

# 83

**Letting August 4, 2023**

## **Notice to Bidders, Specifications and Proposal**



**Contract No. 76M86  
ST CLAIR County  
Section 82-3,4HL-4  
Route FAI 70  
Project HSIP-ZVSK(274)  
District 8 Construction Funds**

Prepared by

Checked by

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(Printed by authority of the State of Illinois)



- 1. TIME AND PLACE OF OPENING BIDS.** Electronic bids are to be submitted to the electronic bidding system (iCX-Integrated Contractors Exchange). All bids must be submitted to the iCX system prior to 12:00 p.m. August 4, 2023 at which time the bids will be publicly opened from the iCX SecureVault.
- 2. DESCRIPTION OF WORK.** The proposed improvement is identified and advertised for bids in the Invitation for Bids as:

**Contract No. 76M86  
ST CLAIR County  
Section 82-3,4HL-4  
Project HSIP-ZVSK(274)  
Route FAI 70  
District 8 Construction 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 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, and, if the work is to be paid wholly or in part with Federal-aid funds, Federal 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.
- 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 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 improvement, and to waive technicalities.

By Order of the  
Illinois Department of Transportation

Omer Osman,  
Secretary

INDEX  
 FOR  
 SUPPLEMENTAL SPECIFICATIONS  
 AND RECURRING SPECIAL PROVISIONS

Adopted January 1, 2023

This index contains a listing of SUPPLEMENTAL SPECIFICATIONS and frequently used RECURRING SPECIAL PROVISIONS.

ERRATA    Standard Specifications for Road and Bridge Construction                      (Adopted 1-1-22)(Revised 1-1-23)

SUPPLEMENTAL SPECIFICATIONS

<u>Std. Spec. Sec.</u>	<u>Page No.</u>
202 Earth and Rock Excavation .....	1
204 Borrow and Furnished Excavation .....	2
207 Porous Granular Embankment .....	3
211 Topsoil and Compost .....	4
407 Hot-Mix Asphalt Pavement (Full-Depth) .....	5
420 Portland Cement Concrete Pavement .....	6
502 Excavation for Structures .....	7
509 Metal Railings .....	8
540 Box Culverts .....	9
542 Pipe Culverts .....	29
586 Granular Backfill for Structures .....	34
644 High Tension Cable Median Barrier .....	35
782 Reflectors .....	36
801 Electrical Requirements .....	38
821 Roadway Luminaires .....	40
1003 Fine Aggregates .....	41
1004 Coarse Aggregates .....	42
1020 Portland Cement Concrete .....	43
1030 Hot-Mix Asphalt .....	44
1067 Luminaire .....	45
1097 Reflectors .....	52

RECURRING SPECIAL PROVISIONS

The following RECURRING SPECIAL PROVISIONS indicated by an "X" are applicable to this contract and are included by reference:

<u>CHECK SHEET #</u>	<u>PAGE NO.</u>
1 X Additional State Requirements for Federal-Aid Construction Contracts .....	53
2 X Subletting of Contracts (Federal-Aid Contracts) .....	56
3 X EEO .....	57
4 Specific EEO Responsibilities Non Federal-Aid Contracts .....	67
5 Required Provisions - State Contracts .....	72
6 Asbestos Bearing Pad Removal .....	78
7 Asbestos Waterproofing Membrane and Asbestos HMA Surface Removal .....	79
8 Temporary Stream Crossings and In-Stream Work Pads .....	80
9 Construction Layout Stakes .....	81
10 Use of Geotextile Fabric for Railroad Crossing .....	84
11 Subsealing of Concrete Pavements .....	86
12 Hot-Mix Asphalt Surface Correction .....	90
13 Pavement and Shoulder Resurfacing .....	92
14 Patching with Hot-Mix Asphalt Overlay Removal .....	93
15 Polymer Concrete .....	95
16 Reserved.....	97
17 Bicycle Racks .....	98
18 Temporary Portable Bridge Traffic Signals .....	100
19 Nighttime Inspection of Roadway Lighting .....	102
20 English Substitution of Metric Bolts .....	103
21 Calcium Chloride Accelerator for Portland Cement Concrete .....	104
22 Quality Control of Concrete Mixtures at the Plant .....	105
23 X Quality Control/Quality Assurance of Concrete Mixtures .....	113
24 Reserved .....	129
25 Reserved .....	130
26 Temporary Raised Pavement Markers .....	131
27 Restoring Bridge Approach Pavements Using High-Density Foam .....	132
28 Portland Cement Concrete Inlay or Overlay .....	135
29 Portland Cement Concrete Partial Depth Hot-Mix Asphalt Patching .....	139
30 Longitudinal Joint and Crack Patching .....	142
31 Concrete Mix Design – Department Provided .....	144
32 Station Numbers in Pavements or Overlays .....	145

## TABLE OF CONTENTS

LOCATION OF PROJECT.....	1
DESCRIPTION OF PROJECT.....	1
SUBMITTAL OF EEO/LABOR DOCUMENTATION.....	1
PEAK HOUR RESTRICTIONS .....	4
TRAFFIC CONTROL PLAN.....	4
TRAFFIC CONTROL AND PROTECTION, (SPECIAL) .....	5
AGGREGATE BASE COURSE, TYPE CA-16.....	6
CHAIN LINK FENCE, 8' (SPECIAL) AND CHAIN LINK GATES (SPECIAL).....	6
REMOVAL OF CONDUIT ATTACHED TO STRUCTURE.....	7
REMOVAL OF EXISTING TOWER LUMINAIRE, NO SALVAGE.....	7
REMOVAL OF TOWER FOUNDATION .....	8
REMOVAL OF LIGHT TOWER, NO SALVAGE .....	8
REMOVAL AND DISPOSAL OF REGULATED SUBSTANCES .....	8
STATUS OF UTILITIES TO BE ADJUSTED .....	18
BLENDED FINELY DIVIDED MINERALS (BDE).....	19
COMPENSABLE DELAY COSTS (BDE).....	19
CONSTRUCTION AIR QUALITY – DIESEL RETROFIT (BDE).....	22
DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION (BDE).....	24
PORTLAND CEMENT CONCRETE (BDE).....	33
RAILROAD PROTECTIVE LIABILITY INSURANCE (BDE).....	33
SOURCE OF SUPPLY AND QUALITY REQUIREMENTS (BDE).....	34
SPEED DISPLAY TRAILER (BDE) .....	35
SUBCONTRACTOR AND DBE PAYMENT REPORTING (BDE).....	36
SUBCONTRACTOR MOBILIZATION PAYMENTS (BDE).....	36
SUBMISSION OF PAYROLL RECORDS (BDE) .....	37
TRAFFIC SPOTTERS (BDE).....	38
VEHICLE AND EQUIPMENT WARNING LIGHTS (BDE).....	39
WEEKLY DBE TRUCKING REPORTS (BDE).....	40
WORK ZONE TRAFFIC CONTROL DEVICES (BDE) .....	40
WORKING DAYS (BDE) .....	42
PROJECT LABOR AGREEMENT .....	43

## STATE OF ILLINOIS

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### SPECIAL PROVISIONS

The following Special Provisions supplement the "Standard Specifications for Road and Bridge Construction," adopted January 1, 2022, the latest edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways," and the "Manual of Test Procedures for Materials" in effect on the date of invitation for bids, and the Supplemental Specifications and Recurring Special Provisions indicated on the Check Sheet included herein which apply to and govern the construction of FAI Route 70 (I-55/70/64), Project HSIP-ZVSK(274), Section 82-3, 4HL-4, St. Clair County, Contract No. 76M86, and in case of conflict with any part or parts of said Specifications, the said Special Provisions shall take precedence and shall govern.

FAI Route 70 (I-55/70/64)  
Project HSIP-ZVSK(274)  
Section 82-3, 4HL-4  
St. Clair County  
Contract No. 76M86

#### LOCATION OF PROJECT

This project is located on I-55/70/64 from the Mississippi River to east of I-64 (Tri-Level).

#### DESCRIPTION OF PROJECT

This project will provide high mast light tower replacement to the abovementioned location and various overhead signage.

#### SUBMITTAL OF EEO/LABOR DOCUMENTATION

Effective: April 2016

This work shall be done in accordance with Check Sheets No. 1, 3, and 5 of the IDOT Supplemental Specifications and Recurring Special Provisions and the "Weekly DBE Trucking Reports (BDE)" special provision, except as here-in modified.

#### PAYROLL AND STATEMENT OF COMPLIANCE:

Certified payroll (FORM SBE 48 OR AN APPROVED FACSIMILE) and the Statement of Compliance (FORM SBE 348) shall be submitted by two methods:

1. By Mail (United States Postal Service): The ORIGINAL of the certified payroll and the Statement of Compliance for the Prime Contractor and each Subcontractor shall be submitted by mail to the Regional Engineer for District 8.
2. Electronically: Scan both the ORIGINAL of the certified payroll and the Statement of Compliance to the same PDF file, and email to the District at the email address designated by the District EEO Officer.

SBE 48 and SBE 348 forms shall be submitted weekly and will be considered late if received after midnight seven business days after the payroll ending date.

WEEKLY DBE TRUCKING REPORT:

The Weekly DBE Trucking Report (FORM SBE 723) shall be submitted electronically. Scan the form to a PDF file, and email to the District at the email address designated by the District EEO Officer.

SBE 723 forms shall be submitted weekly and will be considered late if received after midnight ten business days following the reporting period.

MONTHLY LABOR SUMMARY & MONTHLY CONTRACT ACTIVITY REPORTS:

The Monthly Labor Summary Report (MLSR) shall be submitted by one of two methods:

1. For contractors having IDOT contracts valued in the aggregate at \$250,000 or less, the report may be typed or clearly handwritten using Form D8 PI0148. Submit the ORIGINAL report by mail to the Regional Engineer for District Eight. Contractors also have the option of using the method #2 outlined below.
2. For contractors having IDOT contracts valued in the aggregate at more than \$250,000, the report must be submitted in a specific "Fixed Length Comma Delimited ASCII Text File Format". This file shall be submitted by e-mail using specific file formatting criteria provided by the District EEO Officer. Contractors must submit a sample text file to District 8 for review at least 14 days prior to the start of construction.

The Monthly Contract Activity Report (MCAR) may be typed or clearly handwritten using Form D8 PI0149.

The MLSR and the MCAR shall be submitted concurrently. If the method of transmittal is method #1 above, then both the MLSR and the MCAR shall be mailed together in the same envelope. If the method of transmittal is method #2 above, then the MCAR shall be scanned to a .pdf file and attached to the email containing the MLSR .txt file.

The MLSR and MCAR must be submitted for each consecutive month, for the duration of the project, and will be considered late if received after midnight ten calendar days following the reporting period.

REQUEST FOR APPROVAL OF SUBCONTRACTOR:

The ORIGINAL and one copy of the Request for Approval of Subcontractor (FORM BC 260A) shall be submitted to the District at the IDOT Preconstruction Conference.

SUBSTANCE ABUSE PREVENTION PROGRAM CERTIFICATION:

The ORIGINAL and one copy of the Substance Abuse Prevention Program Certification (FORM BC 261) shall be submitted to the District at the IDOT Preconstruction Conference.

The Contractor is required to follow submittal procedures as provided by the EEO Officer at the preconstruction conference and to follow all revisions to those procedures as issued thereafter.

If a report is rejected, it is the Contractor's responsibility to make required adjustments and/or corrections and resubmit the report. Reports not submitted and accepted within the established timeframes will be considered late.

Disclosure of this information is necessary to accomplish the statutory purpose as outlined under 23CFR part 230 and 41CFR part 60.4 and the Illinois Human Rights Act. Disclosure of this information is REQUIRED. **Failure to comply with this special provision may result in the withholding of payments to the Contractor and/or cancellation, termination, or suspension of the contract in whole or part.**

**This special provision must be included in each subcontract agreement.**

ALL HARD COPY FORMS TO BE SUBMITTED TO:

Region 5 Engineer  
Illinois Department of Transportation  
ATTN: EEO/LABOR OFFICE  
1102 Eastport Plaza Drive  
Collinsville, IL 62234-6198

Compliance with this special provision shall be included in the cost of the contract, and no additional compensation will be allowed for any costs incurred.



## PEAK HOUR RESTRICTIONS

The Contractor shall have **all lanes** open to traffic during peak hours in **each direction** along I-55/64 and I-55/70 as shown in the plans. The Contractor shall not be permitted to conduct any type of operation that would impede the flow of traffic during peak hours. The Contractor shall be permitted to have lane closures through the weekends without peak hour restrictions, except for those holiday weekends specified in Article 107.09.

Peak hours are defined as:

### I-55/64 and I-55/70

Westbound 6:00 am to 9:00 am and 3:00 pm to 7:00 pm

Eastbound 3:00 pm to 6:00 pm

Should the Contractor fail to have all lanes open to traffic during the defined peak hours, the Contractor shall be liable and shall pay to the Department \$1000, not as a penalty but as liquidated damages, for every 15-minute interval or portion thereof that the flow of traffic is impeded by the Contractor's operations. The Department will deduct these liquidated damages from any monies due or to become due to the Contractor from the Department.

## TRAFFIC CONTROL PLAN

*Effective: July 12, 1993*

*Revised: May 12, 1997*

Traffic control shall be in accordance with the applicable sections of the Standard Specifications for Road and Bridge Construction, the applicable guidelines contained in the National Manual on Uniform Traffic Control Devices for Streets and Highways, Illinois Supplement to the National Manual of Uniform Traffic Control Devices, these special provisions, and any special details and highway standards contained herein and in the plans.

Special attention is called to Articles 107.09 and 107.14 of the Standard Specifications for Road and Bridge Construction and the following highway standards relating to traffic control:

701001	701006	701101	701106	701400	701401
701411	701428	701446	701451	701456	701901

In addition, the following special provisions will also govern traffic control for this project:

- Traffic Control and Protection (Special)
- Peak Hour Restrictions
- Speed Display Trailer
- Traffic Spotters
- Work Zone Traffic Control Devices
- Vehicle and Equipment Warning Lights

## **TRAFFIC CONTROL AND PROTECTION, (SPECIAL)**

This work shall consist of coordinating, furnishing, installing, maintaining, monitoring, relocating, and the complete removal of all traffic control devices necessary for the purpose of regulating, warning, or directing traffic for the sign panel replacement, sign lighting removal and sign walkway replacement. This work shall be completed in accordance with Article 107.14 and Section 701; all applicable highway standards including 701401, the special provisions, and as specified herein.

The plan details present a plan for implementing the necessary traffic control for this work. The plans do not attempt to detail or define all construction conditions which may require additional installation of traffic control items to meet unforeseen needs. The Contractor may revise or modify the traffic control as shown in the plans to address any unforeseen needs upon written permission of the Engineer.

Existing regulatory traffic signing shall be removed or covered as needed for each stage of construction. The Contractor shall furnish, install, and maintain all temporary signing as specified in the plans and highway standards. This work will not be paid for separately but will be governed by Article 107.25.

Changeable message signs shall be installed two weeks prior to the required closures at locations in plans.

Method of Measurement. All traffic control and protection required by this provision will be measured for payment on a lump sum basis. This includes all traffic control necessary to construct the road closures and provide for the traffic control for any alterations, modifications, or additions necessary to accommodate the traffic control to construct the various work items shown in the plans.

The furnishing, installation, relocation, and removal of, and not limited to, temporary signing, signing adjustments, type III barricades, arrow boards, and channelizers per the Standard Specifications for Road and Bridge Construction; the IDOT highway standards; the staging, detour, and road closure details in the plans will not be paid for separately but will be included in this bid item.

Basis of Payment. Protection will be paid for at the contract unit price per LUMP SUM for TRAFFIC CONTROL AND PROTECTION, (SPECIAL).

### **AGGREGATE BASE COURSE, TYPE CA-16**

Description. This work shall consist of furnishing all labor, equipment, and material for the installation of aggregate base course, type CA-16. This work shall be in accordance with the Section 351 of the Standard Specifications

Construction Requirements. Aggregate base course of the type and gradation specified shall be constructed in accordance with Section 351 of the Standard Specifications for Road and Bridge Construction.

Material shall be stockpiled such that material is free from standing water, uniformly graded, and free from organic material, sediment, or debris.

Care shall be taken not to crush the aggregate during compaction.

The work shall be protected from sediment deposition and damage. Aggregate base materials contaminated with sediment shall be removed and replaced with clean material and compacted in a manner approved by the Engineer.

Method of Measurement. This work will be measured in place for payment in tons.

Basis of Payment. Payment for this work shall be at the contract unit price per TON for AGGREGATE BASE COURSE, TYPE CA-16, which will include all labor, material, and equipment necessary to complete this item of work.

### **CHAIN LINK FENCE, 8' (SPECIAL) AND CHAIN LINK GATES (SPECIAL)**

This work shall consist of furnishing, erecting, and installing chain link fence, gates, and accessories in accordance with Section 664 of the Standard Specifications, at locations shown in the plans, and as directed by the Engineer.

The chain link fence and gates shall have three strands of barbed wire across the top of the fence.

Height of the fence and gates shall be measured to the top of the chain link fabric.

Type of gate is shown on the plans. Gate shall be 8' x 4' Single. Gates shall include heavy duty padlocks to be paid as part of the chain link gates.

Method of Measurement. Chain link fence (special) will be measured for payment in feet along the top of the fence from center to center of end posts, excluding the length occupied by gates.

No additional compensation shall be given to the Contractor if the size or depth of the fence post excavation exceeds the dimensions in the plans or highway standard.

Removal of pavement, curb and gutter, or other roadway improvements that interfere with the construction of the fence as shown in the plans and standards shall not be measured for payment but will be included in the costs of the fence or gates.

Basis of Payment: This work will be paid for at the contract unit price per FOOT for CHAIN LINK FENCE, (SPECIAL), of the height specified, and at the contract unit price per EACH for CHAIN LINK GATES (SPECIAL).

## **REMOVAL OF CONDUIT ATTACHED TO STRUCTURE**

Description: This work shall consist of removing existing conduit attached to structures according to applicable portions of Section 842 of the Standard Specifications for Road and Bridge Construction and as directed by the Engineer.

Removal: Electric conduit shall be cut off and abandoned to a minimum depth of 1 ft. below grade. Conduit, cables, hanger system, junction boxes, and all associated materials shall become the property of the Contractor and shall be removed from the jobsite and disposed of at no additional cost.

Method of Measurement: The conduit attached to the structure will be measured for payment in feet in place.

Basis of Payment: This work will be paid for at the contract unit price per FOOT removed for REMOVE CONDUIT ATTACHED TO STRUCTURE.

## **REMOVAL OF EXISTING TOWER LUMINAIRE, NO SALVAGE**

Description: This work shall consist of removing an existing high mast luminaire in accordance with applicable portions of Section 842 of the Standard Specifications for Road and Bridge Construction and as directed by the Engineer. The luminaire shall include all appurtenances that comprise the complete operating unit.

Removal: The existing high mast luminaire shall not be salvaged and shall be removed from the site and disposed of at the Contractor's expense.

Basis of Payment: This work will be paid for at the contract unit price per EACH for REMOVAL OF EXISTING TOWER LUMINAIRE, NO SALVAGE which shall be payment in full for performing the work specified herein.

## **REMOVAL OF TOWER FOUNDATION**

Description: This work shall consist of the partial removal of the light tower foundation at the location shown on the plans according to applicable portions of Section 842 of the Standard Specifications for Road and Bridge Construction and as directed by the Engineer.

Removal: The existing foundation including anchor bolts, conduit, reinforcing bars, and other components shall be removed to a depth of 2.5 ft below grade. All debris shall be removed from the site and disposed of at the Contractor's expense. Impact attenuators and attenuator bases shall be removed after the tower foundation has been removed. Holes shall be backfilled with soil in uniform lifts not exceeding 6 in. thick loose measure and compacted.

Basis of Payment: This work will be paid for at the contract unit price per EACH for REMOVAL OF TOWER FOUNDATION which shall be payment in full for performing the work specified herein.

## **REMOVAL OF LIGHT TOWER, NO SALVAGE**

Description: This work shall consist of removing an existing high mast light tower according to applicable portions of Section 842 of the Standard Specifications for Road and Bridge Construction and as directed by the Engineer. The tower shall include lowering ring, lowering device equipment, highmast luminaires, and all appurtenances that comprise the complete operating unit.

Removal: The tower shall not be salvaged and shall be removed from the site and disposed.

Basis of Payment: This work will be paid for at the contract unit price per EACH for REMOVAL OF LIGHT TOWER, NO SALVAGE, which shall be payment in full for performing the work specified herein.

## **REMOVAL AND DISPOSAL OF REGULATED SUBSTANCES**

Description. This work shall consist of the removal and disposal of regulated substances according to Section 669 of the Standard Specifications as revised below.

Contract Specific Work Areas. The excavated soil and groundwater within the work areas listed below shall be managed as either "uncontaminated soil", hazardous waste, special waste, or non-special waste. For stationing, the lateral distance is measured from centerline and the farthest distance is the offset distance or construction limit, whichever is less.

Soil Disposal Analysis. When the waste material requires sampling for landfill disposal acceptance, the Contractor shall secure a written list of the specific analytical parameters and analytical methods required by the landfill. The Contractor shall collect and analyze the required number of samples for the parameters required by the landfill using the appropriate analytical

procedures. A copy of the required parameters and analytical methods (from landfill email or on landfill letterhead) shall be provided as Attachment 4A of the BDE 2733 (Regulated Substances Final Construction Report). The price shall include all sampling materials and effort necessary for collection and management of the samples, including transportation of samples from the job site to the laboratory. The Contractor shall be responsible for determining the specific disposal facilities to be utilized and collect and analyze any samples required for disposal facility acceptance using a NELAP certified analytical laboratory registered with the State of Illinois.

The following contract specific work areas shall be monitored by the Environmental Firm for soil contamination and workers protection.

**ISGS Site 3806-5 - Landfill, 1200 N. 1st Street, Fairmont City, St. Clair County**

- Station 80+90 to Station 85+45, 0 to 200 feet LT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 80+90 to Station 85+45, 0 to 200 feet LT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.

**ISGS Site 3806-8 - ROW, 1-55/I-64/US40 MM 0.6 to 2.6, East St. Louis, St. Clair County**

- Station 64+00 to Station 67+5, 25 feet LT to 300 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 64+00 to Station 67+5, 25 feet LT to 300 feet RT. The Engineer has determined this material from 5 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 67+05 to Station 68+55, 25 feet LT to 250 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 67+05 to Station 68+55, 25 feet LT to 250 feet RT. The Engineer has determined this material from 5 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters include: metals and pH.
- Station 69+00 to Station 72+50, 25 feet LT to 50 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 72+50 to Station 76+90, 25 feet LT to 200 feet RT. The Engineer has determined this material from 0 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 76+90 to Station 80+50, 25 feet LT to 450 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria

of and shall be managed in accordance with Article 669.05(a)(3). Contaminants of concern sampling parameters include: SVOCs.

- Station 76+90 to Station 80+50, 25 feet LT to 450 feet RT. The Engineer has determined this material from 5 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: metals.
- Station 80+50 to Station 83+10, 25 feet LT to 250 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: metals.
- Station 80+50 to Station 83+10, 25 feet LT to 250 feet RT. The Engineer has determined this material from 5 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: metals.
- Station 83+10 to Station 85+40, 25 feet LT to 65 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 85+25 to Station 88+10, 175 feet LT to 450 feet RT. The Engineer has determined this material from 5 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron.
- Station 88+10 to Station 91+75, 175 feet LT to 450 feet RT. The Engineer has determined this material from 5 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron.

**ISGS Site 3806-9 – Vacant Land, 1-55/I-64/US40 MM 1.9 to 2.6, East St. Louis, St. Clair County**

- Station 25+60 to Station 30+00, 45 feet LT to 140 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: metals.
- Station 22+50 to Station 25+60, 45 feet LT to 140 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters include: chromium.
- Station 22+50 to Station 25+60, 45 feet LT to 140 feet RT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: manganese.
- Station 19+50 to Station 22+50, 35 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: metals.
- Station 16+00 to Station 19+50, 25 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: iron.

**ISGS Site 3806-11 – Petroff Towing, 635 Collinsville Ave., East St. Louis, St. Clair County**

- Station 53+75 to Station 55+75, 15 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 55+75 to Station 58+00, 15 feet LT to 50 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: iron.
- Station 55+75 to Station 58+00, 15 feet LT to 50 feet RT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: iron.

**ISGS Site 3806-12 – Gateway Fabricators, 633 Collinsville Ave., East St. Louis, St. Clair County**

- Station 48+50 to Station 51+50, 15 feet LT to 150 feet RT. The Engineer has determined this material from 0 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: iron and manganese.
- Station 51+50 to Station 53+75, 15 feet LT to 125 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.
- Station 51+50 to Station 53+75, 15 feet LT to 125 feet RT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(3). Contaminants of concern sampling parameters include: metals.

**ISGS Site 3806-13 – Vacant Lot, 400-500 blocks of Collinsville Ave., East St. Louis, St. Clair County**

- Station 42+00 to Station 44+50, 25 feet LT to 135 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: metals.
- Station 42+00 to Station 44+50, 25 feet LT to 135 feet RT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(3). Contaminants of concern sampling parameters include: metals.

**ISGS Site 3806-15 – Vacant Lot, 400 block of Collinsville Ave., East St. Louis, St. Clair County**

- Station 42+75 to Station 44+00, 50 feet LT to 160 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs and metals.



**ISGS Site 3806-16 – Vacant Lot, 400 block of Collinsville Ave., East St. Louis, St. Clair County**

- Station 42+00 to Station 42+75, 15 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(3). Contaminants of concern sampling parameters include: metals.

**ISGS Site 3806-17 – Fay Furniture, 439 Collinsville Ave., East St. Louis, St. Clair County**

- Station 40+00 to Station 42+00, 15 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: metals.

**ISGS Site 3806-18 – Vacant Lot, 400 block of Collinsville Ave., East St. Louis, St. Clair County**

- Station 35+50 to Station 38+00, 15 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 20.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: metals.
- Station 38+00 to Station 40+00, 15 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron.

**ISGS Site 3806-19 – Vacant Lot, 300 block of Collinsville Ave., East St. Louis, St. Clair County**

- Station 33+25 to Station 35+50, 15 feet LT to 65 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: metals.

**ISGS Site 3806-20 – Vacant Lot, 300 block of Collinsville Ave., East St. Louis, St. Clair County**

- Station 31+00 to Station 32+00, 15 feet LT to 65 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron.
- Station 31+00 to Station 32+00, 15 feet LT to 65 feet RT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: metals.
- Station 32+00 to Station 33+25, 15 feet LT to 65 feet RT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-21 – Commercial Building, 309-319 Collinsville Ave., East St. Louis, St. Clair County**

- Station 30+00 to Station 31+00, 15 feet LT to 65 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-22 – Vacant lot, 300 block of Collinsville Avenue, East St. Louis, St. Clair County**

- Station 28+25 to Station 30+00, 15 LT to 65 feet RT. The Engineer has determined this material from 0 to 20.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-23 – Vacant lot, 200 block of Collinsville Avenue, East St. Louis, St. Clair County**

- Station 25+50 to Station 28+25, 15 feet LT to 65 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-27 – IDOT pump station, 200 Missouri Avenue, East St. Louis, St. Clair County**

- Station 10+00 to Station 16+50, 75 feet LT to 50 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-28 – Vacant lot, 100 block of N. 3rd Street, East St. Louis, St. Clair County**

- Station 10+00 to Station 18+00, 100 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-34 - BP gas station, 306 Riverpark Drive, East St. Louis, St. Clair County**

- Station 4+40 to Station 6+50, 50 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 6+50 to Station 9+25, 50 feet LT to 110 feet RT. The Engineer has determined this material from 0 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-35 – Vacant lot, 100-200 blocks of Riverpark Drive, East St. Louis, St. Clair County**

- Station 3+00 to Station 5+50, 75 feet LT to 50 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-37 – Vacant lot, 100 block of S. Main Street, East St. Louis, St. Clair County**

- Station 101+00 to Station 106+10, 100 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-38 - Vacant lot, 101 S. Main Street, East St. Louis, St. Clair County**

- Station 109+00 to Station 111+60, 50 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-40 - Vacant lot, 100 block of Barack Obama Avenue, East St. Louis, St. Clair County**

- Station 106+50 to Station 109+00, 50 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-41 – Industrial building, 225-301 S. Main Street, East St. Louis, St. Clair County**

- Station 98+90 to Station 101+00, 100 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(3). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-43 Vacant lot, 200-300 blocks of S. Main Street East St. Louis, St. Clair County**

- Station 94+00 to Station 96+55, 125 feet LT to 150 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron.
- Station 96+55 to Station 98+90, 100 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-47 – Vacant lot, 400 block of Trendley Avenue, East St. Louis, St. Clair County**

- Station 4+60 to Station 7+00, 290 feet LT to 60 feet RT. The Engineer has determined this material from 0 to 22.5 feet bgs in the vicinity of the station and off-set meets the

criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-51 – Comprehensive Behavioral Health Center of St. Clair County, 505 S. 8th Street, East St. Louis, St. Clair County**

- Station 85+00 to Station 88+00, 45 feet LT to 140 feet RT. The Engineer has determined this material from 0 to 22.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron.
- Station 85+00 to Station 88+00, 45 feet LT to 140 feet RT. The Engineer has determined this material from 0 to 22.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-52 – Vacant lot, 600 block of S. 8th Street, East St. Louis, St. Clair County**

- Station 9+40 to Station 11+00, 100 feet LT to 100 feet LT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron and manganese.
- Station 11+00 to Station 14+25, 50 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters include: Iron and manganese.
- Station 11+00 to Station 14+25, 50 feet LT to 100 feet RT. The Engineer has determined this material from 5 to 18.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-55 – Vacant lot, 800 block of Piggott Avenue, East St. Louis, St. Clair County**

- Station 4+25 to Station 6+25, 50 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 24 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 6+25 to Station 9+45, 30 feet LT to 75 feet RT. The Engineer has determined this material from 0 to 24 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-57 – Residence, 823 Valentine Street, East St. Louis, St. Clair County**

- Station 78+50 to Station 83+00, 200 feet LT to 300 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-58 – Vacant lot, 900 block of Valentine Street, East St. Louis, St. Clair County**

- Station 83+00 to Station 84+40, 50 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-82 – Vacant land, 200-500 blocks of Trendley Avenue, East St. Louis, St. Clair County**

- Station 3+75 to Station 9+25, 200 feet LT to 250 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-83 – Brenntag, 800 S. 6th Street, East St. Louis, St. Clair County**

- Station 68+25 to Station 74+60, 175 feet LT to 275 feet RT. The Engineer has determined this material from 0 to 24 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-85 – Broadcasting building, 900 S. 6th Street, East St. Louis, St. Clair County**

- Station 63+10 to Station 66+00, 125 feet LT to 200 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 66+00 to Station 68+25, 200 feet LT to 250 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-87 – Vacant land, approximate I-55/I-64/US 40 M.M. 0.6, East St. Louis, St. Clair County**

- Station 55+50 to Station 57+50, 125 feet LT to 50 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 57+50 to Station 60+50, 150 feet LT to 110 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-88 – Railroad, approximate I-55/I-64/US 40 M.M. 0.6, East St. Louis, St. Clair County**

- Station 53+25 to Station 55+50, 100 feet LT to 50 feet RT. The Engineer has determined this material from 0 to 3 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-89 – Vacant land, approximate I-55/I-64/US 40 M.M. 0.5, East St. Louis, St. Clair County**

- Station 86+50 to Station 89+50, 30 feet LT to 75 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 86+50 to Station 89+50, 30 feet LT to 75 feet RT. The Engineer has determined this material from 5 to 21.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 83+50 to Station 86+50, 30 feet LT to 65 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 83+50 to Station 86+50, 30 feet LT to 65 feet RT. The Engineer has determined this material from 5 to 21.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(3). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-90 – Vacant land, 1090 S. 8th Street, East St. Louis, St. Clair County**

- Station 68+55 to Station 69+60, 25 feet LT to 300 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 68+55 to Station 69+60, 25 feet LT to 300 feet RT. The Engineer has determined this material from 5 to 24 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 71+00 to Station 73+50, 100 feet LT to 75 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 73+50 to Station 78+50, 125 feet LT to 125 feet RT. The Engineer has determined this material from 0 to 24 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-91 – Vacant land, approximate I-55/I-64/US 40 M.M. 0.6, East St. Louis, St. Clair County**

- Station 18+25 to Station 21+45, 150 feet LT to 125 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: metals.
- Station 15+00 to Station 18+25, 100 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.

- Station 15+00 to Station 18+25, 100 feet LT to 100 feet RT. The Engineer has determined this material from 5 to 21.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(3). Contaminants of concern sampling parameters include: SVOCs, metals.

**ISGS Site 3806-92 - Vacant land, approximate I-55/I-64/US 40 M.M. 0.7, East St. Louis St. Clair County**

- Station 21+45 to Station 25+60, 300 feet LT to 100 feet RT. The Engineer has determined this material from 0 to 5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters include: SVOCs, metals.
- Station 21+45 to Station 25+60, 300 feet LT to 100 feet RT. The Engineer has determined this material from 5 to 27.5 feet bgs in the vicinity of the station and off-set meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters include: metals.

Work Zones: Three distinct OSHA HAZWOPER work zones (exclusion, decontamination, and support) shall apply to projects adjacent to or within sites with documented leaking underground storage tank (LUST) incidents, or sites under management in accordance with the requirements of the Site Remediation Program (SRP), Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or as deemed necessary. For this project, the work zones apply for the following ISGS PESA Sites: **None**

Additional information on the contract specific work areas listed above collected during the regulated substances due-diligence process is available through the District's Environmental Studies Unit (DESU).

**STATUS OF UTILITIES TO BE ADJUSTED**

**NO UTILITIES TO BE ADJUSTED**

The above represents the best information of the Department and is only included for the convenience of the bidder. The applicable provisions of Sections 102 and 103 and Articles 105.07 and 107.20 of the Standard Specifications for Road and Bridge Construction shall apply.

If any utility adjustment or removal has not been completed when required by the Contractor's operation, the Contractor should notify the Engineer in writing. A request for an extension of time will be considered to the extent the Contractor's operations were affected.

## **BLENDED FINELY DIVIDED MINERALS (BDE)**

Effective: April 1, 2021

Revise the second paragraph of Article 1010.01 of the Standard Specifications to read:

“Different sources or types of finely divided minerals shall not be mixed or used alternately in the same item of construction, except as a blended finely divided mineral product according to Article 1010.06.”

Add the following article to Section 1010 of the Standard Specifications:

**“1010.06 Blended Finely Divided Minerals.** Blended finely divided minerals shall be the product resulting from the blending or intergrinding of two or three finely divided minerals. Blended finely divided minerals shall be according to ASTM C 1697, except as follows.

- (a) Blending shall be accomplished by mechanically or pneumatically intermixing the constituent finely divided minerals into a uniform mixture that is then discharged into a silo for storage or tanker for transportation.
- (b) The blended finely divided mineral product will be classified according to its predominant constituent or the manufacturer’s designation and shall meet the chemical requirements of its classification. The other finely divided mineral constituent(s) will not be required to conform to their individual standards.”

## **COMPENSABLE DELAY COSTS (BDE)**

Effective: June 2, 2017

Revised: April 1, 2019

Revise Article 107.40(b) of the Standard Specifications to read:

“(b) Compensation. Compensation will not be allowed for delays, inconveniences, or damages sustained by the Contractor from conflicts with facilities not meeting the above definition; or if a conflict with a utility in an unanticipated location does not cause a shutdown of the work or a documentable reduction in the rate of progress exceeding the limits set herein. The provisions of Article 104.03 notwithstanding, compensation for delays caused by a utility in an unanticipated location will be paid according to the provisions of this Article governing minor and major delays or reduced rate of production which are defined as follows.

- (1) Minor Delay. A minor delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two hours, but not to exceed two weeks.
- (2) Major Delay. A major delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two weeks.



- (3) Reduced Rate of Production Delay. A reduced rate of production delay occurs when the rate of production on the work in conflict with the utility in an unanticipated location decreases by more than 25 percent and lasts longer than seven calendar days.”

Revise Article 107.40(c) of the Standard Specifications to read:

“(c) Payment. Payment for Minor, Major, and Reduced Rate of Production Delays will be made as follows.

- (1) Minor Delay. Labor idled which cannot be used on other work will be paid for according to Article 109.04(b)(1) and (2) for the time between start of the delay and the minimum remaining hours in the work shift required by the prevailing practice in the area.

Equipment idled which cannot be used on other work, and which is authorized to standby on the project site by the Engineer, will be paid for according to Article 109.04(b)(4).

- (2) Major Delay. Labor will be the same as for a minor delay.

Equipment will be the same as for a minor delay, except Contractor-owned equipment will be limited to two weeks plus the cost of move-out to either the Contractor’s yard or another job and the cost to re-mobilize, whichever is less. Rental equipment may be paid for longer than two weeks provided the Contractor presents adequate support to the Department (including lease agreement) to show retaining equipment on the job is the most economical course to follow and in the public interest.

- (3) Reduced Rate of Production Delay. The Contractor will be compensated for the reduced productivity for labor and equipment time in excess of the 25 percent threshold for that portion of the delay in excess of seven calendar days. Determination of compensation will be in accordance with Article 104.02, except labor and material additives will not be permitted.

Payment for escalated material costs, escalated labor costs, extended project overhead, and extended traffic control will be determined according to Article 109.13.”

Revise Article 108.04(b) of the Standard Specifications to read:

“(b) No working day will be charged under the following conditions.

- (1) When adverse weather prevents work on the controlling item.
- (2) When job conditions due to recent weather prevent work on the controlling item.
- (3) When conduct or lack of conduct by the Department or its consultants, representatives, officers, agents, or employees; delay by the Department in making the site available; or delay in furnishing any items required to be furnished to the Contractor by the Department prevents work on the controlling item.
- (4) When delays caused by utility or railroad adjustments prevent work on the controlling item.

- (5) When strikes, lock-outs, extraordinary delays in transportation, or inability to procure critical materials prevent work on the controlling item, as long as these delays are not due to any fault of the Contractor.
- (6) When any condition over which the Contractor has no control prevents work on the controlling item.”

Revise Article 109.09(f) of the Standard Specifications to read:

“(f) Basis of Payment. After resolution of a claim in favor of the Contractor, any adjustment in time required for the work will be made according to Section 108. Any adjustment in the costs to be paid will be made for direct labor, direct materials, direct equipment, direct jobsite overhead, direct offsite overhead, and other direct costs allowed by the resolution. Adjustments in costs will not be made for interest charges, loss of anticipated profit, undocumented loss of efficiency, home office overhead and unabsorbed overhead other than as allowed by Article 109.13, lost opportunity, preparation of claim expenses and other consequential indirect costs regardless of method of calculation.

The above Basis of Payment is an essential element of the contract and the claim cost recovery of the Contractor shall be so limited.”

Add the following to Section 109 of the Standard Specifications.

“**109.13 Payment for Contract Delay.** Compensation for escalated material costs, escalated labor costs, extended project overhead, and extended traffic control will be allowed when such costs result from a delay meeting the criteria in the following table.

Contract Type	Cause of Delay	Length of Delay
Working Days	Article 108.04(b)(3) or Article 108.04(b)(4)	No working days have been charged for two consecutive weeks.
Completion Date	Article 108.08(b)(1) or Article 108.08(b)(7)	The Contractor has been granted a minimum two week extension of contract time, according to Article 108.08.

Payment for each of the various costs will be according to the following.

- (a) Escalated Material and/or Labor Costs. When the delay causes work, which would have otherwise been completed, to be done after material and/or labor costs have increased, such increases will be paid. Payment for escalated material costs will be limited to the increased costs substantiated by documentation furnished by the Contractor. Payment for escalated labor costs will be limited to those items in Article 109.04(b)(1) and (2), except the 35 percent and 10 percent additives will not be permitted.
- (b) Extended Project Overhead. For the duration of the delay, payment for extended project overhead will be paid as follows.

- (1) Direct Jobsite and Offsite Overhead. Payment for documented direct jobsite overhead and documented direct offsite overhead, including onsite supervisory and administrative personnel, will be allowed according to the following table.

Original Contract Amount	Supervisory and Administrative Personnel
Up to \$5,000,000	One Project Superintendent
Over \$ 5,000,000 - up to \$25,000,000	One Project Manager, One Project Superintendent or Engineer, and One Clerk
Over \$25,000,000 - up to \$50,000,000	One Project Manager, One Project Superintendent, One Engineer, and One Clerk
Over \$50,000,000	One Project Manager, Two Project Superintendents, One Engineer, and One Clerk

- (2) Home Office and Unabsorbed Overhead. Payment for home office and unabsorbed overhead will be calculated as 8 percent of the total delay cost.

- (c) Extended Traffic Control. Traffic control required for an extended period of time due to the delay will be paid for according to Article 109.04.

When an extended traffic control adjustment is paid under this provision, an adjusted unit price as provided for in Article 701.20(a) for increase or decrease in the value of work by more than ten percent will not be paid.

Upon payment for a contract delay under this provision, the Contractor shall assign subrogation rights to the Department for the Department’s efforts of recovery from any other party for monies paid by the Department as a result of any claim under this provision. The Contractor shall fully cooperate with the Department in its efforts to recover from another party any money paid to the Contractor for delay damages under this provision.”

**CONSTRUCTION AIR QUALITY – DIESEL RETROFIT (BDE)**

Effective: June 1, 2010

Revised: November 1, 2014

The reduction of emissions of particulate matter (PM) for off-road equipment shall be accomplished by installing retrofit emission control devices. The term “equipment” refers to diesel fuel powered devices rated at 50 hp and above, to be used on the jobsite in excess of seven calendar days over the course of the construction period on the jobsite (including rental equipment).

Contractor and subcontractor diesel powered off-road equipment assigned to the contract shall be retrofitted using the phased in approach shown below. Equipment that is of a model year older than the year given for that equipment's respective horsepower range shall be retrofitted:

Effective Dates	Horsepower Range	Model Year
June 1, 2010 <sup>1/</sup>	600-749	2002
	750 and up	2006
June 1, 2011 <sup>2/</sup>	100-299	2003
	300-599	2001
	600-749	2002
	750 and up	2006
June 1, 2012 <sup>2/</sup>	50-99	2004
	100-299	2003
	300-599	2001
	600-749	2002
	750 and up	2006

- 1/ Effective dates apply to Contractor diesel powered off-road equipment assigned to the contract.
- 2/ Effective dates apply to Contractor and subcontractor diesel powered off-road equipment assigned to the contract.

The retrofit emission control devices shall achieve a minimum PM emission reduction of 50 percent and shall be:

- a) Included on the U.S. Environmental Protection Agency (USEPA) *Verified Retrofit Technology List* (<http://www.epa.gov/cleandiesel/verification/verif-list.htm>), or verified by the California Air Resources Board (CARB) (<http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>); or
- b) Retrofitted with a non-verified diesel retrofit emission control device if verified retrofit emission control devices are not available for equipment proposed to be used on the project, and if the Contractor has obtained a performance certification from the retrofit device manufacturer that the emission control device provides a minimum PM emission reduction of 50 percent.

Note: Large cranes (Crawler mounted cranes) which are responsible for critical lift operations are exempt from installing retrofit emission control devices if such devices adversely affect equipment operation.

Diesel powered off-road equipment with engine ratings of 50 hp and above, which are unable to be retrofitted with verified emission control devices or if performance certifications are not available which will achieve a minimum 50 percent PM reduction, may be granted a waiver by the Department if documentation is provided showing good faith efforts were made by the Contractor to retrofit the equipment.

Construction shall not proceed until the Contractor submits a certified list of the diesel powered off-road equipment that will be used, and as necessary, retrofitted with emission control devices. The list(s) shall include (1) the equipment number, type, make, Contractor/rental company name;

and (2) the emission control devices make, model, USEPA or CARB verification number, or performance certification from the retrofit device manufacturer. Equipment reported as fitted with emissions control devices shall be made available to the Engineer for visual inspection of the device installation, prior to being used on the jobsite.

The Contractor shall submit an updated list of retrofitted off-road construction equipment as retrofitted equipment changes or comes on to the jobsite. The addition or deletion of any diesel powered equipment shall be included on the updated list.

If any diesel powered off-road equipment is found to be in non-compliance with any portion of this special provision, the Engineer will issue the Contractor a diesel retrofit deficiency deduction.

Any costs associated with retrofitting any diesel powered off-road equipment with emission control devices shall be considered as included in the contract unit prices bid for the various items of work involved and no additional compensation will be allowed. The Contractor's compliance with this notice and any associated regulations shall not be grounds for a claim.

### **Diesel Retrofit Deficiency Deduction**

When the Engineer determines that a diesel retrofit deficiency exists, a daily monetary deduction will be imposed for each calendar day or fraction thereof the deficiency continues to exist. The calendar day(s) will begin when the time period for correction is exceeded and end with the Engineer's written acceptance of the correction. The daily monetary deduction will be \$1,000.00 for each deficiency identified.

The deficiency will be based on lack of diesel retrofit emissions control.

If a Contractor accumulates three diesel retrofit deficiency deductions for the same piece of equipment in a contract period, the Contractor will be shutdown until the deficiency is corrected. Such a shutdown will not be grounds for any extension of the contract time, waiver of penalties, or be grounds for any claim.

### **DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION (BDE)**

Effective: September 1, 2000

Revised: March 2, 2019

FEDERAL OBLIGATION. The Department of Transportation, 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. Consequently, the federal regulatory provisions of 49 CFR Part 26 apply to this contract concerning the utilization of disadvantaged business enterprises. For the purposes of this Special Provision, a disadvantaged business enterprise (DBE) means a business certified by the Department in accordance with the requirements of 49 CFR Part 26 and 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. When this Special Provision is used to satisfy state law requirements on 100 percent state-funded contracts, the federal government has no involvement in such contracts

(not a federal-aid contract) and no responsibility to oversee the implementation of this Special Provision by the Department on those contracts. DBE participation on 100 percent state-funded contracts will not be credited toward fulfilling the Department's annual overall DBE goal required by the US Department of Transportation to comply with the federal DBE program requirements.

CONTRACTOR ASSURANCE. The Contractor makes the following assurance and agrees to include the assurance in each subcontract 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. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts funded in whole or in part with federal or state funds. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (a) Withholding progress payments;
- (b) Assessing sanctions;
- (c) Liquidated damages; and/or
- (d) Disqualifying the Contractor from future bidding as non-responsible.

OVERALL GOAL SET FOR THE DEPARTMENT. As a requirement of compliance with 49 CFR Part 26, the Department has set an overall goal for DBE participation in its federally assisted contracts. That goal applies to all federal-aid funds the Department will expend in its federally assisted contracts for the subject reporting fiscal year. The Department is required to make a good faith effort to achieve the overall goal. The dollar amount paid to all approved DBE companies performing work called for in this contract is eligible to be credited toward fulfillment of the Department's overall goal.

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 the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. The 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, in the absence of unlawful discrimination and in an arena of fair and open competition, DBE companies can be expected to perform **3.00%** 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 for in this Special Provision:

- (a) The bidder documents enough DBE participation has been obtained to meet the goal or,
- (b) The bidder documents 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 Department 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 Department's Bureau of Small Business Enterprises at telephone number (217) 785-4611, or by visiting the Department's website at: <http://www.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 DBE Utilization Plan (form SBE 2026), and a DBE Participation Statement (form SBE 2025) for each DBE company proposed for the performance of work to achieve the contract goal, with the bid. If the Utilization Plan indicates the contract goal will not be met, documentation of good faith efforts shall also be submitted. 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. The required forms and documentation must be submitted as a single .pdf file using the "Integrated Contractor Exchange (iCX)" application within the Department's "EBids System".

The Department will not accept a Utilization Plan if it does not meet the bidding procedures set forth herein and the bid will be declared not responsive. In the event the bid is declared not responsive, 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.

GOOD FAITH EFFORT PROCEDURES. The contract will not be awarded until the Utilization Plan is approved. All information submitted by the bidder must be complete, accurate and adequately document 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 to meet the contract goal or the bidder submits sufficient documentation of a good faith effort to meet the contract goal pursuant to 49 CFR Part 26, Appendix A. This means 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 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 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 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 the 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 it is otherwise eligible for award. If the Department determines 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 will also include a statement of reasons for the adverse determination. If the Utilization Plan is not approved because it is deficient as a technical matter, unless waived by the Department, the bidder will be notified and will be allowed no more than a five calendar day period to cure the deficiency.
- (c) The bidder may request administrative reconsideration of an adverse determination by emailing the Department at "[DOT.DBE.UP@illinois.gov](mailto:DOT.DBE.UP@illinois.gov)" within the five calendar days after the receipt of the notification of the determination. The determination shall become final if a request is not made on or before the fifth calendar day. A request may provide additional written documentation 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. The request will be reviewed by the Department's Reconsideration Officer. The Reconsideration Officer will extend an opportunity to the bidder to meet in person to consider all issues of documentation and whether the bidder made a good faith effort to meet the goal. After the review by the Reconsideration Officer, the bidder will be sent a written decision within ten 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 Reconsideration Officer 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 and Contractor are governed by the provisions of 49 CFR Part 26.55(c) on questions of commercially useful functions as it affects the work. Specific counting guidelines are provided in 49 CFR Part 26.55, the provisions of which govern over the summary contained herein.

- (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 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 is 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 of 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 DBE regular dealer or DBE manufacturer.

**CONTRACT COMPLIANCE.** Compliance with this Special Provision is an essential part of the contract. The Department is prohibited by federal regulations from crediting 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's Bureau of Small Business Enterprises. All requests for amendment to the Utilization Plan shall be emailed to the Department at [DOT.DBE.UP@illinois.gov](mailto:DOT.DBE.UP@illinois.gov).
- (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, Department form BC 260A or AER 260A, must be signed and submitted. If the commitment of work is in the form of additional tasks assigned to an existing subcontract, a new Request for Approval of Subcontractor will not be required. However, the Contractor must document efforts to assure 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 copies of 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) 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) The DBE is aware 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) 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 Bureau of Small Business Enterprises 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 Bureau of Small Business Enterprises 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 Bureau, 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 Bureau and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Bureau should not approve the Contractor's action. If required in a particular case as a matter of public necessity, the Bureau 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 Contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the 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) The Contractor has determined the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the projects and provides written notice to the Contractor 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 Contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Contractor can self-perform the work for which the DBE contractor was engaged or so that the 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 will provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

- (f) FINAL PAYMENT. 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 30 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 SBE 2115 to the Resident Engineer. 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 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 Contract Compliance Section 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. The result of the reconsideration process is not administratively appealable to the U.S. Department of Transportation.

**PORTLAND CEMENT CONCRETE (BDE)**

Effective: August 1, 2023

Revise the second paragraph of Article 1103.03(a)(4) the Standard Specifications to read:

“The dispenser system shall provide a visual indication that the liquid admixture is actually entering the batch, such as via a transparent or translucent section of tubing or by independent check with an integrated secondary metering device. If approved by the Engineer, an alternate indicator may be used for admixtures dosed at rates of 25 oz/cwt (1630 mL/100 kg) or greater, such as accelerating admixtures, corrosion inhibitors, and viscosity modifying admixtures.”

**RAILROAD PROTECTIVE LIABILITY INSURANCE (BDE)**

Effective: December 1, 1986

Revised: January 1, 2022

Description. Railroad Protective Liability and Property Damage Liability Insurance shall be carried according to Article 107.11 of the Standard Specifications. A separate policy is required for each railroad unless otherwise noted.

NAMED INSURED & ADDRESS	NUMBER & SPEED OF PASSENGER TRAINS	NUMBER & SPEED OF FREIGHT TRAINS
Union Pacific Railroad Co. 1400 Douglas Street Mail Stop 1690 Omaha, NE 68179	None	Unknown
Class 1 RR (Y or N): Y DOT/AAR: 296007R RR Division: MID-AMERICA	RR Mile Post: 281.90 RR Sub: SPRINGFIELD	

For Freight/Passenger Information, Contact: John Plebanek,  
 Project Manager-Public Projects, [japleban@upcontractor.up.com](mailto:japleban@upcontractor.up.com) / (414) 294-8685

For Insurance Information, Contact: John Plebanek,  
 Project Manager-Public Projects, [japleban@upcontractor.up.com](mailto:japleban@upcontractor.up.com) / (414) 294-8685



- (c) Glass (including optic glass);
- (d) Lumber;
- (e) Drywall.

Items consisting of two or more of the listed construction materials that have been combined through a manufacturing process, and items including at least one of the listed materials combined with a material that is not listed through a manufacturing process shall be exempt.”

### **SPEED DISPLAY TRAILER (BDE)**

Effective: April 2, 2014

Revised: January 1, 2022

Revise the last paragraph of Article 701.11 of the Standard Specifications to read:

“When not being utilized to inform and direct traffic, sign trailers, speed display trailers, arrow boards, and portable changeable message boards shall be treated as nonoperating equipment.”

Add the following to Article 701.15 of the Standard Specifications:

“(m)Speed Display Trailer. A speed display trailer is used to enhance safety of the traveling public and workers in work zones by alerting drivers of their speed, thus deterring them from driving above the posted work zone speed limit.”

Add the following to Article 701.20 of the Standard Specifications:

“(k) When speed display trailers are shown on the Standard, this work will not be paid for separately but shall be considered as included in the cost of the Standard.

For all other speed display trailers, this work will be paid for at the contract unit price per calendar month or fraction thereof for each trailer as SPEED DISPLAY TRAILER.”

Add the following to Article 1106.02 of the Standard Specifications:

“(o) Speed Display Trailer. The speed display trailer shall consist of a LED speed indicator display with self-contained, one-direction radar mounted on an orange see-through trailer. The height of the display and radar shall be such that it will function and be visible when located behind concrete barrier.

The speed measurement shall be by radar and provide a minimum detection distance of 1000 ft (300 m). The radar shall have an accuracy of ±1 mile per hour.

The speed indicator display shall face approaching traffic and shall have a sign legend of “YOUR SPEED” immediately above or below the speed display. The sign letters shall be between 5 and 8 in. (125 and 200 mm) in height. The digital speed display shall show two digits (00 to 99) in mph. The color of the changeable message legend shall be a yellow



legend on a black background. The minimum height of the numerals shall be 18 in. (450 mm), and the nominal legibility distance shall be at least 750 ft (250 m).

The speed indicator display shall be equipped with a violation alert that flashes the displayed detected speed when the work zone posted speed limit is exceeded. The speed indicator shall have a maximum speed cutoff. On roadway facilities with a normal posted speed limit greater than or equal to 45 mph, the detected speeds of vehicles traveling more than 25 mph over the work zone speed limit shall not be displayed. On facilities with normal posted speed limit of less than 45 mph, the detected speeds of vehicles traveling more than 15 mph over the work zone speeds limit shall not be displayed. On any roadway facility if detected speeds are less than 25 mph, they shall not be displayed. The display shall include automatic dimming for nighttime operation.

The speed indicator measurement and display functions shall be equipped with the power supply capable of providing 24 hours of uninterrupted service.”

#### **SUBCONTRACTOR AND DBE PAYMENT REPORTING (BDE)**

Effective: April 2, 2018

Add the following to Section 109 of the Standard Specifications.

**“109.14 Subcontractor and Disadvantaged Business Enterprise Payment Reporting.** The Contractor shall report all payments made to the following parties:

- (a) first tier subcontractors;
- (b) lower tier subcontractors affecting disadvantaged business enterprise (DBE) goal credit;
- (c) material suppliers or trucking firms that are part of the Contractor’s submitted DBE utilization plan.

The report shall be made through the Department’s on-line subcontractor payment reporting system within 21 days of making the payment.”

#### **SUBCONTRACTOR MOBILIZATION PAYMENTS (BDE)**

Effective: November 2, 2017

Revised: April 1, 2019

Replace the second paragraph of Article 109.12 of the Standard Specifications with the following:

“This mobilization payment shall be made at least seven days prior to the subcontractor starting work. The amount paid shall be at the following percentage of the amount of the subcontract reported on form BC 260A submitted for the approval of the subcontractor’s work.

Value of Subcontract Reported on Form BC 260A	Mobilization Percentage
Less than \$10,000	25%
\$10,000 to less than \$20,000	20%
\$20,000 to less than \$40,000	18%
\$40,000 to less than \$60,000	16%
\$60,000 to less than \$80,000	14%
\$80,000 to less than \$100,000	12%
\$100,000 to less than \$250,000	10%
\$250,000 to less than \$500,000	9%
\$500,000 to \$750,000	8%
Over \$750,000	7%

**SUBMISSION OF PAYROLL RECORDS (BDE)**

Effective: April 1, 2021

Revised: November 1, 2022

FEDERAL AID CONTRACTS. Revise the following section of Check Sheet #1 of the Recurring Special Provisions to read:

“STATEMENTS AND PAYROLLS

The payroll records shall include the worker’s name, the worker’s address, the worker’s telephone number when available, the worker’s social security number, the worker’s classification or classifications, the worker’s gross and net wages paid in each pay period, the worker’s number of hours worked each day, and the worker’s starting and ending times of work each day. However, any Contractor or subcontractor who remits contributions to a fringe benefit fund that is not jointly maintained and jointly governed by one or more employers and one or more labor organization must additionally submit the worker’s hourly wage rate, the worker’s hourly overtime wage rate, the worker’s hourly fringe benefit rates, the name and address of each fringe benefit fund, the plan sponsor of each fringe benefit, if applicable, and the plan administrator of each fringe benefit, if applicable.

The Contractor and each subcontractor shall certify and submit payroll records to the Department each week from the start to the completion of their respective work, except that full social security numbers shall not be included on weekly submittals. Instead, the payrolls shall include an identification number for each employee (e.g., the last four digits of the employee’s social security number). In addition, starting and ending times of work each day may be omitted from the payroll records submitted. The submittals shall be made using LCPTracker Pro software. The software is web-based and can be accessed at <https://lcptracker.com/>. When there has been no activity during a work week, a payroll record shall still be submitted with the appropriate option (“No Work”, “Suspended”, or “Complete”) selected.”

STATE CONTRACTS. Revise Item 3 of Section IV of Check Sheet #5 of the Recurring Special Provisions to read:

- “3. Submission of Payroll Records. The Contractor and each subcontractor shall, no later than the 15<sup>th</sup> day of each calendar month, file a certified payroll for the immediately preceding month to the Illinois Department of Labor (IDOL) through the Illinois Prevailing Wage Portal in compliance with the State Prevailing Wage Act (820 ILCS 130). The portal can be found on the IDOL website at <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/Prevailing-Wage-Portal.aspx>. Payrolls shall be submitted in the format prescribed by the IDOL.

In addition to filing certified payroll(s) with the IDOL, the Contractor and each subcontractor shall certify and submit payroll records to the Department each week from the start to the completion of their respective work, except that full social security numbers shall not be included on weekly submittals. Instead, the payrolls shall include an identification number for each employee (e.g., the last four digits of the employee’s social security number). In addition, starting and ending times of work each day may be omitted from the payroll records submitted. The submittals shall be made using LCPTracker Pro software. The software is web-based and can be accessed at <https://lcptracker.com/>. When there has been no activity during a work week, a payroll record shall still be submitted with the appropriate option (“No Work”, “Suspended”, or “Complete”) selected.”

## **TRAFFIC SPOTTERS (BDE)**

Effective: January 1, 2019

Revise Article 701.13 of the Standard Specifications to read:

**“701.13 Flaggers and Spotters.** Flaggers shall be certified by an agency approved by the Department. While on the job site, each flagger shall have in his/her possession a current driver’s license and a current flagger certification I.D. card. For non-drivers, the Illinois Identification Card issued by the Secretary of State will meet the requirement for a current driver’s license. This certification requirement may be waived by the Engineer for emergency situations that arise due to actions beyond the Contractor’s control where flagging is needed to maintain safe traffic control on a temporary basis. Spotters are defined as certified flaggers that provide support to workers by monitoring traffic.

Flaggers and spotters shall be stationed to the satisfaction of the Engineer and be equipped with a fluorescent orange, fluorescent yellow/green, or a combination of fluorescent orange and fluorescent yellow/green vest meeting the requirements of ANSI/ISEA 107-2004 or ANSI/ISEA 107-2010 for Conspicuity Class 2 garments. Flaggers shall be equipped with a stop/slow traffic control sign. Spotters shall be equipped with a loud warning device. The warning sound shall be identifiable by workers so they can take evasive action when necessary. Other types of garments may be substituted for the vest as long as the garments have a manufacturer’s tag identifying them as meeting the ANSI Class 2 requirement. The longitudinal placement of the flagger may be increased up to 100 ft (30 m) from that shown on the plans to improve the visibility of the flagger. Flaggers shall not encroach on the open lane of traffic unless traffic has been stopped. Spotters shall not encroach on the open lane of traffic, nor interact with or control the flow of traffic.

For nighttime flagging, flaggers shall be illuminated by an overhead light source providing a minimum vertical illuminance of 10 fc (108 lux) measured 1 ft (300 mm) out from the flagger’s chest. The bottom of any luminaire shall be a minimum of 10 ft (3 m) above the pavement.

Luminaire(s) shall be shielded to minimize glare to approaching traffic and trespass light to adjoining properties. Nighttime flaggers shall be equipped with fluorescent orange or fluorescent orange and fluorescent yellow/green apparel meeting the requirements of ANSI/ISEA 107-2004 or ANSI/ISEA 107-2010 for Conspicuity Class 3 garments.

Flaggers and spotters shall be provided per the traffic control plan and as follows.

- (a) Two-Lane Highways. Two flaggers will be required for each separate operation where two-way traffic is maintained over one lane of pavement. Work operations controlled by flaggers shall be no more than 1 mile (1600 m) in length. Flaggers shall be in sight of each other or in direct communication at all times. Direct communication shall be obtained by using portable two-way radios or walkie-talkies.

The Engineer will determine when a side road or entrance shall be closed to traffic. A flagger will be required at each side road or entrance remaining open to traffic within the operation where two-way traffic is maintained on one lane of pavement. The flagger shall be positioned as shown on the plans or as directed by the Engineer.

- (b) Multi-Lane Highways. At all times where traffic is restricted to less than the normal number of lanes on a multilane pavement with a posted speed limit greater than 40 mph and the workers are present, but not separated from the traffic by physical barriers, a flagger or spotter shall be furnished as shown on the plans. Flaggers shall warn and direct traffic. Spotters shall monitor traffic conditions and warn workers of errant approaching vehicles or other hazardous conditions as they occur. One flagger will be required for each separate activity of an operation that requires frequent encroachment in a lane open to traffic. One spotter will be required for each separate activity with workers near the edge of the open lane or with their backs facing traffic.

Flaggers will not be required when no work is being performed, unless there is a lane closure on two-lane, two-way pavement.”

## **VEHICLE AND EQUIPMENT WARNING LIGHTS (BDE)**

Effective: November 1, 2021

Revised: November 1, 2022

Add the following paragraph after the first paragraph of Article 701.08 of the Standard Specifications:

“The Contractor shall equip all vehicles and equipment with high-intensity oscillating, rotating, or flashing, amber or amber-and-white, warning lights which are visible from all directions. In accordance with 625 ILCS 5/12-215, the lights may only be in operation while the vehicle or equipment is engaged in construction operations.”

**WEEKLY DBE TRUCKING REPORTS (BDE)**

Effective: June 2, 2012

Revised: November 1, 2021

The Contractor shall submit a weekly report of Disadvantaged Business Enterprise (DBE) trucks hired by the Contractor or subcontractors (i.e. not owned by the Contractor or subcontractors) that are used for DBE goal credit.

The report shall be submitted to the Engineer on Department form “SBE 723” within ten business days following the reporting period. The reporting period shall be Sunday through Saturday for each week reportable trucking activities occur.

Any costs associated with providing weekly DBE trucking reports shall be considered as included in the contract unit prices bid for the various items of work involved and no additional compensation will be allowed.

**WORK ZONE TRAFFIC CONTROL DEVICES (BDE)**

Effective: March 2, 2020

Add the following to Article 701.03 of the Standard Specifications:

“(q) Temporary Sign Supports ..... 1106.02”

Revise the third paragraph of Article 701.14 of the Standard Specifications to read:

“For temporary sign supports, the Contractor shall provide a FHWA eligibility letter for each device used on the contract. The letter shall provide information for the set-up and use of the device as well as a detailed drawing of the device. The signs shall be supported within 20 degrees of vertical. Weights used to stabilize signs shall be attached to the sign support per the manufacturer’s specifications.”

Revise the first paragraph of Article 701.15 of the Standard Specifications to read:

**“701.15 Traffic Control Devices.** For devices that must meet crashworthiness standards, the Contractor shall provide a manufacturer’s self-certification or a FHWA eligibility letter for each Category 1 device and a FHWA eligibility letter for each Category 2 and Category 3 device used on the contract. The self-certification or letter shall provide information for the set-up and use of the device as well as a detailed drawing of the device.”

Revise the first six paragraphs of Article 1106.02 of the Standard Specifications to read:

**“1106.02 Devices.** Work zone traffic control devices and combinations of devices shall meet crashworthiness standards for their respective categories. The categories are as follows.

Category 1 includes small, lightweight, channelizing and delineating devices that have been in common use for many years and are known to be crashworthy by crash testing of similar devices or years of demonstrable safe performance. These include cones, tubular markers, plastic drums, and delineators, with no attachments (e.g. lights). Category 1 devices manufactured after December 31, 2019 shall be MASH-16 compliant. Category 1 devices manufactured on or before December 31, 2019, and compliant with NCHRP 350 or MASH 2009, may be used on contracts let before December 31, 2024.

Category 2 includes devices that are not expected to produce significant vehicular velocity change but may otherwise be hazardous. These include vertical panels with lights, barricades, temporary sign supports, and Category 1 devices with attachments (e.g. drums with lights). Category 2 devices manufactured after December 31, 2019 shall be MASH-16 compliant. Category 2 devices manufactured on or before December 31, 2019, and compliant with NCHRP 350 or MASH 2009, may be used on contracts let before December 31, 2024.

Category 3 includes devices that are expected to cause significant velocity changes or other potentially harmful reactions to impacting vehicles. These include crash cushions (impact attenuators), truck mounted attenuators, and other devices not meeting the definitions of Category 1 or 2. Category 3 devices manufactured after December 31, 2019 shall be MASH-16 compliant. Category 3 devices manufactured on or before December 31, 2019, and compliant with NCHRP 350 or MASH 2009, may be used on contracts let before December 31, 2029. Category 3 devices shall be crash tested for Test Level 3 or the test level specified.

Category 4 includes portable or trailer-mounted devices such as arrow boards, changeable message signs, temporary traffic signals, and area lighting supports. It is preferable for Category 4 devices manufactured after December 31, 2019 to be MASH-16 compliant; however, there are currently no crash tested devices in this category, so it remains exempt from the NCHRP 350 or MASH compliance requirement.

For each type of device, when no more than one MASH-16 compliant is available, an NCHRP 350 or MASH-2009 compliant device may be used, even if manufactured after December 31, 2019.”

Revise Articles 1106.02(g), 1106.02(k), and 1106.02(l) to read:

“(g) Truck Mounted/Trailer Mounted Attenuators. The attenuator shall be approved for use at Test Level 3. Test Level 2 may be used for normal posted speeds less than or equal to 45 mph.

(k) Temporary Water Filled Barrier. The water filled barrier shall be a lightweight plastic shell designed to accept water ballast and be on the Department’s qualified product list.

Shop drawings shall be furnished by the manufacturer and shall indicate the deflection of the barrier as determined by acceptance testing; the configuration of the barrier in that test; and the vehicle weight, velocity, and angle of impact of the deflection test. The Engineer shall be provided one copy of the shop drawings.

(l) Movable Traffic Barrier. The movable traffic barrier shall be on the Department’s qualified product list.

Shop drawings shall be furnished by the manufacturer and shall indicate the deflection of the barrier as determined by acceptance testing; the configuration of the barrier in that test; and the vehicle weight, velocity, and angle of impact of the deflection test. The Engineer shall be provided one copy of the shop drawings. The barrier shall be capable of being moved on and off the roadway on a daily basis.”

**WORKING DAYS (BDE)**

Effective: January 1, 2002

The Contractor shall complete the work within 175 working days.

## PROJECT LABOR AGREEMENT

Effective: May 18, 2007

Revised: August 1, 2019

**Description.** The Illinois Project Labor Agreements Act, 30 ILCS 571, states that the State of Illinois has a compelling interest in awarding public works contracts so as to ensure the highest standards of quality and efficiency at the lowest responsible cost. A project labor agreement (PLA) is a form of pre-hire collective bargaining agreement covering all terms and conditions of employment on a specific project that is intended to support this compelling interest. It has been determined by the Department that a PLA is appropriate for the project that is the subject of this contract. The PLA document, provided below, only applies to the construction site for this contract. It is the policy of the Department on this contract, and all construction projects, to allow all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements.

**Execution of Letter of Assent.** A copy of the PLA applicable to this project is included as part of this special provision. As a condition of the award of the contract, the successful bidder and each of its subcontractors shall execute a "Contractor Letter of Assent", in the form attached to the PLA as Exhibit A. The successful bidder shall submit a Subcontractor's Contractor Letter of Assent to the Department prior to the subcontractor's performance of work on the project. Upon request, copies of the applicable collective bargaining agreements will be provided by the appropriate signatory labor organization at the pre-job conference.

**Quarterly Reporting.** Section 37 of the Illinois Project Labor Agreements Act requires the Department to submit quarterly reports regarding the number of minorities and females employed under PLAs. To assist in this reporting effort, the Contractor shall provide a quarterly workforce participation report for all minority and female employees working under the PLA of this contract. The data shall be reported on Construction Form BC 820, Project Labor Agreement (PLA) Workforce Participation Quarterly Reporting Form available on the Department's website <http://www.idot.illinois.gov/Assets/uploads/files/IDOT-Forms/BC/BC%20820.docx>.

The report shall be submitted no later than the 15th of the month following the end of each quarter (i.e., April 15 for the January – March reporting period). The form shall be emailed to [DOT.PLA.Reporting@illinois.gov](mailto:DOT.PLA.Reporting@illinois.gov) or faxed to (217) 524-4922.

Any costs associated with complying with this provision shall be considered as included in the contract unit prices bid for the various items of work involved and no additional compensation will be allowed.



Illinois Department of Transportation  
**PROJECT LABOR AGREEMENT**

This Project Labor Agreement (“PLA” or “Agreement”) is entered into this \_\_\_\_\_ day of

\_\_\_\_\_, 2023, by and between the Illinois Department of Transportation (“IDOT” or “Department”) in its proprietary capacity, and each relevant Illinois AFL-CIO Building Trades signatory hereto as determined by the Illinois AFL-CIO Statewide Project Labor Agreement Committee on behalf of each of its affiliated members (individually and collectively, the “Unions”). This PLA shall apply to Construction Work (as defined herein) to be performed by IDOT’s Prime Contractor and each of its subcontractors of whatever tier (“Subcontractor” or “Subcontractors”) on Contract No. (hereinafter, the “Project”).

**ARTICLE 1 - INTENT AND PURPOSES**

- 1.1 This PLA is entered into in accordance with the Project Labor Agreement Act (“Act”, 30 ILCS 571). It is mutually understood and agreed that the terms and conditions of this PLA are intended to promote the public interest in obtaining timely and economical completion of the Project by encouraging productive and efficient construction operations; by establishing a spirit of harmony and cooperation among the parties; and by providing for peaceful and prompt settlement of any and all labor grievances or jurisdictional disputes of any kind without strikes, lockouts, slowdowns, delays, or other disruptions to the prosecution of the work. The parties acknowledge the obligations of the Contractors and Subcontractors to comply with the provisions of the Act. The parties will work with the Contractors and Subcontractors within the parameters of other statutory and regulatory requirements to implement the Act’s goals and objectives.
- 1.2 As a condition of the award of the contract for performance of work on the Project, IDOT’s Prime Contractor and each of its Subcontractors shall execute a “Contractor Letter of Assent”, in the form attached hereto as Exhibit A, prior to commencing Construction Work on the Project. The Contractor shall submit a Subcontractor’s Contractor Letter of Assent to the Department prior to the Subcontractor’s performance of Construction Work on the Project. Upon request copies of the applicable collective bargaining agreements will be provided by the appropriate signatory labor organization consistent with this Agreement and at the pre-job conference referenced in Article III, Section 3.1.

- 1.3 Each Union affiliate and separate local representing workers engaged in Construction Work on the Project in accordance with this PLA are bound to this agreement by the Illinois AFL-CIO Statewide Project Labor Agreement Committee which is the central committee established with full authority to negotiate and sign PLAs with the State on behalf of all respective crafts. Upon their signing the Contractor Letter of Assent, the Prime Contractor, each Subcontractor, and the individual Unions shall thereafter be deemed a party to this PLA. No party signatory to this PLA shall, contract or subcontract, nor permit any other person, firm, company, or entity to contract or subcontract for the performance of Construction Work for the Project to any person, firm, company, or entity that does not agree in writing to become bound for the term of this Project by the terms of this PLA prior to commencing such work and to the applicable area-wide collective bargaining agreement(s) with the Union(s) signatory hereto.
- 1.4 It is understood that the Prime Contractor(s) and each Subcontractor will be considered and accepted by the Unions as separate employers for the purposes of collective bargaining, and it is further agreed that the employees working under this PLA shall constitute a bargaining unit separate and distinct from all others. The parties hereto also agree that this PLA shall be applicable solely with respect to this Project, and shall have no bearing on the interpretation of any other collective bargaining agreement or as to the recognition of any bargaining unit other than for the specific purposes of this Project.
- 1.5 In the event of a variance or conflict, whether explicit or implicit, between the terms and conditions of this PLA and the provisions of any other applicable national, area, or local collective bargaining agreement, the terms and conditions of this PLA shall supersede and control. For any work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of the International Union of Elevator Constructors, and for any instrument calibration work and loop checking performed under the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, the preceding sentence shall apply only with respect to Articles I, II, V, VI, and VII.

- 1.6 Subject to the provisions of paragraph 1.5 of this Article, it is the parties' intent to respect the provisions of any other collective bargaining agreements that may now or hereafter pertain, whether between the Prime Contractor and one or more of the Unions or between a Subcontractor and one or more of the Unions. Accordingly, except and to the extent of any contrary provision set forth in this PLA, the Prime Contractor and each of its Subcontractors agrees to be bound and abide by the terms of the following in order of precedence: (a) the applicable collective bargaining agreement between the Prime Contractor and one or more of the Unions made signatory hereto; (b) the applicable collective bargaining agreement between a Subcontractor and one or more of the Unions made signatory hereto; or (c) the current applicable area collective bargaining agreement for the relevant Union that is the agreement certified by the Illinois Department of Labor for purposes of establishing the Prevailing Wage applicable to the Project. The Union will provide copies of the applicable collective bargaining agreements pursuant to part (c) of the preceding sentence to the Prime Contractor. Assignments by the Contractors or Subcontractors amongst the trades shall be consistent with area practices; in the event of unresolved disagreements as to the propriety of such assignments, the provisions of Article VI shall apply.
- 1.7 Subject to the limitations of paragraphs 1.4 to 1.6 of this Article, the terms of each applicable collective bargaining agreement as determined in accordance with paragraph 1.6 are incorporated herein by reference, and the terms of this PLA shall be deemed incorporated into such other applicable collective bargaining agreements only for purposes of their application to the Project.
- 1.8 To the extent necessary to comply with the requirements of any fringe benefit fund to which the Prime Contractor or Subcontractor is required to contribute under the terms of an applicable collective bargaining agreement pursuant to the preceding paragraph, the Prime Contractor or Subcontractor shall execute all "Participation Agreements" as may be reasonably required by the Union to accomplish such purpose; provided, however, that such Participation Agreements shall, when applicable to the Prime Contractor or Subcontractor solely as a result of this PLA, be amended as reasonably necessary to reflect such fact. Upon written notice in the form of a lien of a Contractor's or Subcontractor's delinquency from any applicable fringe benefit fund, IDOT will withhold from the Contractor's periodic pay request an amount sufficient to extinguish any delinquency obligation of the Contractor or Subcontractor arising out of the Project.
- 1.9 In the event that the applicable collective bargaining agreement between a Prime Contractor and the Union or between the Subcontractor and the Union expires prior to the completion of this Project, the expired applicable contract's terms will be maintained until a new applicable collective bargaining agreement is ratified. The wages and fringe benefits included in any new applicable collective bargaining agreement will apply on and after the effective date of the newly negotiated collective bargaining agreement, except to the extent wage and fringe benefit retroactivity is specifically agreed upon by the relevant bargaining parties.

**ARTICLE II – APPLICABILITY, RECOGNITION, AND COMMITMENTS**

- 2.1 The term Construction Work as used herein shall include all “construction, demolition, rehabilitation, renovation, or repair” work performed by a “laborer or mechanic” at the “site of the work” for the purpose of “building” the specific structures and improvements that constitute the Project. Terms appearing within quotation marks in the preceding sentence shall have the meaning ascribed to them pursuant to 29 CFR Part 5 and Illinois labor laws.
- 2.2 By executing the Letters of Assent, Prime Contractor and each of its Subcontractors recognizes the Unions signatory to this PLA as the sole and exclusive bargaining representatives for their craft employees employed on the jobsite for this Project. Unions who are signatory to this PLA will have recognition on the Project for their craft.
- 2.3 The Prime Contractor and each of its Subcontractors retains and shall be permitted to exercise full and exclusive authority and responsibility for the management of its operations, except as expressly limited by the terms of this PLA or by the terms and conditions of the applicable collective bargaining agreement.
- 2.4 Except to the extent contrary to an express provision of the relevant collective bargaining agreement, equipment or materials used in the Project may be pre-assembled or pre-fabricated, and there shall be no refusal by the Union to handle, transport, install, or connect such equipment or materials. Equipment or materials delivered to the job-site will be unloaded and handled promptly without regard to potential jurisdictional disputes; any such disputes shall be handled in accordance with the provisions of this PLA.
- 2.5 The parties are mutually committed to promoting a safe working environment for all personnel at the job-site. It shall be the responsibility of each employer to which this PLA applies to provide and maintain safe working conditions for its employees, and to comply with all applicable federal, state, and local health and safety laws and regulations.
- 2.6 The use or furnishing of alcohol or drugs and the conduct of any other illegal activity at the job-site is strictly prohibited. The parties shall take every practical measure consistent with the terms of applicable collective bargaining agreements to ensure that the job-site is free of alcohol and drugs.
- 2.7 All parties to this PLA agree that they will not discriminate against any employee based on race, creed, religion, color, national origin, union activity, age, gender or sexual orientation and shall comply with all applicable federal, state, and local laws.

- 2.8 In accordance with the Act and to promote diversity in employment, IDOT will establish, in cooperation with the other parties, the apprenticeship hours which are to be performed by minorities and females on the Project. IDOT shall consider the total hours to be performed by these underrepresented groups, as a percentage of the workforce, and create aspirational goals for each Project, based on the level of underutilization for the service area of the Project (together "Project Employment Objectives"). IDOT shall provide a quarterly report regarding the racial and gender composition of the workforce on the Project.

Persons currently lacking qualifications to enter apprenticeship programs will have the opportunity to obtain skills through basic training programs as have been established by the Department. The parties will endeavor to support such training programs to allow participants to obtain the requisite qualifications for the Project Employment Objectives.

The parties agree that all Contractors and Subcontractors working on the Project shall be encouraged to utilize the maximum number of apprentices as permitted under the terms of the applicable collective bargaining agreements to realize the Project Employment Objectives.

The Unions shall assist the Contractor and each Subcontractor in efforts to satisfy Project Employment Objectives. A Contractor or Subcontractor may request from a Union specific categories of workers necessary to satisfy Project Employment Objectives. The application of this section shall be consistent with all local Union collective bargaining agreements, and the hiring hall rules and regulations established for the hiring of personnel, as well as the apprenticeship standards set forth by each individual Union.

- 2.9 The parties hereto agree that engineering consultants and materials testing employees, to the extent subject to the terms of this PLA, shall be fully expected to objectively and responsibly perform their duties and obligations owed to the Department without regard to the potential union affiliation of such employees or of other employees on the Project.
- 2.10 This Agreement shall not apply to IDOT employees or employees of any other governmental entity.

### **ARTICLE III - ADMINISTRATION OF AGREEMENT**

- 3.1 In order to assure that all parties have a clear understanding of the PLA, and to promote harmony, at the request of the Unions a post-award pre-job conference will be held among the Prime Contractor, all Subcontractors and Union representatives prior to the start of any Construction Work on the Project. No later than the conclusion of such pre-job conference, the parties shall, among other matters, provide to one another contact information for their respective representatives (including name, address, phone number, facsimile number, e-mail). Nothing herein shall be construed to limit the right of the Department to discuss or explain the purpose and intent of this PLA with prospective bidders or other interested parties prior to or following its award of the job.
- 3.2 Representatives of the Prime Contractor and the Unions shall meet as often as reasonably necessary following award until completion of the Project to assure the effective implementation of this PLA.
- 3.3 Any notice contemplated under Article VI and VII of this Agreement to a signatory labor organization shall be made in writing to the Local Union with copies to the local union's International Representative.

### **ARTICLE IV - HOURS OF WORK AND GENERAL CONDITIONS**

- 4.1 The standard work day and work week for Construction Work on the Project shall be consistent with the respective collective bargaining agreements. In the event Project site or other job conditions dictate a change in the established starting time and/or a staggered lunch period for portions of the Project or for specific crafts, the Prime Contractor, relevant Subcontractors and business managers of the specific crafts involved shall confer and mutually agree to such changes as appropriate. If proposed work schedule changes cannot be mutually agreed upon between the parties, the hours fixed at the time of the pre-job meeting shall prevail.
- 4.2 Shift work may be established and directed by the Prime Contractor or relevant Subcontractor as reasonably necessary or appropriate to fulfill the terms of its contract with the Department. If used, shift hours, rates and conditions shall be as provided in the applicable collective bargaining agreement.
- 4.3 The parties agree that chronic and/or unexcused absenteeism is undesirable and must be controlled in accordance with procedures established by the applicable collective bargaining agreement. Any employee disciplined for absenteeism in accordance with such procedures shall be suspended from all work on the Project for not less than the maximum period permitted under the applicable collective bargaining agreement.

- 4.4 Except as may be otherwise expressly provided by the applicable collective bargaining agreement, employment begins and ends at the Project site; employees shall be at their place of work at the starting time; and employees shall remain at their place of work until quitting time.
- 4.5 Except as may be otherwise expressly provided by the applicable collective bargaining agreement, there shall be no limit on production by workmen, no restrictions on the full use of tools or equipment, and no restrictions on efficient use of manpower or techniques of construction other than as may be required by safety regulations.
- 4.6 The parties recognize that specialized or unusual equipment may be installed on the Project. In such cases, the Union recognizes the right of the Prime Contractor or Subcontractor to involve the equipment supplier or vendor's personnel in supervising the setting up of the equipment, making modifications and final alignment, and performing similar activities that may be reasonably necessary prior to and during the start-up procedure in order to protect factory warranties. The Prime Contractor or Subcontractor shall notify the Union representatives in advance of any work at the job-site by such vendor personnel in order to promote a harmonious relationship between the equipment vendor's personnel and other Project employees.
- 4.7 For the purpose of promoting full and effective implementation of this PLA, authorized Union representatives shall have access to the Project job-site during scheduled work hours. Such access shall be conditioned upon adherence to all reasonable visitor and security rules of general applicability that may be established for the Project site at the pre-job conference or from time to time thereafter.

**ARTICLE V – GRIEVANCE PROCEDURES FOR DISPUTES ARISING UNDER A PARTICULAR COLLECTIVE BARGAINING AGREEMENT**

- 5.1 In the event a dispute arises under a particular collective bargaining agreement specifically not including jurisdictional disputes referenced in Article VI below, said dispute shall be resolved by the Grievance/Arbitration procedure of the applicable collective bargaining agreement. The resulting determination from this process shall be final and binding on all parties bound to its process.
- 5.2 Employers covered under this Agreement shall have the right to discharge or discipline any employee who violates the provisions of this Agreement. Such discharge or discipline by a contractor or subcontractor shall be subject to Grievance/Arbitration procedure of the applicable collective bargaining agreement only as to the fact of such violation of this agreement. If such fact is established, the penalty imposed shall not be disturbed. Work at the Project site shall continue without disruption or hindrance of any kind as a result of a Grievance/Arbitration procedure under this Article.

- 5.3 In the event there is a deadlock in the foregoing procedure, the parties agree that the matter shall be submitted to arbitration for the selection and decision of an Arbitrator governed under paragraph 6.8.

#### **ARTICLE VI –DISPUTES: GENERAL PRINCIPLES**

- 6.1 This Agreement is entered into to prevent strikes, lost time, lockouts and to facilitate the peaceful adjustment of jurisdictional disputes in the building and construction industry and to prevent waste and unnecessary avoidable delays and expense, and for the further purpose of at all times securing for the employer sufficient skilled workers.
- 6.2 A panel of Permanent Arbitrators are attached as addendum (A) to this agreement. By mutual agreement between IDOT and the Unions, the parties can open this section of the agreement as needed to make changes to the list of permanent arbitrators.

The arbitrator is not authorized to award back pay or any other damages for a miss assignment of work. Nor may any party bring an independent action for back pay or any other damages, based upon a decision of an arbitrator.

- 6.3 The PLA Jurisdictional Dispute Resolution Process (“Process”) sets forth the procedures below to resolve jurisdictional disputes between and among Contractors, Subcontractors, and Unions engaged in the building and construction industry. Further, the Process will be followed for any grievance or dispute arising out of the interpretation or application of this PLA by the parties except for the prohibition on attorneys contained in 6.11. All decisions made through the Process are final and binding upon all parties.

#### **DISPUTE PROCESS**

- 6.4 Administrative functions under the Process shall be performed through the offices of the President and/or Secretary-Treasurer of the Illinois State Federation of Labor, or their designated representative, called the Administrator. In no event shall any officer, employee, agent, attorney, or other representative of the Illinois Federation of Labor, AFL- CIO be subject to any subpoena to appear or testify at any jurisdictional dispute hearing.
- 6.5 There shall be no abandonment of work during any case participating in this Process or in violation of the arbitration decision. All parties to this Process release the Illinois State Federation of Labor (“Federation”) from any liability arising from its action or inaction and covenant not to sue the Federation, nor its officers, employees, agents or attorneys.



- 6.6 In the event of a dispute relating to trade or work jurisdiction, all parties, including the employers, Contractors or Subcontractors, agree that a final and binding resolution of the dispute shall be resolved as follows:
- (a) Representatives of the affected trades and the Contractor or Subcontractor shall meet on the job site within two (2) business days after receiving written notice in an effort to resolve the dispute. (In the event there is a dispute between local unions affiliated with the same International Union, the decision of the General President, or his/her designee, as the internal jurisdictional authority of that International Union, shall constitute a final and binding decision and determination as to the jurisdiction of work.)
  - (b) If no settlement is achieved subsequent to the preceding Paragraph, the matter shall be referred to the local area Building & Construction Trades Council, which shall meet with the affected trades within two (2) business days subsequent to receiving written notice. In the event the parties do not wish to avail themselves of the local Building & Construction Trades Council, the parties may elect to invoke the services of their respective International Representatives with no extension of the time limitations. An agreement reached at this Step shall be final and binding upon all parties.
  - (c) If no settlement agreement is reached during the proceedings contemplated by Paragraphs “a” or “b” above, the matter shall be immediately referred to the Illinois Jurisdictional Dispute Process for final and binding resolution of said dispute. Said referral submission shall be in writing and served upon the Illinois State Federation of Labor, or the Administrator, pursuant to paragraph 6.4 of this agreement. The Administrator shall, within three (3) days, provide for the selection of an available Arbitrator to hear said dispute within this time period. Upon good cause shown and determined by the Administrator, an additional three (3) day extension for said hearing shall be granted at the sole discretion of the Administrator. Only upon mutual agreement of all parties may the Administrator extend the hearing for a period in excess of the time frames contemplated under this Paragraph. Business days are defined as Monday through Friday, excluding contract holidays.
- 6.7 The primary concern of the Process shall be the adjustment of jurisdictional disputes arising out of the Project. A sufficient number of Arbitrators shall be selected from list of approved Arbitrators as referenced Sec. 6.2 and shall be assigned per Sec. 6.8. Decisions shall be only for the Project and shall become effective immediately upon issuance and complied with by all parties. The authority of the Arbitrator shall be restricted and limited specifically to the terms and provisions of Article VI and generally to this Agreement as a whole.

- 6.8 Arbitrator chosen shall be randomly selected based on the list of Arbitrators in Sec. 6.2 and geographical location of the jurisdictional dispute and upon his/her availability, and ability to conduct a Hearing within two (2) business days of said notice. The Arbitrator may issue a “bench” decision immediately following the Hearing or he/she may elect to only issue a written decision, said decision must be issued within two (2) business days subsequent to the completion of the Hearing. Copies of all notices, pleadings, supporting memoranda, decisions, etc. shall be provided to all disputing parties and the Illinois State Federation of Labor.

Any written decision shall be in accordance with this Process and shall be final and binding upon all parties to the dispute and may be a “short form” decision. Fees and costs of the arbitrator shall be divided evenly between the contesting parties except that any party wishing a full opinion and decision beyond the short form decision shall bear the reasonable fees and costs of such full opinion. The decision of the Arbitrator shall be final and binding upon the parties hereto, their members, and affiliates.

In cases of jurisdictional disputes or other disputes between a signatory labor organization and another labor organization, both of which is an affiliate or member of the same International Union, the matter or dispute shall be settled in the manner set forth by their International Constitution and/or as determined by the International Union’s General President whose decision shall be final and binding upon all parties. In no event shall there be an abandonment of work.

- 6.9 In rendering a decision, the Arbitrator shall determine:
- (a) First, whether a previous agreement of record or applicable agreement, including a disclaimer agreement, between National or International Unions to the dispute or agreements between local unions involved in the dispute, governs;
  - (b) Only if the Arbitrator finds that the dispute is not covered by an appropriate or applicable agreement of record or agreement between the crafts to the dispute, he shall then consider the established trade practice in the industry and prevailing practice in the locality. Where there is a previous decision of record governing the case, the Arbitrator shall give equal weight to such decision of record, unless the prevailing practice in the locality in the past ten years favors one craft. In that case, the Arbitrator shall base his decision on the prevailing practice in the locality. Except, that if the Arbitrator finds that a craft has improperly obtained the prevailing practice in the locality through raiding, the undercutting of wages or by the use of vertical agreements, the Arbitrator shall rely on the decision of record and established trade practice in the industry rather than the prevailing practice in the locality; and,

(c) Only if none of the above criteria is found to exist, the Arbitrator shall then consider that because efficiency, cost or continuity and good management are essential to the well being of the industry, the interests of the consumer or the past practices of the employer shall not be ignored.

(d) The arbitrator is not authorized to award back pay or any other damages for a mis-assignment of work. Nor may any party bring an independent action for back pay or any other damages, based upon a decision of an arbitrator.

6.10 The Arbitrator shall set forth the basis for his/her decision and shall explain his/her findings regarding the applicability of the above criteria. If lower ranked criteria are relied upon, the Arbitrator shall explain why the higher-ranked criteria were not deemed applicable. The Arbitrator's decision shall only apply to the Project. Agreements of Record, for other PLA projects, are applicable only to those parties signatory to such agreements. Decisions of Record are those that were either attested to by the former Impartial Jurisdictional Disputes Board or adopted by the National Arbitration Panel.

6.11 All interested parties, as determined by the Arbitrator, shall be entitled to make presentations to the Arbitrator. Any interested labor organization affiliated to the PLA Committee and party present at the Hearing, whether making a presentation or not, by such presence shall be deemed to accept the jurisdiction of the Arbitrator and to agree to be bound by its decision. In addition to the representative of the local labor organization, a representative of the labor organization's International Union may appear on behalf of the parties. Each party is responsible for arranging for its witnesses. In the event an Arbitrator's subpoena is required, the party requiring said subpoena shall prepare the subpoena for the Arbitrator to execute. Service of the subpoena upon any witness shall be the responsibility of the issuing party.

Attorneys shall not be permitted to attend or participate in any portion of a Hearing.

The parties are encouraged to determine, prior to Hearing, documentary evidence which may be presented to the Arbitrator on a joint basis.

6.12 The Order of Presentation in all Hearings before an Arbitrator shall be

- I. Identification and Stipulation of the Parties
- II. Unions(s) claiming the disputed work presents its case
- III. Union(s) assigned the disputed work presents its case
- IV. Employer assigning the disputed work presents its case
- V. Evidence from other interested parties (i.e., general contractor, project manager, owner)
- VI. Rebuttal by union(s) claiming the disputed work
- VII. Additional submissions permitted and requested by Arbitrator
- VIII. Closing arguments by the parties

- 6.13 All parties bound to the provisions of this Process hereby release the Illinois State Federation of Labor and IDOT, their respective officers, agents, employees or designated representatives, specifically including any Arbitrator participating in said Process, from any and all liability or claim, of whatsoever nature, and specifically incorporating the protections provided in the Illinois Arbitration Act, as amended from time to time.
- 6.14 The Process, as an arbitration panel, nor its Administrator, shall have any authority to undertake any action to enforce its decision(s). Rather, it shall be the responsibility of the prevailing party to seek appropriate enforcement of a decision, including findings, orders or awards of the Arbitrator or Administrator determining non-compliance with a prior award or decision.
- 6.15 If at any time there is a question as to the jurisdiction of the Illinois Jurisdictional Dispute Resolution Process, the primary responsibility for any determination of the arbitrability of a dispute and the jurisdiction of the Arbitrator shall be borne by the party requesting the Arbitrator to hear the underlying jurisdictional dispute. The affected party or parties may proceed before the Arbitrator even in the absence or one or more stipulated parties with the issue of jurisdiction as an additional item to be decided by the Arbitrator. The Administrator may participate in proceedings seeking a declaration or determination that the underlying dispute is subject to the jurisdiction and process of the Illinois Jurisdictional Dispute Resolution Process. In any such proceedings, the non-prevailing party and/or the party challenging the jurisdiction of the Illinois Jurisdictional Dispute Resolution Process shall bear all the costs, expenses and attorneys' fees incurred by the Illinois Jurisdictional Dispute Resolution Process and/or its Administrator in establishing its jurisdiction.

#### **ARTICLE VII - WORK STOPPAGES AND LOCKOUTS**

- 7.1 During the term of this PLA, no Union or any of its members, officers, stewards, employees, agents or representatives shall instigate, support, sanction, maintain, or participate in any strike, picketing, walkout, work stoppage, slow down or other activity that interferes with the routine and timely prosecution of work at the Project site or at any other contractor's or supplier's facility that is necessary to performance of work at the Project site. Hand billing at the Project site during the designated lunch period and before commencement or following conclusion of the established standard workday shall not, in itself, be deemed an activity that interferes with the routine and timely prosecution of work on the Project.

7.2 Should any activity prohibited by paragraph 7.1 of this Article occur, the Union shall undertake all steps reasonably necessary to promptly end such prohibited activities.

7.2.A No Union complying with its obligations under this Article shall be liable for acts of employees for which it has no responsibility or for the unauthorized acts of employees it represents. Any employee who participates or encourages any activity prohibited by paragraph 7.1 shall be immediately suspended from all work on the Project for a period equal to the greater of (a) 60 days; or (b) the maximum disciplinary period allowed under the applicable collective bargaining agreement for engaging in comparable unauthorized or prohibited activity.

7.2.B Neither the PLA Committee nor its affiliates shall be liable for acts of employees for which it has no responsibility. The principal officer or officers of the PLA Committee will immediately instruct, order and use the best efforts of his office to cause the affiliated union or unions to cease any violations of this Article. The PLA Committee in its compliance with this obligation shall not be liable for acts of its affiliates. The principal officer or officers of any involved affiliate will immediately instruct, order or use the best effort of his office to cause the employees the union represents to cease any violations of this Article. A union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Contractor to exercise its rights in any instance shall not be deemed a waiver of its rights in any other instance.

During the term of this PLA, the Prime Contractor and its Subcontractors shall not engage in any lockout at the Project site of employees covered by this Agreement.

7.3 Upon notification of violations of this Article, the principal officer or officers of the local area Building and Construction Trades Council, and the Illinois AFL-CIO Statewide Project Labor Agreement Committee as appropriate, will immediately instruct, order and use their best efforts to cause the affiliated union or unions to cease any violations of this Article. A Trades Council and the Committee otherwise in compliance with the obligations under this paragraph shall not be liable for unauthorized acts of its affiliates.

7.4 In the event that activities in violation of this Article are not immediately halted through the efforts of the parties, any aggrieved party may invoke the special arbitration provisions set forth in paragraph 7.5 of this Article.

- 7.5 Upon written notice to the other involved parties by the most expeditious means available, any aggrieved party may institute the following special arbitration procedure when a breach of this Article is alleged:
- 7.5.A The party invoking this procedure shall notify the individual designated as the Permanent Arbitrator pursuant to paragraph 6.8 of the nature of the alleged violation; such notice shall be by the most expeditious means possible. The initiating party may also furnish such additional factual information as may be reasonably necessary for the Permanent Arbitrator to understand the relevant circumstances. Copies of any written materials provided to the arbitrator shall also be contemporaneously provided by the most expeditious means possible to the party alleged to be in violation and to all other involved parties.
- 7.5.B Upon receipt of said notice the Permanent Arbitrator shall set and hold a hearing within twenty-four (24) hours if it is contended the violation is ongoing, but not before twenty-four (24) hours after the written notice to all parties involved as required above.
- 7.5.C The Permanent Arbitrator shall notify the parties by facsimile or any other effective written means, of the place and time chosen by the Permanent Arbitrator for this hearing. Said hearing shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an Award by the Permanent Arbitrator.
- 7.5.D The sole issue at the hearing shall be whether a violation of this Article has, in fact, occurred. An Award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The Permanent Arbitrator may order cessation of the violation of this Article, and such Award shall be served on all parties by hand or registered mail upon issuance.
- 7.5.E Such Award may be enforced by any court of competent jurisdiction upon the filing of the Award and such other relevant documents as may be required. Facsimile or other hardcopy written notice of the filing of such enforcement proceedings shall be given to the other relevant parties. In a proceeding to obtain a temporary order enforcing the Permanent Arbitrator's Award as issued under this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the Permanent Arbitrator's Award shall be served on all parties by hand or by delivery to their last known address or by registered mail.

- 7.6 Individuals found to have violated the provisions of this Article are subject to immediate termination. In addition, IDOT reserves the right to terminate this PLA as to any party found to have violated the provisions of this Article.
- 7.7 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by parties to whom they accrue.
- 7.8 The fees and expenses of the Permanent Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the moving party.

### **ARTICLE VIII – TERMS OF AGREEMENT**

- 8.1 If any Article or provision of this Agreement shall be declared invalid, inoperative or unenforceable by operation of law or by any of the above mentioned tribunals of competent jurisdiction, the remainder of this Agreement or the application of such Article or provision to persons or circumstances other than those as to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.
- 8.2 This Agreement shall be in full force as of and from the date of the Notice of Award until the Project contract is closed.
- 8.3 This PLA may not be changed or modified except by the subsequent written agreement of the parties. All parties represent that they have the full legal authority to enter into this PLA. This PLA may be executed by the parties in one or more counterparts.
- 8.4 Any liability arising out of this PLA shall be several and not joint. IDOT shall not be liable to any person or other party for any violation of this PLA by any other party, and no Contractor or Union shall be liable for any violation of this PLA by any other Contractor or Union.
- 8.5 The failure or refusal of a party to exercise its rights hereunder in one or more instances shall not be deemed a waiver of any such rights in respect of a separate instance of the same or similar nature.

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Addendum A

IDOT Slate of Permanent Arbitrators

1. Bruce Feldacker
2. Thomas F. Gibbons
3. Edward J. Harrick
4. Brent L. Motchan
5. Robert Perkovich
6. Byron Yaffee
7. Glenn A. Zipp



**Execution Page**

***Illinois Department of Transportation***

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Stephen Travia, Director of Highways Project Implementation

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Vicki L. Wilson, Director of Finance & Administration

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Yangsu Kim, Chief Counsel

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Omer Osman, Secretary

(Date)

***Illinois AFL-CIO Statewide Project Labor Agreement Committee, representing the Unions listed below:***

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(Date)

List Unions:

Exhibit A - Contractor Letter of Assent

(Date)

To All Parties:

In accordance with the terms and conditions of the contract for Construction Work on [Contract No. ], this Letter of Assent hereby confirms that the undersigned Prime Contractor or Subcontractor agrees to be bound by the terms and conditions of the Project Labor Agreement established and entered into by the Illinois Department of Transportation in connection with said Project.

It is the understanding and intent of the undersigned party that this Project Labor Agreement shall pertain only to the identified Project. In the event it is necessary for the undersigned party to become signatory to a collective bargaining agreement to which it is not otherwise a party in order that it may lawfully make certain required contributions to applicable fringe benefit funds, the undersigned party hereby expressly conditions its acceptance of and limits its participation in such collective bargaining agreement to its work on the Project.

(Authorized Company Officer)

(Company)

**REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

**II. NONDISCRIMINATION** (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

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

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

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

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

#### **8. Reasonable Accommodation for Applicants /**

**Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

#### **9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:**

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

#### **10. Assurances Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

#### 1. Minimum wages (29 CFR 5.5)

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. Withholding (29 CFR 5.5)**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally- assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. Payrolls and basic records (29 CFR 5.5)**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and trainees (29 CFR 5.5)**

##### **a. Apprentices (programs of the USDOL).**

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### **b. Trainees (programs of the USDOL).**

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the



corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **10. Certification of eligibility (29 CFR 5.5)**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

### **3. Withholding for unpaid wages and liquidated damages.**

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

## **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

## **VII. SAFETY: ACCIDENT PREVENTION**

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance

with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

#### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

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## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

## **3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

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**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

