits, or otherwise not conforming to the specifications contained herein.

#### PART 2 - PRODUCTS

##### 2.01 PIPE BEDDING MATERIAL

- A. Pipe bedding material shall be as follows:

	Less than 21
Pipe type	feet deep
Pressure Pipe	Crushed

- B. Bedding material for under manholes and structures shall meet the requirements of NDDOT Class 4.

UNDERGROUND SEWAGE PIPING

- C. If removal of unsuitable material is authorized, replace with "Granular Fill Material" meeting the requirements as specified here in. "Granular Fill Material" shall be completely encapsulated in Geotextile Fabric.

2.02 BACKFILL AND FILL MATERIAL

- A. Granular materials shall meet the following requirements:

1.

<u>Crushed Bedding Material</u>	
<u>Sieve Size</u>	<u>% Passing by Weight</u>
1 inch	100
3/4 inch	92-100
3/8 inch	36-64
No. 4	19-28
No. 16	9-16
No. 100	0-2

This material is a blend of 4 parts coarse aggregate and 1 part fine aggregate as per Section 802.01. C. of the North Dakota Department of Transportation Specifications. The fractured faces particles shall have at least two fractured faces. Only material larger than the No. 8 sieve is tested and is considered as the total sample.

2.

<u>Granular Fill Material</u>	
<u>Sieve Size</u>	<u>% Passing by Weight</u>
2 inches	100
1 1/2 inches	90-100
1 inch	20-55
3/4 inch	0-15

3.

<u>Class 6</u>	
<u>Sieve Size</u>	<u>% Passing by Weight</u>
3/4 inch	100
3/8 inch	90-100
No. 30	35-75
No. 200	0-8

- B. Dry Mix concrete bedding material shall be provided at locations shown on Drawings and shall meet the following requirements:
  - 1. Dry mix concrete bedding material shall consist of a mixture of pipe bedding material and cement without the addition of water. The type of pipe bedding material shall be as specified for the type of pipe being used at less than 21 feet deep.
  - 2. Unless otherwise directed by Engineer, the cement used shall be Standard Type I Portland Cement.
  - 3. Aggregates and cement may be measured by volume utilizing any uniform method of measurement approved by the Engineer. Unless otherwise specified, the job mix shall be on the basis of three sacks of cement per cubic yard of dry mix concrete bedding material.
  - 4. For small quantities of dry mix concrete bedding material prepared in the field, hand mixing operations will be permitted provided that thorough mixing of the components is obtained. Mixing by mechanical mixers or central plant mixing of the dry mix concrete bedding material is the preferred method.
- C. Impervious material excavated or borrowed used for backfill shall be free of large stones, large clods, organic matter, rubbish, debris or frozen materials.

**UNDERGROUND SEWAGE PIPING**

**2.03 CONTROLLED DENSITY FILL**

- A. Contractor shall furnish and provide Controlled Density Fill (CDF) material to be used for applications as shown on Drawings and as specified herein. CDF shall be a mixture of water, sand, cement, fly ash and other products selected by Contractor, but approved by Engineer.
- B. Composition of materials shall be such that it will have the ability to be deposited in a plastic state having good flowability characteristics. It shall be capable of completely filling voids encountered without vibrating. After the composition cures and consolidates it shall have the characteristics of a solid. The solid form shall attain a compressive strength of at least 35 P.S.I. but shall not be greater than 100 P.S.I.
- C. Mix design testing of CDF shall be conducted by an approved qualified testing laboratory. Laboratory shall produce mix design, taking into consideration the factors effecting design such as, the requirements mandated by its intended use, time of placing, required flowability, etc. Prior to placing CDF, a certified laboratory testing report and mix design shall be submitted to Engineer for approval. Mix design may be altered to decrease flowability to enable forming of CDF material where conditions warrant. Dry CDF without addition of water may be used for backfill at locations approved by Engineer. Dry CDF shall be compacted to specified densities as shown on Drawings.
- D. The intended use of CDF shall be to provide a more stable bedding and backfill material for those locations where settlement must be minimized. Such locations may include sanitary sewer or force main crossing rigid pipe, bedding for newly installed pipe, or other locations as shown on Drawings or as directed by Engineer.
- E. Where flowability is required, utilize Darafill produced by Grace Construction Products to reduce water required in flowable CDF.

**2.04 BYPASS RESTRAINED JOINT PVC PIPE (RJ PVC) AND FITTINGS**

- A. Restrained Joint PVC Pressure Pipe provided by City meets the dimensional requirements of ASTM D2241 Pipe and is SDR 21, Class 200 for above ground temporary piping. Pipe conforms to ASTM S1748 and utilize only type 1, grade 1, 2,000 psi hydrostatic design stress PVC material.
- B. Couplings shall be manufactured from a specially formulated PVC compound which contains impact modifiers and ultraviolet inhibitors, to give higher impact strength over an extended period of time.
- C. The restrained joint shall utilize precision machined grooves on the pipe and in the coupling which, when aligned, allow a nylon splice to be inserted locking the pipe and coupling together. A flexible elastomeric seal (O-Ring) in the coupling provides a hydraulic seal. O-Rings shall meet the requirements of ASTM F477. Provide Teflon coated O-Rings, recommended for non-permanent use. Joints shall be designed to meet the zero leakage test requirements of ASTM D3139.
- D. Fittings shall have pressure rating at least equal to that of the pipe.
- E. MINIMUM TYPICAL PROPERTY VALUES

<b>PROPERTY</b>	<b>MIN. VALUE</b>	<b>ASTM NO.</b>
Tensile Strength	7,000 psi	D638
Modulus of Elasticity	400,000 psi	D638
Izod Impact	0.65 ft. lbs/in. of notch	D256
Deflection Temp.	150 F	D648
Flammability	Self-extinguishing	D635
Chemical Resistance	B	D543

**UNDERGROUND SEWAGE PIPING**

- F. Fittings shall be:
1. Certa-Lok Yelomine as manufactured by CertainTeed;
  2. Aquamine manufactured by Victaulic; or
  3. Approved equal that matches City's existing RJPVC.

**2.05 RUBBER VIBRATION PIPE AND ELBOWS**

- A. Rubber vibration pipe and elbows shall consist of an elastomer inner tube, a fabric reinforced body section with a helical wire reinforcement imbedded in the body from flange to flange. The vibration pipe shall be covered with a synthetic rubber cover stock for protection against abrasion and gouging. Special covers shall be applied as specified on the purchase order.
- B. The temperature and chemical compatibility requirements as specified in the purchase order shall determine the elastomer and fabric materials. Pipe shall be Class II, rated to 250° F, and shall be Chlorobutyl, EPDM with polyester reinforcement.
- C. Flanges shall be constructed integrally with the body to reduce stresses. Flanges shall be full flatfaced rubber so that gaskets are not necessary. Flanges shall be ANSI Class 125# /150# standard drilling. The Vibration Pipe shall be rated at 30" Hg vacuum.
- D. Control units shall be specified if the pipeline is not anchored to eliminate excessive elongation of the rubber pipe. Standard pipe dimensions, movement, and spring rates shall follow Fluid Sealing Association guidelines, unless otherwise specified in the purchase order. Joint shall be manufactured in the USA.
- E. All Vibration Pipe shall be Redflex™ Series P-5 as manufactured by the Red Valve Company, Inc. of Carnegie, PA 15106, USA, or approved equal.

**2.06 HIGH DENSITY POLYETHYLENE (HDPE) PIPE**

- A. Pipe shall be Ductile Iron Pipe Size (DIPS). Pipe shall be manufactured from a PE 4710 resin listed with the Plastic Pipe Institute (PPI) as TR-7. The resin material will meet the specifications of ASTM D 3350 with a cell classification of 445574C. Pipe shall have a manufacturing standard of ASTM F 714. Pipe shall be DR 13.5 (160psi WPR) unless otherwise specified on the plans. The pipe shall contain no recycled compounds except that generated in the manufacturer's own plant from resin of the same specification from the same raw material.
- B. Fittings:
1. Butt Fusion Fittings – Fittings shall be PE 4710 HDPE, minimum cell classification of 445574C as determined by ASTM D 3350. Molded butt fusion fittings shall have a manufacturing standard of ASTM D 3261. Molded fittings shall have the same pressure rating as the pipe unless otherwise specified on the plans. Fabricated fittings are to be manufactured using a Data Logger. Temperature, fusion pressure and a graphic representation of the fusion cycle shall be part of the quality control records.
  2. Electrofusion Splice Fittings - Fittings shall be PE 4710 HDPE, minimum cell classification of 445574C as determined by ASTM D 3350. Electrofusion Fittings shall have a manufacturing standard of ASTM F 1055. Fittings shall have the same pressure rating as the pipe unless otherwise specified on the plans.
  3. Flanged and Mechanical Joint Adapters - Flanged and Mechanical Joint Adapters shall be PE 4710 HDPE, minimum cell classification of 445574C as determined by ASTM D 3350. Flanged and Mechanical Joint Adapters shall have a manufacturing standard of ASTM D 3261. Fittings shall have the same pressure rating as the pipe unless otherwise specified on the plans.

**UNDERGROUND SEWAGE PIPING**

**2.07 POLYVINYL CHLORIDE (PVC) FORCEMAIN**

- A. Furnish Polyvinyl Chloride (PVC) pipe for open cut sewage forcemain at locations as shown on Drawings.
- B. PVC pressure pipe shall conform to AWWA C900. Pipe up to 24-inch diameter shall have integral bell gasketed joints and couplings conforming to ASTM D-3139.
  - 1. Pipe 12 inches or less in diameter shall be Class 185, DR 25, unless otherwise shown on Drawings.
  - 2. Pipe 14 inches or greater in diameter shall be Class 165, DR 25, unless otherwise shown on Drawings.

**2.08 DUCTILE IRON FITTINGS (FORCEMAIN)**

- A. Fittings shall have a working pressure of 250 psi, conforming with AWWA C110, C111, or C153. Mechanical joints shall be in accordance with applicable requirements of AWWA C110 and C111. Flanged fittings shall be American Standard Class 125 and shall be installed with ring gaskets.
- B. Mechanical joints, flange joints or similar bolted connections shall be connected using all stainless steel bolts with anti-seize material.
- C. Fittings type shall be as shown on Drawings.
- D. All ductile iron fittings shall be bituminous coated on the outside and shall be Protecto 401 Ceramic Epoxy lined on the inside in accordance with the manufacturers recommendations. Fittings shall be polyethylene encased unless embedded in C.D.F. or dry mix concrete bedding material.
- E. Lining shall be checked for thickness and tested pinholes in accordance with manufacturer's recommendations. Any defects found shall be repaired prior to shipment. Each fitting shall be marked with the date of application of lining system along with its numerical sequence of application on that date and records maintained by the applicator of the lining.
- F. The fitting manufacturer must supply a certificate attesting to the fact that the applicator met the requirements of this specification. And that the material used was as specified.
- G. Protecto lined fittings must be handled only from the outside. No forks, chains, straps, hooks, etc. shall be placed inside the fitting for lifting, positioning, or laying. The lined fitting shall not be dropped, hammered, or allowed to strike fixed or hard objects while being moved. Protecto lined fittings should never be forced to grade by impact or hydraulic pressure since this may damage the lining
- H. All mechanical joints used with C900 PVC pipe shall use Mega-Bond coated EBAA Iron series 2000PV restraint, coated PVC Stargrip series 4000 by Star Pipe Products, coated SIGMA One-Lok by Sigma Corporation or approved equal.
- I. Contractor shall furnish and install all transition fittings and appurtenances required for transitions from varying pipe materials and joint types.

**2.09 FLANGED TEE LATERALS**

- A. General
  - 1. Furnish fabricated Flanged SS Tapping Sleeve as shown on Drawings.
  - 2. Working pressure shall be a minimum of 100 P.S.I.
  - 3. All bolts, nuts and washers shall be stainless steel with anti-seize material.

**UNDERGROUND SEWAGE PIPING**

- B. SS Tapping Sleeve.
  - 1. Tapping sleeves shall be stainless steel with a stainless steel flange, as shown on drawings.
  - 2. Tap to mainline pipe shall be completed using equipment designed for pipe tapping that will not induce stress into the mainline pipe.
  - 3. Tapping sleeve shall be SST-III stainless steel tapping sleeve by Romac Industries Inc., 3490AS Tapping Sleeve by PowerSeal, or approved equal.
  - 4. Tapping can be completed on pipe prior to putting into service. Live tap not required.

**2.10 MJ TAPPING SLEEVE**

- A. General
  - 1. Furnish fabricated SS Tapping Sleeve as shown on Drawings.
  - 2. Provide with SSMJ outlets as required.
  - 3. Working pressure shall be 100 P.S.I.
  - 4. All bolts, nuts and washers shall be stainless steel with anti-seize material.
  - 5. Tapping can be completed on pipe prior to putting into service. Live tap not required.
  - 6. Tapping sleeve shall be SSTIII stainless steel tapping sleeve by Romac Industries Inc., 3480AS Tapping Sleeve by PowerSeal, or approved equal.
  - 7. It shall be stainless steel with a stainless steel branch outlet.

**2.11 WARNING TAPE**

- A. Warning tapes shall be of the detectable type and shall be extended above ground at valves and manholes.

**2.12 RESILIENT SEATED WEDGE GATE VALVES**

- A. Valve shall be manufactured in accordance with AWWA C509. Valve shall be furnished with bronze non-rising stem, O-ring seals, Ductile Iron 2 inch operating nut conforming to AWWA C500-86, and shall open counter clockwise.
- B. Valve shall have a cast iron gate having a vulcanized synthetic rubber coating or a rubber seat mechanically retained on the gate. Valve shall be water tight under a test pressure of 250 psi. Valve shall be coated inside and out with a coating as described in AWWA C-550-81.
- C. Approved Gate Valves:
  - 1. American Flow Control Series 2500 gate valve; or
  - 2. Approved equal.
- D. Buried valves shall each be provided with a valve box adapter and valve box.
- E. Bolts, studs and nuts for bonnet shall be fabricated of stainless steel material.

**2.13 VALVE BOXES**

- A. Boxes shall be cast iron, 5 ¼ inch shaft, screw type valve box consisting of base, a center section, a top section and a cover. The cover shall be plainly marked "SEWER".
- B. Approved Valve Boxes:
  - 1. Star Pipe Products cast iron, heavy duty three piece;
  - 2. Tyler Pipe 6860 Series with a No. 6 base;
  - 3. Sigma Corporation cast iron, heavy duty three piece; or
  - 4. Approved equal.

**UNDERGROUND SEWAGE PIPING**

**2.14 PLUG VALVE**

- A. Plug valves shall be provided where shown on Drawings and shall be DeZurik Eccentric, Dresser X-Centric, Valmatic, GA Industries, Milliken Valve Co. or approved equal. Flow through area of the valve shall be at least 80% of the full pipe area. All bolts shall be stainless steel.
- B. Valves shall be resilient seated, quarter-turn type and provided with joint ends as shown on Drawings. The valve body shall be cast iron conforming to ASTM A 126, Class B. Valve shall be coated inside and out with epoxy to meet AWWA C-550-17 coating.
- C. Each plug valve shall be provided with a gear-operated actuator having a 2-inch ductile iron operating nut conforming to AWWA C500-86. Valves shall open by turning counterclockwise on actuator. Valves shall be able to achieve "dead-tight" shutoff when pressurized from either direction.
- D. The input torque required to unseat a valve at 75 psi differential pressure shall not exceed 80 foot-pounds. Overload protection shall be provided to allow 450 foot-pounds of input torque to be applied without damage to valve or actuator. The input shaft shall be 1-inch minimum diameter.
- E. Gear sector shall be fabricated of ductile iron in accordance to ASTM A536 Grade 65-45-12. The upper and lower bushings shall be bronze manufactured in accordance to ASTM 30. Stainless steel bolts shall be used to assemble the actuator. Underground actuators shall be permanently lubricated and sealed from ground water. Exterior of actuator to be coated with AWWA C-550-81 coating.
- F. Buried valves shall be provided with a valve box. The base of box shall firmly attach to top of actuator. Box to be provided as recommended by valve and actuator manufacturer. The cover shall be plainly marked "SEWER".
- G. Mechanical joints used with C900 PVC pipe shall use Mega-Bond coated EBAA Iron series 2000PV restraint glands, coated PVC Stargrip series 4000 by Star Pipe Products, coated SIGMA One-Lok by Sigma Corporation or approved equal.

**2.15 STAINLESS STEEL COUPLINGS**

- A. Couplings shall be:
  - 1. Nominal Versa-Max all stainless steel repair coupling as manufactured by Krausz USA;
  - 2. X411 all stainless steel coupling with a 3/8-inch X 7-inch or 12-inch or 16-inch sleeve, Buna-N gaskets and 304 SS bolts by Smith Blair;
  - 3. Armor Link Stainless Steel Coupling by Romac; or,
  - 4. Approved equal.
- B. Furnish with all gaskets, stainless steel bolts and nuts with anti-seize material.
- C. Size as shown on drawings.

**2.16 PCCP ADAPTERS**

- A. Furnish new adapters for SP-5 pre-stressed concrete cylinder pipe by mechanical joint spigot or bell. Furnish lock joint spigot or lock joint bell as shown on drawings and match existing pipe.
- B. Provide with gaskets and diaphragms. Size of adapters shall be as shown on drawings. All exposed steel shall be painted with appropriate protective epoxy coating.
- C. PCCP adapters shall be as supplied by Hanson Heidelberg Cement Group or approved equal.

**UNDERGROUND SEWAGE PIPING**

**2.17 POLYETHYLENE WRAPPING MATERIAL**

- A. Polyethylene used for wrapping buried metal components shall be 8 mil thick and shall meet the specifications of ANSI A21.5.

**2.18 SEWAGE COMBINATION AIR VALVES**

- A. Provide sewage combination air valves to be installed in each air release valve (ARV) manhole. Provide stainless steel lifting strap with each ARV.
- B. Valves shall be Vent-Tech Model SDG Series C, Part #02SDG10TCS as manufactured by International Valve with 2-inch NPT inlet. Provide with 1-inch stainless steel ball valve on upper and lower ports. Provide one spare ARV.
- C. Inlet piping of each valve, including the spare, shall have a 2-inch stainless steel Cam-Lock, 3-inch Watts series S-FBV stainless steel ball valve and stainless steel nipples and reducer with anti-seize

**2.19 OTHER MATERIALS**

- A. Provide other materials, not specifically described but required for a complete and proper installation, as selected by Contractor but subject to the approval of the Engineer.

**PART 3 - EXECUTION**

**3.01 LINE AND GRADE**

- A. Engineer will provide benchmarks and base lines and will set offset hubs as required.
- B. Contractor shall set all batter boards and keep 3 batter boards adjacent to consecutive hubs in place at all times. Contractor shall set batter boards at convenient height in feet above flow line grade. Set additional intermediate boards at 25 feet intervals as required. Carry centerline on all batter boards, adjacent to offset hubs.
- C. Contractor shall provide men, tools, stakes, and materials as required for batter boards and temporary reference marks in connection with work. Contractor shall preserve benchmarks, stakes, and other reference points and if disturbed, replace them at no cost to Owner.
- D. Contractor shall check grade of each pipe with grade rod and check line of every other length of pipe with plumb bob.
- E. Use of other methods, such as laser, may be accepted. Laser shall be checked for accuracy at intervals not to exceed 100 feet.

**3.02 PIPE INSTALLATION**

- A. Before installation, verify all measurements at site. Make necessary field measurements to accurately determine sewer make-up length or closures.
- B. Check each length of pipe for defects and hairline cracks at ends prior to lowering into trench. No defective pipe shall be used.
- C. Compact pipe bedding material below pipe to 95% of modified proctor.
- D. Lower pipe carefully into trench. Pipe shall be laid true to line and grade.



**UNDERGROUND SEWAGE PIPING**

- E. Commence at lowest point in line. Lay spigot ends pointing in direction of flow.
- F. Keep pipe clean of dirt and foreign matter. Clean surfaces of pipe ends to be connected and paint with approved lubricant prior to jointing pipe. Jointing shall conform to manufacturer's recommendations.
- G. Provide a smooth and uniform invert. The spigots shall bear against bell shoulders.
- H. Check alignment of pipe. Misaligned, displaced or otherwise defective pipe shall be remedied at Contractor's expense.
- I. Contractor shall comply with all ductile iron pipe corrosion requirements as recommended by DI pipe manufacturers and ductile iron pipe research association.
- J. All excavations will be backfilled with pipe bedding material to a depth of 6 inches above newly installed pipe and compacted to 95% of modified proctor. Remainder of excavation shall be backfilled with native material and compacted to 95% of modified proctor.

**3.03 FUSION OF HDPE PIPE**

- A. Sections of polyethylene pipe should be joined into continuous lengths on the jobsite above ground. The joining method shall be the butt fusion method and shall be performed in strict accordance with the pipe manufacturer's recommendations. The butt fusion equipment used in the joining procedures should be capable of meeting all conditions recommended by the pipe manufacturer, including, but not limited to, temperature requirements of 400-450 degrees Fahrenheit, alignment, and an interfacial fusion pressure of 75 PSI. The butt fusion joining will produce a joint with weld strength equal to or greater than the tensile strength of the pipe itself. All field welds shall be made with fusion equipment equipped with a Data Logger. Temperature, fusion pressure and a graphic representation of the fusion cycle shall be part of the Quality Control records.
- B. Mechanical joining will be used where the butt fusion method can not be used. Mechanical joining will be accomplished by either using a HDPE flange adapter with a ductile iron back-up ring or HDPE Mechanical Joint adapter with a ductile iron back-up ring.
- C. Socket fusion, hot gas fusion, threading, solvents, and epoxies will not be used to join HDPE pipe.

**3.04 FORCEMAIN INSTALLED BY OPEN-CUT METHOD**

- A. Install pipe by open-cut method where shown on Drawings.
- B. Pipe shall be installed at the grade as shown on Drawings. The maximum allowable deviation shall be  $\pm 0.1$ -foot vertical and  $\pm 0.5$ -foot horizontal. Any deviation exceeding the allowable value shall be corrected.
- C. Pipe installed with reverse grade shall not be permitted and shall be corrected at the Contractor's expense.

**3.05 FORCEMAIN INSTALLED BY TRENCHLESS TECHNOLOGY**

- A. Install pipe by Trenchless Technology method where shown on Drawings. Open excavation at these locations will not be allowed.
- B. Wet-boring or jetting will not be permitted.

**UNDERGROUND SEWAGE PIPING**

- C. No push or receiving pits may be dug under proposed pavement locations unless authorized in advance by Engineer in writing. Limit size of pits to prevent damage to nearby facilities and surroundings.
- D. Pipe shall be installed at the grade as shown on Drawings. The maximum allowable deviation shall be  $\pm 0.2$ -foot vertical and  $\pm 0.5$ -foot horizontal. Any deviation exceeding the allowable value shall be corrected.
- E. Pipe installed with reverse grade shall not be permitted and shall be corrected at the Contractor's expense.
- F. Every precaution for keeping the pipe clean and for proper assembly of joints shall be taken while installing pipe by push and bore method.
- G. Push pits and other similar excavations shall be backfilled with pipe bedding material to a depth of 6 inches above newly installed carrier pipe. Backfill and compact as required for nearby trench excavation.
- H. Any couplings needed to connect to trenchless installation shall be Stainless Steel.

**3.06 PROTECTION OF BURIED METAL COMPONENTS**

- A. All steel and iron components to be buried, including pipe, fittings, valves, and other steel and iron appurtenance used in the piping system shall be double wrapped with polyethylene to completely isolate the piping.
- B. All nuts, bolts and rods shall be greased prior to wrapping.

**3.07 BYPASS SEWAGE**

- A. The Contractor shall provide for the flow of sewage around immediate construction area. Contractor shall provide bypass sewage operations as shown on Drawings.
- B. Under no circumstances will the dumping of raw sewage on private property or in City streets be allowed. Contractor is responsible to repair leaky pumps, pipe, hoses or connections.
- C. Contractor shall coordinate bypass sewage operations with Owner.
- D. Pumps, hoses and barricades shall be installed so as to affect traffic and general public as little as possible.

**3.08 (P & A) PLUG AND ABANDONMENT OF PIPES**

- A. All pipes to be abandoned or previously abandoned, shall be plugged as herein specified before backfilling. Plug both ends and all exposures unless inaccessible.
- B. Concrete shall occupy the full diameter of the pipe and shall extend the full distance of the pipe that is to be abandoned.
- C. All pipes shall be completely filled with CDF.

**3.09 SANITARY SEWER CROSSING STORM SEWER**

- A. Unless otherwise shown on Drawings, Contractor shall temporarily support inlet leads and storm leads within trench as required to perform work. Contractor may remove and replace inlet leads and

**UNDERGROUND SEWAGE PIPING**

storm sewer to expedite construction at no expense to Owner. Existing RCP shall be composed of PVC as specified. Other existing pipe types may be replaced with PVC. Size of replacement pipe shall match existing.

- B. Where elevation of storm sewer is in conflict with the proposed elevation of new gravity sanitary sewer, remove top of storm sewer pipe as required to install new gravity sewer. Sanitary Sewer passing through storm shall be composed of PVC C900 pipe to provide structural support and to prevent contaminating storm sewer with raw sewage.
- C. PVC C900 pipe shall be installed through the storm sewer and grouted in place. No PVC joint will be allowed in the storm sewer.
- D. Make connection from PVC C900 to gravity sewer with approved type of repair coupling.

**3.10 SANITARY SEWER CROSSING WATER MAINS**

- A. Notify Engineer if sewer being installed does not have a minimum of 18 inches vertical clearance and a minimum of 10 foot horizontal distance between the outside of the sewer pipe and the outside of a water main.
- B. One full length of sewer pipe shall be installed crossing a water main so both joints will be equidistant and as far from the water main as possible.

**3.11 FORCEMAIN PRESSURE TESTS**

- A. Pressure test new pipe prior to connecting to existing systems to a hydrostatic pressure of 50 psi with all affected corporations closed. Test at lowest point in line.
- B. The duration of each pressure test shall be at least 60 minutes.
- C. All air shall be expelled from pipe before starting pressure test.
- D. Where polyethylene pipe is part of section to be tested, maintain hydrostatic pressure of 60 psi for 4 hours adding make-up water as required every hour. After four hours of stabilizing, the test can be performed. Decrease pressure to 50 psi and isolate the system for 1 hour. If pressure at end of test is 47.5 psi or less, the test fails.
- E. Any leaking joints, cracked or defective pipes, fittings or valves discovered in consequence of pressure test shall be removed and replaced by Contractor at no cost to Owner. Pressure test shall then be repeated until satisfactory to Engineer.
- F. During testing, the test pressure shall be maintained by the addition of water. The volume of water used shall be recorded.
- G. Allowable leakage in gallons per hour per 1000 feet for PVC, FPVC, and CCFRPM pressure pipe:

Pipe Size Inches	Allowable Leakage Gallons
4	0.19
6	0.29
8	0.38
10	0.48

**UNDERGROUND SEWAGE PIPING**

Pipe Size <u>Inches</u>	Allowable Leakage <u>Gallons</u>
12	0.57
14	0.67
16	0.76
18	0.86
24	1.15
30	1.43

- H. Saddles, corporations and pipe or hose required for testing are to be furnished and installed by contractor and are incidental to the forcemain item.

**PART 4 - MEASUREMENT**

**4.01 DESCRIPTION**

- A. Measure the Section items listed in the bid schedule and the following as applicable.
- B. Earthwork associated with these bid items are incidental to the bid items and shall not be paid for separately.

**PART 5 - PAYMENT**

**5.01 DESCRIPTION**

- A. The accepted quantities will be paid at the contract price per unit of measurement as follows:

<b>Pay Item</b>	<b>Pay Unit</b>
24IN 45 DEG Bend	EA
24IN x 24IN x 10IN Tee	EA
Plug Valve & Box	EA
Plug Forcemain	LF
Forcemain 10IN	LF
Forcemain 24IN	LF
Forcemain Connection	EA
Forcemain Bypass	LS
Forcemain Drain Down	LS

- B. All exploratory excavation, cutting and removal of existing pipe, adapters, bends, elbows, thrust blocking, testing, fusion welding, fittings, and couplings necessary to complete Forcemain Connection shall be incidental to Forcemain Connection bid item. Include all CDF needed to completely fill abandoned pipe in Plug Forcemain bid item. New rubber pipe, rubber elbow, RJ PVC coupling, splines, gaskets, traffic control devices, and gravel for gravel ramps necessary to complete Forcemain Bypass shall be incidental to Forcemain Bypass. New RJ PVC coupling, splines, gaskets, traffic control devices, and gravel for gravel ramps necessary to complete Forcemain Drain Down shall be incidental to Forcemain Drain Down. New 10" forty-five degree bend, 10" wye, and 10" stainless steel coupling shall be incidental to Forcemain 10IN.

**END OF SECTION 33 31 01  
Underground Sewage Piping**

**NORTH DAKOTA DEPARTMENT OF  
TRANSPORTATION  
SPECIAL PROVISION  
CONSTRUCTION DISCOVERY PLAN PROJECT  
NHU-6-986(131)– PCN 22682**

**DESCRIPTION**

This work consists of implementing the project-specific Cultural Resource Discovery Plan (CRDP). In addition to the cultural and historic resources identified in the CRDP, it is possible that unknown subsurface cultural and historical resources may exist. The attached CRDP sets forth procedural requirements for these discoveries.

**ATTACHMENTS**

Cultural Resource Discovery Plan

**CONSTRUCTION REQUIREMENTS**

If discovery of a cultural resource occurs, follow the requirements specified in the Cultural Resource Discovery Plan.

**MEASUREMENT AND PAYMENT**

This work will not be measured or paid separately and will be included in the price bid for “Mobilization.”

## **Cultural Resource Discovery Plan**

### **NDDOT Project Number: NHU-6-986(131), PCN 22682**

#### **Introduction**

This document is intended to clarify for consulting Tribes, interested State and Federal agencies, North Dakota Department of Transportation (NDDOT) personnel, and project contractors how the NDDOT will proceed in case of the discovery of a burial and/or other cultural features such as the 32GF21 trolley tracks to ensure the proper handling of all discoveries on this project.

#### **Background**

NDDOT and the City of Grand Forks plan to reconstruct the area around the Columbia Road/University Avenue intersection from the pedestrian underpass to 6<sup>th</sup> Avenue N. The NDDOT is consulting with the State Historical Society of North Dakota State Historic Preservation Office (SHSND-SHPO) to obtain a *No Adverse Effect* determination for the Project.

The Project consists of improvements to streetlights, traffic signals, signing, pavement marking, sidewalk and bicycle accommodations, sewer utilities, and pedestrian underpass upgrades. Project limits are depicted on the Project location map (Figure 1). There are no plans for further excavation beyond previously disturbed areas of the existing paved roadway and sidewalks. The Project may require temporary right-of-way including construction easements for sidewalk construction. These will consist of linear strip easements adjacent and parallel to the existing right of way. The Project will remain within the existing ROW and temporary easement.

The proposed Project is located mostly within the University of North Dakota Historic District (UNDHD). KLJ (Robinson and Norman 2020) has conducted a Class I Literature Review for the Project area, focusing on the Project corridor and adjacent properties. The literature review identified five previously recorded cultural resources (32GF17, 32GF21, 32GF3162, 32GF3179, and 32GFx263) within the proposed project area. Other than minor temporary effects from the adjacent construction, the Project will not impact 32GF17, 32GF3162, 32GF3179, and 32GFx263.

However, the 32GF21 remains might be exposed within the APE. A recently approved MOU for railway remains negotiated between NDDOT, SHSND-SHPO, and the Grand Forks Historic Preservation Commission (GFHPC) sets forth procedures for the documentation, NRHP eligibility, and possible mitigative measures. These include treating the 32GF21 remains as NRHP-eligible under Criteria A and D.

An inset from a 1927 Map shows the “Street Railway” along University Ave crossing Columbia Road (Figure 2). While consultation with engineers of the NDDOT Grand Forks District Office suggests the tracks have been removed, NDDOT is outlining this Discovery Plan in case trolley track remains or other finds are uncovered during proposed Project construction.

The NDDOT Project Manager and all personnel working on this Project should be aware of the potential for discovery of important cultural resources. If burials, trolley tracks, or structural remains/features are encountered during construction:

- All work in the immediate vicinity shall stop.
- The immediate vicinity is defined as a 100 ft radius around the discovery.
- NDDOT Cultural Resource Section shall be notified (contact information below).

## Burial Discovery

In the case of discovery of a burial through exposure and identification by NDDOT or Contractor employees, the following will take place in accordance with ND Century Code:

"Any person who knows or has reasonable grounds to believe that a human burial site, human remains or burial goods, found in or on any land, shall refrain from any activity which might disturb or immediately cease any continued activity which might cause further disturbance of such burial, remains, or goods and shall, as soon as practicable, report the presence or discovery of the burial, remains, or good to the local law enforcement agency with jurisdiction in the area in which the burial, remains or goods are located. A person is guilty of a class B Misdemeanor who is required to make such report and willfully as defined, in section 12.1-02-02 fails to make the same. The requirement imposed in this subsection do not apply to any person engaged in the salvaging excavation or other disinterment of a human burial under authority of law. {23-06-27.5}

\*Intentional disturbance of human burial sites under North Dakota State Law, without the authority of law, is a Class C Felony.

In accordance with ND Century Code 23-06-27.4, 23-06-27.5, and Administrative Code 40-02-03, the following procedure will be followed in the case of identification of burial, remains, or goods during construction of the Project:

1. The Contractor immediately will inform Law Enforcement (Grand Forks County Sheriff's Office: 701-780-8280) and NDDOT through the Cultural Resource Section (see below).
2. Law Enforcement will inform SHSND and North Dakota Department of Health (NDDOH).
3. SHSND will notify the North Dakota Intertribal Reinternment Committee (NDIRC). SHSND and NDDOH will determine as possible whether the remains are Native American. If the remains are determined or presumed to be Native American, then the NDIRC will become actively involved. NDIRC involvement will take place within 24 hours of the discovery or as soon as practicable after that time. Human remains will be studied within the scope allowed in the Administrative Rules (40-02-03-01).
  - a. If the remains can be restored, the NDDOT archaeologist and NDIRC member will complete visual observation of the remains and burial goods.
  - b. If the burial and goods must be disinterred, study will occur at the burial site and include visual observation, written description, and documentation of the remains and goods including limited photography agreed to by the NDDOT archaeologist and NDIRC member. Written documentation of the burial will be provided to IRC members and documentation acceptable to them will be forwarded to SHSND. Results will be reported to the NDDOT Tribal Consultation Committee at the next scheduled meeting. NDDOT archaeologist, SHSND representative and/or a recognized physical anthropologist will complete study of the remains.
4. If possible, leave the burial in-place and backfill, stabilize, and protect the area.
5. If disinterment is the only feasible option, the NDIRC shall as soon as possible after study is completed, re-inter the disinterred remains and all burial goods either at a nearby location (with the consent of the landowner), or on Indian lands within the boundaries of the appropriate reservation.

6. Disinterment will take place under the supervision of a NDDOT archaeologist, using standard archaeological procedures and contextual analysis.

### **Historic Discoveries**

Since the Project APE is located within the UNDHD, it has a rich history. Thus, any intact subsurface building remains or encroachments in the APE that are attached or adjacent to a historic property will constitute an inadvertent discovery. Intact portions of the 32GF21 trolley tracks also will constitute an inadvertent discovery. Small sections of track remnants that clearly have been dislodged from their original position will not constitute an inadvertent discovery, but they are still subject to the documentation outlined below.

In such cases, NDDOT Grand Forks District staff are asked to provide the following information to NDDOT Cultural Resources staff:

1. Each find will be documented with GPS points to generate shapefiles and CAD data.
2. CAD drawings with spatial relationships to buildings, property lines, and other landmarks.
3. Color photographs detailing each find and its relationship to the streetscape.
4. Wherever possible, any measurements of finds such as the height, width, or gauge of tracks.
5. Any thoughts, observations, or interpretations by Project staff on the nature of finds.

### **NDDOT Cultural Resource Section Contact Information**

Paul Demers 701-328-4539 pdemers@nd.gov

Jeani Borchert 701-328-4378 jborcher@nd.gov

Valerie Barbie 701-328-2152 vbarbie@nd.gov

### **References Cited**

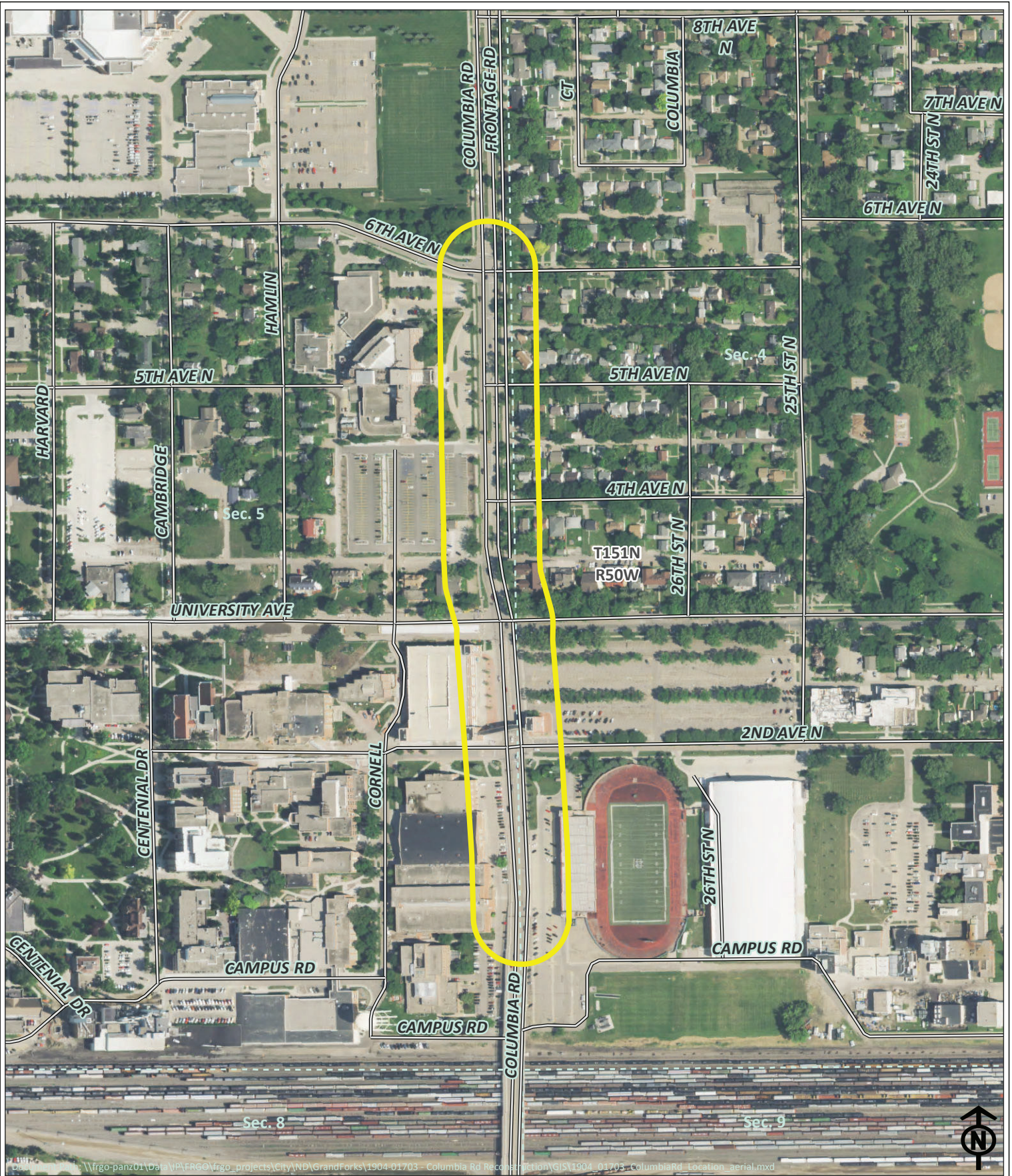
Anon.

1927 South Part of Grand Forks. Map on file at the Robinson Department of Special Collections, Chester Fritz Library, University of North Dakota.

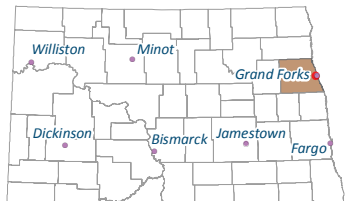
Robinson, Andrew and Bill Norman

2020 NHU-6-986(131), PCN 22682 Columbia Road/University Avenue Intersection Reconstruction Project: A Class I Literature Review in Grand Forks County, North Dakota. Report on file with the State Historical Society of North Dakota, Bismarck.



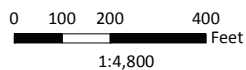


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Grand Forks County, ND

Map created by KLJ  
 Topo Source: © 2019 USDA-FSA-Aerial Photography Field Office  
 Data Source: KLJ, NDGIS, & NDDOT



- Project Area
- Section Line
- Townships
- County/City Roads

Figure 1: Project Area

Project Location		
Drawn By: JDP	Date: 1/2/2020	Reconstruction of Columbia Road Project No. NHU-6-986(131) PCN 22682
		

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
SPECIAL PROVISION

FUEL COST ADJUSTMENT CLAUSE  
Revision Date: 9/8/2006

Introduction

This Special Provision provides for price adjustments to the Contract when significant changes in the cost of motor fuels and burner fuels occur while completing the Contract work. Participation in fuel cost adjustment program is not mandatory. A Contractor is not required to notify the Department at the time of submitting bids whether the Contractor will or will not participate in the fuel cost adjustment provision.

The North Dakota Department of Transportation (NDDOT) will send the low responsible bidder a "Fuel Cost Adjustment Affidavit" (SFN 58393) with the proposed Contract. The Contractor shall return a completed Fuel Adjustment Affidavit with the signed Contract as specified in Standard Specification Section 103.06, Execution and Approval of the Contract. The affidavit shall be returned on all Contracts with this provision even if the Contractor elects not to participate in the provision.

Compensation adjustments for motor fuels and burner fuels consumed in prosecuting the Contract shall be determined by the Engineer in accordance with the provisions set forth herein. Compensation adjustments will be assessed monthly for the cost of the motor fuels and burner fuels whenever the Current Fuel Index (CFI) is outside the given threshold of the Base Fuel Index (BFI) for the Contract.

If the Contractor has a fixed price for fuel for motor or burner fuels to complete the work, no fuel cost adjustments will be made for that fuel type. If there is no fixed fuel price for motor or burner fuels, participation in the Fuel Adjustment provision is the decision of the prime Contractor.

If the prime Contractor decides not to participate, no fuel cost adjustments will be made to the Contract for the Contractor or any subcontractors. If the prime Contractor elects to participate in the fuel cost adjustment provision, the prime Contractor shall include the anticipated fuel cost of subcontractors who wish to participate. If fuel cost adjustments are made to the Contract, the prime Contractor shall ensure that participating subcontractors including second and lower tier, are included in the adjustments in proportion to the percentage of work and anticipated fuel cost by that subcontractor.

Fuel Indexes

Each month, NDDOT will record the average wholesale price for No. 2 diesel fuel and the average wholesale price for unleaded gasoline (87 octane). The monthly average will be the average of the daily rack prices for the month as reported by DTN Energy for Fargo ND.

The burner fuel index will be the No. 2 diesel fuel index regardless of the type of burner fuel actually used.

The Base Fuel Index (BFI) price for motor fuels and burner fuel to be used in the Contract will be the average wholesale price for the month prior to the bid opening.

The Current Fuel Index (CFI) price for motor fuels and burner fuel to be used for each monthly adjustment will be the average wholesale price for the month prior to the adjustment month.

Fuel Ratio

For motor fuels diesel and unleaded gas, the fuel ratio of the Contract will be determined by dividing the Contractor's affidavit costs for each motor fuel by the original Contract amount.

For burner fuels, the fuel ratio of the contract will be determined by dividing the Contractor's affidavit cost for burner fuels by the original Contract amount of plant-mixed hot bituminous pavement paid by the ton. Asphalt cement, binders and other miscellaneous bituminous items shall not be included.

The fuel ratio of the contract for motor and burner fuels will remain the same throughout the length of the contract. The sum of the affidavit fuel costs shall not exceed 15% of the original Contract amount.

The fuel ratio for the three fuel types will be determined by the following equation:

<b>Fuel Ratio<sub>(x, y, z)</sub> = Affidavit Cost<sub>(x, y, z)</sub> / Original Contract Amount<sub>(x, y, z)</sub></b>		
(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
Fuel Ratio <sub>(x, y, z)</sub>	=	Fuel ratio of the contract for each respective fuel type
Affidavit Cost <sub>(x, y, z)</sub>	=	Fuel costs from Fuel Adjustment Affidavit (SFN 58393)
Original Contract Amount <sub>(x, y)</sub>	=	Total of the original contract amount excluding lane rental, and Part B of the bid (when A+B bidding is used), if applicable.
Original Contract Amount <sub>(z)</sub>	=	Total original contract amount for all hot bituminous pavement bid items combined, excluding bid items for asphalt cement, sawing and sealing joints, coring, etc. Only hot bituminous pavement bid items measured by the Ton will be included in the calculation.

Cost Change

The monthly change in fuel costs will be determined by the following equation:

<b>Cost Change<sub>(x, y, z)</sub> = ( CFI<sub>(x, y, z)</sub> - BFI<sub>(x, y, z)</sub> ) / BFI<sub>(x, y, z)</sub></b>		
(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel (use diesel prices)
Cost Change <sub>(x, y, z)</sub>	=	The relative change in the current CFI and the BFI for each fuel type
CFI <sub>(x, y, z)</sub>	=	Current Fuel Index for each fuel type
BFI <sub>(x, y, z)</sub>	=	Base Fuel Index for each fuel type

Contract Adjustments

Contract adjustments will be made for the cost of motor and burner fuels whenever the cost change exceeds a ±0.10 threshold. No fuel cost adjustment will be made for work done under liquidated damages. Adjustments will be determined for Motor Fuel (diesel), Motor Fuel (unleaded), and Burner Fuel (burner) separately and shall be computed on a monthly basis.

When the cost change is greater than 0.10, the rebate to the Contractor for each fuel type shall be computed according to the following formulas:

<b><math>FCA_{(x, y, z)} = \text{Fuel Ratio}_{(x, y, z)} \times \text{Estimate}_{(x, y, z)} \times (\text{Cost Change}_{(x, y, z)} - 0.10)</math></b>		
(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
$FCA_{(x, y, z)}$	=	Fuel Cost Adjustment for each of the fuel types
$\text{Fuel Ratio}_{(x, y, z)}$	=	Fuel Ratio for each of the fuel types
$\text{Estimate}_{(x, y)}$	=	The monthly total of work done on estimates issued in the current month excluding incentive or disincentive payments, pay factor adjustments and any work completed under liquidated damages.
$\text{Estimate}_{(z)}$	=	The monthly total of hot bituminous pavement work done on estimates issued in the current month, excluding bid items for asphalt cement, sawing and sealing joints, coring, etc. Only hot bituminous pavement bid items measured by the Ton will be included in the calculation. Hot bituminous pavement work completed under liquidated damages will not be included.
$\text{Cost Change}_{(x, y, z)}$	=	The monthly change in fuel costs for each of the fuel types

When the cost change is less than -0.10, the credit to the Department for each fuel type shall be computed according to the following formulas:

<b><math>FCA_{(x, y, z)} = \text{Fuel Ratio}_{(x, y, z)} \times \text{Estimate}_{(x, y, z)} \times (\text{Cost Change}_{(x, y, z)} + 0.10)</math></b>		
(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
$FCA_{(x, y, z)}$	=	Fuel Cost Adjustment for each of the fuel types
$\text{Fuel Ratio}_{(x, y, z)}$	=	Fuel Ratio for each of the fuel types
$\text{Estimate}_{(x, y)}$	=	The monthly total of work done on estimates issued in the current month excluding any incentive or disincentive payments, pay factor adjustments and any work completed under liquidated damages.
$\text{Estimate}_{(z)}$	=	The monthly total of hot bituminous pavement work done on estimates issued in the current month, excluding bid items for asphalt cement, sawing and sealing joints, coring, etc. Only hot bituminous pavement bid items measured by the Ton will be included in the calculation. Hot bituminous pavement work completed under liquidated damages will not be included.
$\text{Cost Change}_{(x, y, z)}$	=	The monthly change in fuel costs for each of the fuel types

Payments

Adjustments will be determined by the Engineer monthly. Adjustments will be made under the following spec and code for each fuel type:

109 0100	Motor Fuels (Diesel)
109 0200	Motor Fuels (Unleaded)
109 0300	Burner Fuel

When significant payment adjustments are made on final estimates to account for final in-place measured quantities, the Engineer may prorate the adjustments back to the months when the work was done.

Attachments

For informational purposes, a 'Fuel Cost Adjustment Affidavit' (SFN 58393) is included as Attachment A.

**FUEL COST ADJUSTMENT AFFIDAVIT**

North Dakota Department of Transportation, Construction Services  
SFN 58393 (8-2017)

SP Fuel Cost Adjustment Clause  
6 of 6

**Attachment A**

PCN	Project Number
-----	----------------

The Contractor is not required to notify the Department at the time of submitting bids whether he will or will not participate in the fuel cost adjustment program. The Contractor shall return the affidavit on all Contracts with this Provision even if the Contractor elects not to participate.

Check the box for each fuel type that has a fixed price. No adjustments in fuel price will be made for the boxes that are checked.

Diesel       Unleaded       Burner

Does your company elect to participate in a fuel adjustment for this contract for the fuels that do not have a fixed price? No adjustments in fuel prices will be made if **No** is checked .       Yes       No

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

Diesel (D)	
Unleaded (U)	
Burner Fuel (B)	
Sum (D+U+B)	

\*The sum of the D, U, and B may not exceed 15% of the original contract amount.

Under the penalty of law for perjury of falsification, the undersigned,

Name (print or type)	Title (print or type)
Contractor (print or type)	

hereby certifies that the documentation is submitted in good faith, that the information provided is accurate and complete to the best of their knowledge and belief, and that the monetary amount identified accurately reflects the cost for fuel, and that they are duly authorized to certify the above documentation on behalf of the company.

I hereby agree that the Department or its authorized representative shall have the right to examine and copy all Contractor records, documents, work sheets, bid sheets and other data pertinent to the justification of the fuel costs shown above.

Signature	Date
-----------	------

**Acknowledgement**

State of

County of

Signed and sworn to (or affirmed) before me on this day \_\_\_\_\_  
(month, day, year)

Name of Notary Public or other Authorized Officer (Type or Print)	Affix Notary Stamp
Signature of Notary Public or other Authorized Officer	
Commission Expiration Date (if not listed on stamp)	

**CONTRACT**  
**CITY PROJECT NO. 8059, DISTRICT NO. N/A**  
**FEDERAL AID PROJECT NO.**  
**NHU-6-986(131)**

THIS AGREEMENT, made and entered into in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the **City of Grand Forks, North Dakota**, hereinafter called the Owner, and \_\_\_\_\_, hereinafter called the Contractor,

**WITNESSETH:**

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

ARTICLE I

The Contractor shall perform all work and furnish all tools, materials, and equipment for Construction of

N COLUMBIA ROAD FROM BNSF STRUCTURE  
OVERPASS TO NORTH OF UNIVERSITY AVENUE,  
GRAND FORKS, ND -  
PROJECT CONSISTS OF GRADING, AGGREGATE  
BASE, PCC CONCRETE PAVEMENT,  
STRUCTURE IMPROVEMENTS, STORM SEWER,  
SANITARY SEWER FORCEMAIN, SIDEWALK,  
SIGNING, PAVEMENT MARKINGS, TRAFFIC  
SIGNALS, STREET LIGHTING, CITY UTILITIES

In accordance with and as described in this Contract, Project Bonds, Project Proposal, North Dakota Department of Transportation (NDDOT) Standard Specifications for Road and Bridge Construction - 2020 Edition, Supplemental Specifications, Special Provisions, and Plans approved on January 4, 2021, which are by this reference incorporated herein and made a part hereof, and shall perform any alterations in or additions to the work provided under this contract and every part thereof. Contractor has received copies of an Accepted Proposal. Special Provisions, Plans, Supplemental Specifications, this Instrument and, further, has received and/or examined and is familiar with the contents of the NDDOT Standard Specifications for Road and Bridge Construction - 2020 Edition and the Supplemental Specifications effective on the date the project is advertised.



Work shall be completed by the completion dates specified in the Proposal, time being of the essence.

The parties agree that should Contractor fail to complete the work or deliver its material within the time agreed upon, Contractor agrees to pay and will pay to Owner, for each and every day of such delay beyond the time of completion of work or delivery of materials as above-defined, the sum in accordance with Table 108-02 Daily Charges for Liquidated Damages of the NDDOT Standard Specifications for Road and Bridge Construction - 2020 Edition and the Supplemental Specifications effective on the date the project is advertised in either case, which sum is hereby, in view of the difficulty of estimating such damages, agreed upon, fixed, and determined by the parties hereto, as the liquidated damages that Owner will suffer by such default and not by way of penalty, and shall be deducted as such from the balance due to Contractor.

The Contractor shall provide and bear the expense of all equipment, work and labor of any kind or type whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this contract and every part thereof, except such as are mentioned in the specifications to be furnished by the Owner.

## ARTICLE II

The Owner hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same according to the attached Plans and Special Provisions and NDDOT Standard Specifications for Road and Bridge Construction - 2020 Edition and Supplemental Specifications and the terms and conditions herein contained.

The NDDOT will make payments to the Contractor on behalf of the Owner for completion of the Work in accordance with the contract documents and the schedule of unit or itemized prices as shown in the Proposal hereto attached, at the time and in the manner and upon the conditions provided for in this contract.

The NDDOT payment process is specified in the NDDOT Standard Specification for Road and Bridge Construction - 2020 Edition and the Supplemental Specifications effective on the date the project is advertised.

## ARTICLE III

The Contractor for himself, and for his heirs, executors, administrators, successors, and assigns does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

ARTICLE IV

It is further provided that this contract shall consist of the following component parts:

1. The accepted Proposal
2. Special Provisions
3. Plans
4. North Dakota Department of Transportation Standard Specifications for Road and Bridge Construction - 2020 Edition and the Supplemental Specifications effective on the date the project is advertised
5. Supplement Specifications
6. The required Bonds
7. All Addenda
8. All provisions required by law to be inserted in this contract, whether actually inserted or not
9. This Instrument

This Instrument, together with the documents hereinabove mentioned form the contract, and they are as fully a part of the contract as if hereto attached or herein repeated.

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed the day and year first hereinabove written.

**CITY OF GRAND FORKS, NORTH DAKOTA**

**By:** \_\_\_\_\_  
**Mayor**

ATTEST:

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
City Auditor

\_\_\_\_\_  
**Contractor**

By: \_\_\_\_\_

Approved as to form and manner of  
execution:

By: \_\_\_\_\_  
City Attorney

**PAYMENT BOND**

State of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_, as Principal and \_\_\_\_\_ as Surety, are hereby held and firmly bound unto the City of Grand Forks, North Dakota in the penal sum of: \_\_\_\_\_ (\$\_\_\_\_\_) for the payment whereof, Principal and Surety bind themselves, their heirs, executors, administrators and successors, jointly and severally, and firmly by these presents.

The conditions of this obligation are such that, whereas the Principal entered into a certain contract (the "Contract") which Contract is incorporated into this Payment Bond by reference, with the City of Grand Forks dated \_\_\_\_\_ for the following project:  
\_\_\_\_\_

NOW, THEREFORE, if the Principal shall promptly make payments to all persons supplying labor and materials in the prosecution of the work provided for in the Contract, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

This Bond is made and entered into for the protection of the City of Grand Forks and all claimants supplying labor and material in the prosecution of the work provided for in said contract, and all such claims shall have a direct right of action under the bond. If any legal action is filed upon this Bond, venue shall lie in Grand Forks County, State of North Dakota.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed under the Contract shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed under the Contract.

The Surety agrees to pay to the City of Grand Forks upon demand all loss and expense, including attorney's fees and court costs, incurred by the City of Grand Forks by reason of or on account of any breach of this obligation by the surety.

IN WITNESS WHEREOF, the Principal and Surety have duly signed this Payment Bond this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_, Principal

(PRINCIPAL'S SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, Surety

(SURETY'S SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

**PERFORMANCE BOND  
BOND TO CITY OF GRAND FORKS, NORTH DAKOTA**

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, \_\_\_\_\_  
as Principal, and \_\_\_\_\_, a corporation  
organized and existing under the laws of the State of \_\_\_\_\_, as a surety corporation,  
and qualified under the laws of the State of North Dakota to become surety upon bonds of contractors with  
municipal corporations, as Surety, are jointly and severally held and firmly bound to the City of Grand Forks,  
North Dakota, in the amount of \$ \_\_\_\_\_ for the payment of which sum on demand we bind  
ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

This obligation is entered into in pursuance of the statutes of the State of North Dakota, the ordinances and  
resolutions of the City of Grand Forks, North Dakota, dated at \_\_\_\_\_, North Dakota, this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

Nevertheless, the conditions of the above obligation are such that:

WHEREAS, under and pursuant to Resolution No. \_\_\_\_\_ of the City of Grand Forks, North Dakota, passed  
\_\_\_\_\_, \_\_\_\_\_, the Mayor of said City of Grand Forks, has let or is about to let to the said  
\_\_\_\_\_

\_\_\_\_\_, the above bounden Principal, a certain contract, the said  
contract providing for City No. 8059/Federal Aid Project No. NHU-6-986(131); PCN 22682 – N COLUMBIA  
ROAD FROM BNSF STRUCTURE OVERPASS TO NORTH OF UNIVERSITY AVENUE, GRAND  
FORKS, ND -  
PROJECT CONSISTS OF GRADING, AGGREGATE BASE, PCC CONCRETE PAVEMENT,  
STRUCTURE IMPROVEMENTS, STORM SEWER, SANITARY SEWER FORCEMAIN, SIDEWALK,  
SIGNING, PAVEMENT MARKINGS, TRAFFIC SIGNALS, STREET LIGHTING, CITY UTILITIES which  
contract is referred to herein and is made a part hereof as though attached hereto), and

WHEREAS, the said Principal has accepted, or is about to accept, the said contract, and undertake to perform  
the work therein provided for in the manner and within the time set forth;

NOW, THEREFORE, if the said \_\_\_\_\_ shall faithfully perform all of the  
terms, conditions, and provisions of said contract in the manner and within the time therein set forth, or within  
such extensions of time as may be granted under said contract, and shall pay all bills or claims on account of  
labor or material, including supplies used for machinery and motor power equipment, performed, furnished and  
used in and about the performance of the contract, including all demands of subcontractors and shall hold and  
save said City of Grand Forks, North Dakota, harmless of and from all costs, damages, loss liability, judgments  
and executions that may be brought against it by such work or the prosecution thereof by the said contractor, or  
its acts or omissions or those of its agents, servants and employees in the premises and shall have made or will  
make prior to the commencement of any work by himself or any subcontractors under such contractor, full and  
true report to the Workmen's Compensation Bureau of the payroll expenditures for the employees to be engaged  
in such work and shall pay the premium thereon prior to the commencement of such work and shall repair and  
replace all defective work or unsatisfactory filling of trenches which may appear within the period of one year  
from the date of the final acceptance of the work by the City of Grand forks, North Dakota, and then and in that  
event this obligation shall be void, but otherwise it shall be and remain in full force and effect.

\_\_\_\_\_  
(Principal)

Approved

By \_\_\_\_\_

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(Surety)