

4LR

March 5, 2021 Letting

Special Provisions



Illinois Department
of Transportation
Springfield, Illinois 62764

Illinois Department of Natural Resources
Office of Mines and Minerals
Abandoned Mined Lands Reclamation Division

Contract: M2004
Project Name: Buckheart Mine Highwall Remedial
County: Fulton
Project Number: AML-GFuE-2004



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

JB Pritzker, Governor
Colleen Callahan, Director

NOTICE TO BIDDERS

- 1. TIME AND PLACE OF OPENING BIDS.** Electronic bids are to be submitted to the Illinois Department of Transportation (IDOT) electronic bidding system (iCX-Integrated Contractors Exchange). All bids must be submitted to the iCX system prior to 12:00 p.m. (noon), Friday, March 5, 2021, at which time the bids will be publicly opened from the iCX SecureVault.
- 2. DESCRIPTION OF WORK.** The proposed reclamation work is identified and advertised for bids in the Invitation for Bids as:

Item 4LR – Contract M2004
Buckheart Mine Highwall Remedial Project
AML-GFuE-2004
Fulton County

The Buckheart Mine Highwall Remedial Project is for the repair of an eroded sideslope and drainageways at the Buckheart Mine abandoned mine site by the Illinois Department of Natural Resources using federal abandoned mined lands funds.

3. INSTRUCTIONS TO BIDDERS.

- (a) This Notice, the Invitation for Bids, proposal, and letter of award shall, together with all other documents in accordance with Article 101.09 of the IDOT Standard Specifications for Road and Bridge Construction, become part of the contract. Bidders are cautioned to read and examine carefully all documents, to make all required inspections, and to inquire or seek explanation of the same prior to submission of a bid.
- (b) State law requires the bidder to make various certifications as a part of the proposal and contract. By execution and submission of the proposal, the bidder makes the certification contained therein. A false or fraudulent certification shall, in addition to all other remedies provided by law, be a breach of contract and may result in termination of the contract.
- (c) A copy of the Annual Proposal Bid Bond (or Proposal Bid Bond, if applicable), DBE Utilization Plan, and DBE Participation Statement(s) must be forwarded to the Procurement Manager at the mailing address shown above (Attn: Ashley Stewart) or emailed to Ashley.N.Stewart@Illinois.gov.

4. AWARD CRITERIA AND REJECTION OF BIDS.

This contract will be awarded to the lowest responsive and responsible bidder considering conformity with the terms and conditions established by the Illinois Department of Natural Resources, Office of Mines and Minerals, Abandoned Mined Lands Reclamation Division (Department) in the rules, Invitation for Bids, and contract documents. The issuance of plans and proposal forms for bidding based upon a prequalification rating shall not be the sole determinant of responsibility. The Department reserves the right to determine responsibility at the time of award, to reject any or all proposals, to re-advertise the proposed project, and to waive technicalities.

By Order of
Ronnie Huff, Director
Office of Mines of Minerals
Illinois Department of Natural Resources

CONTRACTOR OFFICE COPY OF CONTRACT SPECIFICATIONS

NOTICE

None of the following material needs to be returned with the bid package unless the special provisions require documentation and/or other information to be submitted.



Illinois Department of Transportation

SUBCONTRACTOR DOCUMENTATION

Public Acts 96-0795, 96-0920, and 97-0895 enacted substantial changes to the provisions of the Code (30 ILCS 500). Among the changes are provisions affecting subcontractors. The Contractor awarded this contract will be required as a material condition of the contract to implement and enforce the contract requirements applicable to subcontractors that entered into a contractual agreement with a total value of \$50,000 or more with a person or entity who has a contract subject to the Code and approved in accordance with article 108.01 of the Standard Specifications for Road and Bridge Construction.

If the Contractor seeks approval of subcontractors to perform a portion of the work, and approval is granted by the Department, the Contractor shall provide a copy of the subcontract to the Illinois Department of Transportation's CPO upon request within 15 calendar days after execution of the subcontract.

Financial disclosures required pursuant to Sec. 50-35 of the Code must be submitted for all applicable subcontractors. The subcontract shall contain the certifications required to be made by subcontractors pursuant to Article 50 of the Code. This Notice to Bidders includes a document incorporating all required subcontractor certifications and disclosures for use by the Contractor in compliance with this mandate. The document is entitled State Required Ethical Standards Governing Subcontractors.

RETURN WITH SUBCONTRACT

STATE ETHICAL STANDARDS GOVERNING SUBCONTRACTORS

Article 50 of the Code establishes the duty of all State CPOs, SPOs, and their designees to maximize the value of the expenditure of public moneys in procuring goods, services, and contracts for the State of Illinois and to act in a manner that maintains the integrity and public trust of State government. In discharging this duty, they are charged by law to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the State of Illinois.

The certifications hereinafter made by the subcontractor are each a material representation of fact upon which reliance is placed should the Department approve the subcontractor. The CPO may terminate or void the contract approval if it is later determined that the bidder or subcontractor rendered a false or erroneous certification. If a false certification is made by a subcontractor the contractor's submitted bid and the executed contract may not be declared void unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false.

Section 50-2 of the Illinois Procurement Code (Code) provides that every person that has entered into a contract for more than one year in duration for the initial term or for any renewal term shall certify, by January 1 of each fiscal year covered by the contract after the initial fiscal year, to the CPO or, if the procurement is under the authority of a CPO, the applicable procurement officer of any changes that affect its ability to satisfy the requirements of Article 50 pertaining to the eligibility for a contract award. If a contractor or subcontractor continues to meet all requirements of this Article, it shall not be required to submit any certification or if the work under the contract has been substantially completed before contract expiration but the contract has not yet expired. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under Article 50 of the Code is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act for submission of a false claim.

A. Bribery

Section 50-5. Bribery.

(a) Prohibition. No person or business shall be awarded a contract or subcontract under this Code who:

(1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

(2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

(b) Businesses. No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

(1) the business has been finally adjudicated not guilty; or

(2) the business demonstrates to the governmental entity with which it seeks to contract, or which is signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5-4 of the Criminal Code of 2012.

(c) Conduct on behalf of business. For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

(d) Certification. Every bid submitted to and contract executed by the State, and every subcontract subject to Section 20-120 of the Code shall contain a certification by the contractor or the subcontractor, respectively, that the contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the CPO may declare the related contract void if any certifications required by this Section are false. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.

The contractor or subcontractor certifies that it is not barred from being awarded a contract under Section 50-5.

B. Felons

Section 50-10. Felons.

(a) Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

(b) Certification. Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder or contractor or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the CPO may declare the related contract void if any of the certifications required by this Section are false.

RETURN WITH SUBCONTRACT

C. Debt Delinquency

Section 50-11 and 50-12. Debt Delinquency.

The contractor or bidder or subcontractor, respectively, certifies that it, or any affiliate, is not barred from being awarded a contract or subcontract under the Code. Section 50-11 prohibits a person from entering into a contract with a State agency, or entering into a subcontract, if it knows or should know that it, or any affiliate, is delinquent in the payment of any debt to the State as defined by the Debt Collection Board. Section 50-12 prohibits a person from entering into a contract with a State agency, or entering into a subcontract, if it, or any affiliate, has failed to collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act. The bidder or contractor or subcontractor, respectively, further acknowledges that the CPO may declare the related contract void if this certification is false or if the bidder, contractor, or subcontractor, or any affiliate, is determined to be delinquent in the payment of any debt to the State during the term of the contract.

D. Prohibited Bidders, Contractors and Subcontractors

Section 50-10.5 and 50-60(c). Prohibited bidders, contractors and subcontractors.

The bidder or contractor or subcontractor, respectively, certifies in accordance with 30 ILCS 500/50-10.5 that no officer, director, partner or other managerial agent of the contracting business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 or if in violation of Subsection (c) for a period of five years from the date of conviction. Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the CPO shall declare the related contract void if any of the certifications completed pursuant to this Section are false.

E. Section 42 of the Environmental Protection Act

The bidder or contractor or subcontractor, respectively, certifies in accordance with 30 ILCS 500/50-14 that the bidder, contractor, or subcontractor, is not barred from being awarded a contract or entering into a subcontract under this Section which prohibits the bidding on or entering into contracts with the State of Illinois or a State agency, or entering into any subcontract, that is subject to the Code by a person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of Section 42 of the Environmental Protection Act for a period of five years from the date of the order. The bidder or contractor or subcontractor, respectively, acknowledges that the CPO may declare the contract void if this certification is false.

The undersigned, on behalf of the subcontracting company, has read and understands the above certifications and makes the certifications as required by law.

Name of Subcontracting Company

Authorized Officer

Date

RETURN WITH SUBCONTRACT

SUBCONTRACTOR DISCLOSURES

I. DISCLOSURES

- A. The disclosures hereinafter made by the subcontractor are each a material representation of fact upon which reliance is placed. The subcontractor further certifies that the Department has received the disclosure forms for each subcontract.

The chief procurement officer may void the bid, contract, or subcontract, respectively, if it is later determined that the bidder or subcontractor rendered a false or erroneous disclosure. A contractor or subcontractor may be suspended or debarred for violations of the Procurement Code. Furthermore, the Chief Procurement Officer may void the contract.

B. Financial Interests and Conflicts of Interest

1. Section 50-35 of the Illinois Procurement Code provides that all subcontracts with a total value of \$50,000 or more, from subcontractors identified in Section 20-120 of the Illinois Procurement Code, shall be accompanied by disclosure of the financial interests of the subcontractor. This disclosed information for the subcontractor, will be maintained as public information subject to release by request pursuant to the Freedom of Information Act, filed with the Procurement Policy Board, and shall be incorporated as a material term of the Prime Contractor's contract. Furthermore, pursuant to this Section, the Procurement Policy Board may recommend to allow or void a contract or subcontract based on a potential conflict of interest.

The financial interests to be disclosed shall include ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the subcontracting entity or its parent entity, whichever is less, unless the subcontractor is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure. If a subcontractor is a privately held entity that is exempt from Federal 10K reporting, but has more than 400 shareholders, it may submit the information that Federal 10K companies are required to report, and list the names of any person or entity holding any ownership share that is in excess of 5%. The disclosure shall include the names, addresses, and dollar or proportionate share of ownership of each person making the disclosure, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial interest of each person making the disclosure having any of the relationships identified in Section 50-35 and on the disclosure form.

The current annual salary of the Governor is \$177,412.00.

In addition, all disclosures shall indicate any other current or pending contracts, subcontracts, proposals, leases, or other ongoing procurement relationships the subcontracting entity has with any other unit of state government and shall clearly identify the unit and the contract, subcontract, proposal, lease, or other relationship.

2. Disclosure Forms. Disclosure Form A is attached for use concerning the individuals meeting the above ownership or distributive share requirements. A separate Disclosure Form A must be submitted with the bid for each individual meeting the above requirements. In addition, a second form (Disclosure Form B) provides for the disclosure of current or pending procurement relationships with other (non-IDOT) state agencies and a total ownership certification.

C. Disclosure Form Instructions

Form A Instructions for Financial Information & Potential Conflicts of Interest

If the subcontractor is a publicly traded entity subject to Federal 10K reporting, the 10K Report may be submitted to meet the requirements of Form A. If a subcontractor is a privately held entity that is exempt from Federal 10K reporting, but has more than 400 shareholders, it may submit the information that Federal 10K companies are required to report, and list the names of any person or entity holding any ownership share that is in excess of 5%. If a subcontractor is not subject to Federal 10K reporting, the subcontractor must determine if any individuals are required by law to complete a financial disclosure form. To do this, the subcontractor should answer each of the following questions. A "YES" answer indicates Form A must be completed. If the answer to each of the following questions is "NO", then the NOT APPLICABLE STATEMENT on the second page of Form A must be signed and dated by a person that is authorized to execute contracts for the subcontracting company. Note: These questions are for assistance only and are not required to be completed.

1. Does anyone in your organization have a direct or beneficial ownership share of greater than 5% of the bidding entity or parent entity? YES ___ NO ___
2. Does anyone in your organization have a direct or beneficial ownership share of less than 5%, but which has a value greater than 60% of the annual salary of the Governor? YES ___ NO ___
3. Does anyone in your organization receive more than 60% of the annual salary of the Governor of the subcontracting entity's or parent entity's distributive income? YES ___ NO ___

(Note: Distributive income is, for these purposes, any type of distribution of profits. An annual salary is not distributive income.)

4. Does anyone in your organization receive greater than 5% of the subcontracting entity's or parent entity's total distributive income, but which is less than 60% of the annual salary of the Governor? YES ___ NO ___

(Note: Only one set of forms needs to be completed per person per subcontract even if a specific individual would require a yes answer to more than one question.)

A "YES" answer to any of these questions requires the completion of Form A. The subcontractor must determine each individual in the subcontracting entity or the subcontracting entity's parent company that would cause the questions to be answered "Yes". Each form must be signed and dated by a person that is authorized to execute contracts for your organization. **Photocopied or stamped signatures are not acceptable.** The person signing can be, but does not have to be, the person for which the form is being completed. The subcontractor is responsible for the accuracy of any information provided.

If the answer to each of the above questions is "NO", then the NOT APPLICABLE STATEMENT on page 2 of Form A must be signed and dated by a person that is authorized to execute contracts for your company.

RETURN WITH SUBCONTRACT

Form B: Instructions for Identifying Other Contracts & Procurement Related Information

Disclosure Form B must be completed for each subcontract submitted by the subcontracting entity. *Note: Checking the NOT APPLICABLE STATEMENT on Form A does not allow the subcontractor to ignore Form B. Form B must be completed, checked, and dated or the subcontract will not be approved.*

The Subcontractor shall identify, by checking Yes or No on Form B, whether it has any pending contracts, subcontracts, leases, bids, proposals, or other ongoing procurement relationship with any other (non-IDOT) State of Illinois agency. If "No" is checked, the subcontractor only needs to complete the check box on the bottom of Form B. If "Yes" is checked, the subcontractor must list all non-IDOT State of Illinois agency pending contracts, subcontracts, leases, bids, proposals, and other ongoing procurement relationships. These items may be listed on Form B or on an attached sheet(s). Contracts with cities, counties, villages, etc. are not considered State of Illinois agency contracts and are not to be included. Contracts or subcontracts with other State of Illinois agencies such as the Department of Natural Resources or the Capital Development Board must be included.

ILLINOIS DEPARTMENT OF TRANSPORTATION

Form A Subcontractor: Financial Information & Potential Conflicts of Interest Disclosure

Form with fields: Subcontractor Name, Legal Address, City, State, Zip, Telephone Number, Email Address, Fax Number (if available)

Disclosure of the information contained in this Form is required by the Section 50-35 of the Illinois Procurement Code (30 ILCS 500). Subcontractors desiring to enter into a subcontract of a State of Illinois contract must disclose the financial information and potential conflict of interest information as specified in this Disclosure Form. This information shall become part of the publicly available contract file. This Form A must be completed for subcontracts with a total value of \$50,000 or more, from subcontractors identified in Section 20-120 of the Illinois Procurement Code, and for all open-ended contracts. A publicly traded company may submit a 10K disclosure (or equivalent if applicable) in satisfaction of the requirements set forth in Form A. See Disclosure Form Instructions.

The current annual salary of the Governor is \$177,412.00.

DISCLOSURE OF FINANCIAL INFORMATION

1. Disclosure of Financial Information. The individual named below has an interest in the SUBCONTRACTOR (or its parent) in terms of ownership or distributive income share in excess of 5%, or an interest which has a value of more than 60% of the annual salary of the Governor. (Make copies of this form as necessary and attach a separate Disclosure Form A for each individual meeting these requirements)

FOR INDIVIDUAL (type or print information) NAME: ADDRESS Type of ownership/distributable income share: stock sole proprietorship Partnership other: (explain on separate sheet): % or \$ value of ownership/distributable income share:

2. Disclosure of Potential Conflicts of Interest. Check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If the answer to any question is "Yes", please attach additional pages and describe.

(a) State employment, currently or in the previous 3 years, including contractual employment of services. Yes ___ No ___

If your answer is yes, please answer each of the following questions.

- 1. Are you currently an officer or employee of either the Capitol Development Board or the Illinois State Toll Highway Authority? Yes ___ No ___
2. Are you currently appointed to or employed by any agency of the State of Illinois? If you are currently appointed to or employed by any agency of the State of Illinois, and your annual salary exceeds 60% of the annual salary of the Governor, provide the name the State agency for which you are employed and your annual salary.

RETURN WITH SUBCONTRACT

3. If you are currently appointed to or employed by any agency of the State of Illinois, and your annual salary exceeds 60% of the annual salary of the Governor, are you entitled to receive (i) more than 7 1/2% of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of 100% of the annual salary of the Governor?
Yes ___ No ___

4. If you are currently appointed to or employed by any agency of the State of Illinois, and your annual salary exceeds 60% of the annual salary of the Governor, are you and your spouse or minor children entitled to receive (i) more than 15 % in the aggregate of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of two times the salary of the Governor?
Yes ___ No ___

(b) State employment of spouse, father, mother, son, or daughter, including contractual employment services in the previous 2 years.

Yes ___ No ___

If your answer is yes, please answer each of the following questions.

1. Is your spouse or any minor children currently an officer or employee of the Capitol Development Board or the Illinois State Toll Highway Authority?
Yes ___ No ___

2. Is your spouse or any minor children currently appointed to or employed by any agency of the State of Illinois? If your spouse or minor children is/are currently appointed to or employed by any agency of the State of Illinois, and his/her annual salary exceeds 60 % of the annual salary of the Governor, provide the name of your spouse and/or minor children, the name of the State agency for which he/she is employed and his/her annual salary. _____

3. If your spouse or any minor children is/are currently appointed to or employed by any agency of the State of Illinois, and his/her annual salary exceeds 60% of the annual salary of the Governor, are you entitled to receive (i) more than 7 1/2% of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of 100% of the annual salary of the Governor?
Yes ___ No ___

4. If your spouse or any minor children are currently appointed to or employed by any agency of the State of Illinois, and his/her annual salary exceeds 60% of the annual salary of the Governor, are you and your spouse or minor children entitled to receive (i) more than 15 % in the aggregate of the total distributable income of your firm, partnership, association or corporation, or (ii) an amount in excess of two times the annual salary of the Governor?
Yes ___ No ___

(c) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.
Yes ___ No ___

(d) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter.
Yes ___ No ___

(e) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of the expenses incurred in the discharge of that office currently or in the previous 3 years.
Yes ___ No ___

(f) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter.
Yes ___ No ___

(g) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.
Yes ___ No ___

RETURN WITH SUBCONTRACT

(h) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter. Yes ___ No ___

(i) Compensated employment, currently or in the previous 3 years, by any registered election or reelection committee registered with the Secretary of State or any county clerk of the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ___ No ___

(j) Relationship to anyone; spouse, father, mother, son, or daughter; who was a compensated employee in the last 2 years by any registered election or re-election committee registered with the Secretary of State or any county clerk of the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ___ No ___

2. Communication Disclosure.

Disclose the name and address of each lobbyist and other agent of the bidder or offeror who is not identified in Section 2 of this form, who is has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. This disclosure is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract. If no person is identified, enter "None" on the line below:

Name and address of person(s): _____

RETURN WITH SUBCONTRACT

4. Debarment Disclosure. For each of the persons identified under Sections 2 and 3 of this form, disclose whether any of the following has occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. This disclosure is a continuing obligation and must be promptly supplemented for accuracy throughout the procurement process and term of the contract. If no person is identified, enter "None" on the line below:

Name of person(s): _____

Nature of disclosure: _____

APPLICABLE STATEMENT

This Disclosure Form A is submitted on behalf of the INDIVIDUAL named on previous page. Under penalty of perjury, I certify the contents of this disclosure to be true and accurate to the best of my knowledge.

Completed by: _____ Date _____
Signature of Individual or Authorized Officer

NOT APPLICABLE STATEMENT

Under penalty of perjury, I have determined that no individuals associated with this organization meet the criteria that would require the completion of this Form A.

This Disclosure Form A is submitted on behalf of the SUBCONTRACTOR listed on the previous page.

_____ Date _____
Signature of Authorized Officer

RETURN WITH SUBCONTRACT

ILLINOIS DEPARTMENT OF TRANSPORTATION

Form B
Subcontractor: Other Contracts & Financial Related Information Disclosure

Form with fields: Subcontractor Name, Legal Address, City, State, Zip, Telephone Number, Email Address, Fax Number (if available)

Disclosure of the information contained in this Form is required by the Section 50-35 of the Illinois Procurement Act (30 ILCS 500). This information shall become part of the publicly available contract file. This Form B must be completed for subcontracts with a total value of \$50,000 or more, from subcontractors identified in Section 20-120 of the Illinois Procurement Code, and for all open-ended contracts.

DISCLOSURE OF OTHER CONTRACTS, SUBCONTRACTS, AND PROCUREMENT RELATED INFORMATION

1. Identifying Other Contracts & Procurement Related Information. The SUBCONTRACTOR shall identify whether it has any pending contracts, subcontracts, including leases, bids, proposals, or other ongoing procurement relationship with any other State of Illinois agency: Yes ___ No ___

If "No" is checked, the subcontractor only needs to complete the signature box on the bottom of this page.

2. If "Yes" is checked. Identify each such relationship by showing State of Illinois agency name and other descriptive information such as bid or project number (attach additional pages as necessary). SEE DISCLOSURE FORM INSTRUCTIONS:

THE FOLLOWING STATEMENT MUST BE CHECKED

Signature box with fields: Signature of Authorized Officer, Date

OWNERSHIP CERTIFICATION

Please certify that the following statement is true if the individuals for all submitted Form A disclosures do not total 100% of ownership

Any remaining ownership interest is held by individuals receiving less than \$106,447.20 of the bidding entity's or parent entity's distributive income or holding less than a 5% ownership interest.

Yes No N/A (Form A disclosure(s) established 100% ownership)

Illinois Department of Natural Resources
Office of Mines and Minerals
Abandoned Mined Lands Reclamation Division

Annual Proposal Bid Bond

The Annual Proposal Bid Bond shall become effective at 12:01 AM _____ and shall be valid _____ 11:59 PM (CDST).

KNOW ALL MEN BY THESE PRESENTS, _____

as PRINCIPAL, _____

as SURETY, and held jointly, severally and firmly bound unto the STATE OF ILLINOIS in the penal sum of 5 percent of the total bid price, or for the amount specified in the bid proposal under "Proposal Guaranty" in effect on the date of the Invitation for Bids, whichever is the lesser sum, well and truly to be paid unto said STATE OF ILLINOIS, for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that whereas, the PRINCIPAL may submit bid proposal(s) to the STATE OF ILLINOIS, acting through the Department of Transportation, for various improvements published in the Transportation Bulletin during the effective term indicated above.

NOW, THEREFORE, if the Department shall accept the bid proposal(s) of the PRINCIPAL; and if the PRINCIPAL shall, within the time and as specified in the bidding and contract documents; and if, after award by the Department, the PRINCIPAL shall enter into a contract in accordance with the terms of the bidding and contract documents including evidence of the required insurance coverages and providing such bond as specified with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof; or if, in the event of the failure of the PRINCIPAL to enter into such contract and to give the specified bond, the PRINCIPAL pays to the Department the difference not to exceed the penalty hereof between the amount specified in the bid proposal and such larger amount for which the Department may contract with another party to perform the work covered by said bid proposal, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

IN THE EVENT the Department determines the PRINCIPAL has failed to comply with any requirement as set forth in the preceding paragraph, then Surety shall pay the penal sum to the Department within fifteen (15) days of written demand therefor. If Surety does not make full payment within such period of time, the Department may bring an action to collect the amount owed. Surety is liable to the Department for all its expenses, including attorney's fees, incurred in any litigation in which it prevails either in whole or in part.

In TESTIMONY WHEREOF, the said PRINCIPAL has caused this instrument to be signed by its officer _____ day of _____ A.D., _____

In TESTIMONY WHEREOF, the said SURETY has caused this instrument to be signed by its officer _____ day of _____ A.D., _____

(Company Name)

(Company Name)

By _____
(Signature and Title)

By _____
(Signature of Attorney-in-Fact)

Notary for PRINCIPAL

Notary for SURETY

STATE OF _____
COUNTY OF _____

STATE OF _____
COUNTY OF _____

Signed and attested before me on _____ (date)
by _____
(Name of Notary Public)

Signed and attested before me on _____ (date)
by _____
(Name of Notary Public)

(Seal) _____
(Signature of Notary Public)

(Date Commission Expires)

(Seal) _____
(Signature of Notary Public)

(Date Commission Expires)

In lieu of completing the above section of the Annual Proposal Bid Bond form, the Principal may file an Electronic Bid Bond. By signing the proposal(s) the Principal is ensuring the identified electronic bid bond has been executed and the Principal and Surety are firmly bound unto the State of Illinois under the conditions of the bid bond as shown above.

Electronic Bid Bond ID # _____ Company/Bidder Name _____ Signature and Title _____

This bond may be terminated, at Surety's request, upon giving not less than thirty (30) days prior written notice of the cancellation/termination of the bond. Said written notice shall be issued to the Illinois Department of Transportation, Chief Contracts Official, 2300 South Dirksen Parkway, Springfield, Illinois, 62764, and shall be served in person, by receipted courier delivery or certified or registered mail, return receipt requested. Said notice period shall commence on the first calendar day following the Department's receipt of written cancellation/termination notice. Surety shall remain firmly bound to all obligations herein for proposals submitted prior to the cancellation/termination. Surety shall be released and discharged from any obligation(s) for proposals submitted for any letting or date after the effective date of cancellation/termination.

Illinois Department of Natural Resources
Office of Mines and Minerals
Abandoned Mined Lands Reclamation Division

Proposal Bid Bond

Item No.	4LR – Contract No. M2004
Letting Date	March 5, 2021
Project Name	Buckheart Mine Highwall
Project Number	AML-GFuE-2004

KNOW ALL PERSONS BY THESE PRESENTS,

as PRINCIPAL, _____

as SURETY, and held jointly, severally and firmly bound unto the STATE OF ILLINOIS in the penal sum of 5 percent of the total bid price, well and truly to be paid unto said STATE OF ILLINOIS, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that whereas, the PRINCIPAL has submitted a bid proposal to the STATE OF ILLINOIS, acting through the Department of Transportation, for the improvement designated by the Transportation Bulletin Item Number and Letting Date indicated above.

NOW, THEREFORE, if the Department shall accept the bid proposal of the PRINCIPAL; and if the PRINCIPAL shall, within the time and as specified in the bidding and contract documents; and if, after award by the Department, the PRINCIPAL shall enter into a contract in accordance with the terms of the bidding and contract documents including evidence of the required insurance coverages and providing such bond as specified with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof; or if, in the event of the failure of the PRINCIPAL to enter into such contract and to give the specified bond, the PRINCIPAL pays to the Department the difference not to exceed the penalty hereof between the amount specified in the bid proposal and such larger amount for which the Department may contract with another party to perform the work covered by said bid proposal, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

IN THE EVENT the Department determines the PRINCIPAL has failed to comply with any requirement as set forth in the preceding paragraph, then Surety shall pay the penal sum to the Department within fifteen (15) days of written demand therefor. If Surety does not make full payment within such period of time, the Department may bring an action to collect the amount owed. Surety is liable to the Department for all its expenses, including attorney's fees, incurred in any litigation in which it prevails either in whole or in part.

In TESTIMONY WHEREOF, the said PRINCIPAL has caused this instrument to be signed by its officer _____ day of _____ A.D., _____.

In TESTIMONY WHEREOF, the said SURETY has caused this instrument to be signed by its officer _____ day of _____ A.D., _____.

(Company Name)

(Company Name)

By _____
(Signature and Title)

By _____
(Signature of Attorney-in-Fact)

Notary for PRINCIPAL

Notary for SURETY

STATE OF _____
COUNTY OF _____

STATE OF _____
COUNTY OF _____

Signed and attested before me on _____ (date)
by _____
(Name of Notary Public)

Signed and attested before me on _____ (date)
by _____
(Name of Notary Public)

(Seal) _____
(Signature of Notary Public)

(Seal) _____
(Signature of Notary Public)

(Date Commission Expires)

(Date Commission Expires)

In lieu of completing the above section of the Proposal Bid Bond form, the Principal may file an Electronic Bid Bond. By signing the proposal the Principal is ensuring the identified electronic bid bond has been executed and the Principal and Surety are firmly bound unto the State of Illinois under the conditions of the bid bond as shown above.

Electronic Bid Bond ID # _____ Company/Bidder Name _____ Signature and Title _____

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

Effective: October 15, 2017

FEDERAL OBLIGATION. The Illinois Department of Natural Resources, Office of Mines and Minerals, Abandoned Mined Lands Reclamation Division (Department), as a recipient of federal financial assistance, is required to take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts. For the purposes of this Special Provision, a disadvantaged business enterprise (DBE) means a business listed in the Illinois Unified Certification Program (IL UCP) DBE Directory.

STATE OBLIGATION. This Special Provision will also be used by the Department to satisfy the requirements of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, 30 ILCS 575.

CONTRACTOR ASSURANCE. The Contractor makes the following assurance and agrees to include the assurance in each subcontract that the Contractor signs with a subcontractor:

The Contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

CONTRACT GOAL TO BE ACHIEVED BY THE CONTRACTOR. This contract includes a specific DBE utilization goal established by the Department. The goal has been included because the Department has determined that the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. This determination is based on an assessment of the type of work, the location of the work, and the availability of DBE companies to do a part of the work. The assessment indicates that, in the absence of unlawful discrimination, and in an arena of fair and open competition, DBE companies can be expected to perform 20 % of the work. This percentage is set as the DBE participation goal for this contract. Consequently, in addition to the other award criteria established for this contract, the Department will only award this contract to a bidder who makes a good faith effort to meet this goal of DBE participation in the performance of the work. A bidder makes a good faith effort for award consideration if either of the following is done in accordance with the procedures set forth in this Special Provision:

- (a) The bidder documents that enough DBE participation has been obtained to meet the goal; or
- (b) The bidder documents that a good faith effort has been made to meet the goal, even though the effort did not succeed in obtaining enough DBE participation to meet the goal.

DBE LOCATOR REFERENCES. Bidders shall consult the IL UCP DBE Directory as a reference source for DBE-certified companies. In addition, the Illinois Department of Transportation maintains a letting and item specific DBE locator information system whereby DBE companies can register their interest in providing quotes on particular bid items advertised for letting. Information concerning DBE companies willing to quote work for particular contracts may be obtained by contacting the Illinois Department of Transportation's Bureau of Small Business Enterprises - Office of Business and Workforce Diversity at telephone number (217) 785-4611, or by visiting: <http://idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>

BIDDING PROCEDURES. Compliance with this Special Provision is a material bidding requirement and failure of the bidder to comply will render the bid not responsive.

The bidder shall submit:

- (a) The bidder shall submit a DBE Utilization Plan to the Department on completed Department forms.

In the event the bid is declared not responsive due to a failure to submit a Utilization Plan or failure to comply with the bidding procedures set forth herein, the Department may elect to cause the forfeiture of the penal sum of the bidder's proposal guaranty and may deny authorization to bid the project if re-advertised for bids. The Department reserves the right to invite any other bidder to submit a Utilization Plan at any time for award consideration.

- (b) The Utilization Plan shall indicate that the bidder either has obtained sufficient DBE participation commitments to meet the contract goal or has not obtained enough DBE participation commitments in spite of a good faith effort to meet the goal. The Utilization Plan shall further provide the name, telephone number, and telefax number of a responsible official of the bidder designated for purposes of notification of Utilization Plan approval or disapproval under the procedures of this Special Provision.
- (c) The Utilization Plan shall include a DBE Participation Commitment Statement on a Department form, for each DBE proposed for the performance of work to achieve the contract goal. For bidding purposes, submission of the completed forms, signed by the DBEs and scanned or faxed to the bidder will be acceptable as long as the original is available and provided upon request. All elements of information indicated on the said form shall be provided, including but not limited to the following:
 - (1) The names and addresses of DBE firms that will participate in the contract;
 - (2) A description, including pay item numbers, of the work each DBE will perform;
 - (3) The dollar amount of the participation of each DBE firm participating. The dollar amount of participation for identified work shall specifically state the quantity, unit price, and total subcontract price for the work to be completed by the DBE. If partial pay items are to be performed by the DBE, indicate the portion of each item, a unit price where appropriate and the subcontract price amount;
 - (4) DBE Participation Commitment Statements signed by the bidder and each participating DBE firm documenting the commitment to use the DBE subcontractors whose participation is submitted to meet the contract goal;
 - (5) If the bidder is a joint venture comprised of DBE companies and non-DBE companies, the Utilization Plan must also include a clear identification of the portion of the work to be performed by the DBE partner(s); and,
 - (6) If the contract goal is not met, evidence of good faith efforts; the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor is selected over a DBE for work on the contract.

GOOD FAITH EFFORT PROCEDURES. The contract will not be awarded until the Utilization Plan submitted by the apparent successful bidder is approved. All information submitted by the bidder must be complete, accurate and adequately document that enough DBE participation has been obtained or document the good faith efforts of the bidder, in the event enough DBE participation has

not been obtained, before the Department will commit to the performance of the contract by the bidder. The Utilization Plan will be approved by the Department if the Utilization Plan documents sufficient commercially useful DBE work performance to meet the contract goal or the bidder submits sufficient documentation of a good faith effort to meet the contract goal. The Department shall follow the guidance on good faith effort provided in 49 CFR part 26, Appendix A. The Utilization Plan will not be approved by the Department if the Utilization Plan does not document sufficient DBE participation to meet the contract goal unless the apparent successful bidder documented in the Utilization Plan that it made a good faith effort to meet the goal. This means that the bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not successful. The Department will consider the quality, quantity, and intensity of the kinds of efforts that the bidder has made. Mere *pro forma* efforts, in other words, efforts done as a matter of form, are not good faith efforts; rather, the bidder is expected to have taken genuine efforts that would be reasonably expected of a bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.

- (a) The following is a list of types of action that the Department will consider as part of the evaluation of the bidder's good faith efforts to obtain participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts brought to the attention of the Department may be relevant in appropriate cases and will be considered by the Department.
 - (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE companies that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE companies to respond to the solicitation. The bidder must determine with certainty if the DBE companies are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by DBE companies in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime Contractor might otherwise prefer to perform these work items with its own forces.
 - (3) Providing interested DBE companies with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - (4) a. Negotiating in good faith with interested DBE companies. 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. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE companies that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE companies to perform the work.
 - b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the

fact that there may be some additional costs involved in finding and using DBE companies is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBE companies if the price difference is excessive or unreasonable. In accordance with subsection (c)(6) of the above Bidding Procedures, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

- (5) Not rejecting DBE companies as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
 - (6) Making efforts to assist interested DBE companies in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
 - (7) Making efforts to assist interested DBE companies in obtaining necessary equipment, supplies, materials, or related assistance or services.
 - (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE companies.
- (b) If the Department determines that the apparent successful bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the Department will award the contract provided that it is otherwise eligible for award. If the Department determines that the bidder has failed to meet the requirements of this Special Provision or that a good faith effort has not been made, the Department will notify the responsible company official designated in the Utilization Plan that the bid is not responsive. The notification shall include a statement of reasons for the determination.
- (c) The bidder may request administrative reconsideration of a determination adverse to the bidder within the five working days after receipt of the notification date of the determination by delivering the request to the Director of the Department's Office of Mines and Minerals. Deposit of the request in the United States mail on or before the fifth business day shall not be deemed delivery. The determination shall become final if a request is not made and delivered. A request may provide additional written documentation and/or argument concerning the issues raised in the determination statement of reasons, provided the documentation and arguments address efforts made prior to submitting the bid. After the review by Director, the bidder will be sent a written decision within fifteen working days after receipt of the request for reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. A final decision by the Director that a good faith effort was made shall approve the Utilization Plan submitted by the bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid not responsive.

CALCULATING DBE PARTICIPATION. The Utilization Plan values represent work anticipated to be performed and paid for upon satisfactory completion. The Department is only able to count toward

the achievement of the overall goal and the contract goal the value of payments made for the work actually performed by DBE companies. In addition, a DBE must perform a commercially useful function on the contract to be counted. A commercially useful function is generally performed when the DBE is responsible for the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The Department will follow the specific counting guidelines provided in 49 CFR part 26.55.

- (a) DBE as the Contractor: 100 percent goal credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE subcontracts to a non-DBE does not count toward the DBE goals.
- (b) DBE as a joint venture Contractor: 100 percent goal credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.
- (c) DBE as a subcontractor: 100 percent goal credit for the work of the subcontract performed by the DBE's own forces, including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the DBE subcontractor from the prime Contractor or its affiliates. Work that a DBE subcontractor in turn subcontracts to a non-DBE does not count toward the DBE goal.
- (d) DBE as a trucker: 100 percent goal credit for trucking participation provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed, and insured by the DBE must be used on the contract. Credit will be given for the following:
 - (1) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - (2) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement.
- (e) DBE as a material supplier:
 - (1) 60 percent goal credit for the cost of the materials or supplies purchased from a DBE regular dealer.
 - (2) 100 percent goal credit for the cost of materials or supplies obtained from a DBE manufacturer.
 - (3) 100 percent credit for the value of reasonable fees and commissions for the procurement of materials and supplies if not a regular dealer or manufacturer.

CONTRACT COMPLIANCE. Compliance with this Special Provision is an essential part of the contract. The Department shall not credit the participation of a DBE included in the Utilization Plan toward either the contract goal or the Department's overall goal until the amount to be applied toward the goals has been paid to the DBE. The following administrative procedures and remedies govern the compliance by the Contractor with the contractual obligations established by the Utilization Plan. After approval of the Utilization Plan and award of the contract, the Utilization Plan and individual DBE Participation Statements become part of the contract. If the Contractor did not succeed in obtaining enough DBE participation to achieve the advertised contract goal, and the Utilization Plan

was approved, and contract awarded based upon a determination of good faith, the total dollar value of DBE work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the amended contract goal. All work indicated for performance by an approved DBE shall be performed, managed, and supervised by the DBE executing the DBE Participation Commitment Statement.

- (a) NO AMENDMENT. No amendment to the Utilization Plan may be made without prior written approval from the Department. All requests for amendment to the Utilization Plan shall be submitted to the Department 's Project Manager.
- (b) CHANGES TO WORK. Any deviation from the DBE condition-of-award or contract plans, specifications, or special provisions must be approved, in writing, by the Department as provided elsewhere in the Contract. The Contractor shall notify affected DBEs in writing of any changes in the scope of work which result in a reduction in the dollar amount condition-of-award to the contract. Where the revision includes work committed to a new DBE subcontractor, not previously involved in the project, then a Request for Approval of Subcontractor form must be signed and submitted. If the commitment of work is in the form of additional tasks assigned to an existing subcontract, then a new Request for Approval of Subcontractor shall not be required. However, the Contractor must document efforts to assure that the existing DBE subcontractor is capable of performing the additional work and has agreed in writing to the change.
- (c) SUBCONTRACT. The Contractor must provide DBE subcontracts to the Department upon request. Subcontractors shall ensure that all lower tier subcontracts or agreements with DBEs to supply labor or materials be performed in accordance with this Special Provision.
- (d) ALTERNATIVE WORK METHODS. In addition to the above requirements for reductions in the condition of award, additional requirements apply to the two cases of Contractor- initiated work substitution proposals. Where the contract allows alternate work methods which serve to delete or create underruns in condition of award DBE work, and the Contractor selects that alternate method or, where the Contractor proposes a substitute work method or material that serves to diminish or delete work committed to a DBE and replace it with other work, then the Contractor must demonstrate one of the following:
 - (1) That the replacement work will be performed by the same DBE (as long as the DBE is certified in the respective item of work) in a modification of the condition of award; or
 - (2) That the DBE is aware that its work will be deleted or will experience underruns and has agreed in writing to the change. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so; or
 - (3) That the DBE is not capable of performing the replacement work or has declined to perform the work at a reasonable competitive price. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so.
- (e) TERMINATION AND REPLACEMENT PROCEDURES. The Contractor shall not terminate or replace a DBE listed on the approved Utilization Plan or perform with other forces work designated for a listed DBE except as provided in this Special Provision. The Contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Contractor obtains the Department's written consent as provided in

subsection (a) of this part. Unless Department consent is provided for termination of a DBE subcontractor, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBE in the Utilization Plan.

As stated above, the Contractor shall not terminate or replace a DBE subcontractor listed in the approved Utilization Plan without prior written consent. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non- DBE firm, or with another DBE firm. Written consent will be granted only if the Department agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate or replace the DBE firm. Before transmitting to the Department any request to terminate and/or substitute a DBE subcontractor, the Contractor shall give notice in writing to the DBE subcontractor, with a copy to the Department, of its intent to request to terminate and/or substitute, and the reason for the request. The Contractor shall give the DBE five days to respond to the Contractor's notice. The DBE so notified shall advise the Department and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Department should not approve the Contractor's action. If required in a particular case as a matter of public necessity, the Department may provide a response period shorter than five days.

For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime Contractor's reasonable, nondiscriminatory bond requirements;
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.
- (6) You have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the projects and provides to you written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the contract;
- (10) Other documented good cause that compels the termination of the DBE

subcontractor. Provided, that good cause does not exist if the prime Contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime Contractor can self-perform the work for which the DBE contractor was engaged or so that the prime Contractor can substitute another DBE or non-DBE contractor after contract award.

When a DBE is terminated or fails to complete its work on the Contract for any reason the Contractor shall make a good faith effort to find another DBE to substitute for the original DBE to perform at least the same amount of work under the contract as the terminated DBE to the extent needed to meet the established Contract goal. The good faith efforts shall be documented by the Contractor. If the Department requests documentation under this provision, the Contractor shall submit the documentation within seven days, which may be extended for an additional seven days if necessary, at the request of the Contractor. The Department shall provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

- (f) PAYMENT RECORDS. The Contractor shall maintain a record of payments for work performed to the DBE participants. The records shall be made available to the Department for inspection upon request. After the performance of the final item of work or delivery of material by a DBE and final payment therefore to the DBE by the Contractor, but not later than thirty calendar days after payment has been made by the Department to the Contractor for such work or material, the Contractor shall submit a DBE Payment Agreement on Department form to the Project Manager. If full and final payment has not been made to the DBE, the DBE Payment Agreement shall indicate whether a disagreement as to the payment required exists between the Contractor and the DBE or if the Contractor believes that the work has not been satisfactorily completed. If the Contractor does not have the full amount of work indicated in the Utilization Plan performed by the DBE companies indicated in the Utilization Plan and after good faith efforts are reviewed, the Department may deduct from contract payments to the Contractor the amount of the goal not achieved as liquidated and ascertained damages. The Contractor may request an administrative reconsideration of any amount deducted as damages pursuant to subsection (h) of this part.
- (g) ENFORCEMENT. The Department reserves the right to withhold payment to the Contractor to enforce the provisions of this Special Provision. Final payment shall not be made on the contract until such time as the Contractor submits sufficient documentation demonstrating achievement of the goal in accordance with this Special Provision or after liquidated damages have been determined and collected.
- (h) RECONSIDERATION. Notwithstanding any other provision of the contract, including but not limited to Article 109.09 of the Standard Specifications, the Contractor may request administrative reconsideration of a decision to deduct the amount of the goal not achieved as liquidated damages. A request to reconsider shall be delivered to the Department and shall be handled and considered in the same manner as set forth in paragraph (c) of "Good Faith Effort Procedures" of this Special Provision, except a final decision that a good faith effort was not made during contract performance to achieve the goal agreed to in the Utilization Plan shall be the final administrative decision of the Department.



(1) Policy

It is public policy that disadvantageded businesses as defined in the Special Provision shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal or State funds.

(2) Obligation

The contractor agrees to ensure that disadvantageded businesses as defined in the Special Provision have the maximum opportunity to participate in the performance of contracts or subcontracts financed in whole or in part with Federal or State funds. The contractor shall take all necessary and reasonable steps in accordance with the Special Provision to ensure that said businesses have the maximum opportunity to compete for and perform under this contract. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts.

(3) Project and Bid Identification

Complete the following information concerning the project and bid:

Total Bid _____

Contract DBE Goal _____ (Percent) _____ (Dollar Amount)

Project _____

County _____

Letting Date _____

Contract No. _____

Letting Item No. _____

(4) Assurance

I, acting in my capacity as an officer of the undersigned bidder (or bidders if a joint venture), hereby assure the Department that on this project, my company: (check one)

Meets or exceeds contract award goals and has provided documented participation as follows:
Disadvantaged Business Participation _____ percent

Attached are the signed participation statements, forms SBE 2025, required by the Special Provision evidencing availability and use of each business participating in this plan and assuring that each business will perform a Commercially Useful Function in the work of the contract.

Failed to meet contract award goals and has included good faith effort documentation to meet the goals and that my company has provided participation as follows:
Disadvantaged Business Participation _____ percent

The contract goals should be accordingly modified or waived. Attached is all information required by the Special Provision in support of this request including good faith effort. Also attached are the signed participation statements, forms SBE 2025, required by the Special Provision evidencing availability and use of each business participating in this plan and assuring that each business will perform a commercially useful function in the work of the contract.

Company

By _____

Title _____

Date _____

The "as read" Low Bidder is required to comply with the Special Provision.

Submit only one utilization plan for each project. The utilization plan shall be submitted in accordance with the special provision.

Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271



DBE Participation Statement

Subcontractor Registration Number _____

Letting _____

Participation Statement

Item No. _____

(1) Instructions

Contract No. _____

This form must be completed for each disadvantaged business participating in the Utilization Plan. This form shall be submitted in accordance with the Special Provision and will be attached to the Utilization Plan form. If additional space is needed complete an additional form for the firm. Trucking participation items; description must list what is anticipated towards goal credit.

(2) Work:

Please indicate: J/V _____ Manufacturer _____ Supplier (60%) _____ Subcontractor _____ Trucking _____

Pay Item No.	Description (Anticipated items for trucking)*	Quantity	Unit Price	Total
				\$
				\$
				\$
				\$
				\$
				\$
Total				

(3) Partial Payment Items (For any of the above items which are partial pay items)

Description must be sufficient to determine a Commercially Useful Function, specifically describe the work and subcontract dollar amount:
*Applies to trucking only

(4) Commitment

When a DBE is to be a second-tier subcontractor, or if the first-tier DBE subcontractor is going to be subcontracting a portion of its subcontract, it must be clearly indicated on the DBE Participation Statement, and the details of the transaction fully explained.

In the event a DBE subcontractor second-tiers a portion of its subcontract to one or more subcontractors during the work of a contract, the prime must submit a DBE Participation Statement, with the details of the transaction(s) fully explained.

The undersigned certify that the information included herein is true and correct, and that the DBE firm listed below has agreed to perform a commercially useful function in the work of the contract item(s) listed above and to execute a contract with the prime contractor or 1st Tier subcontractor. The undersigned further understand that no changes to this statement may be made without prior approval from the Department and that complete and accurate information regarding actual work performed on this project and the payment therefore must be provided to the Department.

Signature for Contractor ___ 1st Tier ___ 2nd Tier

Signature for DBE Firm ___ 1st Tier ___ 2nd Tier

Date _____

Date _____

Contact Person _____

Contact Person _____

Title _____

Title _____

Firm Name _____

Firm Name _____

Address _____

Address _____

City/State/Zip _____

City/State/Zip _____

Phone _____

Phone _____

Email Address _____

Email Address _____

The Department of Natural Resources is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under the state and federal law. Disclosure of this information is **REQUIRED**. Failure to provide any information will result in the contract not being awarded.

E _____

WC _____

SPECIAL PROVISIONS

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The "Standard Specifications for Road and Bridge Construction," adopted April 1, 2016 by the Illinois Department of Transportation; as amended and supplemented by the "Supplemental Specifications and Recurring Special Provisions," adopted January 1, 2021 (hereinafter referred to collectively as "Standard Specifications"), are incorporated by reference and made a part of this Contract for the Buckheart Highwall Remedial, Fulton County, AML-GFuE-2004. (A hard copy of the Standard Specifications can be purchased from the Illinois Department of Transportation or a pdf copy can be obtained at no cost from <http://www.idot.illinois.gov/doing-business/procurements/engineering-architectural-professional-services/Consultants-Resources/index>).

The following Special Provisions supplement the Standard Specifications and govern the construction of the Buckheart Highwall Remedial Reclamation Project. In the event of conflict between the Special Provisions and the Standard Specifications, the Special Provisions shall take precedence and govern.

In the application of the Standard Specifications to this Contract, references to the Illinois Department of Transportation shall be interpreted to mean the Illinois Department of Natural Resources, Office of Mines and Minerals, Abandoned Mined Lands Reclamation Division (Department); except that references to the Illinois Department of Transportation within SECTION 102 - ADVERTISEMENT, BIDDING, AWARD, AND CONTRACT EXECUTION shall continue to mean the Illinois Department of Transportation.

The advertising for Bids, Prequalification of Bidders, Issuance of Proposals, Proposal Guarantee, and Acceptance and Opening of Bids shall be in accordance with the policies and procedures of the Illinois Department of Transportation. Proposals, Schedule of Prices, Signature Sheet and other bidding or contract requirements as utilized by the Illinois Department of Natural Resources; Office of Mines and Minerals; Abandoned Mined Lands Reclamation Division (Department) shall apply to this contract.

DESCRIPTION OF THE PROJECT

This reclamation project provides for the correction of hazardous mine conditions and for the correction of existing mine conditions which adversely affect the surrounding environment. This project consists of work items as described in detail herein, and within the Plans or Plan Documents.

LOCATION OF THE PROJECT

This project is located approximately 5.5 miles south of Canton, IL just east of Route 78 near the intersection of Illinois Route 78 and County Highway 30 (Old Weaver Road) in Section 35, Township 6 North, Range 4 East in Fulton County.

ABILITY OF CONTRACTOR TO COMPLETE WORK

The Contractor shall be able to provide the necessary equipment and manpower to successfully complete all phases of the contract as described herein.

RESPONSIBILITY OF THE CONTRACTOR

It shall be the responsibility of the Contractor to visit the reclamation site in order to become fully acquainted with all the details pertaining to the project. The Contractor shall be responsible for obtaining any and all permits required by local ordinances, state and/or federal

laws, and shall be required to become a party to the Department Storm Water Pollution Prevention Plan, as mandated by the Illinois Environmental Protection Agency General Permit for Storm Water Discharges. Consents for Right of Entry from property owners will be obtained by the Department.

Any fees required for the procurement of other permits which may be necessary shall be at the expense of the Contractor, not to be reimbursed by the State, but to be considered incidental to the contract.

During the performance of this construction contract, the Contractor shall not enter into any agreement to provide additional work for or at the direction of the owner(s) of the property where the reclamation shall take place, or with the owner(s) of adjacent or nearby property, without the prior written approval of the Department. The Contractor agrees that any additional work to be performed for such owners, after approval by the Department, will not be permitted to interfere with the scheduled operations or planned reclamation results specified for the reclamation project. The Contractor further agrees to indemnify and hold harmless the Department against any and all claims for personal injury or property damage arising out of or occasioned by the additional work.

STARTING DATE OF CONTRACT

Work on the project shall commence within 15 calendar days of the execution of the contract. The Contractor shall contact the Department within the 15-day period to schedule a preconstruction conference prior to the beginning of actual construction operations.

CONTRACT ENDING DATE

This Contract shall end on or before 06/30/2022 (see also interim progress date below).

PROGRESS AND LIQUIDATED DAMAGES

All work shall proceed in accordance with a Progress Schedule as provided in Article 108.02 of the Standard Specifications.

Establishing vegetation is critical to the success of reclamation projects. Seeding must be performed within specified times for optimum chances of success. Failure to complete all prerequisite earthwork, erosion control, permanent seeding (or temporary seeding, if approved by the Engineer) and mulching by 09/01/2021 shall be considered a material breach of the Contract and the Department may assess liquidated damages immediately upon such failure, and until said work is completed, as provided in Article 108.09 of the Standard Specifications.

All remaining work, including final clean-up, removal of equipment, final inspection, any alterations, repair, remedial or holdover work, reseeding, and submission of the final pay request shall be completed prior to the contract ending date.

EXISTING PAVEMENTS

Existing on-site roadways may be used for construction traffic. The Contractor shall provide temporary additional roads needed for required construction access, maintain existing roads throughout construction, and restore to original or better condition at completion of work.

BASE AND TOPPING MATERIALS

For temporary construction which will be removed when no longer needed for construction purposes, and all affected areas restored to original or better condition at the completion of work, the selection of these materials is at the Contractor's option, unless otherwise specified.

FIELD ENGINEERING

Requirements Included

The Contractor shall provide and pay for all field engineering services required for the project, including:

1. Lay-out and field stake the project's construction limits, unless otherwise specified on the plans, to the satisfaction of the Engineer.
2. Survey work required in execution of the project.
3. Civil, structural or other professional engineering services specified, or required to execute the Contractor's construction methods.

Survey Reference Points

Existing basic horizontal and vertical control points for the project are identified on the plans and will be identified by the Engineer for the Contractor's use. The Contractor shall locate and protect control points prior to starting site work, and preserve all permanent reference points during construction.

Project Survey Requirement

The Contractor shall use established bench marks on-site as identified on the plans. The Contractor shall establish construction limits, lines and levels, locate and lay-out by instrumentation and similar appropriate means, all site improvements. From time to time, the Engineer shall verify layouts by same methods.

Initial, periodic, and final cross-sectioning of borrow areas for payment will be performed by the Engineer.

Records

The Contractor shall maintain complete, accurate records, computations and field books of all control and survey work as it progresses. These shall be kept on-site for use of and reference by the Engineer.

Submittal

The Contractor shall submit name and address of surveyor or engineer to the Project Manager.

OWNER OCCUPANCY

Owners will occupy premises during entire construction period for conduction of their normal operations. The Contractor shall cooperate with Owner(s) in scheduling operations to minimize conflict and to facilitate Owner's usage.

TEMPORARY CONTROLS

A. Dust and Mud Control

The Contractor shall provide positive methods and apply dust control materials to minimize raising dust from construction operations, and provide positive means to prevent air-borne dust from dispersing into the atmosphere.

B. Debris Control

The Contractor shall initiate and maintain a specific program to prevent accumulation of debris at the construction site, storage and parking areas, or along access roads and haul roads.

C. Pollution Control

The Contractor shall provide methods, means and facilities required to prevent contamination of soil, water or atmosphere by the discharge of noxious substances and sediments from construction operations. All projects involving the disturbance of 1 or more acres are covered by NPDES General Permit Number ILR100000, issued by the Illinois Environmental Protection Agency (IEPA) for storm water discharges from construction site activities. The Contractor shall be required to comply with the provisions of the General Permit and must become a party to the Department Storm Water Pollution Prevention Plan (See Sample Document following the Special Provisions).

The Contractor shall prevent harmful substances, such as acid water, from entering public or private waters. If treatment of acid water is determined necessary by the Engineer and it is not specified within these special provisions, any water treated will be paid for in accordance with Article 109.04 of the Standard Specifications. The Contractor is liable for restoration of water quality and aquatic life if adversely affected by his/her actions. The Contractor shall maintain all such systems throughout the duration of the project.

The Contractor shall provide systems for control of atmospheric pollutants to prevent toxic concentrations of chemicals; to prevent harmful dispersal of pollutants into the atmosphere; and to comply with all permit requirements that may apply.

The Contractor must notify the Engineer immediately if buried wastes, liquid waste vessels or other potentially harmful materials are encountered. Necessary precautions should be taken to safeguard the area and to protect workers and the public until further directions are provided by the Engineer.

DIVISION 100. GENERAL REQUIREMENTS AND COVENANTS

SECTION 101. DEFINITION OF TERMS

(revise and add the following articles as indicated)

Wherever in these specifications or in other contract documents the following terms or pronouns in place of them are used, the intent of meaning shall be interpreted as follows:

Article 101.03 Award. (revise as indicated)

The decision of the Department to accept the proposal of the lowest responsible bidder for the work, subject to the execution and approval of a satisfactory contract therefore and bond to secure the performance thereof, and to such other conditions as may be specified or otherwise required by law.

Article 101.14 Department. (revise as indicated)

The Illinois Department of Natural Resources; Office of Mines and Minerals; Abandoned Mined Lands Reclamation Division (Department); except that references to the Illinois Department of Transportation within Section 102 - Advertisement, Bidding, Award, and Contract Execution - shall continue to mean the Illinois Department of Transportation. with its principal offices of business at Springfield.

Article 101.16 Engineer. (revise as indicated)

The Director of the Department; or his/her authorized representative limited by the particular duties entrusted to him/her.

Article 101.35 Right of Way. (revise as indicated)

Right of way shall be replaced by construction limits, except when used in conjunction with right of way markers or highways.

Article 101.39: Roadway. (revise as indicated)

Roadway shall be replaced by site.

Article 101.47: Subgrade. (revise as indicated)

The top surface of the mine refuse upon which the cover soil is placed.

(Add the following Articles 101.56, 101.57, and 101.58)

Article 101.56 Gob.

Coarse textured mine waste material, generally acidic, from a coal cleaning process. This material is composed of rock, shale, pyritic material and varying amounts of coal. The material varies considerably in its moisture content, texture, stable angle of repose and bearing capacity.

Article 101.57 Mine Spoil.

A mixture of various soil and rock material as a result of the removal of overburden to expose the coal in surface mining. The material varies considerably in its' moisture content, texture, stable angle of repose and bearing capacity.

Article 101.58 Slurry.

A mixture of coal fines and fine coal waste material resulting from a coal cleaning process. This material is composed of water, silts, clays, pyritic material and coal. The material varies considerably in its' moisture content, stable angle of repose, shear strength and bearing capacity.

End of Revisions to SECTION 101.

SECTION 102. ADVERTISEMENT, BIDDING, AWARD, AND CONTRACT EXECUTION
(revise the following article as indicated)

Article 102.01 Procedures to be in Accordance with Rules. (add the following)

When the plans or Special Provisions include information pertaining to subsurface exploration, borings, test pits and other preliminary investigation, such information represents only the best knowledge of the Department as to the location, character or quantity of the materials encountered and is only included for the convenience of the bidder. The Department assumes no responsibility whatever in respect to the sufficiency or accuracy of the information, and there is no guaranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the work, or that unanticipated developments may not occur. All soil information upon which the design was prepared is available for examination by all prospective bidders at the Department's Springfield or Benton office.

The topographical land features of abandoned coal mine sites have typically been altered or impacted by the mining operations. When mine refuse covers those features, it may be difficult or impossible to discover or estimate the full extent of impacts to the ground surface. The depths and composition of mine refuse, as well as corresponding ground surface characteristics as represented in the Plans, are based upon available information and extrapolations from surrounding land features and deductive reasoning as to the probable techniques employed by the mining operation. The Plan lines that indicate existing conditions do not purport to fully represent minor variations in refuse depth or thickness, or small, hidden pockets of mine refuse. Such conditions encountered, shall not constitute a basis for unit price adjustment or extra compensation.

End of Revisions to SECTION 102.

SECTION 107. LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC
(revise and add the following articles as indicated)

Article 107.11 Insurance Requirements for Railroad - Highway Crossing. (add the following)

When work is to be performed within the right-of-way of an active railroad, the Contractor shall provide the following insurance requirements.

Article 107.19 Unexpected Regulated Substances. (revise as indicated)

Delete references to the Response Action Contractor Indemnification Act found in Article 107.19, 6th paragraph. Said Act is not applicable to federally funded abandoned mine reclamation projects. All other provisions of Article 107.19 shall remain in full force and effect.

Article 107.20 Protection and Restoration of Property. (add the following)

If any damages are incurred from the Contractor's operations to any properties outside of the construction limits as shown on the plans, the Contractor shall be responsible for all repairs required to restore the damaged areas to their original condition regardless of the property involved. Any deviations from the limits of the construction area or requirements specified herein shall only be done with written approval of the Engineer pursuant to the following:

1. Written request from the Contractor, due to the limitations of the construction area as it affects his efficiency to complete the contract.
2. If the Engineer deems it necessary to deviate from the construction limits, as provided herein, to improve the work ability of the contract.

Article 107.22 Approval of Proposed Borrow Areas, Use Areas, and/or Waste Areas. (delete and replace with the following)

Proposed borrow areas are to be designated by the Contractor to the Engineer and approved prior to their use. A map showing the location and approximate size limits of the borrow area shall be submitted to the Engineer for approval. The Engineer will consult with the Department to determine if potentially significant cultural and /or biological resources may be present at the site. If the Department determines that potentially significant cultural and/or biological resources may be present, the Contractor shall have the option of choosing another site or paying for additional surveys and testing. Results of the additional surveying and testing will determine if the site may be used or if the Contractor must provide another site. The borrow area shall not be disturbed until the Department has given approval.

Article 107.27 Insurance. (delete and replace with the following)

The Contractor shall obtain and thereafter keep in force the following insurance coverage provided by insurance companies acceptable to the Department and authorized to transact business under the laws of the State of Illinois. The insurance companies providing coverage shall be rated in the Best's Key Rating Guide. The Department will accept companies with a rating not lower than B+ provided the financial size category is VII or larger. Companies rated A- or better shall have a financial size category of not less than VI. Coverage limits shall be written at not less than the minimum specified in this Article. Higher minimum limits and additional coverage may be specified by a special provision elsewhere in the contract. Whether stated in this Article or elsewhere, the Department does not warrant the adequacy of the types of insurance coverage or the limits of liability specified.

(a) Workers Compensation and Employers Liability.

- (1) Workers compensation shall be provided in accordance with the provisions of the Illinois Worker's Compensation Act, as amended. Notwithstanding the rating and financial size categories stated in this Article, coverage may be provided by a

group self-insurer authorized in Section 4(a) of the Act and approved pursuant to the rules of the Illinois Department of Insurance.

(2) Employers Liability

- a. Each Accident \$500,000
- b. Disease - policy limit \$500,000
- c. Disease - each employee \$500,000

(b) Commercial General Liability.

Required liability insurance coverage shall be written in the occurrence form and shall provide coverage for operations of the Contractor; operations of Sub-Contractors (contingent or protective liability); completed operations; broad form property damage and hazards of explosion, collapse and underground; and contractual liability. The general aggregate limit shall be endorsed on a per project basis.

- (1) General Aggregate Limit \$2,000,000
- (2) Products - Completed Operation Aggregate Limit \$2,000,000
- (3) Each Occurrence Limit \$1,000,000

The coverage shall provide by an endorsement in the appropriate manner and form, the Department, to its officers, agents and employees shall be named as additional insureds with respect to the policies and any umbrella excess liability coverage for occurrences arising in whole or in part out of the work and operations performed. The Department may accept a separate owner's protective liability policy in lieu of the Department, it's officers, and employees being insured on the Contractor's policy.

(c) Owners and Contractor's Protective (OCP) Liability.

The Contractor shall provide an OCP policy covering the property owner(s) of the site where the work is to be performed. In the case of multiple owners, all the landowners may be listed as additional insurers on the same policy.

This project will require OCP Policy coverage for 1 property owners.

If the Contractor chooses to put the Department on an OCP (in lieu of placing the Department as an additional insured on the Commercial General Liability - see (b) above), then the Department should be listed as the insured, with all landowners listed as additional insured(s). The amounts of insurance shall be as follows:

<u>BODILY INJURY LIABILITY</u>	<u>PROPERTY DAMAGE LIABILITY</u>	
Each Occurrence	Each Occurrence	Aggregate
\$1,000,000	\$500,000	\$1,000,000

or

COMBINED SINGLE LIMIT

\$1,000,000

The required OCP policy shall contain the following endorsement:

"Each named insured shall be provided full coverage under this policy without regard to the fact that such named insured is not in contractual privity with the Contractor. It is understood that the construction operations are performed for and on behalf of the Department, with the consent of the property owner(s)-insured(s). Coverage under this policy with respect to liability arising out of operations shall not be denied to any named-insured because of his passive relationship to the Contractor".

When any named insured is a corporation, insurance coverage under the OCP policy shall extend to the Corporation, its officers, agents, and employees.

(d) Commercial Automobile Liability.

The policy shall cover owned, non-owned and hired vehicles.

BODILY INJURY & PROPERTY DAMAGE LIABILITY

Each Occurrence

\$1,000,000

(e) Umbrella Liability.

Any policy shall provide excess limits over and above the other insurance limits stated in this Article. The Contractor may purchase insurance for the full limits required or by a combination of primary policies for lesser limits and remaining limits provided by the umbrella policy.

When work is to be performed within railroad right-of-ways, the requirements of Article 107.11 of the Standard Specifications will also apply.

All insurance shall remain in force during the period covering occurrences happening on or after the effective date and remaining in effect during performance of the work and at all times thereafter when the Contractor may be correcting, removing or replacing defective work until notification of the date of final inspection. Termination or refusal to renew shall not be made without 30 days prior written notice to the Department by the insured(s) and the policies shall be endorsed so as to remove any language restricting or limiting liability concerning this obligation.

Certified copies of the original policies or certificate(s) of insurance by the insurer(s) issuing the policies and endorsements setting forth the coverage, limits and endorsements shall be filed with the Department before the Department will execute the contract. A certificate of insurance shall include a statement that, "the coverage and limits conform to the minimums required by Article 107.27 of the Standard Specifications for the Road and Bridge Construction". Any exception or deviation shall be brought to the attention of the Department for a ruling of acceptability. In no event shall any failure of the Department to receive policies or certificates or to demand receipt be construed as a waiver of the Contractor's obligation to obtain and keep in force the required insurance.

All costs for insurance as specified herein will be considered as included in the cost of the contract. The Contractor shall, at its own expense and risk of delay, cease operations if

the insurance required is terminated or reduced below the required amounts of coverage. Coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor from its obligation to indemnify in excess of the coverage in accordance with the contract.

Article 107.32 Furnishing Right of Way (change to)

The Department shall secure and provide permission from the property owners for reclamation to be performed.

(Add the following article)

Article 107.42 Limitation on Mechanics Liens.

The owners and tenants of private property involved in Abandoned Mined Land (AML) projects are not responsible to the Contractor, nor to any Sub-Contractor, material supplier, operator or laborer for any of the costs or expenses of the reclamation work. AML projects are undertaken pursuant to the Abandoned Mined Lands and Water Reclamation Act for the protection of the public health and safety and/or protection of the environment. Project design, contracting, and payment are the sole responsibility of the Department.

In the event of a contract dispute, the Contractor's remedies shall be limited to those provided in the Contract and to claims or actions to be brought against the Department in the Illinois Court of Claims, pursuant to the Court of Claims Act (Illinois. Rev. Stat 1991, ch. 37, par. 439.1 et. seq.). The Contractor shall not place any mechanics liens against any private property involved in the reclamation project.

Sub-Contractors, material suppliers, operators, and laborers remedies for non-payment include all legal actions against the Contractor, claims and actions brought against the Contractor's surety under the contract performance and payment bond, and claims for "Liens Against Public Funds" as provided in paragraph 23(c) of the Mechanics Lien Act. Sub-Contractors, material suppliers, operators, and laborers shall have no rights in regard to liens against private property.

The Contractor shall cause the terms of this Special Provision to be included in all subcontracts.

End of Revisions to SECTION 107.

SECTION 108. PROSECUTION AND PROGRESS

(revise the following articles as indicated)

Article 108.07 Suspension of Work. (add the following)

The Department hereby makes express provision for any suspensions which may result from disputes with property owners. The Engineer may suspend work for up to ten working days during the contract period without additional compensation to the Contractor, when such suspension is necessary to resolve disputes or problems with property owners. Multiple suspensions, less than ten working days each, shall not exceed ten working days total, without additional compensation.

End of Revisions to SECTION 108.

SECTION 109. MEASUREMENT AND PAYMENT

(revise the following articles as indicated)

Article 109.07 Partial Payments. (Add the following after the first paragraph of 109.07(a))

The State will deduct from the amount so determined for the first 50 percent of the completed work a sum of ten percent to be retained until after the completion of the entire work to the satisfaction of the Engineer. After 50 percent or more of the work is completed, the Engineer may, at his/her discretion, certify the remaining partial payments without any further retention, provided that satisfactory progress is being made, and provided that the amount retained is not less than five percent of the total adjusted contract price. When the principal items of the work have been satisfactorily completed, a semi-final estimate may be made with the consent of the surety. Payment to the Contractor under such an estimate shall not exceed 90 percent of the amount retained after making partial payments, but in no event shall the amount retained after making the semi-final payment be less than one percent of the adjusted contract price, nor less than \$500.00.

At the request of the Contractor, with approval of the Department, the retainage of the contract set forth in this Article may be deposited under a trust agreement with an Illinois Financial Institution of the Contractor's choice and subject to the approval of the Department. The Contractor shall receive any interest thereon. Pursuant to application by the Contractor, a trust agreement by an Illinois Financial Institution and the Department shall contain, as a minimum, the amount to be deposited subject to the trust, the terms and conditions of payment in case of default of the Contractor, and the termination of the trust agreement upon completion of the contract.

The Contractor shall be responsible for obtaining the written consent of an Illinois Financial Institution trustee and any costs or service fees shall be borne by the Contractor. The trust agreement may, at the discretion of the Department and upon request of the Contractor, become operative at the time of the first partial payment according to existing statutes and Department procedures.

As soon as possible after final inspection, the Department will submit final quantities to the Contractor, will request material certification information from the Contractor, and will act on any time extension requests. At the end of 21 days from such action, if the Contractor has not agreed to final quantities or liquidated damages, or submitted required documentation, the Department may withdraw retained funds from the financial institution. At the end of three months, the Department may proceed with final payment on the basis of measured quantities.

End of Revisions to SECTION 109.

End of Revisions to DIVISION 100.

DIVISION 200. EARTHWORK, LANDSCAPING, AND EROSION CONTROL

SECTION 201. CLEARING, TREE REMOVAL AND PROTECTION, CARE AND REPAIR OF EXISTING PLANT MATERIAL

(revise and add the following as indicated)

Article 201.01 Description. (add the following)

- (f) Trash and Debris Removal. Trash and debris removal shall consist of the removal and disposal of all trash and debris that is within the area to be graded inside the construction limits to an approved landfill off-site.

Article 201.09 Disposal of Materials. (delete and replace with the following)

This work shall be done in accordance with Article 202.03 of these Special Provisions.

Article 201.10 Method of Measurement. (delete paragraphs (b) through (d) and replace with the following)

All Clearing, Tree Removal, Protection of Existing Plant Material, Care of Existing Plant Material and Trash and/or Debris Removal that is necessary to perform the grading work within the construction limits shall be classified as SPECIAL CLEARING and will not be measured for payment. Any of these items associated within the designated areas of Special Excavation shall not be considered here but shall be covered under SECTION 215. SPECIAL EXCAVATION.

Any special areas of trees within the construction limits to be preserved will be specified in the plans and shall not be removed unless approved by the Engineer.

All trees outside the construction limits shall not be disturbed.

Article 201.11 Basis of Payment. (delete all and replace with the following)

All Tree Removal, Protection of Existing Plant Material, Care of Existing Plant Material and Trash/Debris Removal within the construction limits shall be paid for at the contract lump sum price for SPECIAL CLEARING. No payment for any of the items associated within the limits of Special Excavation will be made. Payment for those shall be in accordance with Section 215 - SPECIAL EXCAVATION.

End of Revisions to SECTION 201.

SECTION 202. EARTH AND ROCK EXCAVATION

(delete entire section and replace with the following)

SECTION 202. ABANDONED MINE SITE EXCAVATION

Article 202.01 Description.

Abandoned mine site excavation shall consist of the excavation, removal, placement, and satisfactory disposal of materials taken from within the construction limits for the reshaping

and disposal of mine refuse; the covering of mine refuse with soil; the construction of embankments, ditches, waterways, entrances, field roads and incidental work.

CONSTRUCTION REQUIREMENTS

Article 202.02 Clearing, Tree Removal, Hedge Removal.

Prior to starting excavation operations in any area, all clearing, tree removal, hedge removal and trash and debris removal in that area shall be performed according to SECTION 201.

Article 202.03 Removal and Disposal of Surplus, Unstable and Unsuitable Materials and Organic Waste.

The Contractor, at his/her own expense, shall dispose of all surplus, unstable and unsuitable materials, including those which result from the work included in SECTIONS 201, 440, and 501 in such a manner that public or private property will not be damaged or endangered.

Whenever possible, stones and boulders naturally occurring within the construction limits shall be placed in fills or embankments in layers and compacted, in accordance with SECTION 205. Broken concrete without protruding metal bars, bricks, rock, stone, or uncontaminated dirt or sand generated from construction or demolition activities may be used in embankment or in fill. These materials shall be placed as approved by the Engineer; shall be compacted to the satisfaction of the Engineer; shall be buried a minimum of 3 ft. below finished grade unless specified otherwise in the plans (except when the materials include only uncontaminated dirt and sand); and shall not create an unsightly appearance or detract from the natural topographic features of an area. Broken concrete without protruding metals bars, bricks, rock, or stone may be used as riprap as approved by the Engineer. If the materials are used for fill in locations within the mine site but outside project construction limits the Contractor must specify to the Engineer, in writing, how the landscape restoration of the fill areas will be accomplished. Placement of fill in such areas shall not commence until the Contractor's landscape restoration plan is approved by the Engineer.

Aside from broken concrete without protruding metal bars, bricks, rock, stone, or uncontaminated dirt or sand used in embankment, for fill, or for riprap, as appropriate, all other construction and demolition debris or waste shall either be disposed of in a licensed landfill, or recycled, reused, or otherwise disposed of as allowed by State or Federal solid waste disposal laws and regulations, and solid waste determinations of the Illinois Environmental Protection Agency (IEPA).

A permit shall be obtained from the IEPA and made available to the Engineer prior to open burning of organic waste (i.e. plant refuse resulting from pruning or removal of trees or shrubs) or other construction or demolition debris available to the Engineer. Organic waste originating within the construction limits may be left on-site for use by the landowner, stockpiled for use as wildlife habitat, as determined by the Engineer, in locations designated by the Engineer. When landscape plantings are included in the project, organic waste originating within the construction limits may be chipped or shredded and placed as mulch around landscape planting within the construction limits when approved by the Engineer. Chipped or shredded material to be placed as mulch shall not exceed a depth of 6 inches.

When specified, surplus excavated material, including excavated stable and suitable material from special excavation, sewer trenches or other underground construction, shall be used to

increase soil cover thickness, construct embankments, flatten slopes, or be disposed of otherwise within the project construction limits as approved by the Engineer. Surplus excavated material shall not be disposed of by the Contractor outside of the construction limits.

All unstable and unsuitable material, including excavated material from special excavation, sewer trenches, or other underground construction shall be excavated or removed and replaced with material acceptable to the Engineer. Unstable and unsuitable material shall not be used in embankments. If unsuitable material is present at or below the finished grade, it shall be removed and replaced with suitable material, in accordance with Articles 205.04 and 205.05. Unsuitable material shall be placed or disposed of by the Contractor at his/her own expense outside of the construction limits as specified herein.

Article 202.04 Grading the Site.

The Contractor shall excavate earth materials to the lines, grade, cross-sections and elevations shown on the plans or designated by the Engineer. Mine refuse shall be graded, hauled to, and/or incorporated into the configuration as shown on the plans. Cover material shall be graded, excavated, hauled, and/or placed to the configuration as shown on the plans. Cover material shall be uniformly spread in layers not to exceed nine inches individually to the total depth specified in the plans. All mine refuse, grading, and/or excavation shall be completed prior to applying cover material.

The mine refuse is to be excavated to the lines, grade, cross-sections and elevations shown on the plans or designated by the Engineer. If mine refuse remains below those lines, grade, cross-sections and elevations and was not specified for soil cover on the plans or by the Engineer, then after receiving written approval of the Engineer, the Contractor shall excavate the remaining mine refuse to a depth of 2 ft. below the adjacent proposed grade or to soil, whichever occurs first. The area affected by the additional mine refuse excavation shall be backfilled with soil to original plan proposed grade or to the lines, grades, elevations specified by the Engineer. All additional mine refuse excavation and earth excavation necessary due to encountering these conditions will be paid for at the contract unit price for Earth Excavation and Mine Refuse Excavation as described herein.

Article 202.05 Classification.

Abandoned mine site excavation shall be classified as earth excavation or mine refuse excavation.

- (a) Earth Excavation - Excavation of any earth materials except mine refuse as defined in Articles 101.56 and 101.58.
- (b) Mine Refuse Excavation - All excavation of mine refuse materials as defined by Articles 101.56 and 101.58.

Article 202.06 Construction of Ditches and Waterways.

Ditches and waterways shall be constructed and maintained to the lines, grades and cross-sections shown on the plans. Ditches and waterways so constructed shall be kept free from debris until acceptance. All suitable materials excavated from inlet, outlet and intercepting ditches, and waterways within the construction limits shall be used for cover soil as far as

practicable. Roots, stumps and other objectionable material in the slopes or bottoms of ditches shall be removed and the holes backfilled with suitable material.

Article 202.07 Drainage.

The site shall be maintained so that it will be well drained at all times. If, during the prosecution of the work, it is necessary to interrupt existing sewer or under drainage, temporary drainage facilities shall be provided until the permanent drainage work has been completed. Such temporary drainage facilities will be paid for in accordance with the provisions of Article 109.04, unless otherwise provided for in the contract.

The Contractor shall be responsible for, and shall take all necessary precautions to preserve and protect, all existing tile drains, sewers and other sub-surface drains or parts thereof which may be affected by the Contractor's operations, and which may be continued in use without change. The Contractor shall repair, at the Contractor's own expense, any and all damage to such drainage facilities resulting from negligence on the Contractor's part.

Article 202.08 Method of Measurement.

(a) Contract Quantities.

When the project is constructed essentially to the lines, grades or dimensions shown on the plans and the Contractor and the Engineer have agreed in writing that the plan quantities are accurate, no further measurement will be required and payment will be made for the quantities shown in the contract for the various items involved except that if errors are discovered after work has been started, appropriate adjustments will be made.

When the plans have been altered or when disagreement exists between the Contractor and the Engineer as to the accuracy of the plan quantities, either party shall, before any work is started which would affect the measurement, have the right to request in writing and thereby cause the quantities involved to be measured as hereinafter specified.

(b) Measured Quantities.

Earth Excavation and Mine Refuse Excavation will be measured in its original position, and the volume in cubic yards computed by the method of average end areas. The volume of any unstable or unsuitable material removed, and the volume of the replacement material, will both be measured for payment in cubic yards.

Excavated material used for purposes other than designated in the Specifications, and material excavated beyond slope lines, will not be measured for payment.

Article 202.09 Basis of Payment.

Mine site excavation will be paid for at the contract unit prices per cubic yard for EARTH EXCAVATION and MINE REFUSE EXCAVATION, measured as specified herein, which prices shall include payment for other items incidental to the work included under the general heading of Earthwork for which no payment item is included in the contract.

End of Revisions to SECTION 202.

SECTION 250. SEEDING

(revise the following articles as indicated)

Article 250.02 Materials (revise Article 1081.04 as indicated)

- (a) Sampling and Testing. Each lot of seed, or seed mixture, except Prairie Forbs, furnished shall be tested by a State Department of Agriculture (including other states), or by land grant college or university agricultural sections, or by a Registered Seed Technologist. The seed sample shall be sent directly from the dealer to the place of testing. The cost of this testing shall be included in the unit bid price.

All seeds shall comply with the requirements of the U.S. Department of Agriculture Consumer and Marketing Service, Rules and Regulations under the Federal Seed Act of August 9, 1939, issued March 1940, reprinted with amendments April 1968, or any current revisions.

Acceptance of seeds furnished under this Specification will be based on receipt and approval of a certification covering tests from each lot of seed. Certification shall consist of test reports showing the required test results of lots corresponding to the shipment and signed by the responsible personnel of a State seed laboratory or college or university seed testing section or a Registered Seed Technologist. A Registered Seed Technologist shall verify his/her signature with his/her Society of Commercial Technologists' seal.

The sample must be tested within 30 days of scheduled seeding. Test reports shall provide or include the following information at a minimum:

- (1) Name of Seed Dealer
- (2) Kind and Variety of Seed
- (3) Date of Test
- (4) Lab Number
- (5) Weight Examined by Grams
- (6) Lot Number
- (7) Pure Seed Crop by Name
- (8) Purity Percentage Analysis
- (9) Germination Percentage Analysis
- (10) Hard Seed Percentage Analysis
- (11) Other Crop Names and Percentages
- (12) Common Weed Names & Percentages
- (13) Percentage of Total Inert Matter
- (14) Noxious Weeds and Percentages (if any)

A ten-percent tolerance will be allowed for each specified pure live seed species in the total seed mixture. If test results indicate insufficient pure live seed of any species, additional pure live seed of the same species shall be added prior to seeding, to correct deficiencies to within the ten percent tolerance allowable.

If test results indicate the presence of an Illinois noxious weed, or the seed mixture is found unacceptable by reason of any other defect that in the judgment of the Engineer cannot be corrected, the Contractor shall obtain a new supply of the specified seed mixture. Any areas seeded with an unacceptable seed mixture shall be destroyed, by

preparing a new seed bed and reseeding. No additional compensation will be allowed for correcting deficiencies to within the allowable tolerance, for obtaining a new seed supply if required, or for reseeding.

Seeds may be sampled at destination on a random basis and tested for comparison with certification and compliance with the Specifications. If deviations are found, the results will be reviewed to determine whether the material is acceptable for use. Major deviations may result in a requirement that each lot of material from the source in question be sampled, tested and approved by the Illinois Department of Agriculture before further use.

Article 250.03 Equipment (revise Article 250.03(e), and add Article 250.03(i) and (j))

(e) Broadcast Seeders (change to)

(e) Spinning Disk Seeders. (revise Article 1101.08(e) to the following)

When spinning disk seeders are used, the individual seeds comprising the seeding mixture need not be sown separately. A spike-toothed or tine-toothed harrow, approved by the Engineer, must be either be pulled behind the spinning disk seeder by the same equipment in one operation, or pulled by other equipment over all seeded areas on the same day.

(i) Harrows - Spike Toothed and Tine Toothed. (add as Article 1101.08(ii))

Spike and tine toothed harrows shall be commercially manufactured harrows designed for light tillage necessary to cover grass and legume seed after these seeds have been broadcast with spinning disk seeders, truck mounted air flow fertilizer/seeder spreaders, and aerial seeders.

(j) No-Till Seeder. (add as Article 1101.08(j))

These seeders shall be commercially manufactured no-till (zero-till) seeders specifically designed for no-till placement of grass and legume seed and shall be approved by the Engineer prior to use.

Article 250.04 Fertilizer and Agricultural Ground Limestone Application (revise to)

(a) Prior to the application of fertilizer nutrients and agricultural ground limestone on the soil and/or coal refuse, the Contractor shall notify the Engineer so that the Engineer can sample soil and/or coal refuse, retest and, if necessary, revise the rates for fertilizer and limestone specified on the plans to accommodate actual field conditions.

(b) Immediately prior to seed bed preparation and seeding, fertilizer nutrients and agricultural ground limestone shall be uniformly spread at the specified rates over the areas designated. Specified rates of agricultural ground limestone and fertilizer nutrients are listed on the plans under Summary of Quantities or Schedule of Seeding, Fertilizer Nutrients, Mulch and Mowing. Fertilizer quantities and application rates may be based on two or more applications. Potassium may be required to be applied in split applications.

- (c) When Incorporation - Limestone and Mulch are to be used, as specified in the plans, agricultural ground limestone shall be applied in accordance with SECTION 256. The fertilizer nutrients and seed mixture shall then be uniformly spread at the rates specified over the incorporated areas and tilled into the soil with the seed mixture by use of a spike toothed or tine toothed harrow as directed by the Engineer.
- (d) No-till (zero-till) Seeding. No-Till (zero-till) seeding will not require seed bed preparation. Agricultural ground limestone shall be applied two weeks (14 days) prior to no-till (zero-till) seeding. Fertilizer nutrients shall be applied two weeks (14 days) after no-till (zero-till) seeding according to the Engineer's discretion. The no-till (zero-till) areas may or may not be mowed prior to or after no-till (zero-till) seeding according to the Engineer's discretion. If the Engineer determines mowing is necessary, it will be measured and paid for according to Articles 250.09 and 250.10, respectively. At no time will the seeder be used as a mulch stabilizer in conjunction with seeding or alone.
- (e) Direct Vegetation. If seed bed preparation is required on direct vegetation areas, agricultural ground limestone and fertilizer nutrients shall be applied prior to seeding and according to these specifications. If seed bed preparation is not required or if the Engineer determines it is impractical, the agricultural ground limestone and fertilizer nutrients shall be applied according to the Engineer's discretion.

Article 250.05 Seed Bed Preparation (delete last paragraph and add the following)

Seed bed preparation cannot be performed sooner than 14 days prior to seeding. Seed bed preparation will not be required when no-till seeding or Incorporation - Limestone and Mulch is specified.

Article 250.06 Seeding Methods (delete all but paragraphs 1 and 2 and add the following)

Harrow that meet the requirements of Article 250.03(j) shall be used for light tillage to cover grass and legume seeds, fertilizer and agricultural ground limestone with soil to the satisfaction of the Engineer on the same day that the seed is sown. A minimum of two passes will be required, one parallel to the slope and one perpendicular to the slope to assure coverage.

Rolling will not be required.

Article 250.07 Seeding Mixtures (change to)

Article 250.07 Seeding Requirements and Guarantee

- (a) Seeding Dates and Seed Mixture for Permanent Seeding.

NORTHERN ILLINOIS (North of U.S. Route 136)

Spring seeding dates shall be March 1 to April 20, and fall seeding dates shall be August 1 to September 1, for the following seed mixes.

Seeding will not be allowed when the wind speed is 10 miles/hour (16 kilometers/hour) or greater. Seed bed preparation may be allowed by the Engineer prior to seeding dates at his/her discretion.

<u>SEED</u>	<u>VARIETIES</u>	<u>PURE LIVE SEED</u> <u>lb./ac. (kg./ha.)</u>	
Switch Grass	-	6	(6.72)
Orchard Grass	-	10	(11.21)
Redtop	-	2	(2.24)
Smooth Brome Grass	-	24	(26.90)
Perennial Rye Grass	-	15	(16.81)
Birdsfoot Trefoil	-	10	(11.21)
Alfalfa	-	10	(11.21)
Cereal Rye	-	<u>28</u>	<u>(31.38)</u>
	TOTAL	105	(117.69)

Average purity and germination percentages (viable seed for legumes) are from 1948, Yearbook of Agricultural, Grass. Any other product from seed tag percentages of germination times purity, and/or viable seed, will cause the Contractor to adjust his/her total pounds/acre (kilograms/hectare) of seed to sow.

- (b) Temporary Seeding. This provision is applicable in the event that the Contractor fails to perform permanent seeding within the dates specified. In that event, temporary seeding shall be required to provide a temporary vegetative cover until the next term of permanent seeding dates. Temporary seeding shall be performed by the Contractor at his/her own proper cost and expense, at no additional cost to the Department. Prior to temporary seeding, the Engineer shall submit in writing to the Contractor a proposed temporary seeding mixture, specifying the seed varieties and their respective rates on a pounds/acre (kilograms/hectare) of pure live seed basis. Vegetation resulting from the temporary seeding shall be destroyed as part of the seed bed preparation for permanent seeding during the next term of permanent seeding dates.
- (c) Reseeding Guarantee. The Contractor is required to guarantee the results of the permanent seeding for one year after the date of seeding. The Engineer will periodically inspect all seeded areas during that year to determine whether or not vegetation has been successfully established. Upon the Engineer's determination that vegetation has been successfully established, the Contractor shall be released from all further obligations. If the Engineer determines that vegetation on any area is unacceptable, the Contractor shall be required to reseed that area during the next term of permanent seeding dates, at the Contractor's own proper cost and

expense, and at no additional cost to the Department.

Unacceptability will be based on:

1. Seed test failure (Article 250.02).
2. Using unacceptable equipment in performing seeding.
3. Failure to perform seeding as specified; i.e., missing areas during seeding, improper seed bed preparation, etc.
4. Failure to perform mulching as specified; i.e., applying too much or too light application in some areas, using unacceptable mulch, etc.

- (d) Subsequent Reseeding. Any area reseeded once by the Contractor will be inspected within six months after reseeding to determine if germination has occurred. If subsequent reseeding is required of the same area(s), through no fault of the Contractor, the Contractor shall be compensated for such subsequent reseeding at unit bid prices, or as otherwise agreed upon by the Contractor and the Engineer.

Article 250.08 Selective Mowing Stakes (delete entire article)

Article 250.09 Method of Measurement (revise as indicated)

Delete all references to mowing, and refer to SECTION 258 if mowing is specified on the plans.

In Article 250.09(b), delete "of the class specified".

Article 250.10 Basis of Payment (revise as indicated)

Substitute SEEDING for the various classes of seeding and interseeding. The cost of seed testing and any temporary seeding or reseeding will not be paid for separately, but shall be considered incidental to the cost of SEEDING.

Delete all references to mowing, and refer to SECTION 258 if mowing is specified on the plans.

End of Revisions to SECTION 250.

SECTION 280. TEMPORARY EROSION AND SEDIMENT CONTROL

(revise the following articles as indicated)

Article 280.03 Construction Requirements. (delete and replace with the following)

Erosion and sediment control measures as indicated in the Storm Water Pollution Prevention Plan, or as directed by the Engineer shall be installed on the project site prior to beginning any construction activities which will potentially create erodible conditions. Erosion and sediment control devices shall be in place and approved by the Engineer as to proper placement and installation prior to beginning other work. Erosion and sediment control protection for Contractor borrow pits, equipment storage sites, plant sites, haul roads, and other sites shall be installed by the Contractor and approved by the Engineer prior to beginning construction activities at each site.

The Engineer has the authority to limit the surface area of erodible earth material exposed by clearing and grubbing, excavation, borrow and embankment operations, and to direct the Contractor to provide immediate permanent or temporary erosion and sediment control measures upon finding an incidence of non-compliance with the Storm Water Pollution Prevention Plan. The Contractor shall incorporate all permanent erosion and sediment control features into the project at the earliest practicable time to minimize the need for temporary controls.

The Contractor is encouraged to carefully plan his/her operation so that final grading is performed as close as possible to the seeding dates specified in the contract to minimize the chances of erosion from areas affected by construction.

Areas where construction activities have ceased for more than 14 consecutive days may require site stabilization practices which may include temporary seeding, mulching, or installation of excelsior blanket, straw bales, silt fence, diversion ditches, vegetative buffer strips and/or geotextiles. For purposes of this Section, the end of construction activities on affected land areas is defined as the time when seedbed preparation has been concluded. Site stabilization, if determined necessary by the Engineer, will not be paid for but will be considered incidental to the contract.

In case of repeated failure on the part of the Contractor to take steps prescribed by the Engineer to control erosion and sediment, the Engineer reserves the right to employ outside assistance or to use his/her own forces to provide the necessary corrective measures. Such incurred direct costs plus project engineering costs will be charged to the Contractor and deducted from any compensation due, or which may become due the Contractor under the contract.

Article 280.08 Basis of Payment. (add the following)

Maintenance of temporary erosion and sediment control systems including repair of the various systems, removal of entrapped sediment and cleaning of any silt filter fabric, will be considered incidental to the above pay items for temporary erosion control systems. The sediment shall be removed as directed by the Engineer during the contract period and disposed of on-site as directed by the Engineer.

End of Revisions to SECTION 280.

SECTION 286. SPECIAL EXCELSIOR BLANKET

(add this section)

Article 286.01 Description.

This shall include all labor, materials, equipment and services necessary for and reasonably incidental to installing special excelsior blanket as shown on the plans and specified herein.

Article 286.02 Materials.

For special excelsior blanket reference Article 1081.10(a) except as modified herein:

- (a) Minimum width – 48 inches (1200 millimeters), plus or minus one inch (25 millimeters).

- (b) Minimum length of roll - approximately 180 feet (54.9 millimeters).
- (c) Weight – 0.9 pounds per square yard (4.4 kilograms per square meter), plus or minus ten percent.
- (d) Fiber length - 80 percent shall be six inches (150 millimeters) or longer
- (e) Fiber dimension – 0.021 inch (0.5 millimeter) by 0.042 inch (1 millimeter), plus or minus 25 percent.
- (f) Both sides of each blanket shall be enclosed with a plastic netting, black or green in color, having an approximate minimum opening of 5/8 inch (15.6 millimeters) by 5/8 inch (15.6 millimeters) to an approximate maximum opening of 2 inches (50 millimeters) by 1 inch (25 millimeters).
- (g) Blankets shall be smolder resistant and shall meet the test of no-flame or smolder for more than a distance of 12 inches (300 millimeters) from a spot where a lighted cigarette is placed on the blanket's surface.
- (h) All material shall be new and unused, and the length shall be marked on each roll.
- (i) The manufacturer shall furnish a certification with each shipment of special excelsior blanket stating the number of rolls furnished and that the material complies with the requirements of the specifications.
- (j) Reference Article 1081.10(d) for requirements for wire staples and Article 1081.10(e) for requirements for wood stakes to hold the blanket in place.

Article 286.03 Construction Requirements.

The special excelsior blanket shall be placed at locations shown on the plans and in accordance with Article 251.04 of the Standard Specifications modified as follows:

(a) Equipment.

Equipment may require the use of hand tools to roll out the blanket and tack wire staples or wooden stakes through the blanket into the soil below.

(b) Preparation.

Areas to receive the blanket will be staked by the Engineer once seeding work is completed. Installation of the blanket will follow within a 24-hour period.

(c) Installation.

1) The blanket shall be installed one layer thick and stapled or staked in accordance with Article 251.04 for excelsior blanket, to comply with the varying widths indicated on the plans. The areas to receive the blanket will not be mulched.

(2) This blanket shall be installed parallel to the direction of slope in neat, straight lines or with uniform curvature to the approval of the Engineer.

(d) Acceptance/Clean Up.

- (1) Seeded/blanketed areas disturbed by the Contractor shall be repaired in accordance with the Specifications and as specified herein, with no additional cost to the contract before the Contractor may request a final inspection of the placement of the blanket.
- (2) Upon completion of the work, the Contractor shall remove from the job site, and legally dispose of, all equipment, surplus materials, empty containers, and all other debris resulting from these operations. Clean-up shall be completed prior to final payment.

Article 286.04 Method of Measurement.

The area of the special excelsior blanket will be measured in-place in square yards (square meters) of actual surface area protected.

Article 286.05 Basis of Payment.

This work will be paid for at the contract unit price per square yard (square meter) for SPECIAL EXCELSIOR BLANKET measured as specified herein.

End of SECTION 286.

End of Revisions to DIVISION 200.

DIVISION 600. INCIDENTAL CONSTRUCTION

SECTION 671. MOBILIZATION

(delete entire section and replace with the following)

Article 671.01 Description.

This work shall consist of preparatory work and operations necessary for the movement of personnel, equipment, supplies and incidentals to the project site; for establishment of offices, buildings and other facilities necessary for work on the project; and for all other work or operations which must be performed, or costs incurred when beginning work on the project.

The amount which a Contractor will receive payment for, in accordance with the following schedule, will be limited to six percent of the total contract bid.

Article 671.02 Basis of Payment.

Payment of the lump sum amount bid for this item, not exceeding six percent, will be made in entirety in the first partial payment.

Nothing herein shall be construed to limit or preclude partial payments for other items as provided for by the contract.

End of Revisions to SECTION 671.

End of Revisions to DIVISION 600.

“SAMPLE DOCUMENT”

ILLINOIS DEPARTMENT OF NATURAL RESOURCES
OFFICE OF MINES AND MINERALS
DIVISION OF ABANDONED MINED LANDS RECLAMATION (DNR)
STORM WATER POLLUTION PREVENTION PLAN CERTIFICATE

Project Name: _____

Project Number: _____ Construction Acreage: _____

County: _____ Section(s): _____ Township: _____ Range: _____

The plans and specifications have been prepared to comply with the provisions of the NPDES Permit Number ILR100000, issued by the Illinois Environmental Protection Agency (*IEPA*) for storm water discharges from Construction Site Activities. **This General Permit is applicable to all reclamation sites resulting in the disturbance of one or more acres total land area.**

Background

This project is being conducted in order to either restore abandoned lands to productive use, to protect the health, safety and general welfare of the people, to correct and prevent soil erosion, stream pollution, water, air, and land pollution, and/or other injurious effects to persons, property, wildlife and natural resources. It is recognized that the DNR and the IEPA are committed to ensuring that abandoned mine reclamation activities in Illinois are conducted in such manner so as to minimize, to the fullest extent practicable, any further adverse impact to the public's health, safety and/or the environment. It is hereby recognized that this site may exist in a state of non-compliance with or in violation of, the provisions of the Environmental Protection Act and/or the Pollution Control Board's Rules and Regulations. It is further recognized and agreed that the DNR and its Contractor(s) do not assume the responsibilities for the pre-existing polluttional sources. It shall be the objective of all parties that offsite pollution shall be controlled to the maximum extent practicable, throughout the course of this reclamation project.

Controls

The plans and specifications for the above-mentioned project, together with all attachments and documents incorporated therein by reference, comprise the storm water pollution prevention plan as required by the General Permit. The following items highlight the critical components of the storm water pollution prevention plan developed for this construction site and covered by this permit:

- 1) The construction limits, grading plan, erosion and sediment controls and storm water management controls as shown in the Project Plans;
- 2) The prerequisite earthwork, erosion control, seeding and mulching date as specified under PROGRESS AND LIQUIDATED DAMAGES of the Special Provisions;
- 3) Article 108.02 Progress Schedule, of the Standard Specifications which requires submittal of the progress schedule by the contractor prior to starting work;
- 4) The Acid Water Treatment and/or Dewatering Impoundments Sections (*when required*) as detailed in the Special Provisions;
- 5) The Seeding, Erosion and Sediment Control, Special Excelsior Blanket and Riprap Sections as detailed in the Special Provisions, including other sections which relate to the establishment of vegetation, erosion control, and storm water pollution prevention;

“SAMPLE DOCUMENT”

- 6) The TEMPORARY CONTROLS, described in the Special Provisions, especially paragraph C, Pollution Control, which states that the Contractor shall provide methods, means and facilities required to prevent contamination of soil, water or atmosphere by the discharge of noxious substances and sediments from construction operations. This section incorporates the requirements of the General Permit for storm water discharges;
- 7) Controls shall be implemented to ensure that solid waste materials are not carried by storm water into the receiving streams; and
- 8) Site Inspections by the Engineer or Project Manager will be conducted to ensure that the proper storm water pollution controls are in place and operating correctly. The disturbed areas will be inspected for evidence of, or the potential for, pollutants entering the drainage system. Should the inspection reveal inadequate or ineffective measures in preventing storm water pollutants entering the drainage system, the Project Manager will discuss these findings with the Contractor. The Contractor and the Project Manager shall establish the revised or additional control measures determined necessary and appropriate, and the timetable for implementation. The Project Manager shall document on the Inspection Report major observations relating to the implementation of this storm water pollution prevention plan, discussions with the Contractor with regard to this plan and any specific changes to the plan.

If any violation of the provisions of this plan is identified during the conduct of the construction work covered by this plan, the Project Manager or Resident Technician shall complete and file an "Incidence of Non-Compliance" (*ION*) report for the identified violation. The Project Manager or Resident Technician shall use forms provided by the Illinois Environmental Protection Agency and shall include specific information on the cause of non-compliance, actions which were taken to prevent any further causes of non-compliance, and a statement detailing any environmental impact which may have resulted from the non-compliance. All reports of non-compliance shall be signed by the DNR Supervisor of Project Management. The report of non-compliance shall be mailed to the Illinois Environmental Protection Agency within 5 (five) days of the observance of the non-compliance.

NPDES PERMIT No. ILR100000
Storm Water Pollution Prevention Plan
Certifications

Project Name: _____

Project Number: _____

The Storm Water Pollution Prevention Plan was presented and discussed at the Preconstruction Meeting held on: _____ . Project Manager: _____

I certify under penalty of law that the plans and specifications and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

“SAMPLE DOCUMENT”

Supervisor of Project Management
Division of Abandoned Mined Lands Reclamation

Date

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (*NPDES*) permit (*ILR100000*) that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification.

Signature (*Contractor or Subcontractor*)

Title

Date

Name of Firm

Street Address

City

State

Zip Code

Telephone Number

SAFETY FACT SHEET

The purpose of this fact sheet is to alert contractors, consulting engineers, landowners and the general public to the safety hazards which abandoned mine sites pose. While not intended to be a comprehensive safety manual, this document will provide some general guidelines for working or living near abandoned mines.

Mine Openings

Open mine shafts or other portals to underground mines are a problem commonly found at abandoned sites. In addition to the obvious hazard that an open, vertical shaft presents, seemingly sound shafts may, in fact, contain unstable fill material or be covered by poorly-constructed, deteriorated caps or seals. Such seals can fail without notice and extreme care should be taken to avoid unnecessary ground disturbance around old shafts.

Horizontal shafts, often called drifts or adits, can provide easy access to underground mines and, because there is no vertical drop, may seem harmless. However, abandoned mines frequently contain heavy concentrations of harmful gases and may be severely deficient in oxygen. They may also contain other physical hazards such as flooded rooms or fractured and falling roofs, and may house a variety of vermin.

Mine Gas

Underground mine atmospheres frequently contain explosive or toxic gases such as methane and hydrogen sulfide. These gases can make their way to the surface either through shafts, fissures, or in the case of a very shallow mine, directly through the ground. A mere 5-15 percent concentration of methane escaping to the surface is highly combustible and explosive under certain conditions. Consequently, smoking or use of any open flame near a mine opening of any type must be avoided. While methane is both flammable and an asphyxiant, hydrogen sulfide is poisonous and quite deadly at significantly lower concentrations. For this reason alone, abandoned underground coal mines should never be entered.

Mine Refuse

"Gob" refers to the coarse refuse, usually deposited in large, steep piles, stemming from the coal sorting process. "Slurry" is defined as the fine, silty refuse which remains after the coal washing process is completed. Both types of refuse have the potential to ignite and burn slowly for long periods of time due to their coal content. While some burning refuse areas are easily identified by smoke, ash or burned coal particles, other areas may be burning below the surface and exhibit no visible signs. As a result, extreme caution should be exercised when walking or driving on or near gob piles or slurry impoundments.

Highwalls

Surface mining for coal often results in a final cut pit with steep, sheer walls surrounding a flooded impoundment. These walls pose a unique hazard because of their vertical height above the water level, and because of their erosive nature resulting from their unstable slopes. Drownings have occurred when individuals slipped into the pits and were unable to climb out. In some areas, final cuts do not fill with water, presenting a hazard due to the vertical drop.

Mine Buildings

Many abandoned mines include old machinery, buildings and equipment referred to collectively as the "tipple area". Abandoned mine structures are frequently quite deteriorated and subject to collapse. Coal hoppers, auger pits and underground steam ducts can also be found at most tipple sites and are sometimes obscured by vegetative growth or rubble accumulation, creating a trap-like situation.

Toxic Substances

Industrial chemicals and other harmful substances occasionally have been found at abandoned mine sites. Coal oil, abandoned transformers containing PCB's and asbestos insulation in tipple buildings are not uncommon. Abandoned mine sites also attract illegal dumping of other substances not related to the mining operation, but equally as dangerous. Workers should consider any unknown substance to be potentially harmful until determined to be otherwise.

Safety Precautions

As with any construction site, standard safety precautions required by the Occupational Safety and Health Administration (OSHA) should be strictly followed when performing reclamation work. These include, but are not limited to, wearing hard hats, safety glasses and steel-toed boots. Be aware of any electrical or other cables on site and always take the necessary water safety precautions when working around water impoundments. Always contact J.U.L.I.E. before excavating.

The reclamation of abandoned mines sometimes involves the use of chemicals such as alkali materials and chemical grouts. Always follow the directions provided in the Manufacturer's Safety Data Sheet when handling these and other materials.

Finally, abandoned mine reclamation generally requires the use of bulldozers, pan scrapers, large backhoes, heavy-duty trucks and other heavy equipment. Individual pieces must meet all OSHA standards and must never be operated in a negligent or reckless manner. Individuals on the construction site, whether on foot or in a road vehicle, should always give the heavy equipment operator the right-of-way since visibility is often quite limited.

NOTICE: Prevailing Wage Rates

The Illinois Prevailing Wage Act (820 ILCS 130/) requires payment of prevailing wages on State of Illinois public works projects.

As required by this Act, not less than the rates of wages ascertained by the Illinois Department of Labor and as revised during the performance of a Contract shall be paid to all laborers, workers and mechanics performing abandoned mined lands reclamation work under the Contract.

Post the scale of wages in a prominent and easily accessible place at the site of work. If the Illinois Department of Labor revises the prevailing rates of wages to be paid as listed in the specification of rates, the contractor shall post the revised rates of wages and shall pay not less than the revised rates of wages. Current wage rate information shall be obtained by visiting the Illinois Department of Labor web site at <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/Rates.aspx> or by calling 312-793-2814. It is the responsibility of the contractor to review the rates applicable to the work of the contract at regular intervals in order to insure the timely payment of current rates. Provision of this information to the contractor by means of the Illinois Department of Labor web site satisfies the notification of revisions by the Department to the contractor pursuant to the Act, and the contractor agrees that no additional notice is required. The contractor shall notify each of its subcontractors of the revised rates of wages.

Abandoned mined lands reclamation projects are federally funded public works projects, therefore they are also subject to the provisions of the federal Davis-Bacon Act including its wage and benefit determinations. Please see the U.S. Department of Labor website at: <https://www.dol.gov/whd/govcontracts/dbra.htm> for assistance with compliance with this Act.

STATE OF ILLINOIS

STANDARD CERTIFICATIONS

Vendor acknowledges and agrees that compliance with this subsection in its entirety for the term of the contract and any renewals is a material requirement and condition of this contract. By executing this contract Vendor certifies compliance with this subsection in its entirety, and is under a continuing obligation to remain in compliance and report any non-compliance.

This subsection, in its entirety, applies to subcontractors used on this contract. Vendor shall include these Standard Certifications in any subcontract used in the performance of the contract using the Standard Certification form provided by the State.

If this contract extends over multiple fiscal years, including the initial term and all renewals, Vendor and its subcontractors shall confirm compliance with this section in the manner and format determined by the State by the date specified by the State and in no event later than July 1 of each year that this contract remains in effect.

If the Parties determine that any certification in this section is not applicable to this contract it may be stricken without affecting the remaining subsections.

1. As part of each certification, Vendor acknowledges and agrees that should Vendor or its subcontractors provide false information, or fail to be or remain in compliance with the Standard Certification requirements, one or more of the following sanctions will apply:
 - the contract may be void by operation of law,
 - the State may void the contract, and
 - the Vendor and its subcontractors may be subject to one or more of the following: suspension, debarment, denial of payment, civil fine, or criminal penalty.

Identifying a sanction or failing to identify a sanction in relation to any of the specific certifications does not waive imposition of other sanctions or preclude application of sanctions not specifically identified.

2. Vendor certifies it and its employees will comply with applicable provisions of the United States Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and applicable rules in performance of this contract.
3. Vendor, if an individual, sole proprietor, partner or an individual as member of a LLC, certifies he/she is not in default on an educational loan. 5 ILCS 385/3.
4. Vendor, if an individual, sole proprietor, partner or an individual as member of a LLC, certifies it he/she has not received (i) an early retirement incentive prior to 1993 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code or (ii) an early retirement incentive on or after 2002 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code. 30 ILCS 105/15a; 40 ILCS 5/14-108.3; 40 ILCS 5/16-133.
5. Vendor certifies that it is a legal entity authorized to do business in Illinois prior to submission of a bid, offer, or proposal. 30 ILCS 500/1-15.80, 20-43.

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6. To the extent there was a current Vendor providing the services covered by this contract and the employees of that Vendor who provided those services are covered by a collective bargaining agreement, Vendor certifies (i) that it will offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the contract subject to its bid or offer; and (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit who perform substantially similar work to the work that will be performed pursuant to this contract. This does not apply to heating, air conditioning, plumbing and electrical service contracts. 30 ILCS 500/25-80.
7. Vendor certifies it has neither been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor made an admission of guilt of such conduct that is a matter of record. 30 ILCS 500/50-5.
8. If Vendor has been convicted of a felony, Vendor certifies at least five years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor's office for the facts upon which the conviction was based continues to have any involvement with the business. 30 ILCS 500/50-10.
9. If Vendor or any officer, director, partner, or other managerial agent of Vendor has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, Vendor certifies at least five years have passed since the date of the conviction. Vendor further certifies that it is not barred from being awarded a contract and acknowledges that the State shall declare the contract void if this certification is false. 30 ILCS 500/50-10.5.
10. Vendor certifies it is not barred from having a contract with the State based upon violating the prohibitions related to either submitting/writing specifications or providing assistance to an employee of the State of Illinois by reviewing, drafting, directing, or preparing any invitation for bids, a request for proposal, or request of information, or similar assistance (except as part of a public request for such information). 30 ILCS 500/50-10.5(e), *amended* by Pub. Act No. 97-0895 (August 3, 2012).
11. Vendor certifies that it and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent has entered into a deferred payment plan to pay the debt), and Vendor and its affiliates acknowledge the State may declare the contract void if this certification is false or if Vendor or an affiliate later becomes delinquent and has not entered into a deferred payment plan to pay off the debt. 30 ILCS 500/50-11, 50-60.
12. Vendor certifies that it and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act and acknowledges that failure to comply may result in the contract being declared void. 30 ILCS 500/50-12.
13. Vendor certifies that it has not been found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act within the last five years, and is therefore not barred from being awarded a contract. 30 ILCS 500/50-14.
14. Vendor certifies it has neither paid any money or valuable thing to induce any person to refrain from bidding on a State contract, nor accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State contract. 30 ILCS 500/50-25.

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15. Vendor certifies it is not in violation of the “Revolving Door” provisions of the Illinois Procurement Code. 30 ILCS 500/50-30.
16. Vendor certifies that it has not retained a person or entity to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement. 30 ILCS 500/50-38.
17. Vendor certifies that if it has hired a person required to register under the Lobbyist Registration Act to assist in obtaining any State contract, that none of the lobbyist’s costs, fees, compensation, reimbursements, or other remuneration were billed to the State. 30 ILCS 500\50-38.
18. Vendor certifies it will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, offerors, contractors, proposers, or employees of the State. 30 ILCS 500/50-40, 50-45, 50-50.
19. Vendor certifies steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the executive head of the procuring Agency/University grants an exception. 30 ILCS 565.
20. Drug Free Workplace
 - 20.1 If Vendor employs 25 or more employees and this contract is worth more than \$5,000, Vendor certifies it will provide a drug free workplace pursuant to the Drug Free Workplace Act.
 - 20.2 If Vendor is an individual and this contract is worth more than \$5000, Vendor certifies it shall not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of the contract. 30 ILCS 580.
21. Vendor certifies that neither Vendor nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the United States. Department of Commerce. 30 ILCS 582.
22. Vendor certifies it has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any state or of the United States. 720 ILCS 5/33 E-3, E-4.
23. Vendor certifies it complies with the Illinois Department of Human Rights Act and rules applicable to public contracts, which include providing equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies. 775 ILCS 5/2-105.
24. Vendor certifies it does not pay dues to or reimburse or subsidize payments by its employees for any dues or fees to any “discriminatory club.” 775 ILCS 25/2.
25. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been or will be produced in whole or in part by forced labor or indentured labor under penal sanction. 30 ILCS 583.
26. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by the labor of any child under the age of 12. 30 ILCS 584.

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27. Vendor certifies that any violation of the Lead Poisoning Prevention Act, as it applies to owners of residential buildings, has been mitigated. 410 ILCS 45.
28. Vendor warrants and certifies that it and, to the best of its knowledge, its subcontractors have and will comply with Executive Order No. 1 (2007). The Order generally prohibits Vendors and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments if that procurement may result in a contract valued at over \$25,000. This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.
29. Vendor certifies that information technology, including electronic information, software, systems and equipment, developed or provided under this contract comply with the applicable requirements of the Illinois Information Technology Accessibility Act Standards as published at (www.dhs.state.il.us/iitaa) 30 ILCS 587.
30. Vendor certifies that it has read, understands, and is in compliance with the registration requirements of the Elections Code (10 ILCS 5/9-35) and the restrictions on making political contributions and related requirements of the Illinois Procurement Code. 30 ILCS 500/20-160 and 50-37. Vendor will not make a political contribution that will violate these requirements.

In accordance with section 20-160 of the Illinois Procurement Code, Vendor certifies as applicable:

Vendor is not required to register as a business entity with the State Board of Elections.

or

Vendor has registered with the State Board of Elections. As a registered business entity, Vendor acknowledges a continuing duty to update the registration as required by the Act.

31. Vendor certifies that if it is awarded a contract through the use of the preference required by the Procurement of Domestic Products Act, then it shall provide products pursuant to the contract or a subcontract that are manufactured in the United States. 30 ILCS 517.
32. For contracts other than construction contracts subject to the requirements of 30 ILCS 500/30-20 and 30 ILCS 500/33-10, a person (other than an individual acting as a sole proprietor) must be a duly constituted legal entity to qualify as a bidder or offeror prior to submitting a bid, offer, or proposal. 30 ILCS 500/20-43. Vendor certifies that it is a legal entity as of the date for submitting this bid, offer, or proposal.
33. Vendor certifies that, for the duration of this contract it:
- will post its employment vacancies in Illinois and border states on the Department of Employment Security's IllinoisJobLink.com website or its successor system; or
 - will provide an online link to these employment vacancies so that this link is accessible through the IllinoisJobLink.com website or its successor system; or
 - is exempt from 20 ILCS 1005/1005-47 because the contract is for construction-related services as that term is defined in section 1-15.20 of the Procurement Code; or the contract is for construction and vendor

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is a party to a contract with a bona fide labor organization and performs construction. (20 ILCS 1005/1005-47).

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1. PAYMENT TERMS AND CONDITIONS:

- 1.1. Late Payment: Payments, including late payment charges, will be paid in accordance with the State Prompt Payment Act and rules when applicable. 30 ILCS 540; 74 Ill. Adm. Code 900. This shall be Vendor's sole remedy for late payments by the State. Payment terms contained on Vendor's invoices shall have no force and effect.
- 1.2. Minority Contractor Initiative: Any Vendor awarded a contract under Section 20-10, 20-15, 20-25 or 20-30 of the Illinois Procurement Code (30 ILCS 500) of \$1,000 or more is required to pay a fee of \$15. The Comptroller shall deduct the fee from the first check issued to the Vendor under the contract and deposit the fee in the Comptroller's Administrative Fund. 15 ILCS 405/23.9.
- 1.3. Expenses: The State will not pay for supplies provided or services rendered, including related expenses, incurred prior to the execution of this contract by the Parties even if the effective date of the contract is prior to execution.
- 1.4. Prevailing Wage: As a condition of receiving payment Vendor must (i) be in compliance with the contract, (ii) pay its employees prevailing wages when required by law, (iii) pay its suppliers and subcontractors according to the terms of their respective contracts, and (iv) provide lien waivers to the State upon request. Examples of prevailing wage categories include public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resource services, security guard and food services. The prevailing wages are revised by the Department of Labor and are available on the Department's official website, which shall be deemed proper notification of any rate changes under this subsection. Vendor is responsible for contacting the Illinois Department of Labor to ensure understanding of prevailing wage requirements at 217-782-6206 or (<http://www.state.il.us/agency/idol/index.htm>).
- 1.5. Federal Funding: This contract may be partially or totally funded with Federal funds. If federal funds are expected to be used, then the percentage of the good/service paid using Federal funds and the total Federal funds expected to be used will be provided in the award notice.
- 1.6. Invoicing: By submitting an invoice, Vendor certifies that the supplies or services provided meet all requirements of the contract, and the amount billed and expenses incurred are as allowed in the contract. Invoices for supplies purchased, services performed and expenses incurred through June 30 of any year must be submitted to the State no later than July 31 of that year; otherwise Vendor may have to seek payment through the Illinois Court of Claims. 30 ILCS 105/25. All invoices are subject to statutory offset. 30 ILCS 210.
 - 1.6.1. Vendor shall not bill for any taxes unless accompanied by proof that the State is subject to the tax. If necessary, Vendor may request the applicable Agency/University state tax exemption number and federal tax exemption information.
 - 1.6.2. Vendor shall invoice at the completion of the contract unless invoicing is tied in the contract to milestones, deliverables, or other invoicing requirements agreed to in the contract.

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2. **ASSIGNMENT:** This contract may not be assigned, transferred in whole or in part by Vendor without the prior written consent of the State.
3. **SUBCONTRACTING:** For purposes of this section, subcontractors are those specifically hired to perform all or part of the work covered by the contract. Vendor must receive prior written approval before use of any subcontractors in the performance of this contract. Vendor shall describe, in an attachment if not already provided, the names and addresses of all authorized subcontractors to be utilized by Vendor in the performance of this contract, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to this contract. If required, Vendor shall provide a copy of any subcontracts within fifteen (15) days after execution of this contract. All subcontracts must include the same certifications that Vendor must make as a condition of this contract. Vendor shall include in each subcontract the subcontractor certifications as shown on the Standard Certification form available from the State. If at any time during the term of the Contract, Vendor adds or changes any subcontractors, then Vendor must promptly notify, by written amendment to the Contract, the State Purchasing Officer or the Chief Procurement Officer of the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to the Contract. 30 ILCS 500/20-120.
4. **AUDIT/RETENTION OF RECORDS:** Vendor and its subcontractors shall maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State pursuant the contract or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Vendor for a period of three (3) years from the later of the date of final payment under the contract or completion of the contract, and by the subcontractor for a period of three (3) years from the later of final payment under the term or completion of the subcontract. If Federal funds are used to pay contract costs, the Vendor and its subcontractors must retain their respective records for five (5) years. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the procuring Agency, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this contract or any subcontract for which adequate books and records are not available to support the purported disbursement. The Vendor or subcontractors shall not impose a charge for audit or examination of the Vendor's or subcontractor's books and records. 30 ILCS 500/20-65.
5. **TIME IS OF THE ESSENCE:** Time is of the essence with respect to Vendor's performance of this contract. Vendor shall continue to perform its obligations while any dispute concerning the contract is being resolved unless otherwise directed by the State.
6. **NO WAIVER OF RIGHTS:** Except as specifically waived in writing, failure by a Party to exercise or enforce a right does not waive that Party's right to exercise or enforce that or other rights in the future.
7. **FORCE MAJEURE:** Failure by either Party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control and not due to its negligence, including acts of nature, acts of terrorism, riots, labor disputes, fire, flood, explosion, and governmental prohibition. The non-declaring Party may cancel the contract without penalty if performance does not resume within thirty (30) days of the declaration.

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- 8. CONFIDENTIAL INFORMATION:** Each Party, including its agents and subcontractors, to this contract may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this contract. Vendor shall presume all information received from the State or to which it gains access pursuant to this contract is confidential. Vendor information, unless clearly marked as confidential and exempt from disclosure under the Illinois Freedom of Information Act, shall be considered public. No confidential data collected, maintained, or used in the course of performance of the contract shall be disseminated except as authorized by law and with the written consent of the disclosing Party, either during the period of the contract or thereafter. The receiving Party must return any and all data collected, maintained, created or used in the course of the performance of the contract, in whatever form it is maintained, promptly at the end of the contract, or earlier at the request of the disclosing Party, or notify the disclosing Party in writing of its destruction. The foregoing obligations shall not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; received in good faith from a third Party not subject to any confidentiality obligation to the disclosing Party; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving Party; or is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.
- 9. USE AND OWNERSHIP:** All work performed or supplies created by Vendor under this contract, whether written documents or data, goods or deliverables of any kind, shall be deemed work for hire under copyright law and all intellectual property and other laws, and the State of Illinois is granted sole and exclusive ownership to all such work, unless otherwise agreed in writing. Vendor hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that Vendor may have to such work including any so-called "moral rights" in connection with the work. Vendor acknowledges the State may use the work product for any purpose. Confidential data or information contained in such work shall be subject to confidentiality provisions of this contract.
- 10. INDEMNIFICATION AND LIABILITY:** The Vendor shall indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of: (a) any breach or violation by Vendor of any of its certifications, representations, warranties, covenants or agreements; (b) any actual or alleged death or injury to any person, damage to any real or personal property, or any other damage or loss claimed to result in whole or in part from Vendor's negligent performance; (c) any act, activity or omission of Vendor or any of its employees, representatives, subcontractors or agents; or (d) any actual or alleged claim that the services or goods provided under this contract infringe, misappropriate, or otherwise violate any intellectual property (patent, copyright, trade secret, or trademark) rights of a third party. In accordance with Article VIII, Section 1(a),(b) of the Constitution of the State of Illinois and 1973 Illinois Attorney General Opinion 78, the State may not indemnify private parties absent express statutory authority permitting the indemnification. Neither Party shall be liable for incidental, special, consequential, or punitive damages.
- 11. INSURANCE:** Vendor shall, at all times during the term and any renewals maintain and provide a Certificate of Insurance naming the State as additionally insured for all required bonds and insurance. Certificates may not be modified or canceled until at least thirty (30) days' notice has been provided to the State. Vendor shall provide: (a) General Commercial Liability occurrence form in amount of \$1,000,000 per occurrence (Combined Single Limit Bodily Injury and Property Damage) and \$2,000,000 Annual Aggregate; (b) Auto Liability, including Hired Auto and Non-owned Auto, (Combined Single Limit Bodily Injury and Property Damage) in amount of \$1,000,000

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per occurrence; and (c) Worker's Compensation Insurance in amount required by law. Insurance shall not limit Vendor's obligation to indemnify, defend, or settle any claims.

- 12. INDEPENDENT CONTRACTOR:** Vendor shall act as an independent contractor and not an agent or employee of, or joint venture with the State. All payments by the State shall be made on that basis.
- 13. SOLICITATION AND EMPLOYMENT:** Vendor shall not employ any person employed by the State during the term of this contract to perform any work under this contract. Vendor shall give notice immediately to the Agency's director if Vendor solicits or intends to solicit State employees to perform any work under this contract.
- 14. COMPLIANCE WITH THE LAW:** The Vendor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders, federal circulars and all license and permit requirements in the performance of this contract. Vendor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes. Vendor shall obtain at its own expense, all licenses and permissions necessary for the performance of this contract.
- 15. BACKGROUND CHECK:** Whenever the State deems it reasonably necessary for security reasons, the State may conduct, at its expense, criminal and driver history background checks of Vendor's and subcontractor's officers, employees or agents. Vendor or subcontractor shall reassign immediately any such individual who, in the opinion of the State, does not pass the background check.
- 16. APPLICABLE LAW:**
 - 16.1. PREVAILING LAW:** This contract shall be construed in accordance with and is subject to the laws and rules of the State of Illinois.
 - 16.2. EQUAL OPPORTUNITY:** The Department of Human Rights' Equal Opportunity requirements are incorporated by reference. 44 ILL. ADM. CODE 750.
 - 16.3. COURT OF CLAIMS; ARBITRATION; SOVEREIGN IMMUNITY:** Any claim against the State arising out of this contract must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1. The State shall not enter into binding arbitration to resolve any dispute arising out of this contract. The State of Illinois does not waive sovereign immunity by entering into this contract.
 - 16.4. OFFICIAL TEXT:** The official text of the statutes cited herein is incorporated by reference. An unofficial version can be viewed at (www.ilga.gov/legislation/ilcs/ilcs.asp).
- 17. ANTI-TRUST ASSIGNMENT:** If Vendor does not pursue any claim or cause of action it has arising under federal or state antitrust laws relating to the subject matter of the contract, then upon request of the Illinois Attorney General, Vendor shall assign to the State rights, title and interest in and to the claim or cause of action.
- 18. CONTRACTUAL AUTHORITY:** The Agency that signs for the State of Illinois shall be the only State entity responsible for performance and payment under the contract. When the Chief Procurement Officer or authorized designee signs in addition to an Agency, they do so as approving officer and shall have no liability to Vendor. When the Chief Procurement Officer or authorized designee, or State Purchasing Officer signs a master contract on behalf of State agencies, only the Agency that places an order with the Vendor shall have any liability to Vendor for that order.

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- 19. EXPATRIATED ENTITIES:** Except in limited circumstances, no business or member of a unitary business group, as defined in the Illinois Income Tax Act, shall submit a bid for or enter into a contract with a State agency if that business or any member of the unitary business group is an expatriated entity.
- 20. NOTICES:** Notices and other communications provided for herein shall be given in writing via electronic mail whenever possible. If transmission via electronic mail is not possible, then notices and other communications shall be given in writing via registered or certified mail with return receipt requested, via receipted hand delivery, via courier (UPS, Federal Express or other similar and reliable carrier), or via facsimile showing the date and time of successful receipt. Notices shall be sent to the individuals who signed this contract using the contact information following the signatures. Each such notice shall be deemed to have been provided at the time it is actually received. By giving notice, either Party may change its contact information.
- 21. MODIFICATIONS AND SURVIVAL:** Amendments, modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this contract officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the State's and the Vendor's terms, conditions and attachments, the State's terms, conditions and attachments shall prevail.
- 22. PERFORMANCE RECORD / SUSPENSION:** Upon request of the State, Vendor shall meet to discuss performance or provide contract performance updates to help ensure proper performance of the contract. The State may consider Vendor's performance under this contract and compliance with law and rule to determine whether to continue the contract, suspend Vendor from doing future business with the State for a specified period of time, or whether Vendor can be considered responsible on specific future contract opportunities.
- 23. FREEDOM OF INFORMATION ACT:** This contract and all related public records maintained by, provided to or required to be provided to the State are subject to the Illinois Freedom of Information Act (FOIA) (50 ILCS 140) notwithstanding any provision to the contrary that may be found in this contract.
- 24. SCHEDULE OF WORK:** Any work performed on State premises shall be done during the hours designated by the State and performed in a manner that does not interfere with the State and its personnel.
- 25. WARRANTIES FOR SUPPLIES AND SERVICES:**
- 25.1. Vendor warrants that the supplies furnished under this contract will: (a) conform to the standards, specifications, drawing, samples or descriptions furnished by the State or furnished by the Vendor and agreed to by the State, including but not limited to all specifications attached as exhibits hereto; (b) be merchantable, of good quality and workmanship, and free from defects for a period of twelve months or longer if so specified in writing, and fit and sufficient for the intended use; (c) comply with all federal and state laws, regulations and ordinances pertaining to the manufacturing, packing, labeling, sale and delivery of the supplies; (d) be of good title and be free and clear of all liens and encumbrances and; (e) not infringe any patent, copyright or other intellectual property rights of any third party. Vendor agrees to reimburse the State for any losses, costs, damages or expenses, including without limitations, reasonable attorney's fees and expenses, arising from failure of the supplies to meet such warranties.

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- 25.2. Vendor shall insure that all manufacturers' warranties are transferred to the State and shall provide a copy of the warranty. These warranties shall be in addition to all other warranties, express, implied or statutory, and shall survive the State's payment, acceptance, inspection or failure to inspect the supplies.
- 25.3. Vendor warrants that all services will be performed to meet the requirements of the contract in an efficient and effective manner by trained and competent personnel. Vendor shall monitor performances of each individual and shall reassign immediately any individual who is not performing in accordance with the contract, who is disruptive or not respectful of others in the workplace, or who in any way violates the contract or State policies.
- 26. REPORTING, STATUS AND MONITORING SPECIFICATIONS:** Vendor shall immediately notify the State of any event that may have a material impact on Vendor's ability to perform the contract.
- 27. EMPLOYMENT TAX CREDIT:** Vendors who hire qualified veterans and certain ex-offenders may be eligible for tax credits. 35 ILCS 5/216, 5/217. Please contact the Illinois Department of Revenue (telephone #: 217-524-4772) for information about tax credits.
- 28. TERMINATION FOR CAUSE:** The State may terminate this contract, in whole or in part, immediately upon notice to the Vendor if: (a) the State determines that the actions or inactions of the Vendor, its agents, employees or subcontractors have caused, or reasonably could cause, jeopardy to health, safety, or property, or (b) the Vendor has notified the State that it is unable or unwilling to perform the contract.
- 28.1. If Vendor fails to perform to the State's satisfaction any material requirement of this contract, is in violation of a material provision of this contract, or the State determines that the Vendor lacks the financial resources to perform the contract, the State shall provide written notice to the Vendor to cure the problem identified within the period of time specified in the State's written notice. If not cured by that date the State may either: (a) immediately terminate the contract without additional written notice or (b) enforce the terms and conditions of the contract.
- 28.2. For termination due to any of the causes contained in this Section, the State retains its rights to seek any available legal or equitable remedies and damages.
- 29. TERMINATION FOR CONVENIENCE:** The State may, for its convenience and with thirty (30) days prior written notice to Vendor, terminate this contract in whole or in part and without payment of any penalty or incurring any further obligation to the Vendor.
- 29.1. The Vendor shall be entitled to compensation upon submission of invoices and proof of claim for supplies and services provided in compliance with this contract up to and including the date of termination.
- 30. AVAILABILITY OF APPROPRIATION:** This contract is contingent upon and subject to the availability of funds. The State, at its sole option, may terminate or suspend this contract, in whole or in part, without penalty or further payment being required, if (1) the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason (30 ILCS 500/20-60), (2) the Governor decreases the Department's funding by reserving some or all of the Department's

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appropriation(s) pursuant to power delegated to the Governor by the Illinois General Assembly, or (3) the Department determines, in its sole discretion or as directed by the Office of the Governor, that a reduction is necessary or advisable based upon actual or projected budgetary considerations. Contractor will be notified in writing of the failure of appropriation or of a reduction or decrease.

REQUIRED FEDERAL AID CONTRACT PROVISIONS

The Illinois Abandoned Mined Lands Reclamation program is federally funded through grants made to the State of Illinois, Abandoned Mined Lands Reclamation, by the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement. The following Required Contract Provisions are applicable to the construction contract for this reclamation project.

I. GENERAL

1. 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.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in the Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the Required Contract Provisions.
3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

II. NONDISCRIMINATION

(Applicable to Federal-aid construction contracts and related subcontracts and purchase orders exceeding \$10,000.)

1. Selection of Labor: During the performance of this contract, the contractor shall not:
 - a. discriminate against labor from any other State, possession, or territory of the United States, or
 - b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.
2. Employment Practices:
 - a. The Equal Employment Opportunity Affirmative Action Notice set forth in 41 CFR 60-4.2 and the Equal Employment Opportunity Construction Contract Specifications set forth in 41 CFR 60-4.3 are incorporated by reference in this contract.
 - b. Regulation 41 CFR 60-4.2 requires 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. The goals for this contract are stated elsewhere in the bidding documents and in the construction contract.
 - c. Regulation 41 CFR 60-4.3 provides specific affirmative action standards the contractor shall implement to ensure equal employment opportunity in achieving the minority and female participation goals set forth in paragraph 2b of this Section.

3. Equal Opportunity Clause: During the performance of this contract, the contractor agrees as follows:
- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - c. The contractor will send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the said labor union or workers' representative of the contractor's commitments under this Section II, paragraph 3.
 - d. The contractor will comply with all provisions of Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, and of the rules, regulations (41 CFR Part 60), and relevant orders of the Secretary of Labor.
 - e. The contractor will furnish all information and reports required by Executive Order 11246 and by rules, regulations, and orders of the Secretary of Labor, pursuant thereto, and will permit access to its books, records, and accounts by the Abandoned Mined Lands Reclamation and the U.S. Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this Section II, paragraph 3, or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part. The contractor may be declared ineligible for further Government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The contractor will include the provisions of this Section II, paragraph 3 in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246. The contractor will take such action with respect to any subcontract or purchase order as the Abandoned Mined Lands Reclamation (AMLRC) and the U.S. Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a contractor becomes a party to litigation by a subcontractor or vendor as a result of such direction, the contractor may request the AMLRC to enter into such litigation to protect the interest of the State. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment:

- a. The contractor shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. In all solicitations made by the contractor each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract relative to nondiscrimination on the grounds of race, color, sex, or national origin.
- b. In the event of the contractor's noncompliance with the nondiscrimination provisions of this Section II, paragraph 4, this contract may be subject to sanctions including but not limited to the withholding of payments to the contractor under the contract until the contractor complies and/or cancellation, termination, or suspension of the contract in whole or in part.
- c. The contractor shall include the provisions of this paragraph 4 in every subcontract, including procurement of materials and leases of equipment. The contractor shall take such action with respect to any subcontractor or procurement as the AMLRC or U.S. Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the contractor may request the AMLRC to enter into such litigation to protect the interests of the State. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

III. NONSEGREGATED FACILITIES

(Applicable to Federal-aid construction contracts and related subcontracts exceeding \$10,000.)

1. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex.
2. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise.
3. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements exceeding \$10,000 and that it will retain such certifications in its files.

IV. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to Federal-aid construction contracts and related subcontracts exceeding \$100,000.)

By submission of this bid, or the execution of this contract or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq., as amended by Pub. L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR Part 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. That the firm shall promptly notify the AMLRC of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraphs 1 through 4 of this Section IV in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

V. COMPLIANCE WITH COPELAND "ANTI-KICKBACK" ACT

The contractor and any and all subcontractors shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3), which prohibits contractors or subcontractors from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is entitled.

VI. INTERPRETATION OF FEDERAL AID PROPOSAL NOTICE

The Federal Aid Proposal Notice which is included in the bidding documents further illustrates the required federal-aid contract provisions. Whenever in said Notice the following terms or pronouns in place of them are used, they shall be interpreted as follows:

"U.S. Department of Transportation (DOT)" shall be interpreted to mean U.S. Department of the Interior.

"Federal Highway Administration (FHWA)" shall be interpreted to mean the Office of Surface Mining Reclamation and Enforcement.

"State highway agency (SHA)" shall be interpreted to mean the Abandoned Mined Lands Reclamation .

FEDERAL AID PROPOSAL NOTICE

NOTICE TO PROSPECTIVE FEDERAL-AID CONSTRUCTION CONTRACTORS

I. CERTIFICATION OF NONSEGREGATED FACILITIES

- (a) A Certification of Nonsegregated Facilities, as required by the May 9, 1967, Order of the Secretary of Labor (32 F. R. 7439, May 19, 1967) on Elimination of Segregated Facilities (is included in the proposal and must be submitted prior to the award of a Federal-aid highway construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.)
- (b) Bidders are cautioned as follows: By signing this bid, the bidder will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in this proposal. This certification provides that the bidder does not maintain or provide for his employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the bidder will not maintain such segregated facilities.
- (c) Bidders receiving Federal-aid highway construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, will be required to provide for the forwarding of the following notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

"NOTICE TO PROSPECTIVE SUBCONTRACTORS AND MATERIAL SUPPLIERS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES"

- (a) A Certification of Nonsegregated Facilities as required by the May 9, 1967, Order of the Secretary of Labor (32 F. R. 7439, May 19, 1967) on Elimination of Segregated Facilities, which is included in the proposal, or attached hereto, must be submitted by each subcontractor and material supplier prior to the award of one subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds \$10,000 and is not exempt from the provisions of the Equal Opportunity clause.
- (b) Subcontractors and material suppliers are cautioned as follows: By signing the subcontract or entering into a material supply agreement, the subcontractor or material supplier will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in the subcontract or material supply agreement. This certification provides that the subcontractor or material supplier does not maintain or provide for his employees facilities which are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. This certification also provides that the subcontractor or material supplier will not maintain such segregated facilities.
- (c) Subcontractors or material suppliers receiving subcontract awards or material supply agreements exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause."

II. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

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

SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

FEDERAL-AID CONTRACTS

1. General

- a. Equal Employment Opportunity Requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form PR-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, USC, as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.
- b. The contractor will work with the State highway departments and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.
- c. The contractor, and all his/her subcontractors holding subcontracts (not including material suppliers) of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy

The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training.

3. Equal Employment Opportunity Officer

The contractor will designate and make known to the State highway department contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

- a. All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
 - (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.
 - (3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.
- b. In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:
 - (1) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - (2) The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

- a. When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers, or other publication, having a large circulation among minority groups in the area from which the project work force would normally be derived.
- b. The contract will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same; such implementation violates Executive Order 11246, as amended.)

- c. The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. Personnel Actions

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation,

the contractor will inform every complainant of all of his avenues of appeal.

7. Training and Promotion

- a. The contractor will assist in locating, qualifying and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in the Training Special Provision.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions

If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

- a. The contractor will use his best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- b. The contractor will use his best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the State highway department and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held

that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the State highway department.

9. Subcontracting

- a. The contractor will use his best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from State highway department personnel.
- b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports

- a. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:
 - (1) the number of minority and nonminority group members and women employed in each work classification on the project.
 - (2) the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force).
 - (3) the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees.
 - (4) the progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
- b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State highway department and the Federal Highway Administration.
- c. The contractors will submit to the State highway department a monthly report every month 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 contract work and the number of hours worked. This information is to be reported on Form BC-956. If on-the-job training is being required by "Training Special Provision", the contractor will be required to furnish Form BC-1014 weekly and Form BC-1052 quarterly.