PROJECT MANUAL

AND

CONTRACT DOCUMENTS

FOR

LOLO STREET BRIDGE REPLACEMENT PROJECT

FOR THE

REPLACEMENT OF THE LOLO STREET BRIDGE AND ITS ASSOCIATED SITE WORK. THIS CONSISTS OF ALL WORK DESCRIBED IN THESE CONTRACT DOCUMENTS, WHICH INCLUDES BRIDGE, SIDEWALK, ROAD, AND WATER MAIN CONSTRUCTION.

☒ BID SET

☐ CONTRACT SET

October 2026

Prepared For:

Missoula COUNTY

THE GARDEN CITY MISSOULA HUB OF FIVE VALLEYS

Prepared By:

DJ&A ENGINEERS PLANNERS SURVEYORS

PROJECT MANUAL

and

CONTRACT DOCUMENTS

for

LOLO STREET BRIDGE REPLACEMENT

County Project #: PWFY26-001

Prepared for:

Missoula County Public Works
6089 Training Drive
Missoula, MT 59808

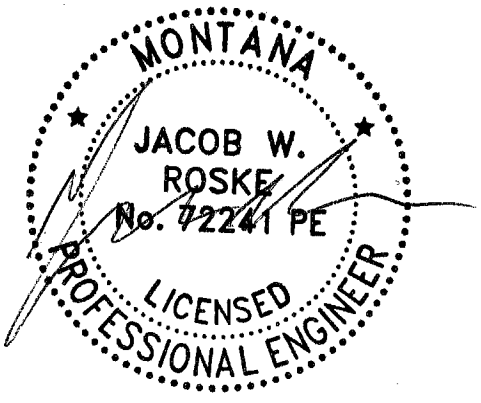
Prepared by:

DJ&A, LLC
2000 Maple Street
Missoula, MT 59808
(406) 721-4320

DJ&A LLC Project #: 7611

Approved by:

Jacob Roske, P.E.



Brendan Elkins, P.E.



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PROJECT SPECIFICATIONS

MONTANA PUBLIC WORKS STANDARD SPECIFICATIONS 2021 7th EDITION (MPWSS)

Those sections of Divisions 0, 1, 2, & 3 of the Montana Public Works Standard Specifications noted below shall be considered part of the specifications unless modified herein.

DIVISION 0 – GENERAL PROVISIONS

SECTION 00100	Invitation to Bid
SECTION 00200	Instructions to Bidders
SECTION 00410	Bid Form
SECTION 00520	Agreement Form
SECTION 00700	Standard General Conditions (EJCDC C-700)
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FORM C-550	Notice to Proceed
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SECTION 01300	Submittals
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SECTION 02110	Geotextiles
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SECTION 02113	Adjusting Existing Manholes, Lampholes, Inlets, Water Valve Boxes, Water Services and Fire Hydrants to Grade
SECTION 02114	Relocating or Removing Utility Poles, Street Signs and Mailboxes

SECTIONS 02200 – EARTHWORK

SECTION 02221	Trench Excavation and Backfill for Pipelines and Appurtenant Structures
SECTION 02222	Low Permeability Trench Backfill Plugs
SECTION 02225	Flowable Fill
SECTION 02230	Street Excavation, Backfill and Compaction
SECTION 02234	Sub Base Course
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SECTIONS 02500 - PAVING AND SURFACING

SECTION 02502	Asphalt Prime and/or Tack Coat
SECTION 02504	Asphalt Seal Coat
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SECTION 02515	Portland Cement Concrete Pavement
SECTION 02528	Concrete Curb and Gutter
SECTION 02529	Concrete Sidewalks, Driveways, Approaches, Curb Turn Fillets, Valley Gutters and Miscellaneous New Concrete Construction
SECTION 02581	Pavement Markings and Markers (Pre-Formed Plastic, Paints and Enamels)
SECTION 02582	Reflective Thermoplastic Pavement Markings

SECTIONS 02600 – WATER DISTRIBUTION

SECTION 02660	Water Distribution Systems

SECTIONS 02700 – SEWERAGE AND DRAINAGE

SECTION 02720	Storm Drain Systems
SECTION 02730	Sanitary Sewer Collection System

SECTIONS 02900 - LANDSCAPING

SECTION 02910	Seeding
SECTION 02920	Hydraulic Seeding

DIVISION 3 – CONCRETE

SECTIONS 03200 - CONCRETE

SECTION 03210	Reinforcing Steel
SECTION 03310	Structural Concrete

CITY OF MISSOULA PUBLIC WORKS SUPPLEMENTALS

Those sections of the City of Missoula Standards and Specifications Manual (COMSSM) specifically noted below shall be considered part of the specifications unless modified herein.

CITY OF MISSOULA STANDARDS AND SPECIFICATIONS MANUAL (JANUARY 2026)

http://www.ci.missoula.mt.us/2708/Public-Works-Standards-Specifications-Ma

CHAPTER 1	Introductory Provisions with Appendix 1-A
CHAPTER 2	Construction Within the Right-of-Way with Appendix 2-A to 2-E
CHAPTER 3	Improvement Plans with Appendix 3-B to 3-F
CHAPTER 4	Water System with Appendix 4-A to 4-C
CHAPTER 5	Sewer System with Appendix 5-A to 5-D
CHAPTER 6	Stormwater System with Appendix 6-A to 6-G
CHAPTER 7	Transportation System with Appendix 7-A to 7-B
CHAPTER 8	Erosion Control with Appendix 8-A to 8-E
CHAPTER 9	Park System with Appendix 9-A

PARKS AND REC MANUAL (2018 Edition)

https://www.ci.missoula.mt.us/DocumentCenter/View/41022/Missoula-Parks-and-Recreation-Design-Manual-2018-Edition-?bidId

DIVISION 1 – GENERAL REQUIREMENTS

SECTION 01400	Contractor Quality Control and Owner Quality Assurance (MPWSS, as amended)
SECTION 01570	Construction Traffic Control (replaced section)
SECTION 01580	Temporary Water Supply (deleted section)
SECTION 01600	Weekly Construction Photo Documentation (added section)

DIVISION 2 – SITEWORK

SECTION 02100 SITE PREPARATION

SECTION 02110	Geotextiles (MPWSS, as amended)
SECTION 02113	Adjusting Existing Manholes, Lampholes, Inlets, Water Valve Boxes, Water Services, and Fire Hydrants to Grade (MPWSS, as amended)
SECTION 02120	Park Tree and Vegetation Protection (added section)

SECTION 02200 EARTHWORK

SECTION 02221	Trench Excavation and Backfill for Pipelines and Appurtenant Structures (MPWSS, as amended)
SECTION 02222	Low Permeability Trench Backfill Plugs (MPWSS, as amended)
SECTION 02230	Street Excavation, Backfill and Compaction (MPWSS, as amended)
SECTION 02234	Sub Base Course (MPWSS, as amended)
SECTION 02235	Crushed Base Course (MPWSS, as amended)
SECTION 02236	Recycled Asphalt Pavement (added section)

SECTION 02500 PAVING AND SURFACING

SECTION 02504	Asphalt Seal Coat (MPWSS, as amended)
SECTION 02510	Asphalt Concrete Pavement (MPWSS, as amended)
SECTION 02511	High-Performance Cold Asphalt Pavement Patch (added section)
SECTION 02528	Concrete Curb and Gutter (MPWSS, as amended)
SECTION 02529	Concrete Sidewalks, Driveways, Approaches, Curb Turn Fillets, Valley Gutters, and Miscellaneous New Concrete Construction (MPWSS, as amended)
SECTION 02581	Pavement Markings and Markers (Pre-Formed Plastic, Paints and Enamels) (MPWSS, as amended)
SECTION 02582	Reflective Thermoplastic Pavement Markings (deleted section)
SECTION 02583	Tennis Court Surfacing (added section)
SECTION 02585	Street Signs (added section)
SECTION 02590	Street and Trail Lighting (added section)

SECTION 02600 WATER DISTRIBUTION

SECTION 02660	Water Distribution Systems (MPWSS, as amended)
SECTION 02670	Irrigation Systems (added section)

SECTION 02700 SEWERAGE AND DRAINAGE

SECTION 02720	Storm Drain Systems (MPWSS, as amended)
SECTION 02724	Insulation (added section)
SECTION 02725	Drainage Culverts (MPWSS, as amended)
SECTION 02730	Sanitary Sewer Collection System (MPWSS, as amended)
SECTION 02740	Pipe Casing and Appurtenances (added section)

SECTION 02900 LANDSCAPING

SECTION 02900	Landscaping Surface Preparation and Topsoil (added section)
SECTION 02910	Seeding (added section)
SECTION 02920	Sodding (added section)
SECTION 02930	Tree Planting (added section)
SECTION 02940	Shrub and Perennial Planting (added section)

DIVISION 3 – CONCRETE SECTIONS

SECTION 03210	Reinforcing Steel (MPWSS, as amended)
SECTION 03310	Structural Concrete (MPWSS, as amended)

DIVISION 9 – FINISHES

SECTION 09950 COATINGS AND LININGS

SECTION 09950	Flexible Coating and Lining System (added section)
SECTION 09951	Anti-Graffiti Coatings (added section)

MONTANA DEPARTMENT OF TRANSPORTATION (MDT) SUPPLEMENTALS

Those sections of the MDT Standard Specifications for Road and Bridge Construction noted below shall be considered part of the specifications unless modified herein.

MDT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION (2025 Edition – January 15, 2026)

Standard Specifications | Montana Department of Transportation (MDT)

SECTION 104.02	Differing Site Conditions, Suspension of Work, and Signification Changes in the Character of Work
SECTION 105	Control of Work
SECTION 106.09	Domestic Materials
SECTION 108.01	Subcontracting
SECTION 109	Measurement and Payment
SECTION 201	Clearing and Grubbing
SECTION 202	Removal of Structures and Obstructions
SECTION 203	Excavation and Embankment
SECTION 208	Environmental Protection
SECTION 209	Structure Excavation
SECTION 401	Plant Mix Surfacing
SECTION 402	Bituminous Materials
SECTION 551	Hydraulic Cement Concrete
SECTION 552	Concrete Structures
SECTION 553	Prestressed Concrete Members
SECTION 555	Reinforcing Steel
SECTION 556	Steel Structures
SECTION 557	Steel Bridge Railing
SECTION 563	Modified Concrete Overlay
SECTION 565	Bearing Devices
SECTION 605	Concrete Barrier Rail
SECTION 606	Guardrail
SECTION 607	Fences
SECTION 608	Concrete Sidewalks
SECTION 613	Riprap and Slope Protection
SECTION 622	Geotextiles
SECTION 701	Aggregates

SECTION 702	Bituminous Materials
SECTION 704	Signing Materials
SECTION 705	Guardrail
SECTION 706	Treated and Untreated Timber
SECTION 707	Joint Materials
SECTION 711	Reinforcing Steel, Structural Steel Hardware, and Miscellaneous Structure Items
SECTION 712	Fencing Material
SECTION 713	Miscellaneous Materials
SECTION 714	Pavement Marking Materials
SECTION 715	Traffic Control Devices
SECTION 716	Geotextiles
SECTION 717	Concrete Sealants
BR201.06	Epoxy-Grouted Barrier Anchors
BR201.63	Bridge Concrete Deck Overlay – Asphalt
BR201.87	Concrete – Class Structure Low Slump

MDT MATERIALS MANUAL OF TEST PROCEDURES (Effective November 13, 2025)

MT 601	Materials Sampling, Testing and Acceptance Guide

PROJECT SPECIAL PROVISIONS

See Special Provisions included in Bidding and Contracting Requirements for provisions specific to this project.

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SECTION 00100
INVITATION TO BID

Notice is hereby given that bids for the construction of The Lolo Street Bridge Replacement Project will be received by Missoula County Public Works Department, 6089 Training Drive, Missoula, MT 59808 until **10:00 A.M., local time, on Thursday, November 19th, 2026**. The sealed bids will then be opened by the County and read aloud at the Missoula County Public Works Office at 6089 Training Drive, Missoula, MT, 59808. No bid may be withdrawn after the scheduled time for the public opening of bids.

The project is primarily funded by a federal PROTECT Grant with some state and local funds and is subject to all applicable federal, state, and local regulations as indicated within the project manual. All work must be substantially complete within 400 calendar days after the commencement date stated in the notice to proceed. Notice to proceed is flexible with the latest completion date of January 31, 2028.

The Lolo Street Bridge Replacement Project consists of all work described in the contract documents, which includes but is not necessarily limited to: bridge, sidewalk, road, and water main construction.

Plans and specifications may be examined beginning Thursday, October 29th, 2026, on the Missoula County website at https://www.missoulacounty.gov/departments/auditor/bids-proposals/.

Questions regarding the project manual, drawings and specifications shall be submitted in writing to the Engineer: DJ&A LLC, 2000 Maple Street, Missoula, MT 59808, or by email: Jacob@djanda.com, or by phone (406) 721-4320. Questions submitted after **12:00 p.m. (noon), local time, on Thursday, November 12th, 2026,** are not guaranteed to be answered before the bid due to date and time. A pre-bid conference will not be held for this project. All prospective bidders that wish to be added to the plan holders list **must contact the Engineer** via the contact methods listed above.

All laborers and mechanics employed by contractors or subcontractors in performance of the construction work shall be paid wages at rates as set out in the bid proposal.

The Missoula County Public Works Department reserves the right to waive informalities, to reject any and all bids received, and, if all bids are rejected, to re-advertise under the same or new specifications, or to make such an award as in the judgment of its officials best meets the County's requirements.

Any objections to published specifications must be filed in written form with Missoula County prior to bid opening.

Bid announcements and bid results are posted on the county's website at https://www.missoulacounty.gov/departments/auditor/bids-proposals/.

PUBLICATION NOTICE DATES: 10/29/2026, 11/5/2026, & 11/12/2026 in the *Missoulian*

END OF SECTION

SECTION 00200
INSTRUCTIONS TO BIDDERS

ARTICLE 1- DEFINED TERMS

1.1 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and the Supplementary Conditions. Additional terms used in these Instructions To Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:

1. "Bidder" - The individual or entity who submits a Bid directly to OWNER

2. "Issuing Office" - The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

3. "Successful Bidder" - The lowest responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluations as hereinafter provided) makes an award.

ARTICLE 2- COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of Bidding Documents must be used in preparing Bids; the Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents. Complete sets of Bidding Documents can be found on the Missoula County website at: https://www.missoulacounty.gov/departments/auditor/bids-proposals/.

2.02 The Owner in making copies of Bidding Documents available do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

ARTICLE 3- QUALIFICATION OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, within five (5) days of OWNERs request, Bidder shall submit written evidence, such as financial data, previous experience in performing comparable work, present commitments and other such data as may be called for in the Special Provisions.

3.02 If applicable, Contractors bidding on this project shall have at least one (1) American Concrete Institute (ACI) Certified Flatwork Finisher available, on-site at all times during placement and finishing, on any/all public infrastructure concrete curb/gutter and/or sidewalk construction. The Bid Proposal or Bid Form includes a location to identify, at minimum one of the bidders' ACI Certified Flatwork Finishers' name and Certification ID No. All certifications will be verified to assure they are current. Bidders not

providing, at minimum one name and Certification ID No. of the ACI Certified Flatwork Finisher to be on site during construction will be considered non-responsive and rejected.

3.03 In determining the lowest responsible bid, the following elements will be considered: whether the BIDDER involved:

1. maintains a permanent place of business;
2. has adequate plant and equipment to do the work properly and expeditiously;
3. has a suitable financial status to meet obligations incident to the work; and
4. has appropriate technical experience with at least three comparable projects within the last five (5) years involving bridge replacements of comparable size and complexity. Information to demonstrate these qualifications shall be provided at the time of the bid by the bidder.
5. has appropriate technical experience with at least three comparable projects within the last five (5) years involving rehabilitation or modification of water distribution systems of comparable size and complexity. Projects of similar scope and complexity shall be defined as water main installations of 8-inches in size or greater and 1000 feet in length or greater. Information to demonstrate these qualifications shall be provided at the time of the bid by the bidder.
    a) Subconsultant project work may be highlighted to show experience for Schedule B - Water Main Replacement work.
6. has a Superintendent with at least ten (10) years construction experience which shall include at least five (5) years of experience as a Superintendent on at least three (3) projects of similar scope and complexity as this project. Information to demonstrate these qualifications shall be provided at the time of the bid by the bidder.
7. has a Project Manager with at least five (5) years construction experience which shall include at least two (2) years of experience as a Project Manager on at least two (2) projects of similar scope and complexity as this project. Information to demonstrate these qualifications shall be provided at the time of the bid by the bidder.

3.04 Each BIDDER may be required to show that former work performed by him has been handled in such a manner that there are no just or proper claims pending against such work. No BIDDER will be acceptable if he is engaged on any other work which impairs his ability to finance his contract. The BIDDER shall demonstrate his ability by meeting all requirements herein stipulated, if asked for them. **Lack of experience in successfully completing projects of a similar size with similar complexity may be construed as constituting a non-qualified bidder as determined by the OWNER.**

3.05 BIDDER is advised to carefully review those portions of the Bid Form requiring BIDDER's representations and certifications.

3.06 The Bidders may be required to submit satisfactory evidence that they have practical knowledge and job experience in the particular work bid upon, and that they have the necessary financial resources to complete the proposed work. In awarding the contract, due consideration shall be given to the present ability, reliability, and the general reputation of each of the bidders. Each bidder must show that former work performed by him/her has been handled in such a manner that there are no just or proper claims pending against such work. No bidder shall be acceptable if they are engaged on any other work which impairs their ability to finance this contract or provide proper equipment and labor for the proper execution of same.

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA AND SITE

4.01 Subsurface and Physical Conditions

A. The Special Provisions identify, if any:

1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Bidding Documents.

2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.02.A of the General Conditions, not included in this Contract Manual, will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02 of the General Conditions has been identified and established in paragraph 4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.02 Underground Facilities

A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to OWNER and ENGINEER by owners of such Underground Facilities, including OWNER, or others.

B. OWNER and ENGINEER do not assume responsibility for the accuracy or completeness thereof unless expressly provided otherwise elsewhere.

4.03 Hazardous Environmental Condition

A. The Special Provisions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.02.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in the Special Provisions has been identified and established in paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, Underground Facilities and other physical conditions, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in paragraph 4.06 of the General Conditions.

4.05 Upon request, OWNER will provide Bidder access to the site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill and compact all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

A. Reference is made to the Special Provisions for the identification of the general nature of other work that is to be performed at the Site by OWNER or others (such as utilities and other prime contractors) that relates to the Work for which a Bid is to be submitted. On request, OWNER will provide to each bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such work.

B. Paragraph 6.13.C of the General Conditions indicates that if an Owner safety program exists, it will be noted in the Special Provisions.

4.06 It is the responsibility of each Bidder before submitting a Bid to:

A. Examine and carefully study the Biding Documents including any Addenda and the other related data identified in the Bidding Documents;

B. Visit the site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work; including but not limited to those general and local conditions affecting transportation, disposal, handling and storage facilities, availability of labor, water, power, roads, climactic conditions and seasons, physical conditions at the work Sites and project area as a whole, job site topography and ground conditions, equipment and facilities needed preliminary to and during work prosecution;

C. Become familiar with and satisfy Bidder as to all Federal, State and Local Laws and Regulations that may affect cost, progress, or performance of the Work;

D. Carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except underground Facilities) which have been identified in the Special Provisions as provided in paragraph 4.02 of the General Conditions, and carefully study all reports and drawings of a Hazardous Environmental Condition, if any, at the Site which have been identified in the Special Provisions as provided in paragraph 4.06 of the General Conditions;

E. Obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;

F. Agree at the time of submitting its bid that no further examinations, investigations, exploration, tests, studies or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;

G. Become aware of the general nature of the work to be performed by OWNER and others at the Site that relates to the Work as indicted in the Bidding Documents;

H. Correlate the information know to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

I. Promptly give ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by ENGINEER is acceptable to the Bidders; and

J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

4.07 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing **and** furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences or procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in Bidding Documents and the written resolutions thereof by ENGINEER are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 – PRE-BID CONFERENCE

5.01 A pre-Bid conference will not be held for this project.

ARTICLE 6- SITE AND OTHER AREAS

6.01 The Site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by CONTRACTOR unless otherwise specified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by OWNER unless otherwise provided in the Bidding Documents.

ARTICLE 7-INTERPRETATIONS AND ADDENDA

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted

to the ENGINEER in writing. Interpretations or clarifications considered necessary by the ENGINEER in response to such questions will be issued by Addenda, e-mailed or delivered, to all official plan holders. Parties will be recorded by the OWNER as official plan holders by contacting the ENGINEER and requesting they be recorded as a plan holder. Questions received less than seven (7) days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. All questions must be submitted via email to the ENGINEER, Jacob Roske at Jacob@djanda.com.

7.02 Addenda may be issued to clarify, correct or change the Bidding Documents as deemed advisable by OWNER or ENGINEER.

7.03 Any addenda issued during the time of bidding, or forming a part of the Contract Documents loaned to the Bidder for the preparation of his bid, shall be covered in the Bid and shall be made a part of the Agreement. Receipt of each addendum shall be acknowledged in the Bid. Any Bid in which all issued addenda are not acknowledged will be considered incomplete and will not be read.

ARTICLE 8-BID SECURITY

8.01 A Bid must be accompanied by Bid Security made payable to OWNER in an amount of ten percent (10%) of Bidder's maximum Bid price and in the form of cash, a cashier's check, certified check, bank money order, or bank draft, in any case drawn and issued by a national banking association located in Montana or by any banking corporation incorporated under the laws of Montana; or a Bid Bond (on a form attached if a form is prescribed) issued by a surety authorized to do business in Montana meeting the requirements of section 6 of the General Conditions.

8.02 The Bid Security of the Successful BIDDER will be retained until such BIDDER has executed the Contract Documents and furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within fifteen (15) days after the Notice of Award, OWNER may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of other Bidders whom OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER until the earlier of (7) seven days after the Effective Date of the Agreement or (61) sixty-one days after the Bid opening, whereupon Bid Security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven days after Bid opening.

ARTICLE 9- CONTRACT TIMES

9.01 The number of days within which, or the dates by which, the Work is to be (a) Substantially Completed and (b) also completed and ready for final payment are set forth in the Agreement.

ARTICLE 10- LIQUIDATED DAMAGES

10.01 For each calendar day the contract remains incomplete after the specified contract completion time, including approved adjustments, a daily charge will be made against the contract. This daily charge, determined from the table below will be deducted from any money due the Contractor. This deduction is for liquidated damages for added Owner contract administration costs for failure to complete the work on time.

ORIGINAL CONTRACT AMOUNT		DAILY CHARGE
From More Than	To and Including	Calendar Day
$ 0	$ 50,000	$ 478
$ 50,000	$ 100,000	$ 618
$100,000	$ 500,000	$ 967
$ 500,000	$ 1,000,000	$ 1,171
$ 1,000,000	$ 2,000,000	$ 1,505
$ 2,000,000	$ 5,000,000	$ 2,341
$ 5,000,000	$ 10,000,000	$ 2,804
$ 10,000,000	—	$ 3,379

ARTICLE 11- SUBSTITUTE AND "OR-EQUAL" ITEMS

11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration of possible substitute or "or-equal" items. Whenever it is indicted in the Bidding Documents that a substitute or "or equal" item of material or equipment may be furnished or used by CONTRACTOR if acceptable to OWNER, application for such acceptance will not be considered by OWNER until after the Effective Date of the Agreement. The procedure for submission of any such application by CONTRACTOR and consideration by OWNER is set forth in Paragraphs 6.05 of the General Conditions and may be supplemented in the General Requirements or Special Provisions.

ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS AND OTHERS

12.01 If the Special Provisions require or the OWNER would request the identity of certain Subcontractors, Suppliers, individuals or entities to be submitted to OWNER in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall will within five (5) days after Bid opening submit to OWNER a list of all such Subcontractors, Suppliers, individuals or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by OWNER. If OWNER or ENGINEER after due investigation has reasonable objection to any proposed Subcontractor, Supplier, individual or entity OWNER may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.

12.02 If the apparent Successful Bidder declines to make any such substitution, the OWNER may determine such Bidder to be non-responsive and reject the Bid. Declining to make requested substitution will not constitute grounds for forfeiture of the Bid Security of any

Bidder. Any Subcontractor, Supplier, individual or entity so listed and against which OWNER and ENGINEER makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ENGINEER subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

12.03 CONTRACTOR shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom CONTRACTOR has reasonable objection.

ARTICLE 13- PREPARATION OF BID

13.01 The Bid Form is included with the Bidding Documents. Additional copies may be obtained from the Engineer; **however, the submittal of the bid must follow the process described in this Project Manual and must include all items required in Article 15 of this section.** Bids shall be strictly in accordance with the prescribed form. Any modifications thereof or deviations therefrom may be considered as sufficient cause for rejection. Bids carrying riders or qualifications to the Bid being submitted may be rejected as irregular.

13.02 All blanks on the Bid Form shall be completed by printing in ink or by typewriter and the Bid signed. A Bid price shall be indicated for each Bid item listed therein, or the words "No Bid", "No Change", or "Not Applicable" entered. The Bid Form contains work which pertains to a Schedule A and Schedule B; bids shall be supplied for these items in accordance with the Special Provisions.

13.03 Bids by a corporation must be executed in the corporate name by the president or a vice-president or other corporate officer who is authorized to bind the corporation, and the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature. The Bid of a corporation, which is signed by a person other than a corporate officer, must be accompanied by evidence of authority to sign.

13.04 A bid by a partnership shall be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The State of formation of the firm and the official address of the firm must be shown below the signature.

13.06 A Bid by an individual shall show the Bidder's name and official address.

13.07 A Bid by a Joint Venture shall be executed by each Joint Venturer in the manner

indicated on the Bid form. The official address of the Joint Venture must be shown below the signature.

13.08 All signatures are to be in ink and names must be typed or printed below the signature. The title of the person(s) executing the Bid shall be clearly indicated beneath the signature.

13.09 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form). Bids in which all issued addenda are not acknowledged will be considered incomplete and will not be read.

13.010 The address and telephone number for communications regarding the Bid must be shown.

13.011 Current Montana Contractor's registration number, if any, must be shown on the Bid Form.

ARTICLE 14- BASIS OF BID; EVALUATION OF BIDS

14.01 Bids.

A. Bidders shall submit a Bid on a unit price and/or lump sum basis for each item of Work listed in the Bid schedule as provided in the Bid form. The Bid will not be considered unless the Bid Form contains prices for all unit price and/or lump sum items, and options, as shown on the Bid Form. Bids and totals shall be shown legibly in their proper locations. The total amount of the Bid shall be legibly written and numerically presented in the proper places and the Bid Form shall be manually signed.

B. The total of all estimated prices for the work will be determined as the sum of the products of the estimated quantity of each item and the unit price bid for the item. The final quantities and Contract Price will be determined in accordance with paragraph 11.03 of the General Conditions.

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

14.02 The low Bidder will be determined on the basis of the sum of the lowest total bid of Schedules A & B. The OWNER reserves the right to not award Schedule B and only award Scheule A, as is explained in Section 5, *Bidding and Bid Schedules* of the Special Provisions.

ARTICLE 15 - SUBMITTAL OF BID

15.01 The Bid Form is to be completed and submitted with the Bid security along with all required documents including the following:

A. Bid Security (Article 8 of these Instructions to Bidders)

B. Pages 3-5 of Section 00300 – completed Bid Schedules.

C. Page 7 of Section 00300 - Signature Page and Addenda Acknowledgement.

D. Page 8-9 of Section 00300 – Information Required of Bidder.

15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Invitation to Bid. Bidders shall submit sealed bids addressed to Missoula County, enclosed in envelopes plainly marked with the project name (*Lolo Street Bridge Replacement Project*). Envelope shall include contractor's name, mailing address, and Montana Contractor's Registration Number.

15.03 The Bid will not be considered unless accompanied by proper Bid Security in accordance with Article 8 of these Instructions to Bidders.

ARTICLE 16- MODIFICATION AND WITHDRAWAL OF BIDS

16.01 Bids may be modified or withdrawn by art appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids as called for in the Invitation to Bid. Requests for modification or withdrawal must be written and must be signed in the same manner and by the same person(s) who signed the Bid.

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

ARTICLE 17- OPENING OF BIDS

17.01 Bids will be opened at the time set for opening in the Invitation to Bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of

Bids.

ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

18.01 All bids will remain subject to acceptance for seventy-five (75) days after the day of the Bid opening, but OWNER may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 19- AWARD OF CONTRACT

19.01 OWNER reserves the right to reject any and all Bids, including without limitation, nonconforming, non-responsive, unbalanced or conditional Bids. OWNER further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. OWNER also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder. OWNER reserves the right to reject the Bid of any Bidder if OWNER believes it would not be in the best interest of the Project to make an award to that Bidder whether because Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by OWNER.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of the Bidder and the rejection of all Bids in which that bidder has an interest.

19.03 In evaluating Bids, OWNER will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

19.04 In evaluating Bidders, OWNER will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Special Provisions.

19.05 OWNER may conduct such investigations as OWNER deems necessary to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals or entities to perform the Work in accordance with the Contract Documents.

19.06 If the Contract is to be awarded, OWNER will award the Contract to the responsible bidder whose Bid, conforming with all material terms and conditions of the Bidding

Documents, is lowest price, in the best interest of the Project, and other factors considered. The OWNER reserves the right to accept or reject the Bids, or portions of Bids if denoted in the Bid as separate schedules, and to award more than one Bid or schedule for the same Bid if any of the aforementioned combination of Bids or schedules will be in the best interest of the OWNER.

19.07 The OWNER reserves the right to cancel the award of any Agreement at any time before the complete execution of said Agreement by all parties without any liability against the OWNER. Without limiting the foregoing, it is expressly stated that final award of the Contract is contingent upon securing appropriate financing.

ARTICLE 20 – CONTRACT SECURITY

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth OWNER's requirements as to Performance Bond, Payment Bond, and certificates of insurance. When the Successful Bidder delivers the executed Agreement to OWNER, it must be accompanied by such Bonds and insurance.

ARTICLE 21- SIGNING OF AGREEMENT

21.01 When OWNER gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within fifteen (15) days thereafter, Successful Bidder shall sign and deliver at least six (6) counterparts of the Agreement and attached documents to OWNER. Within fifteen (15) days thereafter OWNER shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings and Specifications.

ARTICLE 22- STATE LAWS AND REGULATIONS

22.01 All applicable laws, ordinances and the rules and regulations of authorities having jurisdiction over construction of the project shall apply to the Contract throughout. State laws and ordinances which the CONTRACTOR must comply with, include but are not limited to, those involving workmen's compensation insurance, contractor registration, employment preference to Montana contractors and Montana residents, and gross receipts tax.

ARTICLE 23- NON-COLLUSION

23.01 The firm or individual submitting this bid has not by or through any of its officers,

partners, owners, or any other person associated therewith, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this project, and is not financially interested in or otherwise affiliated in a business way with any other Bidder on this project.

ARTICLE 24- PRECONSTRUCTION CONFERENCE

24.01 Prior to start of construction, the OWNER, ENGINEER, CONTRACTOR, and other interested parties will meet to review the project, the schedule, and related items of work or contract administration.

ARTICLE 25- CONTRACTOR'S REGISTRATION AND WORKER'S COMPENSATION REQUIRMENTS

25.01 Montana law requires all Contractors to register with the Montana Department of Labor and Industry (DLI) except as listed in MCA 39-9-211. Forms for registration may be obtained from the Montana Department of Labor and Industry, P.O. Box 1805 Prospect Ave., Helena, Montana 59604-8011. Information on registration can be obtained by calling 1-406-444-7734. Contractor is required to have registered with the DLI prior to bidding on this project. Successful contractors and vendors are further required to comply with City of Missoula Business Licensing requirements.

All laborers and mechanics employed by CONTRACTOR or subcontractors in performance of the construction work shall be paid wages at rates as may be required by Federal and State Law. The CONTRACTOR must ensure that employees and applicants for employment are not discriminated against because of their race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications.

The CONTRACTOR must provide certification that worker's compensation insurance will be maintained as required by the Montana Worker's Compensation Act (39-71-101 MCA).

ARTICLE 26-WITHHOLDINGS

26.01 Pursuant to Section 15-50-206(2)(3), MCA, a governmental agency entering into a construction contract shall withhold one percent (1%) of gross sum due the Contractor under the performance of the contract provided that the contract amount exceeds five

thousand dollars ($5,000). The Contractor shall also withhold one percent (1%) of gross sum due the subcontractors. The withholdings shall be made payable to Montana Department of Revenue, PO Box 5835, Helena, Montana 59604-5835.

ARTICLE 27-INDUSTRIAL ACCIDENT INSURANCE

27.01 The Contractor's attention is called to the Industrial Accident Insurance laws in force in Montana and to the responsibility of the Owner for the collection of premiums there under. Contractor compliance with said laws is required, and Contractor shall relieve the Owner of any responsibility for the payment of premiums hereunder, and shall furnish the Owner with satisfactory evidence showing that all premiums arising from this Contract have been paid before payment is made on the final estimate.

ARTICLE 28-CITY OF MISSOULA LICENSE AND BOND REQUIREMENTS

28.01 Any Contractors engaged in public work in the City of Missoula are required to have a license from the City of Missoula based upon the nature of the work. A bond is also required for each type of work in the City of Missoula. Licenses are obtainable at the office of the City Treasurer, City Hall, 435 Ryman St, Missoula, Montana 59802.

ARTICLE 29-TIME FOR BEGINNING WORK AND COMPLETION OF WORK

29.01 The construction period for the work is based on calendar days stipulated in the contract documents. The Contractor will be issued a written "Notice to Proceed" following the "Notice of Award" and following review and approval of the contract, contract bonds and insurance certificate. Construction calendar day number one (1) shall be the day stated in the "Notice to Proceed." The project shall be completed within the calendar days stipulated in the Contract Documents.

ARTICLE 30-NON-DISCRIMINATION

30.01 All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications.

ARTICLE 31-MONTANA REGISTERED APPRENTICE PROGRAM

31.01 Missoula County will award a 5% bidding preference (with a total value of preference not to exceed $100,000) for bidders that meet the requirements found in *Missoula County Resolution No. 2020-076: Montana Registered Apprentice Program Resolution*.

ARTICLE 32-STATE REVOLVING FUND REQUIREMENTS

32.01 Bidder's attention is directed to Section 00900 (Funding Agency Special Provisions for Montana Public Facility Projects) of these Contract Documents. The successful BIDDER shall comply with all applicable articles therein.

ARTICLE 33-EQUAL EMPLOYMENT OPPORTUNITY

33.01 BIDDER'S attention is directed to ARTICLE 1.5.1 [Civil Rights Laws] of Section 00900, the requirement for ensuring that employees and applicants for employment are not discriminated against because of their race, color, religion, national origin, sex, marital status, age, or political ideas. Bidders on this work will be required to comply with the President's Executive Orders No. 11246 as amended, 11458, 11518, and 11625.

ARTICLE 34-DISADVANTAGE BUSINESS ENTERPRISES

34.01 DBE solicitation requirements are located in ARTICLE 1.5.2 [Guidance for Participation By Disadvantaged Business (DBE) Enterprises In United States Environmental Protection Agency Programs of 40 CFR 33] of Section 00900. An online DBE quote request form is available to BIDDERS at https://app.mdt.mt.gov/dbeqt/. The BIDDER should fill out and submit the quote request form as early in the bidding period as possible to allow sufficient time for qualified DBE firms to respond. A DBE must be certified as such by a state or federal agency (e.g., the Small Business Administration, the Department of Transportation, or EPA) or by a state, local, or independent private organization, provided their criteria match those under section 8(a) (5) and (6) of the Small Business Act and Small Business Administration's 8(a) Business Development Program Regulations. Self-certification of DBEs is not allowed. Inadequate DBE solicitation efforts by the BIDDER may be grounds for the MDEQ State Revolving Fund program to withhold funds for the project and withhold authorization to award the construction contract. In accordance with Section 00900 Article 1.5.2, **failure to submit evidence showing a "good faith effort" may cause the bid to be rejected as non-responsive.**

ARTICLE 35-DEBARMENT CERTIFICATION

35.01 Bidder's attention is directed to ARTICLE 1.5.3 [Certification Regarding Debarment, Suspension and Other Responsibility Matters] of Section 00900 with respect to Certification Regarding Debarment. Federal funding is being utilized on this project and the successful bidder must provide the debarment certification statement at the time of bid opening with the bid and other forms required.

ARTICLE 36-OTHER REGULATIONS

36.01 SPECIAL FUEL USER REQUIREMENTS

Use only tax paid fuel on a construction contract for road, street, or bridge construction, repair or maintenance located on public roads and highways in the State of Montana.

ARTICLE 37 – BUILD AMERICA, BUY AMERICA (BABA) REQUIREMENTS

37.01 BIDDER'S attention is directed to ARTICLE 1.5.9 [Build America, Buy America (BABA) Requirements] of Section 00900. All of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.

For iron and steel, all manufacturing processes, from the initial melting stage through the application of coatings, must occur in the United States. This includes products made primarily of iron or steel such as lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, and reinforced precast concrete and construction materials made primarily of iron or steel such as wire, cables, rebar, framing, joists, decking, grating, railings, stairs, and fencing.

The term "manufactured product" means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product. This includes (but is not limited to) pumps, motors, drives, mixers, motorized screens, controls and switches, membrane bioreactor systems, membrane filtration systems, clarifiers, disinfection systems, HVAC systems, and skids that contain multiple components.

For construction materials, all manufacturing processes for the construction material occurred in the United States. This includes an article, material, or supply that is or consists primarily of non-ferrous metals (construction materials made of ferrous metals are covered under iron and steel), plastic- and polymer-based products including PVC, composite building materials, and polymers used in fiber optic cables, glass including

optic glass, lumber, and drywall.

37.02 BABA CERTIFICATION FORMS – The General Contractor shall provide, to the Owner, the Manufacturer Certification forms either prior to or at the time of component, product, or material purchase or when the component, product, or material is delivered (a template can be found in Exhibit D of Section 00900 for the manufacturer if they don't have their own form). The General Contractor(s) shall also provide the Owner with the General Contractor Certification form (from Exhibit D of Section 00900) upon project completion. General Contractor(s) shall ensure that all subcontractors and manufacturers/suppliers on the project have met the BABA requirements.

37.03 BABA WAIVERS –A waiver from the Build America, Buy America requirements may be issued by the head of a Federal agency if it is found that: 1) applying the domestic content procurement preference would be inconsistent with the public interest (a "public interest waiver"); 2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or 3) inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an "unreasonable cost waiver"). Waiver requests must be submitted for review to the funding Agency(ies).

The EPA has issued the following national waivers: 1) Small Project (September 26, 2022); 2) De Minimis (October 21, 2022).

END OF SECTION 00200

SECTION 00300

BID FORM

PROJECT IDENTIFICATION:

Lolo Street Bridge Replacement

Missoula County

CONTRACT IDENTIFICATION:

Lolo Street Bridge Replacement

THIS BID SUBMITTED TO:

Missoula County, Public Works Department,
6089 Training Drive, Missoula, MT 59808

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

2.01 Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid, and Instructions to Bidders, including without limitations those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for seventy-five (75) days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

3.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:

A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and applicable Addenda.

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work

C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Special Provisions as provided in paragraph 4.02 of the General Conditions, and (2) reports and drawings of a Hazard Environmental Condition, if any, which has been identified in the Special Provisions as provided in paragraph 4.06 of the General Conditions.

E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.

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

H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies and data with the Bidding Documents.

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

J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

4.01 Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

The Bidder certifies that no official of the Owner, Engineer or any member of such official's immediate family, has direct or indirect interest in the pecuniary profits or Contracts of the Bidder.

5.01 The Bidder will complete the Work in accordance with the Contract Documents for the following price(s): **(NOTE: 1% Montana Gross Receipts Tax shall be included in Unit Prices)**

BID SCHEDULE A

ITEM NO.	ITEM DESCRIPTION	UNIT	QNTY	UNIT PRICE	TOTAL
Lolo Street Bridge Replacement and General Site Work					
0010	*MOBILIZATION*	*LS*	*1*		
0020	*CITY PERMITS*	*LS*	*1*		
0030	*CONTRACTOR SURVEY AND LAYOUT*	*LS*	*1*		
0040	*CONTRACTOR QUALITY CONTROL AND ASSURANCE*	*LS*	*1*		
0050	*TEMPORARY TRAFFIC CONTROL*	*LS*	*1*		
0060	*SOIL EROSION & POLLUTION CONTROL*	*LS*	*1*		
0070	*ASPHALT SAW CUT*	*LF*	*139*		
0080	*REMOVE EXISTING CURB AND GUTTER*	*LF*	*475*		
0090	*REMOVE EXISTING CONCRETE SIDEWALK*	*SY*	*136*		
0100	*REMOVE EXISTING GUARDRAIL*	*LF*	*100*		
0110	*REMOVAL OF PAVEMENT, ASPHALT*	*SY*	*570*		
0120	*CLEARING AND GRUBBING*	*AC*	*0.8*		
0130	*REMOVE EXISTING CONCRETE BRIDGE*	*LS*	*1*		
0140	*EMBANKMENT IN PLACE*	*CY*	*480*		
0150	*STRUCTURE EXCAVATION, TYPE I*	*CY*	*950*		
0160	*BRIDGE END BACKFILL*	*CY*	*300*		
0170	*PLACED RIPRAP, CLASS II*	*CY*	*350*		
0180	*ADJUST EXISTING MANHOLE*	*EA*	*1*		
0190	*RELOCATE EXISTING SIGN*	*EA*	*5*		
0200	*PEDESTRIAN SIGN SYSTEM*	*EA*	*4*		
0210	*SEPERATION GEOTEXTILE - HIGH STRENGTH*	*SY*	*720*		

0220	*SUB-BASE COURSE, 3" - MINUS*	*CY*	*160*		
0230	*CRUSHED BASE COURSE, 3/4" - MINUS*	*CY*	*212*		
0240	*ASPHALT CONCRETE PAVEMENT, TYPE B, PG 58-28*	*TON*	*124*		
0250	*COMMERCIAL MIX-PG 58-28, BRIDGE ASPHALT OVERLAY*	*TON*	*25*		
0260	*PERMANENT PAVEMENT MARKINGS, WHITE WATERBORNE*	*GAL*	*3.0*		
0270	*PERMANENT PAVEMENT MARKINGS, YELLOW WATERBORNE*	*GAL*	*1.0*		
0280	*PERMANENT PAVEMENT MARKINGS, YELLOW EPOXY CURB*	*GAL*	*6.0*		
0290	*CONCRETE-CLASS STRUCTURE, ABUTMENTS*	*CY*	*210*		
0300	*REINFORCING STEEL, GRADE 60, ABUTMENTS*	*LBS*	*21,500*		
0310	*REINFORCING STEEL, GRADE 60, EPOXY COATED*	*LBS*	*9,000*		
0320	*ELASTOMERIC BEARING DEVICES*	*EA*	*16*		
0330	*PRECAST, PRESTRESSED CONCRETE BULB-TEE GIRDERS*	*LF*	*744*		
0340	*CONCRETE-CLASS STRUCTURE LOW SLUMP, RAISED SIDEWALK*	*SY*	*242*		
0350	*WATERPROOFING MEMBRANE*	*SY*	*230*		
0360	*BRIDGE RAIL, COMBINATION RAIL*	*LF*	*242*		
0370	*CONCRETE SIDEWALK, 9" DEPTH*	*SY*	*52*		
0380	*ANTI-GRAFFITI COATING*	*SY*	*115*		
0390	*CONCRETE SIDEWALK, 4" DEPTH*	*SY*	*322*		
0400	*TYPICAL "L" TYPE CURB AND GUTTER*	*LF*	*295*		
0410	*COVE GUTTER*	*SY*	*70*		
0420	*CURB RAMP FORMING, BRIDGE*	*EA*	*4*		
0430	*CURB RAMP FORMING AND ADA, SIDEWALKS*	*EA*	*5*		
0440	*STANDARD DRY WELL W. CURB INLET*	*EA*	*3*		
0450	*CATCH BASIN (CITY OF MISSOULA 24") WITH CURB INLET*	*EA*	*1*		
0460	*12" HDPE STORM PIPE*	*LF*	*23*		
0470	*ONE-WAY DEPARTURE TERMINAL*	*EA*	*2*		
0480	*MASH W-BEAM TERMINAL SECTION*	*EA*	*2*		
0490	*FENCE - WILDLIFE FRIENDLY, 3-STRAND BARBLESS*	*LF*	*250*		
0500	*TOPSOIL PLACEMENT*	*SY*	*1,100*		
0510	*SEEDING*	*SY*	*1,100*		

BASE BID SCHEDULE A PRICE $_____

(Figures)

BASE BID SCHEDULE A PRICE $_____

(Words)

BID SCHEDULE B

ITEM NO.	ITEM DESCRIPTION	UNIT	QNTY	UNIT PRICE	TOTAL
Water Main Replacement					
1010	*MOBILIZATION*	*LS*	*1*		
1020	*ASPHALT SAW CUT*	*LF*	*20*		
1030	*REMOVAL OF PAVEMENT, ASPHALT*	*SY*	*135*		
1040	*SEPARATION GEOTEXTILE - HIGH STRENGTH*	*SY*	*71*		
1050	*SUB-BASE COURSE, 3" - MINUS AND CRUSHED BASE COURSE, 3/4" - MINUS*	*LF*	*65*		
1060	*ASPHALT CONCRETE PAVEMENT, TYPE B, PG 58-28*	*TON*	*36*		
1070	*EXCAVATE, BEDDING, SURROUNDS AND BACKFILL*	*LF*	*220*		
1080	*REMOVE EXISTING CURB AND GUTTER*	*LF*	*10*		
1090	*TYPICAL "L" TYPE CURB AND GUTTER*	*LF*	*10*		
1100	*WATER MAIN TESTING*	*LS*	*1*		
1110	*12" BUTTERFLY VALVE*	*EA*	*3*		
1120	*12" CLASS 350 DUCTILE IRON WATER MAIN*	*LF*	*60*		
1130	*14" CLASS 350 DUCTILE IRON WATER MAIN*	*LF*	*140*		
1140	*MANUAL AIR RELEASE VALVE*	*EA*	*1*		
1150	*14" PRE-FABRICATED INSULATED DUCTILE IRON WATER MAIN*	*LF*	*165*		
1160	*10" CLASS 350 DUCTILE IRON WATER MAIN*	*LF*	*10*		
1170	*6" CLASS 350 DUCTILE IRON WATER MAIN*	*LF*	*5*		
1180	*CONNECT TO EXISTING WATER MAIN*	*EA*	*3*		
1190	*DUCTILE IRON WATER MAIN FITTINGS*	*EA*	*19*		
1200	*CUT AND CAP EXISTING WATER MAIN*	*EA*	*3*		
1210	*LINK-SEAL, SLEEVE AND CASING SPACERS*	*LS*	*1*		
1220	*PIPE HANGERS AND CONNECTIONS*	*EA*	*11*		

BASE BID SCHEDULE B PRICE $_____

(Figures)

BASE BID SCHEDULE B PRICE $_____

(Words)

SUBSTANTIAL COMPLETION = <u>400</u> CALENDAR DAYS

A. Unit Prices have been computed in accordance with paragraph 11.03.B. of the General Conditions.

B. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

C. The undersigned agrees that the unit prices shall govern in checking the Bid, and should a discrepancy exist in the Total Estimated Price and Total Amount of Unit Prices Bid as listed above after extensions are checked and corrections made, if any, the Total Amount of Unit Prices Bid as corrected shall be used in awarding this Contract.

D. Bidders shall submit prices for all bid schedules. The combined total of all bid schedules shall be considered the Base Bid. **In determining the lowest responsive Bidder, the Owner may accept the Bidder with the lowest aggregate pair of Bid Schedules A & B or may elect to only award Schedule A.** The Owner reserves the right to reject any or all bids, accept any or all Bid schedules, award separate contracts at the Owner's discretion and accept the bid(s) in the best interest of the Owner.

6.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment in accordance with 14.07 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Agreement.

7.01 The following documents are attached to and made a condition of the Bid:

A. Contractors shall execute their Bid Bond, in the amount of 10% of the maximum Bid Price including alternates, if any, and submit it with their sealed bid.

B. Contractor shall complete the last two pages of this Bid Form (Page 7 and 8), to include Addenda acknowledgement and Signature Page, and the Information Required of Bidder form and submit it with their sealed bid.

C. Agency required certifications. (Refer to Special Provisions, for Agency certifications and requirements.)

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

9.01 Bid Submittal – SIGNATURE PAGE

In submitting this Bid, Bidder represents, as set forth in the Agreement, that Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged:

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____

BIDDER: *[Indicate correct name of bidding entity]*

By:
[Signature] _____

[Printed name] _____

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:
[Signature] _____

[Printed name] _____

Title: _____

Submittal Date: _____

Address for giving notices:

Telephone Number: _____

Contact Name and e-mail address: _____

BID FORM
INFORMATION REQUIRED OF BIDDER
GENERAL INFORMATION

The bidder shall furnish the following information. Failure to comply with this requirement will render the Bid non-responsive and may cause its rejection.

(1) Contractor's name, address, and telephone number:

_____

_____

(2) Montana Contractor' Registration Number: _____

(3) Tax ID Number: _____

(4) ACI Certified Concrete Flatwork Finisher for Project:

NAME:_____ Certification ID #:_____

(5) Qualifications for Bridge and Water Distribution System Projects: Provide all additional information and documentation discussed in Section 00200 Instructions to Bidders, Article 3.03, parts 4&5 as a separate document.

(6) Names/titles/years of experience of PM and Superintendent of Contractor's firm responsible for this project:

_____

_____

(7) Name of person who inspected site of proposed work for your firm:

NAME:_____ Date of Inspection:_____

(8) Name, address and telephone number of surety company and agent who will provide the required bonds on this contract:

_____

(9) A financial statement, or AIA Document A305 Contractor's Qualification Statement, references, and other information, sufficiently comprehensive to permit an appraisal of Contractor's current financial condition, can be requested by the Owner or Engineer, and must be provided by the Contractor upon request.

(10) DBE "Good Faith" Documentation: Provide required documentation as specified in Section 00200, Article 34.01 and Section 00900 Pages 19-24.

(11) Debarment: Provide debarment certification as is specified in Section 00200, Article 35.01 and Section 00900 Pages 25-26.

(12) Montana Registered Apprenticeship Program: Provide a statement which states whether the bidder meets the requirements for the program and provide necessary documentation to show compliance if applicable (see Section 00200, Article 31.01).

END OF SECTION

BID BOND (PENAL SUM FORM)

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

Bidder Name: Address *(principal place of business)*:	**Surety** Name: Address *(principal place of business)*:
Owner Name: Address *(principal place of business)*:	**Bid** Project *(name and location)*: Bid Due Date:
Bond Penal Sum: Date of Bond:	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.	
Bidder	Surety
_____ *(Full formal name of Bidder)*	_____ *(Full formal name of Surety) (corporate seal)*
By: _____ *(Signature)*	By: _____ *(Signature) (Attach Power of Attorney)*
Name: _____ *(Printed or typed)*	Name: _____ *(Printed or typed)*
Title: _____	Title: _____
Attest: _____ *(Signature)*	Attest: _____ *(Signature)*
Name: _____ *(Printed or typed)*	Name: _____ *(Printed or typed)*
Title:	Title:
Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.	

EJCDC® C-430, Bid Bond (Penal Sum Form).
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1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
    3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
    3.2. All Bids are rejected by Owner, or
    3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

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

This Agreement is by and between _____ ("Owner") and _____ ("Contractor").

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

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work generally consists of earthwork, grading, stream restoration, trail surfacing, and plantings.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Lolo Street Bridge Replacement Project**.

ARTICLE 3—ENGINEER

3.01 The Owner has retained DJ&A LLC ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by DJ&A LLC**.**

ARTICLE 4—CONTRACT TIMES

4.01 Time is of the Essence

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

4.03 Contract Times: Days

A. The Work will be substantially complete within 400 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 445 days after the date when the Contract Times commence to run.

4.04 Milestones

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

1. Milestone 1 _____

_____

2. Milestone 2 _____

_____

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3. Milestone 3 _____

_____

4.05 Liquidated Damages

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

1. *Substantial Completion:* Contractor shall pay Owner for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete. The Dollar value per day will be based off the table in Article 10 of Section 00200 Instructions to Bidders.

2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner for each day that expires after such time until the Work is completed and ready for final payment. The Dollar value per day will be based off the table in Article 10 of Section 00200 Instruction to Bidders.

3. *Milestones:* Contractor shall pay Owner for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved. The Dollar value per day will be based off the table in Article 10 of Section 00200 Instructions to Bidders.

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

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

4.06 Special Damages

A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.03 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.

B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.03 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

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

ARTICLE 5—CONTRACT PRICE

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

A. For all Work other than Unit Price Work, a lump sum of $ _____.

All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Unit Price Work					
Item No.	**Description**	**Unit**	**Estimated Quantity**	**Unit Price**	**Extended Price**
				$	$
				$	$
				$	$
				$	$
				$	$
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					$

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 9.07 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) $ _____.

D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6—PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the _____ day of each month during performance of the Work as provided in

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Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.

    a. **95** percent of the value of the Work completed (with the balance being retainage).

    b. **95** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion **of the entire construction to be provided under the construction Contract Documents**, Owner shall pay an amount sufficient to increase total payments to Contractor to _____ percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 14.07.C of the General Conditions, and less ____ percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 Final Payment

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 14.07 of the General Conditions.

6.04 Consent of Surety

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

6.05 Interest

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

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

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

1. This Agreement.
2. Bonds:
    a. Performance bond (together with power of attorney).
    b. Payment bond (together with power of attorney).
3. General Conditions.
4. Supplementary Conditions.
5. Specifications as listed in the table of contents of the project manual (copy of list attached).

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6. Drawings (not attached but incorporated by reference) consisting of 51 sheets with each sheet bearing the following general title: Lolo Street Bridge Replacement.
7. Appendix drawings (not attached but incorporated by reference) consisting of 11 sheets with each sheet bearing the following general title: Lolo Street Water Main Replacement.
8. Drawings listed on the attached sheet index.
9. Addenda (numbers ____ to ____, inclusive).
10. Exhibits to this Agreement (enumerated as follows):
    a. _____
11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    a. Notice to Proceed.
    b. Work Change Directives.
    c. Change Orders.
    d. Field Orders.
    e. Warranty Bond, if any.

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

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

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

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

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

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

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

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

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

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

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

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

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

8.02 Contractor's Certifications

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

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

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

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

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

8.03 Standard General Conditions

A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2007), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

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IN WITNESS WHEREOF, Owner and Contractor have signed ___ copy of Agreement. Distribution of this ___ copy have been delivered to Owner, Contractor, and Engineer. All portions of the Contract Documents have been signed or identified by Owner and Contractor or by Engineer on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

First Party of the First Part: (**OWNER**)

City of Missoula, Montana

By: _____
(individual's signature)

Date: _____
(date signed)

Name: Andrea Davis

Title: Mayor

Missoula County

By: _____
(individual's signature)

Date: _____
(date signed)

Name: Josh Slotnick

Title: County Commissioner

Attest: _____
(individual's signature)

Date: _____
(date signed)

Name: Claire Trimble

Title: City Clerk

Approved as to Form and Content:

By: _____
(individual's signature)

Date: _____
(date signed)

Name: Ryan Sudbury

Title: City Attorney

Party of the Second Part: (**CONTRACTOR**)

_____
(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

NOTICE OF AWARD

Date of Issuance: XXXX

Owner: Missoula County Public Works Department — Owner's Project No.: PWFY26-001

Engineer: DJ&A LLC — Engineer's Project No.: 7611

Project: Lolo Steet Bridge Replacement

Contract Name: XXXXXX

Bidder: XXXXX

Bidder's Address: XXXXX

You are notified that Owner has accepted your Bid dated **XX/XX/XXXX** for the above Contract, and that you are the Successful Bidder and are awarded a Contract for the: **Lolo Street Bridge Replacement**.

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

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

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

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

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

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

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

Owner: _____

By *(signature)*: _____

Name *(printed)*: _____

Title: _____

Copy: Engineer

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NOTICE TO PROCEED

Owner:	Missoula County Public Works	Owner's Project No.:	PWFY26-001
Engineer:	DJ&A LLC	Engineer's Project No.:	7611
Contractor:	XXXX	Contractor's Project No.:	XXXX
Project:	Lolo Street Bridge Replacement		
Contract Name:	XXXXX		
Effective Date of Contract:	XX/XX/XXXX		

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on_____ pursuant to Paragraph 2.03 of the General Conditions.

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

In accordance with the Agreement:_____

The number of days to achieve Substantial Completion is 400 days from the date stated above for the commencement of the Contract Times, resulting in a date for Substantial Completion of_____; and the number of days to achieve readiness for final payment is_____ from the commencement date of the Contract Times, resulting in a date for readiness for final payment of XX/XX/XXXX**.**

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

Owner: _____

By *(signature)*: _____

Name *(printed)*: _____

Title: _____

Date Issued: _____

Copy: Engineer

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PERFORMANCE BOND

Contractor	**Surety**
Name:	Name:
Address *(principal place of business)*:	Address *(principal place of business)*:
Owner	**Contract**
Name:	Description *(name and location)*:
Mailing address *(principal place of business)*:	Contract Price:
	Effective Date of Contract:

Bond

Bond Amount:

Date of Bond:

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

Modifications to this Bond form:

☒ None ☐ See Paragraph 16

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

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

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

EJCDC® C-610, Performance Bond.
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1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such

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

14. Definitions

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

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

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

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

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

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

16. Modifications to this Bond are as follows:

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PAYMENT BOND

Contractor	**Surety**
Name:	Name:
Address *(principal place of business)*:	Address *(principal place of business)*:
Owner	**Contract**
Name:	Description *(name and location)*:
Mailing address *(principal place of business)*:	Contract Price:
	Effective Date of Contract:

Bond

Bond Amount:

Date of Bond:

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

Modifications to this Bond form:

☒ None ☐ See Paragraph 18

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. Definitions

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

        16.1.1. The name of the Claimant;

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

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

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

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

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

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

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

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

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

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

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

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

18. Modifications to this Bond are as follows:

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COUNTY CONSTRUCTION PAY REQUEST FORM

(FOR USE WITH SCHEDULE A: BRIDGE & SITE WORK ONLY)

Project Name: Lolo Street Bridge Replacement - Schedule A: Bridge & Site Work
County Project #: PWFY26-001
Pay Request #:
Pay Request Date:
Time Period Covered:
Contractor:
Engineering Firm: DJ&A, LLC

DESCRIPTION	THIS MONTH	PREVIOUS	TO DATE
Total Earnings for Work Completed & Materials Stored			
Less 5.0% Retainage			
Less Liquidated Damages			
Net Earnings			
Net Earnings Less 1% State Gross Receipts Tax			
Net Payment this Invoice	$ -	$ -	$ -

Contract Time Data	
Notice to Proceed Date:	
Original Contract Completion Time (days):	
Stop/Resume Work Orders (days):	
New Contract Completion Days (days):	
Contract Completion Date:	
Percent of Time Elapsed:	

Contract Cost Data	
Original Contract Price:	
Net Change by Change Order:	
Current Contract Price:	
Percent of Contract Value Completed:	

Approved by Contractor _____
(Contractor Name) **Date**

Approved by Engineering Firm DJ&A, LLC
(Engineering Firm Name) **Date**

Approved by Missoula County _____
(Public Works Department) **Date**

CITY CONSTRUCTION PAY REQUEST FORM

(FOR USE WITH SCHEDULE B: WATER MAIN ONLY)

Project Name: Lolo Street Bridge Replacement - Schedule B: Water Main
City Project #: XXXX
Pay Request #:
Pay Request Date:
Time Period Covered:
Contractor:
Engineering Firm: DJ&A, LLC

DESCRIPTION	THIS MONTH	PREVIOUS	TO DATE
Total Earnings for Work Completed & Materials Stored			
Less 5.0% Retainage			
Less Liquidated Damages			
Net Earnings			
Net Earnings Less 1% State Gross Receipts Tax			
Net Payment this Invoice	$ -	$ -	$ -

Contract Time Data	
Notice to Proceed Date:	
Original Contract Completion Time (days):	
Stop/Resume Work Orders (days):	
New Contract Completion Days (days):	
Contract Completion Date:	
Percent of Time Elapsed:	

Contract Cost Data	
Original Contract Price:	
Net Change by Change Order:	
Current Contract Price:	
Percent of Contract Value Completed:	

Approved by Contractor _____
(Contractor Name) **Date**

Approved by Engineering Firm DJ&A, LLC
(Engineering Firm Name) **Date**

Approved by City of Missoula _____
(Public Works Department) **Date**

CLAIM FORM

In accordance with Section 10.01 of the General Conditions, all claims except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support or such Claim). ***This Claim Form must be submitted to Engineer to initiate a Change Order.***

Date Claim Form Issued to Engineer:_____ Date of Event of Claim:_____

Project Name: Lolo Street Bridge Replacement

Engineer's Project No.: 7611 Owner's Contract No.: PWFY26-001

Description of Event:_____

Attachments: (List documents supporting Claim):_____

Requested Claim Change in Contract Price (increase/decrease):_____

Requested Claim Change in Contract Times (increase/decrease):_____

I hereby certify that this Claim represents the entire adjustment to which I believe I am entitled as a result of the Event described above. I further certify that I have submitted a copy of this Claim and any attachments to the other party to the contract for which this claim is submitted.

Claimant:_____ By: _____
(Signature)

Date:_____ Name: _____
(Print)

For Engineer's Use:

The above listed Claim is hereby:_____Approved _____Partially Approved _____Denied

Comments:_____

Engineer Signature:_____ Date:_____

WORK CHANGE DIRECTIVE NO.: _____

Owner: Missoula County Public Works Department
Engineer: DJ&A LLC
Contractor: XXXX
Project: Lolo Street Bridge Replacement
Contract Name: XXXX
Date Issued: XXXX

Owner's Project No.: PWFY26-001
Engineer's Project No.: 7611
Contractor's Project No.: XXXX

Effective Date of Work Change Directive: XXXX

Contractor is directed to proceed promptly with the following change(s):

Description: _____

_____

_____

Attachments:

_____

Purpose for the Work Change Directive:

_____

Directive to proceed promptly with the Work described herein, prior to agreeing to change in Contract Price and Contract Time, is issued due to:

Notes to User—Check one or both of the following

☐ Non-agreement on pricing of proposed change. ☐ Necessity to proceed for schedule or other reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price: $ _____ **[increase] [decrease] [not yet estimated]**.

Contract Time: _____ days **[increase] [decrease] [not yet estimated]**.

Basis of estimated change in Contract Price:

☐ Lump Sum ☐ Unit Price ☐ Cost of the Work ☐ Other

	Recommended by Engineer	Authorized by Owner
By:	_____	_____
Title:	_____	_____
Date:	_____	_____

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CHANGE ORDER NO.: _____

Owner: Missoula County Public Works Departments
Engineer: DJ&A LLC
Contractor: XXXX
Project: Lolo Street Bridge Replacement
Contract Name: XXXX
Date Issued: XXXX

Owner's Project No.: PWFY26-001
Engineer's Project No.: 7611
Contractor's Project No.: XXXX

Effective Date of Change Order: XXXX

The Contract is modified as follows upon execution of this Change Order:

Description: _____

_____

_____

Attachments: _____

Change in Contract Price	**Change in Contract Times [State Contract Times as either a specific date or a number of days]**
Original Contract Price: $ _____	Original Contract Times: Substantial Completion: _____ Ready for final payment: _____
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. __: $ _____	**[Increase] [Decrease]** from previously approved Change Orders No.1 to No.__: Substantial Completion: _____ Ready for final payment: _____
Contract Price prior to this Change Order: $ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: _____
[Increase] [Decrease] this Change Order: $ _____	**[Increase] [Decrease]** this Change Order: Substantial Completion: _____ Ready for final payment: _____
Contract Price incorporating this Change Order: $ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: _____

Recommended by Engineer (if required)	Accepted by Contractor
By: _____	_____
Title: _____	_____
Date: _____	_____
Authorized by Owner	**Approved by Funding Agency (if applicable)**
By: _____	_____
Title: _____	_____
Date: _____	_____

EJCDC® C-941, Change Order EJCDC® C-941, Change Order, Rev.1.
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FIELD ORDER NO.: ____

Owner: Missoula County Public Works Department
Engineer: DJ&A LLC
Contractor: XXXX
Project: Lolo Street Bridge Replacement
Contract Name: XXXX
Date Issued: XXXX

Owner's Project No.: PWFY26-001
Engineer's Project No.: 7611
Contractor's Project No.: XXXX

Effective Date of Field Order: XXXX

Contractor is hereby directed to promptly perform the Work described in this Field Order, issued in accordance with Paragraph 9.04 of the General Conditions, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference:

Specification Section(s):

Drawing(s) / Details (s):

Description:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Attachments:

_____
_____

Issued by Engineer

By:_____

Title:_____

Date: _____

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CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: Missoula County Public Works Department Owner's Project No.: PWFY26-001
Engineer: DJ&A LLC Engineer's Project No.: 7611
Contractor: XXXX Contractor's Project No.: XXXX
Project: Lolo Street Bridge Replacement
Contract Name: XXXX

This ☐ Preliminary ☐ Final Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

Date of Substantial Completion: _____

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Article 3 of the General Conditions.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work must be as provided in the Contract, except as amended as follows:

Amendments to Owner's Responsibilities: ☐ None ☐ As follows:

Amendments to Contractor's Responsibilities: ☐ None ☐ As follows:

The following documents are attached to and made a part of this Certificate:

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

Engineer

By *(signature)*: _____

Name *(printed)*: _____

Title: _____

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CERTIFICATE OF FINAL ACCEPTANCE

Project Name: Lolo Street Bridge Replacement Project #: 7611
Location: Missoula, MT Date:

Architect/Engineer: DJ&A LLC

Contractor: Contract Date:
Contract Amount:

The Work performed under this Contract has been reviewed and found to be complete and has reached Final Acceptance. The Date of Final Acceptance of the Work is defined as the Date Certified by the Architect/Engineer upon which the Work is fully complete in all aspects, **and** which the Owner accepts the Contractor's work as complete. The Date of Final Acceptance of the Project, or portion thereof designated above, is also the basis for commencement of the DURATION of applicable warranties required by the Contract Documents. The Warranty Period is defined in the Contract Documents as commencing with Final Acceptance and continuing for **two (2) calendar years from the Date of Final Acceptance**. This date shall correspond to the date of the Architect/Engineer's approval on the final pay application unless otherwise agreed upon in writing. In the event of a disparity between the date of the Architect/Engineer's approval and this form, if no other written agreement exists as to the date of final acceptance, this form shall constitute such agreement and it shall govern as the date of Final Acceptance.

Date of Substantial Completion:	Date of Final Acceptance:	Date of Warranty Expiration:

Notes:

DJ&A LLC
Architect/Engineer — By — Date

Contractor — By — Date

Missoula County Public Works Department
Owner — By — Date

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by

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The Associated General Contractors of America
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These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

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

2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

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

6. *Bidder*—The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.

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

10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

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12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*—See Paragraph 11.01 for definition.

17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

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

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

21. *General Requirements*—Sections of Division 1 of the Specifications.

22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.

23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

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

25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

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27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

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

29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*—Polychlorinated biphenyls.

31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

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

33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.

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

38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

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

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40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

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

42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

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

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

45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.

46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.

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

48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

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

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

51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an

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addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Working Day:*

1. The term "working day" includes all calendar days except weekends (Saturday and Sunday) and all legal holidays.

D. *Defective:*

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

a. does not conform to the Contract Documents; or

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

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide:*

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

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

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

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

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

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2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

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

2. a preliminary Schedule of Submittals; and

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

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

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

2.07 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of

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the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

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

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

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

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

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

2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

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1. *Contractor's Review of Contract Documents Before Starting Work*: Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work*: If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation , (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

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

B. *Resolving Discrepancies:*

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

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

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

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;

2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

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3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or

2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

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

3.06 *Electronic Data*

A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the

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Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

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

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

4.02 *Subsurface and Physical Conditions*

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

1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

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4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review*: After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

   a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

   b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

   a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

   b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

   c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

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4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

   a. reviewing and checking all such information and data;

   b. locating all Underground Facilities shown or indicated in the Contract Documents;

   c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and

   d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

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4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

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

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

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

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to

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permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

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ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

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

D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.

E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

   a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

   b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners,

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employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

6. include completed operations coverage:

   a. Such insurance shall remain in effect for two years after final payment.

   b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of

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them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

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E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

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5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

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ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

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

6.02 *Labor; Working Hours*

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

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

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

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6.04 *Progress Schedule and Monthly Updates*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. This will be completely on a monthly basis and will be submitted to the Owner by the 1st day of each month. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

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

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

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

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

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

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

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

2. *Substitute Items:*

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.

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

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,

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

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

3) will identify:

a) all variations of the proposed substitute item from that specified, and

b) available engineering, sales, maintenance, repair, and replacement services; and

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4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

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

E. *Engineer's Cost Reimbursement*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after

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due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

   1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor

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

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

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

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

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6.07 *Patent Fees and Royalties*

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

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

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

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

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

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work.

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However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

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

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and

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surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

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

6.12 *Record Documents*

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

6.13 *Safety and Protection*

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

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

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

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

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

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

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E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to

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show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

   a. Submit number of Samples specified in the Specifications.

   b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

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

C. *Submittal Procedures:*

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

   a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

   b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

   c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

   d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in

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the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

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

6.18 *Continuing the Work*

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.

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

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

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is

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not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

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

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

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

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

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2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

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B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

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

7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.

C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

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ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

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

8.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *Limitations on Owner's Responsibilities*

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

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and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

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

9.02 *Visits to Site*

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

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

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9.03 *Project Representative*

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations

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on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

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

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

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

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

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of,

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and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

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

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

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

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of

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executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

A. *Engineer's Decision Required*: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action*: Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part;

2. approve the Claim; or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

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E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

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4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

    a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

    b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

    c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

    d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.

    e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

    f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

    g. The cost of utilities, fuel, and sanitary facilities at the Site.

    h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.

    i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

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1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances:*

1. Contractor agrees that:

a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in

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the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

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B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

   a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

   b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

   c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

   d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

   e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

   f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

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12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

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E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers,

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architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

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13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

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D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. *Applications for Payments:*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's

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review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

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a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

c. there are other items entitling Owner to a set-off against the amount recommended; or

d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

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14.04 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

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1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;

b. consent of the surety, if any, to final payment;

c. a list of all Claims against Owner that Contractor believes are unsettled; and

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d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due:*

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's repeated disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);

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2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other

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dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or

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2. agrees with the other party to submit the Claim to another dispute resolution process; or

3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

17.06 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

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SECTION 00810

SUPPLEMENTARY CONDITIONS TO THE GENERAL CONDITIONS

These Supplementary Conditions to the General Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. C-700, 2007 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

SC – 1.02 TERMINOLOGY

Delete paragraph 1.02.C.1 of the General Conditions and insert the following in its place:

> The term "working day" includes all calendar days except weekends (Saturday and Sunday).

SC - 2.01 DELIVERY OF BONDS AND EVIDENCE OF INSURANCE

Add the following to Paragraph: 2.01.A of the General Conditions:

> Engineer shall furnish to Contractor up to six (6) copies of the Agreement and other Contract Documents bound therewith. Contractor shall execute the Agreement, insert executed copies of the required Bonds, Power of Attorney, and Certificate of Insurance and submit all copies to the Owner. Owner shall execute all copies and return three (3) copies to the Contractor, who shall promptly deliver one copy to its surety.

Delete Paragraph 2.01.B and replace with the following:

> B. Evidence of Insurance: Before Owner will execute the Agreement and before any work at the site is started, Contractor shall deliver to Owner, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which Owner or any additional insured may reasonably request) which Contractor is required to purchase and maintain in accordance with Article 5.

SC – 2.02 COPIES OF DOCUMENTS

Delete Paragraph 2.02 A. of the General Conditions and insert the following in its place:

> Contractor shall be furnished six (6) half-size copies of the plans and Contract documents. Additional copies will be furnished upon request at the cost of reproduction.

SC – 2.03 NOTICE TO PROCEED

Delete the first sentence of Paragraph 2.03.A of the General Conditions and insert the following

in its place:

> Following the execution of the Agreement by the Owner and the Contractor, written Notice to Proceed with the Work shall be given by the Owner to the Contractor. The Contract Time will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within thirty days after the effective date of the agreement.

SC - 2.05 BEFORE STARTING CONSTRUCTION

Add a new paragraph immediately after paragraph 2.05.A.3 of the General Conditions which is to read as follows:

> 2.05.A.4 Contractor shall submit a preliminary list of construction equipment with hourly rates, owned or rented by the Contractor and all Subcontractors that will be used in the performance of the Work. The equipment list will include information necessary to confirm the hourly rates per Paragraph 11.01.A.5.c of the General Conditions and these Supplementary Conditions including: make, model, and year of manufacture as well as the horse power, capacity or weight, and accessories.

SC - 2.07 INITIAL ACCEPTANCE OF SCHEDULES

Delete the first paragraph of 2.07.A of the General Conditions in its entirety and insert the following in its place:

> Prior to the first application for payment all schedules and documents identified in paragraph 2.05.A shall be finalized and acceptable to the Engineer and Owner. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer and Owner as provided below. Acceptance of these schedules and documents by either Engineer or Owner will neither impose on Engineer or Owner responsibility for the sequencing, scheduling or progress of the Work and will not interfere with or relieve Contractor from Contractor's full responsibility therefore.

Add the following after Paragraph 2.07.A.3:

> Contractor's Schedule of Construction Equipment will be acceptable to Engineer as to form and substance if it provides the necessary information to reference the equipment and establish the hourly rates in accordance with paragraph 11.01.A.5.c.

SC - 4.01 AVAILABILITY OF LANDS

Add to Paragraph 4.01.C of the General Conditions the following:

> If it is necessary or desirable that the Contractor use land outside of the Owner's

easements or right-of-way, the Contractor shall obtain consent from the property owner and tenant of the land. The Contractor shall not enter for materials delivery or occupy for any other purpose with men, tools, equipment, construction materials, or with materials excavated from the site, any private property outside the designated construction easement boundaries or right-of-way without written permission from the property owner and tenant.

SC - 4.02 - SUBSURFACE AND PHYSICAL CONDITIONS

Delete the first sentence of 4.02.A and replace with the following:

A. *Reports and Drawings:* The Special Provisions identify:

Delete the reference to Supplementary Conditions in paragraph 4.02.B and replace with Special Provisions.

SC – 4.03 - DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS

Add the following to the end of Paragraphs 4.03.A.

Contractor to notify Owner and Engineer in writing about differing subsurface or physical conditions within 15 days of discovery and before disturbing the subsurface as stated above.

No claim for an adjustment in the contract price or contract times (or Milestones) will be valid for differing subsurface or physical conditions if procedures of this paragraph 4.03 are not followed.

SC - 4.04 - UNDERGROUND FACILITIES

Add the following new paragraph immediately after Paragraph 4.04.A.2.

3. At least 2 but not more than 10 business days before beginning any excavation, the Contractor shall according to MCA 69-4-501, notify all owners of underground facilities and coordinate the Work with the owners of such underground facilities. The information shown or indicated in the Contract Documents with respect to existing underground facilities is based on information and data obtained from the owners of the facilities without field exploration, and as such, Owner and Engineer are not responsible for the accuracy or completeness of such information or data.

SC - 4.06 - HAZARDOUS ENVIRONMENTAL CONDITION AT SITE

Change the first sentence of paragraph A to read as follows:

A. *Reports and Drawings*: The Special Provisions identify those reports…….

SC- 5.02 LICENSED SURETIES AND INSURERS

Add the following to the end of Paragraph 5.02.A

Without limiting any of the other obligations or liabilities of the Contractor, Contractor shall secure and maintain such insurance from an insurance company (or companies) authorized to write insurance in the State of Montana, with minimum "A.M. Best Rating" of A-, VI, as will protect the Contractor, the vicarious acts of subcontractors, the Owner and the Engineer and their agents and employees from claims for bodily injury, or property damage which may arise from operations and completed operations under this Agreement. Contractor shall not commence work under this Agreement until such insurance has been obtained and certificates of insurance, with binders, or certified copies of the insurance policy shall have been filed with the Owner and the Engineer.

All insurance coverage shall remain in effect throughout the life of the Agreement, except that the Contractor shall maintain the Commercial General Liability Policy including product and completed operations coverage for a period of at least two years following the substantial completion date for property damage resulting from occurrences during the agreement period.

SC – 5.04 CONTRACTOR'S LIABILITY INSURANCE

Add the following new paragraphs immediately after Paragraph 5.04.B:

C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Law or Regulations:

1. Workers' Compensation, etc. under Paragraphs 5.04.1 and 5.04.2 of the General Conditions.

a.	State	Statutory
b.	Applicable Federal (e.g. Longshoremans)	Statutory
c.	Employer's Liability	$ 1,000,000.00

2. Contractor's Liability Insurance under Paragraphs 5.04.A.3 through 5.04.A.6 of the General Conditions which shall also include completed operations and product liability coverage.

a. GENERAL AGGREGATE $ 3,000,000.00

b. Products-Completed Operations Aggregate $ 3,000,000.00

c. Personal and Advertising $ 1,000,000.00

d. Each Occurrence (Bodily Injury and Property Damage) $ 1,000,000.00

e. Coverage will include:

1. Premises - Operations
2. Operations of Independent Contractor
3. Contractual Liability
4. Personal Injury
5 Products and Completed Operations
6. Broad Form Property Damage will include explosion, collapse, blasting and underground where applicable.
7. Per Project Aggregate Endorsement

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

a. Bodily Injury:
Each Person $ 500,000.00
Each Accident **$** 1,000,000.00

Property Damage:
Each Accident $1,000,000.00

(or)

b. Combined Single Limit $ 1,000,000.00

Coverage to Include

1. All Owned
2. Hired
3. Non-Owned

4. Contractor's Liability Insurance under 5.04.A.3 through 5.04.A.6 may be satisfied by primary insurance or a combination of primary and excess or umbrella insurance. Primary occurrence limit cannot be less than $1,000,000.00. Deductible not to exceed $5,000.00 per occurrence on property damage.

5. Add a new paragraph at the end of Paragraph 5.04.B. 1 of the General Conditions as follows:

   The Contractor's insurance coverage shall name Missoula County, City of Missoula, and Owner's Consultants as an additional insured under Commercial General Liability, Automobile Liability, Excess or Umbrella polices.

6. The Contractual Liability coverage required by Paragraph 5.04.B.4. of the General Conditions shall provide coverage for not less than the following amounts:

Each Occurrence	$ 1,000,000.00
Aggregate	$ 3,000,000.00

SC- 5.04.B.4 CANCELATION NOTICE

Amend paragraph 5.04.B.4 of the General Conditions by striking out the words "30 days" and replacing them with the words "45 days" and as so amended paragraph 5.04.B.4 remains in effect.

SC - 5.06 PROPERTY INSURANCE

Delete Article 5.06.A of the General Conditions in its entirety and insert the following in its place:

A. Contractor shall purchase and maintain property insurance upon the work at the site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in these Supplementary Conditions or required by Laws and Regulations). This insurance shall:

   1. Include the interests of Owner, Contractor, Subcontractors, Sub-Subcontractors Engineer, Engineer's Consultants, and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

   2. be written on a Builder's Risk "all risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, false work and materials and equipment in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by

enforcement of Laws and Regulations, water damage (other than caused by floods), and other perils or causes of loss as may be specifically required by the Supplementary Conditions.

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to the fees and charges of engineers and architects);

4. cover materials and equipment in transit for incorporation in the Work or stored at the site or at another location prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer; and

5. be endorsed to allow occupancy and partial utilization of the Work by Owner.

6. include testing and start-up; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. Contractor shall be responsible for any deductible or self-insured retention.

C. The policies of insurance required to be purchased and maintained by Contractor in accordance with this Paragraph SC5.06 shall comply with the requirements of Paragraph 5.06.C of the General Conditions.

D. The policies of insurance required to be purchased and maintained by Contractor in accordance with this Article 5.06.A shall comply with the requirements of GC - 5.06.C. The qualifications of the insurance company shall comply with the requirements of SC- 5.02.A.

SC-6.02 Working Hours

Add the following to Paragraph 6.02.B:

Regular working hours are defined as 7:00 AM. to 7:00 P.M. Emergency work may be done without prior permission.

SC-6.04 PROGRESS SCHEDULE

Delete Paragraph 6.04.A.1 of the General Conditions in its entirety and replace with the following:

1. Contractor shall submit to Engineer by the 1st day of each month, an updated progress schedule reflecting the amount of work completed and adjustments to future work. Such adjustments will be acceptable to Engineer as providing an orderly progression of the Work to completion within any specified milestones and the Contract Time. No progress payment will be made to Contractor until the updated schedules are submitted to and acceptable to Engineer and Owner. Review and acceptance of progress schedules by the Engineer will neither impose on Engineer responsibility for the sequencing, scheduling or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefore.

SC- 6.13 SAFETY AND PROTECTION

Change Supplementary Conditions in paragraph 6.13.C to Special Provisions.

Add new paragraphs to the end of paragraph 6.13.F of the General Conditions as follows:

G. It is expressly understood by the parties to this Agreement that the Contractor is solely responsible for initiating, maintaining, and supervising safety precautions and programs in connection with the Work. The right of the Owner and Engineer to observe or otherwise review the Work and operations shall not relieve the Contractor from any of his covenants and obligations hereunder. Contractor shall incorporate all safety requirements into his construction progress and work schedules including preconstruction and scheduled monthly safety meetings, posted safety rules, tailgate meetings, and site inspections by safety and other inspectors employed by the Contractor.

H. The Contractor shall be responsible for and shall take necessary precautions and provide all material and equipment to protect, shore, brace, support and maintain all underground pipes, conduits, drains, sewers, water mains, gas mains, cables, etc., and other underground construction uncovered in the proximity, or otherwise affected by the construction work performed by him. All pavement, surfacing, driveways, curbs, walks, buildings, grass areas, trees, utility poles or guy wires damaged by the Contractor's operations in the performance of this work shall be repaired and/or replaced to the satisfaction of the Owner, Engineer, and effected property owner at the Contractor's expense. The Contractor shall also be responsible for all damage to streets, roads, highways, shoulders, ditches, embankments, culverts, bridges, or other public or private property or facility, regardless of location or character, which may be caused by moving, hauling, or otherwise transporting equipment, materials, or men to and from the work or any part of site thereof; whether by him or his subcontractors. The Contractor shall make satisfactory and acceptable arrangements with owner of, or the agency or authority having jurisdiction over, the damaged property or facility concerning its repair or replacement or payment of costs incurred in connection with said

damage.

I. The Contractor shall conduct his work so as to interfere as little as possible with public travel, whether vehicular or pedestrian. Whenever it is necessary to cross, obstruct, or close roads, driveways, and walks, whether public or private, the Contractor shall obtain approval from the governing party and shall, at his own expense, provide and maintain suitable and safe bridges, detours, and other temporary expedients for the accommodation of public and private drives before interfering with them. The provisions for temporary expedients will not be required when the Contractor has obtained permission from the owner and tenant of the private property, or from the authority having jurisdiction over public property involved, to obstruct traffic at the designated point.

J. Safety provisions must be entirely adequate and meet with City or State and Federal regulations to protect the public on these streets and roads.

SC- 6.20 INDEMNIFICATION

Add a new paragraph immediately after paragraph 6.20.A. of the General Conditions which is to read as follows:

While Owner and Engineer may have the right under this Contract to observe or otherwise review the work, progress and operations of the Contractor, it is expressly understood and agreed that such observation shall not relieve the Contractor from any of its covenants and obligations hereunder.

SC-9.03 PROJECT REPRESENTATIVE

Refer to the Special Provisions for identification of the responsibilities and authority and limitations of the Engineer's Resident Project Representative (if any).

SC- 11.01 COST OF THE WORK

Delete paragraph 11.01.A.5.c of the General Conditions in its entirety and insert the following in its place:

11.01.A.5.c The rental of all construction equipment and machinery and parts thereof whether rented from Contractor or rented from others. The cost shall be calculated as follows and will include the costs of transportation, loading, unloading, assembly, dismantling and removal thereof for equipment involved only in the changed portion of the work covered under the cost of the Work method. Transportation, loading and assembly costs will not be included for equipment already on the site which is being used for other portions of the Work. The cost of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work. Hourly equipment and

machinery rates shall be calculated from the Rental Rate Blue Book for Construction Equipment, and the Equipment List submitted according to SC 2.05 and SC 2.07, and as follows:

1. For working equipment, the hourly rate shall be the monthly rental rate divided by 176 hours per month plus the hourly operating cost.

2. For equipment on standby, the hourly rate shall be 50% of the monthly rental rate divided by 176 hours per month, and the hourly operating cost shall not be applied.

3. For specialized equipment rented for a short duration used for change order work or additional work not part of the scope of work bid, the equipment rental rates will be negotiated prior to the work being performed.

SC-11.03 UNIT PRICE WORK

Delete paragraph 11.03.D.1 and 2 of the General Conditions in its entirety and insert the following in its place:

l. the quantity of a particular item of Unit Price Work performed by Contractor differs by more than 25% from the estimated quantity of such item indicated in the Agreement, and

2. the total cost of the particular individual item of Unit Price Work amounts to 10% or more of the Contract Price which is the total sum of all schedules (if any), and

SC-12.03 DELAYS

Add two new paragraphs after paragraph 12.03.E. of the General Conditions which are to read as follows:

F. Time extensions will not be granted for rain, snow, wind, flood, or other natural phenomena of normal intensity for the locality where Work is performed. For purpose of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for a minimum continuous period of at least one-fourth of the Contract Time involved with the average of the preceding 5-year climatic range during the same time interval based on U.S. Weather Bureau statistics for the locality where the Work is performed.

G. The Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays attributable to the relocation of utilities. The Contractor shall coordinate all utility relocations with utility providers.

SC- 14.02.A APPLICATIONS FOR PAYMENTS

Add the following language at the end of paragraph 14.02.A.1 of the General Conditions:

> Payments for materials in storage shall be based only upon the actual cost of the materials and equipment to Contractor and shall not include any overhead or profit. Bill of Sale, invoice or other document warranting clear title for materials in storage will be waived for the material in storage included in the first progress payment application. However, proof of payment and clear title must be submitted with Application No. 2 for all material included in Application No. 1. Without such documentation amounts paid for materials in storage will be deducted from subsequent payments. Beginning with the second application, all requests for payment for materials in storage shall be accompanied by Bill of Sale, invoice or other document warranting clear title as required above.

Add the following to Paragraph 14.02.A.3:

> In accordance with state law the Owner may accept deposited securities in lieu of cash retainage. Retainage may be used by the Owner to offset costs for any of the losses enumerated in Paragraphs l4.02.B.5.a through 14.02.B.5.d inclusive, 14.02.D.1.a. through 14.02.D.1.d inclusive, or 15.02.C. In addition retainage may be used by the Owner to protect against loss from failure by the Contractor to complete necessary work and to offset any liquidated damages due Owner.

Add a new paragraph after paragraph to 14.02.A.3 to read:

4. Each application for progress payment shall be accompanied by Contractor's updated progress schedule, shop drawing schedule, procurement schedule, and other data specified herein or reasonably required by Owner or Engineer. The Owner reserves the right to require submission of monthly certified payrolls by the Contractor.

SC – 14.02.C PAYMENT BECOMES DUE

Delete Paragraph 14.02.C.1 of the General Conditions in its entirety and insert the following in its place:

1. The Owner will, upon presentation to him of the Contractor's Application for Payment with Engineer's recommendation, review and act upon said payment request once each month on or about the day of each month stipulated by the Owner at the preconstruction conference. Payment will become due when Owner approves the application for payment and when due, will be paid by Owner to Contractor.

SC- 14.02.D.1.c

Amend the sentence of Paragraph 14.02.D.1.c to read:

> …entitling Owner to a set-off against the amount recommended, including liquidated damages; or...

SC-14.03 CONTRACTORS WARRANTY OF TITLE

Add the following at the end of Paragraph 14.03.A of the General Conditions:

> Neither recommendation of any progress payment by Engineer nor payment by the Owner to Contractor, nor any use or occupancy of the Work or any part thereof will release the Contractor from complying with the Contract Documents. Specifically the Contractor shall maintain in accordance with Article 5, property insurance on all Work, materials, and equipment whether incorporated in the project or not and whether included in an application for payment or not, for the full insurable value thereof. Passing title to Owner for materials and equipment included in an application for payment does not relieve the Contractor of the Contractor's obligation to provide insurance (including property insurance) as required in Article 5 of the General Conditions and these Supplementary Conditions. All insurance shall remain in effect as provided in Article 5.

SC- 14.05 PARTIAL UTILIZATION

Add the following to Paragraph 14.05.A:

> Owner has the right to take possession of or use any completed or substantially completed portions of the work at any time, but such taking possession or use will not be deemed an acceptance of any work not completed in accordance with the Contract Documents. Owner's use of any facilities so identified in the Contract Documents will not be grounds for extension of the contract time or change in the contract price. Owner's use of any facilities not specifically identified in the Contract Documents will be in accordance with conditions agreed to prior to such use, and any extra costs or delays in completion incurred and properly claimed by Contractor will be equitably adjusted with a Change Order. Facilities substantially completed in accordance with the Contract Documents which are occupied or used by Owner prior to substantial completion of the entire work will be done in accordance with General Conditions 14.04. Guarantee periods for accepted or substantially completed work including mechanical and electrical equipment will commence upon the start of continuous use by Owner. All tests and instruction of Owner's personnel must be satisfactorily completed, and Owner shall assume responsibility for and operation of all facilities occupied or used except as may arise through portions of work not yet completed by Contractor If the work has been substantially completed and the Engineer certifies that full completion thereof is materially delayed through no fault of the Contractor, the Owner shall, without

terminating the Agreement, make payment of the balance due for the portion of the work fully completed and accepted.

SC- 14.06 FINAL INSPECTION

Add the following to Paragraph 14.06.A:

After Contractor has remedied all deficiencies to the satisfaction of the Engineer and delivered all construction records, maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents (all as required by the Contract Documents), Owner and Contractor shall be promptly notified in writing by Engineer that the work is acceptable.

SC- 17.01 GIVING NOTICE

Add the following to Paragraph 17.0l.A:

The mailing address for giving notices to Contractor given in the Agreement is hereby designated as the place to which all notices, letters, and other communication to Contractor will be mailed or delivered. The mailing address for giving notices to Owner given in the Agreement is hereby designated as the place to which all notices, letters, and other communication to Owner shall be mailed or delivered. Either party may change his address at any time by an instrument in writing delivered to Engineer and to other party.

SC-17.05 CONTROLLING LAW AND VENUE

Delete Paragraph 17.05.A. of the General Conditions in its entirety and insert the following in its place:

A. This Contract is to be governed by the law of the State of Montana. The parties expressly agree that venue shall be in the Montana Fourth Judicial District Court of Missoula County and there shall be no other venue for resolution of disputes arising from the contract or the performance of its terms.

END OF SECTION 00810

Lolo Street Bridge Replacement

Special Provisions

Bid Package (10/2026)

Note: The following special provisions and associated material are used in conjunction with the specifications that are identified in the Project Manual.

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LIST OF SPECIAL PROVISIONS

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19) Explanation of Bid Items

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SPECIAL PROVISIONS

1) Contract Provisions and Order of Precedence

The following special provisions are hereby made a part of this contract and supplement and/or supersede any sections of other Standard and Supplemental Montana Public Works Standard Specifications 2021 7th Edition (MPWSS), City of Missoula Standards and Specifications Manual, Montana Department of Transportation (MDT) Standard Specifications for Road and Bridge Construction, and all supplements thereto in conflict therewith.

All documents referred to in this section and referenced throughout these documents are essential parts of the contract, and a requirement occurring in one is binding as though occurring in all. They are complementary and describe and provide for a complete contract. If a discrepancy exists, the governing ranking is:

- Contract Change Orders
- Lolo Street Bridge Replacement Special Provisions
- FHWA 1273
- Approved Contractor Submittals
- Project Plans
- City of Missoula Standards and Specifications Manual January 2026 (COMSSM)
- MDT Standard Specification Sections- as referenced in the supplemental section of this documents Table-of-Contents
- Montana Public Works Standard Specifications 2021 7th Edition (MPWSS)
- MDT – Standard Specifications for Road and Bridge Construction
- Supplemental Detailed Drawings
- Detailed Drawings

For the purposes of the Lolo Street Bridge Replacement the Owner ultimately responsible for the contract and delivery of the project is Missoula County. Any provision documents with direct references to the contracting agency being FHWA or City of Missoula should be replaced with Missoula County.

The Missoula County Project Manager (**MCPM**) is the person who is tasked with having responsible charge as defined in 23 CFR 635.105. This position will be referenced throughout the Special Provisions and associated contract documents.

2) Project Description

The Lolo Street Bridge Replacement Project consists of all work described in the contract documents, which includes replacement of the bridge, providing the specified pedestrian facility additions and upgrades shown in the contract documents.

A City water main will also be replaced and suspended from the new bridge. This work can be found in the Appendix to the plans. The bridge and general site work will be bid and paid for by a separate bid schedule than the water main work. Whether the General Contractor chooses to self-perform the water main installation or hire a subcontractor, the contractor performing work on the water main shall meet

the minimum experience requirements included in Section 00200, Instructions to Bidders, and shall provide documentation demonstrating that the experience requirement has been met.

The contractor must strategize to ensure both the bridge and water main are constructed in the most efficient manner possible. It is assumed that the contractor will construct the new bridge abutments, set the bridge girders, install necessary hangers and sleeves, feed the suspended portion of the water main and its components through/under the bridge, and then backfill and finish road and sitework only once the water main has been installed and accepted. Final sequencing of this work will be dictated by contractor means and methods and will be detailed in the project CPM schedule required in this contract.

3) FHWA 1273

The Lolo Street Bridge project is primarily funded by a federal PROTECT Grant. Therefore, the Contractor must comply with the most recent version of the "Required Contract Provisions Federal-AID Construction Contracts". The project specifications provide a copy of the FHWA – Revised October 23, 2023.

The bridge replacement and general site work is found in Bid Schedule A. Federal grant funds will be used to pay for work associated with this schedule. The water main replacement work found in Bid Schedule B will be funded separately by the City of Missoula.

4) Labor & Invoicing Requirements

Pay the greater of the minimum wage rates included in the bid package which include:

- Montana Prevailing Wage Rates for Heavy Construction Services
- Federal Wage Rates for Heavy Construction (Davis-Bacon)

Separate invoices will be required for the two bid schedules, with invoicing related to *Schedule A – Bridge and General Site Work* being submitted to Missoula County and *Schedule B – Water Main Replacement* being submitted to the City of Missoula.

5) Bidding and Bid Schedules

A pre-bid meeting will not be held for the project. The project schedule of items (i.e. bid tab) has been broken down into two (2) Bid Schedules. One bid schedule pertains to the bridge replacement work and general site work specified in this contract (Schedule A) and the other schedule pertains to the water main replacement (Schedule B). To be considered a responsive bidder, provide bid pricing for both Bid Schedules.

The project will be awarded to the lowest responsive Bidder of the aggregate pair of Bid Schedules A & B. The owner may also elect to not award Schedule B and only award Schedule A. The owner reserves all rights to not award part or all of the project for any reason, including insufficient available funding, unbalanced bidding, and/or bid prices that are over 10% of the engineers' estimate.

6) Build America, Buy America (BABA)

The requirements of Build America, Buy America (BABA) apply to the project. See MPWSS Supplemental Section 00900 (included in the bid package) for additional information.

7) Migratory Bird Treaty Act Compliance

Any required clearing of trees and shrubs will be performed between **September 1 – April 15**, when no active nests are present. Exceptions can be made with additional coordination.

8) Environmental Habitat Conservation Measures for Bull Trout

Bull Trout are documented in the project vicinity and habitat conservation measures are required to be implemented in this project. All in-stream work must be performed between **July 1 – September 30** and additional conservation measures will also be required. See *SLOPES Conservation Measures* (attached as an appendix to the bid package) for additional requirements and information.

9) Preconstruction Conference and Owner Communications

A preconstruction conference will be held on a mutually agreed date, between the Contractor, department, and other parties interested in the work, before work within the project limits begins and no later than 20 calendar days after the Notice to Proceed date. The Contractor's Superintendent in charge of the project must attend the conference and Subcontractors should be encouraged to attend. No payments will be made on the contract until the Preconstruction Conference has been held.

Following the Preconstruction Conference, the Contractor must attend and participate in project coordination meetings every week at a mutually agreed upon time (unless cancelled by the County). At these meetings the Contractor must provide status updates including a 3-week lookahead schedule.

10) Contract Time

This contract is a completion date contract. The work begins on the effective date stated in the Notice to Proceed (NTP), and all work is to be substantially complete no later than **January 31, 2028**. Unusually severe weather is not considered as a delay cause. The NTP is anticipated to be issued with an effective date of **December 18, 2026**.

The Contractor is required to submit a critical path method (CPM) construction schedule and schedule narrative for review no later than 14-days in advance of the Preconstruction Conference. The schedule is to be provided in a file format compatible with Microsoft Project 2018 (.mpp). The MCPM will review and provide comments back no later than 7-days following the Preconstruction Conference. A revised schedule will then be submitted for approval, and if approved, will become the project baseline schedule. The Contractor will submit monthly progress schedule and narrative updates at the same time each month following approval.

The CPM schedule must provide an industry standard level of detail to inform the owner that sufficient progress is being made on the project.

Contractor shall pay Owner liquidated damages for delay (but not as a penalty) for each calendar day that expires beyond that allowed completion date. The value for each calendar day will be determined based on the table in Section 00200 Instructions to Bidders, Article 10.

11) Noise Impact

To minimize construction noise impacts on the local residents, no construction activities will be allowed between the hours of **7 p.m. and 7 a.m**. without expressed written approval from the County/City. Weekend work will only be allowed with written approval from the County/City.

12) Traffic Control

Traffic control requirements in Section 01570 of the City of Missoula Standard Modifications to the MPWSS will apply in addition to the requirements set forth in this special provision.

Provide traffic control in accordance with information shown in the plans, City of Missoula Standard Drawings, and the Manual on Uniform Traffic Control Devices (MUTCD). Submit a written traffic control plan a minimum of two weeks prior to any anticipated work. Proceed with operations only after obtaining the MCPM's approval.

The portion of Lolo Street identified in the plans for full closure may be fully closed for a maximum of four (4) calendar months. This closure may not occur until after the last day of school listed on the Missoula County Public Schools approved 2026-2027 academic calendar. Partial closures may be proposed before or after the full closure window and implemented with approval.

13) Landscaping and Irrigation

The contractor shall preserve existing vegetation where feasible, minimize disturbance to landscaped areas and protect existing trees, shrubs, turf, irrigation lines, valves, controllers, and appurtenances during construction operations. Prior to construction, the Contractor shall document existing conditions and disturbed areas shall be restored to match preconstruction conditions, unless otherwise stated.

14) Landowner Coordination and Access

In instances where work will impede the existing permanent or approved temporary access of a resident, the Contractor will provide 14-day advanced notice to the applicable party. Reasonable continuous access must be provided that provides no more than 15-minutes of delay or inconvenience and immediate passage of emergency services if necessary.

15) Temporary Erosion Control

STORM WATER PERMITTING REQUIREMENTS UNDER THE MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM (MPDES).

Description:

The Montana Department of Environmental Quality (DEQ) regulates storm water discharges under the MPDES program. Sum the disturbance area (as defined by DEQ) identified in the contract with the area of disturbance caused by Contractor operations to determine if the permit acreage threshold is exceeded. Contractor operations can include, but are not limited to, the following support activities: staging areas, access roads, material storage areas, temporary concrete or asphalt batch plants, borrow areas, areas used for fill placement, etc. If the summed disturbance area is one acre or more, use the DEQ authorization to discharge under the MPDES General Permit for Storm Water Discharges Associated with Construction Activity for this project. A Notice of Intent (NOI) Package includes a Notice of Intent,

with a topographic map, a Storm Water Pollution Prevention Plan (SWPPP), the erosion control plans, sage grouse consultation letter, if applicable, and supporting documentation.

Materials:

Follow the requirements described in the Montana Department of Transportation's Erosion and Sediment Control Best Management Practices Manual (December 2016). Submit to the Project Manager for review and acceptance of Best Management Practices (BMPs) proposed for use that are not included in the Manual.

Construction Requirements:

A. Submit one NOI Package and the associated fees to DEQ for ground disturbance areas shown in the plans. For ground disturbance areas shown in the plans, the Contractor is the sole permittee until final stabilization is achieved. The Contractor is responsible for delays caused by incomplete or inaccurate submittals.

B. Comply with the requirements of the General Permit for Storm Water Discharges Associated with Construction Activity and implement the SWPPP. Provide two copies of the NOI Package submitted to DEQ and confirmation for receipt of a complete NOI Package from DEQ to the Project Manager and the City of Missoula prior to conducting any ground disturbance activities.

C. Do not begin construction activities until a City Stormwater Permit (SWP) has been issued. The SWP cannot be issued until the NOI Package is submitted to DEQ and confirmation for receipt of a complete NOI Package from DEQ is received by the Project Manager and City of Missoula.

D. Complete and comply with all requirements of the City of Missoula Stormwater Permit.

E. Complete and document all inspections in accordance with the requirements of the General Permit for Storm Water Discharges Associated with Construction Activity. Use DEQ's most current self-inspection form available online at:
http://deq.mt.gov/Water/StormWater/StormSystems
Provide a copy of all inspection reports to the Project Manager.

F. Report potential noncompliance in accordance with applicable regulations, guidance, and permit conditions. Submit to the Project Manager within seven days of sending or receiving all correspondence to or from regulatory agencies regarding potential noncompliance or violations.

G. The temporary erosion and sediment control measures and devices to prevent pollution and control sediment transport and soil erosion will be inspected as part of the final inspection to ensure they are maintained and functioning properly. Do not terminate the General Storm Water Permit coverage until the BMPs are inspected and accepted and all records required under the permit, including inspection and monitoring reports, are furnished to the Project Manager. The Project Manager may require that certain BMP's be replaced by another type of BMP as a condition of permit termination.

H. If the Project Manager concurs that final stabilization has been met during the final walk-through, the Contractor may: submit a Notice of Termination form to DEQ, pay the annual fee invoice due at the time of termination, and submit the annual fee invoice to the Project Manager for reimbursement. If final stabilization is determined to not be met during the final walk-through, the SWPPP ownership will be transferred to the Owner given that the contractor has met all other requirements in the contract regarding the SWPPP and vegetation.

Method of Measurement:

DEQ MPDES fees and monitoring costs associated with obtaining and maintaining the General Permit for Storm Water Discharges Associated with Construction Activity for ground disturbance areas are not measured separately for payment.

If no permit is necessary, include the cost of all erosion control, devices, and inspections in the Soil Erosion and Pollution Control bid item.

Basis of Payment:

No additional payment will be made for the DEQ MPDES fees and monitoring costs associated with the General Permit for Storm Water Discharges Associated with Construction Activity. Include these costs in the Soil Erosion and Pollution Control-Lump Sum bid item.

16) Private Utility Coordination

Private Utilities:

The location of underground utilities as shown on the drawings are approximate and the Owner assumes no responsibility for determining the exact location. The Contractor shall be responsible for contacting the respective utility companies and determining the location of utilities prior to beginning construction in a given area. The Contractor shall notify the utility companies in writing of the construction schedule and request their assistance in making accurate locations of their existing infrastructure in the project areas. Copies of all written information provided by the utility companies shall be promptly delivered to the Owner and Engineer by the Contractor. The Montana One Call system may be utilized for utilities that participate in that system. The Contractor is responsible for determining the participating utilities. Montana One Call's telephone number is 811.

Underground natural gas lines, underground communication lines (fiber optic, cable-tv, and telephone), and underground electrical lines are shown on the plans based on surveyed points from one-call locate marks. It is possible that not all natural gas lines, communication lines, and underground electrical lines are shown on the plans. It is the responsibility of the Contractor to locate all the existing underground private utility lines prior to construction. The Contractor shall protect all existing underground private utilities during all related construction activities unless otherwise noted in the construction drawings.

Municipal Utilities:

Municipal utilities (water, sewer, stormwater) were also located using basic one-call locate marks. It is the responsibility of the Contractor to locate all existing municipal utilities prior to construction. The contractor shall protect all existing municipal utilities except those designated for removal in the construction drawings.

Coordination with Utility Companies:

All utility companies have been notified of this project and of the anticipated project's construction schedule. All utility companies have been consulted with in regard to the identified conflicts due to project improvements that have been identified. Underground and Overhead Utilities will be relocated as necessary to conform to the improvements on the construction drawings. All utilities in conflict with project improvements will be relocated at the cost of the utility companies. All private utility relocation work **is** anticipated to be completed before the start of the 2027 construction season. The Contractor shall anticipate continued coordination with utility companies during construction including continued communication of the construction schedule to ensure all parties are aware of relocation priorities and impacts delayed relocations may have on the projects critical path. If the existing utilities require temporary support during construction, the Contractor shall arrange for the utility company to provide temporary support and pay all costs and fees charged by the utility company for that work.

Utility Contacts:

- **NorthWestern Energy:**
  Contact: Patrick Kienberger - 406.241.6037 / patrick.kienberger@northwestern.com
- **Charter Spectrum:**
  Contact: Mitchell Houk - 406.871.2729 / mitchell.houk@charter.com
- **City of Missoula (Municipal Utilities):**
  Contact: Andy Schultz – 406.552.6758 / schultza@ci.missoula.mt.us

17) Quality Control and Quality Assurance

Contractor is responsible for complying with the Contractor Quality Control and Owner Quality Assurance per MPWSS 01400 (with COMSSM modifications) for all aspects of the project. Provide a detailed plan for approval at least 30 days before construction which documents the contractor's quality control system as well as the contractor's protocol for interaction with the owner's quality assurance activities.

Quality control and assurance requirements for bridge materials and associated work will follow the requirements defined in the MDT Standard Specifications sections that correspond to the respective pay items as well as the requirements of MT 601. The following changes to the MDT Standard Specifications and MT 601 will be implemented:

- "The Department": All references to the MDT Department will be removed and replaced with:
  - "Missoula County" – for instances where approval is required.
  - "Owner's Testing Agency" – for instances where quality assurance sampling and testing is required.
- "The Project Manager": All references to a project manager will be removed and replaced with:
  - "MCPM" (Missoula County Project Manager).

18) Suspended Watermain Component Technical Data Sheets

Technical data sheets for approved suspended watermain components are attached as an appendix to the bid package.

19) Explanation of Bid Items

In general, the following specifications apply to the bid items found in the incorporated bid schedules. Payment will be as provided below for those bid items correctly installed.

In some cases, additional changes to quantities of items may be made to the estimated quantities from the plans to account for minor changes which were not significant to the overall character of the work. At project completion, adjustments to quantities will be made based on actual quantity installed. Adjustments will not be made to Lump Sum items unless the work is substantially changed during the construction as determined by the Engineer. If work must be changed due to negligence or fault of the Contractor, additional payment for Lump Sum will not be made. Quantity adjustments to all non-Lump Sum items shall be measured by the Engineer in the presence of the Contractor. Payment for each item shall be for the finished product including all labor, materials, equipment, overhead, profit, and any other miscellaneous items unless otherwise noted herein.

The following items are intended to clarify the scope of bid items but are to be considered supplemental to the contract documents and are not necessarily all inclusive.

The basis for payment shall be abbreviated on the Bid Form or other locations in the Contract Documents and defined below:

LS = Lump Sum	SY = Square Yard
EA = Each	CF = Cubic Feet
LF = Linear/Lineal Feet	CY = Cubic Yard
VF = Vertical Feet	TON = Ton
SF = Square Feet	GAL = Gallon
LBS = Pounds	AC = Acre

The Bid Schedule is comprised of two schedules (A&B) as described below:

Schedule A: Bridge Replacement and General Site Work

Schedule B: Water Main Replacement

The pay items for each schedule are defined and discussed herein.

SCHEDULE A – BRIDGE AND SITE WORK

ITEM 0010: MOBILIZATION

Contractor shall comply with Section 109 of the MDT Standard Specifications.

Includes, but is not limited to, all costs associated with mobilization and demobilization of equipment and personnel to and from the project site. Payment shall be on a Lump Sum (LS)

basis. A payment of 50% of the bid amount may be requested on the first pay request after construction has started for this Schedule. The remaining portion may be requested after issuance of the Certificate of Substantial Completion for this Schedule.

ITEM 0020: CITY PERMITS

Contractor shall comply with Section 00700 of the MPWSS and all local agency requirements.

Includes, but not limited to, all costs associated with the city permits required for this project. Payment shall be on a Lump Sum (LS) basis. Progress payments may be allowed and will be directly related and correlated to the actual work completed. Contractor is to submit a proposed LS payment schedule for approval prior to starting work.

ITEM 0030: CONTRACTOR SURVEY AND LAYOUT

Contractor shall comply with Section 105 of the MDT Standard Specifications.

Includes, but not limited to, finish grade control, contractor survey and layout and bridge survey required for this project. Payment shall be on a Lump Sum (LS) basis. Progress payments may be allowed and will be directly related and correlated to the actual work completed. Contractor is to submit a proposed LS payment schedule for approval prior to starting work.

ITEM 0040: CONTRACTOR QUALITY CONTROL AND ASSURANCE

Contractor is responsible for complying with the Contractor Quality Control and Owner Quality Assurance per MPWSS 01400 (as amended by COMSSM) and Section 17 of the special provisions (this document).

Contractor is responsible for quality control tests and inspections to control contractor production and construction processes. Include in the Contractor quality control system an internal organization, plans, and procedures to produce the specified end product. Assure the system covers all construction operations, both on-site and off-site, and is keyed to the construction sequence. Quality control testing frequency is at Contractor discretion, except where tests are specifically required in the technical specifications for individual products. Quality assurance testing is performed following the standards in the technical specifications for individual products.

Assure the Owner’s personnel and quality assurance agency have access to all work areas at all times work is in progress. Provide special facilities or equipment to access work areas at Contractor expense.

Notify the MCPM of the work ready for quality assurance testing. Establish and update as the construction schedule to provide the MCPM estimated sampling/testing dates and times.

Payment shall be on a Lump Sum (LS) basis. Progress payments may be allowed and will be directly related and correlated to the actual work completed. Contractor is to submit a proposed LS payment schedule for MCPM for approval prior to starting work.

ITEM 0050: TEMPORARY TRAFFIC CONTROL

Contractor shall comply with Section 01570 of the MPWSS (as amended by COMSSM).

Payment shall be on a Lump Sum (LS) basis. Progress payments may be allowed and will be directly related and correlated to the actual work completed. Contractor is to submit a proposed LS payment schedule for approval prior to starting work.

ITEM 0060: SOIL EROSION & POLLUTION CONTROL

Contractor shall comply with Section 208 of the MDT Standard Specifications and Section 15, Temporary Erosion Control, of the special provisions (this document).

Payment shall be on a Lump Sum (LS) basis. Progress payments may be allowed and will be directly related and correlated to the actual work completed. Contractor is to submit a proposed LS payment schedule for approval prior to starting work.

ITEM 0070: ASPHALT SAW CUT

Contractor shall comply with Section 02112 of the MPWSS.

This item is measured and paid for by the Linear Foot (LF) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0080: REMOVE EXISTING CURB AND GUTTER

Contractor shall comply with Section 02112 of the MPWSS.

This item is measured and paid for by the Linear Foot (LF) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0090: REMOVE EXISTING CONCRETE SIDEWALK

Contractor shall comply with Section 02112 of the MPWSS.

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0100: REMOVE GUARDRAIL

Contractor shall comply with Section 104 of the MDT Standard Specifications.

This item is measured and paid for by the Linear Foot (LF) at the unit price bid. Price and payment is full compensation for dismantling and removing existing guardrail, posts, blockouts, hardware, and all associated components; disposal or salvage of materials as directed; backfilling and restoring disturbed areas; and for all tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0110: REMOVAL OF PAVEMENT, ASPHALT

Contractor shall comply with Section 02230 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0120: CLEARING AND GRUBBING

Contractor shall comply with Section 201 of the MDT Standard Specifications.

Payment shall be made per Acre (AC) of clearing and grubbing as specified in the Contract documents, complete in place, at the contract unit price. Price and payment is full compensation for clearing, grubbing, removing, and disposing of trees, stumps, roots, brush, vegetation, debris, and other objectionable material within the limits shown on the plans; removal of surface objects; permitted disposal or burn operations; and for all tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0130: REMOVE EXISTING CONCRETE BRIDGE

Contractor shall comply with Section 202 of the MDT Standard Specifications.

Payment shall be on a Lump Sum (LS) basis. Progress payments may be allowed and will be directly related and correlated to the actual work completed. Contractor is to submit a proposed LS payment schedule for approval prior to starting work.

ITEM 0140: EMBANKMENT IN PLACE

Contractor shall comply with Section 203 of the MDT Standard Specifications.

This item is measured and paid for by the Cubic Yard (CY) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to prepare the subgrade shown in the contract. The volume is computed using the plan lines and grades. Payment will be directly related and correlated to the actual work completed.

ITEM 0150: STRUCTURE EXCAVATION, TYPE I

Contractor shall comply with Section 209 of the MDT Standard Specifications.

This item is measured and paid for by the Cubic Yard (CY) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to accomplish the excavating, de-watering, shoring, cribbing, hauling, disposal, and backfilling to prepare the excavation as is shown in the contract. The quantity volume is computed using plan lines and grades, measured by vertical planes 18 inches outside footing/overhang neat lines (see 209.04). Payment will be directly related and correlated to the actual work completed.

ITEM 0160: BRIDGE END BACKFILL

Contractor shall comply with Section 301 of the MDT Standard Specifications.

Measurement and payment shall be made per Cubic Yard (CY) of bridge end backfill as specified in the Contract documents, complete in place, at the contract unit price. Price and payment is

full compensation for furnishing, placing, shaping, watering, and compacting approved backfill material at bridge ends and around abutments and wing walls; including placement in lifts, compaction to specified density, protection of structures, and restoration of adjacent areas; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. The quantity volume is computed using plan lines and grades. Payment will be directly related and correlated to the actual work completed.

ITEM 0170: PLACED RIPRAP, CLASS II

Contractor shall comply with Section 613 of the MDT Standard Specifications.

Measurement and payment shall be made per Cubic Yard (CY) of riprap placed as specified in the Contract documents, complete in place, at the contract unit price. Price and payment is full compensation for furnishing, hauling, placing, arranging, and shaping riprap stone to the lines, grades, and thickness shown on the plans; including preparation of the foundation, placement of geotextile or bedding when specified, hand work as required to achieve proper fit and interlock; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0180: ADJUST EXISTING MANHOLE

Contractor shall comply with Section 02113 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by Each (EA) at the unit price bid. Price and payment is full compensation for all material, equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0190: RELOCATE EXISTING SIGN

Contractor shall comply with Section 02114 of the MPWSS.

This item is measured and paid for by Each (EA) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0200: PEDESTRIAN SIGN SYSTEM

Contractor shall comply with Section 02114 of the MPWSS and Section 02585 of the COMSSM.

This item is measured and paid for by Each (EA) at the unit price bid. Price and payment is full compensation for all material, equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0210: SEPARATION GEOTEXTILE – HIGH STRENGTH

Contractor shall comply with Section 02110 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Square Yard (SY), constituting full compensation for furnishing, handling, placing, overlapping, anchoring, and securing the geotextile; preparation of the underlying surface; and for all materials, tools, labor,

equipment, and incidentals necessary to complete this item. This also includes compacting top 6” of subgrade material to 95% prior to placement of this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0220: SUB-BASE COURSE, 3” MINUS

Contractor shall comply with Section 02234 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Cubic Yard (CY) for uncrushed or crushed, sub-base course of the specified gradations, complete in place, which constitutes full compensation for furnishing, loading, hauling, spreading, blending, shaping, watering, and compacting the sub-base course material, and for all tools, labor, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0230: CRUSHED BASE COURSE, 3/4" – MINUS

Contractor shall comply with Section 02235 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Cubic Yard (CY) for crushed base course of the gradations specified in the Contract documents, complete in place, which constitutes full compensation for furnishing, crushing, loading, hauling, spreading, shaping, watering, and compacting the base course material, and for all tools, labor and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0240: ASPHALT CONCRETE PAVEMENT, TYPE B, PG 58-28

Contractor shall comply with Section 02510 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Ton (TON) - 2,000 pounds (900 kg) - for asphalt paving mixture, including the weight of the asphalt. The quantities measured for payment are the amount of asphalt paving materials actually used in the completed and accepted work in accordance with the plans and specifications. Price and payment is full compensation for cleaning base or underlying course; for producing, furnishing, transporting, stockpiling, heating, drying, and screening of aggregate materials; for hauling, placing, shaping, compacting, and finishing of the paving mix; for improving unsatisfactory areas; for furnishing samples; for furnishing, testing, and certifying of scales; for furnishing the weigh house; for all materials (exclusive of asphalt), manipulation, labor, tools, equipment, and incidentals necessary to complete the work in full compliance with the plans and specifications. Payment will be directly related and correlated to the actual work completed.

ITEM 0250: COMMERCIAL MIX-PG 58-28, BRIDGE ASPHALT OVERLAY

Contractor shall comply with Section 401 of the MDT Standard Specifications and MDT Bridge Special Provision BR201.63.

Measurement and payment will be at the contract unit price bid per Ton (TON) - 2,000 pounds (900 kg) - for asphalt paving mixture, including the weight of the asphalt. The quantities measured for payment are the amount of asphalt paving materials actually used in the completed and accepted work in accordance with the plans and specifications. Price and

payment is full compensation for cleaning base or underlying course; for producing, furnishing, transporting, stockpiling, heating, drying, and screening of aggregate materials; for hauling, placing, shaping, compacting, and finishing of the paving mix; for improving unsatisfactory areas; for furnishing samples; for furnishing, testing, and certifying of scales; for furnishing the weigh house; for all materials (exclusive of asphalt), manipulation, labor, tools, equipment, and incidentals necessary to complete the work in full compliance with the plans and specifications. Payment will be directly related and correlated to the actual work completed.

ITEM 0260: PERMANENT PAVEMENT MARKINGS, WHITE WATERBORNE

Contractor shall comply with Section 02581 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Gallon (GAL). Only those pavement markings represented by a Manufacturer's Material Certification at the time of application and used and witnessed on the project are eligible for payment. Should the actual quantity measured by the Project Manager using tank stabs or totalizer exceed the quantity calculated using an application rate of 22 mils times the specified width (without applying the tolerance) times the length of line applied, the lesser quantity will be paid for. Payment will be directly related and correlated to the actual work completed.

ITEM 0270: PERMANENT PAVEMENT MARKINGS, YELLOW WATERBORNE

Contractor shall comply with Section 02581 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Gallon (GAL). Only those pavement markings represented by a Manufacturer's Material Certification at the time of application and used and witnessed on the project are eligible for payment. Should the actual quantity measured by the Project Manager using tank stabs or totalizer exceed the quantity calculated using an application rate of 22 mils times the specified width (without applying the tolerance) times the length of line applied, the lesser quantity will be paid for. Payment will be directly related and correlated to the actual work completed.

ITEM 0280: PERMANENT PAVEMENT MARKINGS, YELLOW EPOXY CURB

Contractor shall comply with Section 02581 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Gallon (GAL). Only those pavement markings represented by a Manufacturer's Material Certification at the time of application and used and witnessed on the project are eligible for payment. Should the actual quantity measured by the Project Manager using tank stabs or totalizer exceed the quantity calculated using an application rate of 22 mils times the specified width (without applying the tolerance) times the length of line applied, the lesser quantity will be paid for. Payment will be directly related and correlated to the actual work completed.

ITEM 0290: CONCRETE-CLASS STRUCTURE, ABUTMENTS

Contractor shall comply with Section 551 of the MDT Standard Specifications.

Measurement and payment will be at the contract unit price bid per Cubic Yard (CY) for Concrete – Class Structure as specified in the Contract documents, complete in place, at the contract unit price. Price and payment is full compensation for furnishing, batching, mixing, transporting, forming, placing, consolidating, finishing, curing, and protecting the concrete; and

for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0300: REINFORCING STEEL, GRADE 60, ABUTMENTS

Contractor shall comply with Section 555 of the MDT Standard Specifications.

Measurement and payment will be at the contract unit price bid per Pound (LBS), constituting full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Work includes but is not limited to furnishing, fabrication, delivery and handling, placement, bar supports, and tie wire. Payment will be directly related and correlated to the actual work completed.

ITEM 0310: REINFORCING STEEL, GRADE 60, EPOXY COATED

Contractor shall comply with Section 555 of the MDT Standard Specifications.

Measurement and payment will be at the contract unit price bid per Pound (LBS), constituting full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Work includes but is not limited to furnishing, fabrication, delivery and handling, placement, bar supports, and tie wire. Payment will be directly related and correlated to the actual work completed.

ITEM 0320: ELASTOMERIC BEARING DEVICES

Contractor shall comply with Section 565 of the MDT Standard Specifications.

Measurement and payment will be at the contract unit price bid per Each (EA), constituting full compensation for all materials, equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0330: PRECAST, PRESTRESSED CONCRETE BULB-TEE GIRDERS

Contractor shall comply with Section 553 of the MDT Standard Specifications.

This item is measured and paid for by the Linear Foot (LF) from centerline bearing to centerline bearing for precast prestressed concrete bulb-tee girders as specified in the Contract documents, complete in place, at the contract unit price. Price and payment is full compensation for furnishing materials, fabricating, prestressing, curing, handling, storing, hauling, erecting, and setting the girders in their final position; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0340: CONCRETE-CLASS STRUCTURE LOW SLUMP, RAISED SIDEWALK

Contractor shall comply with Section 551 of the MDT Standard Specifications and MDT Bridge Special Provision BR201.87.

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment is full compensation for furnishing, batching, mixing, transporting, placing, consolidating, finishing, curing, and protecting low-slump Class Structure concrete for raised sidewalks; including forming edges as required, surface finishing, joints, and compliance with

thickness, grade, and alignment shown on the plans; exclusive of reinforcing steel, which will be paid for under a separate bid item; and for all other materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0350: WATERPROOFING MEMBRANE

Contractor shall comply with Section 563 of the MDT Standard Specifications MDT Bridge Special Provision BR201.63.

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment is full compensation for furnishing and installing the specified waterproofing membrane on prepared concrete surfaces; including surface cleaning and preparation, primer if required, placement of membrane, overlaps, sealing of joints and edges, protection of the membrane prior to and during subsequent work; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0360: BRIDGE RAIL, COMBINATION RAIL

Contractor shall comply with Section 557 of the MDT Standard Specifications.

This item is measured and paid for by the Linear Foot (LF) at the unit price bid. Price and payment is full compensation for furnishing materials and constructing bridge combination rail (concrete curbs and steel rail components) including; materials, fabrication, placement, alignment, anchorage to the structure, finishing, curing, and protection; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0370: CONCRETE SIDEWALK, 9” DEPTH

Contractor shall comply with Section 608 of the MDT Standard Specifications.

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment are full compensation for all material, excavation, backfill, curing of concrete, pre-molded mastic material, equipment, tools, and labor, and the performance of all work and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0380: ANTI-GRAFFITI COATING

Contractor shall comply with Section 612 of the MDT Standard Specifications.

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment is full compensation for furnishing and applying anti-graffiti coating; including surface cleaning and preparation, application of primer if required, application of the coating to the specified thickness and coverage, protection of coated surfaces, and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0390: CONCRETE SIDEWALK, 4” DEPTH

Contractor shall comply with Section 02529 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment are full compensation for all material, excavation, backfill, curing of concrete, pre-molded mastic material, equipment, tools, and labor, and the performance of all work and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0400: TYPICAL "L" CURB AND GUTTER

Contractor shall comply with Section 02528 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by the Lineal Foot (LF) of curb and gutter in place at the contract unit price. Price and payment is full compensation for all materials, curing of concrete, painting face gutter with primer, all pre-molded mastic material for expansion joints, contraction joints, steel dowels and sleeves, all equipment, tools, labor, and for the performance of all work and incidentals necessary to complete the item. The lineal foot measurement is the horizontal distance measured along the face of the curb. Payment will be directly related and correlated to the actual work completed.

ITEM 0410: COVE GUTTER

Contractor shall comply with Section 02529 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by the Square Yard (SY) of cove gutter in place at the contract unit price. Price and payment is full compensation for all materials, excavation, backfill, forming, curing of concrete, all pre-molded mastic material, equipment, tools, labor, and for the performance of all work and incidentals necessary to complete the item. The square yard measurement is measured by the horizontal area of the gutter. Payment will be directly related and correlated to the actual work completed.

ITEM 0420: CURB RAMP FORMING, BRIDGE

Contractor shall comply with Section 02529 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Each (EA), constituting full compensation for all material, excavation, backfill, forming, curing of concrete, pre-molded mastic material, equipment, tools, and labor, and the performance of all work and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0430: CURB RAMP FORMING AND ADA, SIDEWALKS

Contractor shall comply with Section 02529 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Each (EA), constituting full compensation for all material, excavation, backfill, forming, curing of concrete, pre-molded mastic material, equipment, tools, and labor, and the performance of all work and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0440: STANDARD DRY WELL W. CURB INLET

Contractor shall comply with Section 02720 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Each (EA), constituting full compensation for all materials, excavation, backfill, equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0450: CATCH BASIN (CITY OF MISSOULA 24") WITH CURB INLET
Contractor shall comply with Section 02720 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Each (EA), constituting full compensation for all materials, excavation, backfill, equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0460: 12" HDPE STORM PIPE
Contractor shall comply with Section 02720 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by the Linear Foot (LF) at the unit price bid. Price and payment is full compensation for furnishing and installing 12-inch HDPE storm pipe; including excavation, backfill, handling, hauling, placement to line and grade, joining, inspection, and testing; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0470: ONE-WAY DEPARTURE TERMINAL
Contractor shall comply with Section 606 of the MDT Standard Specifications.

Measurement and payment will be at the contract unit price bid per Each (EA), constituting full compensation for all materials, equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0480: MASH W-BEAM TERMINAL SECTION
Contractor shall comply with Section 606 of the MDT Standard Specifications.

Measurement and payment will be at the contract unit price bid per Each (EA), constituting full compensation for all materials, equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0490: FENCE – WILDLIFE FRIENDLY, 3-STRAND BARBLESS
Contractor shall comply with Section 607 of the MDT Standard Specifications.

This item is measured and paid for by the Linear Foot (LF) at the unit price bid. Price and payment is full compensation for furnishing materials and constructing wildlife-friendly, three-strand barbless fence; including posts, braces, wire, anchors, installation, tensioning, alignment, and adjustments to meet wildlife-friendly requirements; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0500: TOPSOIL PLACEMENT

Contractor shall comply with Section 02230 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by the Square Yard (SY) at the unit price bid. The volume, based upon the plan quantity as specified, is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 0510: SEEDING

Contractor shall comply with Section 02910 of the MPWSS (as amended by COMSSM), as well as Section 02920 of the MPWSS (as amended by COMSSM) only where specified.

This item is measured and paid for by the Square Yard (SY) at the unit price bid. Price and payment is full compensation for furnishing materials and performing seeding; including surface preparation, furnishing and placing seed, mulching where specified, watering, and establishment requirements; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

SCHEDULE B – WATER MAIN REPLACEMENT

ITEM 1010: MOBILIZATION

Contractor shall comply with Section 109 of the MDT Standard Specifications.

Includes, but is not limited to, all costs associated with mobilization and demobilization of equipment and personnel to and from the project site. Payment shall be on a Lump Sum (LS) basis. A payment of 50% of the bid amount may be requested on the first pay request after construction has started for this Schedule. The remaining portion may be requested after issuance of the Certificate of Substantial Completion for this.

ITEM 1020: ASPHALT SAW CUT

Contractor shall comply with Section 02112 of the MPWSS.

Measurement and payment will be at the contract unit price bid per Lineal Foot (LF), constituting full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 1030: REMOVAL OF PAVEMENT, ASPHALT

Contractor shall comply with Section 02230 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Square Yard (SY), constituting full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 1040: SEPARATION GEOTEXTILE – HIGH STRENGTH

Contractor shall comply with Section 02110 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Square Yard (SY), constituting full compensation for furnishing, handling, placing, overlapping, anchoring, and securing the geotextile; preparation of the underlying surface; and for all materials, tools, labor, equipment, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 1050: SUB-BASE COURSE, 3" – MINUS AND CRUSHED BASE COURSE, ¾" - MINUS
Contractor shall comply with Section 02234 and 02235 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Linear Foot (LF) of trench for sub-base and crushed-base course of the specified gradations, complete in place, which constitutes full compensation for furnishing, loading, hauling, spreading, blending, shaping, watering, and compacting the sub-base and crushed-base course material, and for all tools, labor, and incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 1060: ASPHALT CONCRETE PAVEMENT, TYPE B, PG 58-28
Contractor shall comply with Section 02510 of the MPWSS (as amended by COMSSM).

Measurement and payment will be at the contract unit price bid per Ton (TON) - 2,000 pounds (900 kg) - for asphalt paving mixture, including the weight of the asphalt. The quantities measured for payment are the amount of asphalt paving materials actually used in the completed and accepted work in accordance with the plans and specifications. Price and payment is full compensation for cleaning base or underlying course; for producing, furnishing, transporting, stockpiling, heating, drying, and screening of aggregate materials; for hauling, placing, shaping, compacting, and finishing of the paving mix; for improving unsatisfactory areas; for furnishing samples; for furnishing, testing, and certifying of scales; for furnishing the weigh house; for all materials (exclusive of asphalt), manipulation, labor, tools, equipment, and incidentals necessary to complete the work in full compliance with the plans and specifications. Payment will be directly related and correlated to the actual work completed.

ITEM 1070: EXCAVATE, BEDDING, SURROUNDS AND BACKFILL
Contractor shall comply with Section 02221 of the MPWSS (as amended by COMSSM).

This item includes excavation for water main installation; furnishing and placing bedding material; pipe zone surrounds; and backfilling trenches with approved materials. Work includes trench safety, dewatering, compaction, and restoration to required grades. Payments shall be made per Linear Foot (LF) of trench. Payment will be directly related and correlated to the actual work completed.

ITEM 1080: REMOVE EXISTING CURB AND GUTTER
Contractor shall comply with Section 02112 of the MPWSS.

This item is measured and paid for by the Linear Foot (LF) at the unit price bid. Price and payment is full compensation for all equipment, tools, and labor, including the performance of all work to provide incidentals necessary to complete this item. Payment will be directly related and correlated to the actual work completed.

ITEM 1090: TYPICAL “L” TYPE CURB AND GUTTER
Contractor shall comply with Section 02528 of the MPWSS (as amended by COMSSM).

This item is measured and paid for by the Lineal Foot (LF) of curb and gutter in place at the contract unit price. Price and payment is full compensation for all materials, curing of concrete, painting face gutter with primer, all pre-molded mastic material for expansion joints, contraction joints, steel dowels and sleeves, all equipment, tools, labor, and for the performance of all work and incidentals necessary to complete the item. The lineal foot measurement is the horizontal distance measured along the face of the curb. Payment will be directly related and correlated to the actual work completed.

ITEM 1100: WATER MAIN TESTING
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes pressure testing of installed water mains and appurtenances in accordance with applicable standards to verify system integrity, and the flushing, chlorination, disinfection, and bacteriological testing of new water mains prior to acceptance. All procedures shall comply with applicable health and regulatory requirements. Work includes providing test equipment, water, labor, installation and removal of temporary assemblies like blowoffs, and documentation. Payments shall be made on a Lump Sum (LS) basis. Progress payment may be allowed and will be directly related and correlated to the actual work completed.

ITEM 1110: 12” BUTTERFLY VALVE
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing a 12-inch buried butterfly valve complete with valve boxes, extensions, lids to grade, and appurtenances required for a complete installation. Payments shall be paid per Each (EA). Payment will be directly related and correlated to the actual work completed.

ITEM 1120: 12” CLASS 350 DUCTILE IRON WATER MAIN
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing 12-inch Class 350 ductile iron pipe, including jointing, fittings, thrust restraint where required, warning tape and tracing wire, and all incidental materials necessary for a complete installation. Payments shall be made per Linear Foot (LF). Payment will be directly related and correlated to the actual work completed.

ITEM 1130: 14” CLASS 350 DUCTILE IRON WATER MAIN
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing 14-inch Class 350 ductile iron pipe with all necessary jointing materials, fittings, warning tape, tracing wire, and appurtenances required for a complete installation. Payments shall be made per Linear Foot (LF). Payment will be directly related and correlated to the actual work completed.

ITEM 1140: MANUAL AIR RELEASE VALVE
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing a manual air release valve assembly, including piping, fittings, supports, valve boxes, extensions, and lids to grade required for proper operation. Payments shall be paid per Each (EA). Payment will be directly related and correlated to the actual work completed.

ITEM 1150: 14" PRE-FABRICATED INSULATED DUCTILE IRON WATER MAIN
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing pre-fabricated insulated ductile iron pipe sections complete with insulation, outer jacket, supports, and accessories suitable for installation beneath the bridge. Payments shall be made per Linear Foot (LF). Payment will be directly related and correlated to the actual work completed.

ITEM 1160: 10" CLASS 350 DUCTILE IRON WATER MAIN
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing 10-inch Class 350 ductile iron pipe, including jointing, fittings, warning tape, tracing wire, and appurtenances required for a complete system. Payments shall be made per Linear Foot (LF). Payment will be directly related and correlated to the actual work completed.

ITEM 1170: 6" CLASS 350 DUCTILE IRON WATER MAIN
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing 6-inch Class 350 ductile iron pipe, including jointing, fittings, warning tape, tracing wire, and appurtenances required for a complete system. Payments shall be made per Linear Foot (LF). Payment will be directly related and correlated to the actual work completed.

ITEM 1180: CONNECT TO EXISTING WATER MAIN
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes all work required to connect new piping to existing water mains, including excavation, fittings, shutdown coordination, disinfection, and restoration. Payments shall be paid per Each (EA). Payment will be directly related and correlated to the actual work completed.

ITEM 1190: DUCTILE IRON WATER MAIN FITTINGS
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing bends, tees, reducers, adapters, and other ductile iron fittings necessary to complete the pipeline installation. Payments shall be paid per Each (EA). Payment will be directly related and correlated to the actual work completed.

ITEM 1200: CUT AND CAP EXISTING WATER MAIN
Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes cutting, abandoning, and permanently capping existing water mains where shown, including fittings, restraint, and restoration. Payments shall be paid per Each (EA). Payment will be directly related and correlated to the actual work completed.

ITEM 1210: LINK-SEAL, SLEEVE AND CASING SPACERS

Contractor shall comply with Section 02660 of the MPWSS (as amended by COMSSM).

This item includes furnishing and installing pipe sleeves, mechanical seals, and casing spacers at wall penetrations or encasements to provide watertight and properly supported installations. Payment shall be on a Lump Sum (LS) basis. Progress payments may be allowed and will be directly related and correlated to the actual work completed.

ITEM 1220: PIPE HANGERS AND CONNECTIONS

Contractor shall comply with Section 556 of the MDT Standard Specifications.

This item includes furnishing and installing all hangers, supports, anchors, and connections required to suspend the water main beneath the bridge, including hardware, coatings, and adjustments necessary for a complete and functional installation. Payments shall be paid per Each (EA). Payment will be directly related and correlated to the actual work completed.

MONTANA
PREVAILING WAGE RATES FOR HEAVY CONSTRUCTION SERVICES 2026

Effective: April 25, 2026

Greg Gianforte, Governor
State of Montana

Sarah Swanson, Commissioner
Department of Labor & Industry

To obtain copies of prevailing wage rate schedules, or for information relating to public works projects and payment of prevailing wage rates, visit ESD at erd.dli.mt.gov/labor-standards or contact:

Employment Standards Division
Montana Department of Labor and Industry
P. O. Box 8011
Helena, MT 59604
Phone 406-444-6543

The department welcomes questions, comments, and suggestions from the public. In addition, we'll do our best to provide information in an accessible format, upon request, in compliance with the Americans with Disabilities Act.

MONTANA PREVAILING WAGE REQUIREMENTS

The Commissioner of the Department of Labor and Industry, in accordance with Sections 18-2-401 and 18-2-402 of the Montana Code Annotated (MCA), has determined the standard prevailing rate of wages for the occupations listed in this publication.

The wages specified herein control the prevailing rate of wages for the purposes of Section 18-2-401, et seq., MCA. Each employer is required to pay (as a minimum) the rate of wages, including fringe benefits, travel allowance, zone pay and per diem applicable to the classification under which the work is being performed as provided in the attached wage determinations.

All Montana Prevailing Wage Rates are available on the department's website at https://erd.dli.mt.gov/labor-standards/state-prevailing-wage- rates or by contacting the department at (406) 444-6543.

In addition, this publication provides general information concerning compliance with Montana's Prevailing Wage Law and the payment of prevailing wages. For detailed compliance information relating to public works contracts and payment of prevailing wage rates, please consult the regulations on the department's website at https://erd.dli.mt.gov/labor-standards/public-contracts-prevailing-wage-law/ or contact the department at (406) 444-6543.

SARAH SWANSON
Commissioner
Department of Labor and Industry
State of Montana

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A. Date of Publication

B. Definition of Heavy Construction

The Administrative Rules of Montana (ARM), 24.17.501(4) – (4)(b), states *"Heavy construction projects include, but are not limited to, those projects that are not properly classified as either 'building construction', or 'highway construction.'*

Heavy construction projects include, but are not limited to, antenna towers, bridges (major bridges designed for commercial navigation), breakwaters, caissons (other than building or highway), canals, channels, channel cut-offs, chemical complexes or facilities (other than buildings), cofferdams, coke ovens, dams, demolition (not incidental to construction), dikes, docks, drainage projects, dredging projects, electrification projects (outdoor), fish hatcheries, flood control projects, industrial incinerators (other than building), irrigation projects, jetties, kilns, land drainage (not incidental to other construction), land leveling (not incidental to other construction), land reclamation, levees, locks and waterways, oil refineries (other than buildings), pipe lines, ponds, pumping stations (prefabricated drop-in units – not buildings), railroad construction, reservoirs, revetments, sewage collection and disposal lines, sewers (sanitary, storm, etc.), shoreline maintenance, ski tows, storage tanks, swimming pools (outdoor), subways (other than buildings), tipples, tunnels, unsheltered piers and wharves, viaducts (other than highway), water mains, waterway construction, water supply lines (not incidental to building), water and sewage treatment plants (other than buildings) and wells."

C. Definition of Public Works Contract

Section 18-2-401(11)(a), MCA defines "public works contract" as *"…a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of $25,000…"*.

D. Prevailing Wage Schedule

This publication covers only Heavy Construction occupations and rates in the specific localities mentioned herein. These rates will remain in effect until superseded by a more current publication. Current prevailing wage rate schedules for Building Construction, Highway Construction and Nonconstruction Services occupations can be found on the department's website at https://erd.dli.mt.gov/labor-standards/state-prevailing-wage-rates/ or by contacting the department at (406) 444-6543.

E. Rates to Use for Projects

ARM, 24.17.127(1)(c), states *"The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised."*

F. Wage Rate Adjustments for Multiyear Contracts

Section 18-2-417, MCA states:
"(1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency."

G. Fringe Benefits

Section 18-2-412, MCA states:

"(1) To fulfill the obligation…a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the U. S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits and travel allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the U. S. department of labor."

Fringe benefits are paid for all hours worked (straight time and overtime hours). However, fringe benefits are not to be considered a part of the hourly rate of pay for calculating overtime, unless there is a collectively bargained agreement in effect that specifies otherwise.

H. Dispatch City

Section 18-2-411(6),MCA, defines dispatch city as *"…the courthouse in the city from the following list which is closest to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, Miles City, Missoula and Sidney."*

I. Zone Pay

Zone pay is not travel pay. ARM, 24.17.103(25), defines zone pay as *"…an amount added to the base pay; the combined sum then becomes the new base wage rate to be paid for all hours worked on the project. Zone pay must be determined by measuring the road miles one way over the shortest practical maintained route from the dispatch city to the center of the job."* See section H above for a list of dispatch cities.

J. Computing Travel Benefits

ARM, 24.17.103(23), states *"'Travel pay,' also referred to as 'travel allowance,' is and must be paid for travel both to and from the job site, except those with special provisions listed under the classification. The rate is determined by measuring the road miles one direction over the shortest practical maintained route from the dispatch city or the employee's home, whichever is closer, to the center of the job."* See section H above for a list of dispatch cities.

K. Per Diem

ARM, 24.17.103(19), states *"'Per diem' typically covers costs associated with board and lodging expenses. Per diem is paid when an employee is required to work at a location outside the daily commuting distance and is required to stay at that location overnight or longer."*

L. Apprentices

Wage rates for apprentices registered in approved federal or state apprenticeship programs are contained in those programs. Additionally, Section 18-2-416(2), MCA states, *"…The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract."* Apprentices not registered in approved federal or state apprenticeship programs will be paid the appropriate journey level prevailing wage rate when working on a public works contract.

M. Posting Notice of Prevailing Wages

Section 18-2-406, MCA, provides that contractors, subcontractors, and employers who are *"…performing work or providing construction services under public works contracts, as provided in this part, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees."*

N. Employment Preference

Sections 18-2-403 and 18-2-409, MCA require contractors to give preference to the employment of bona fide Montana residents in the performance of work on public works contracts.

O. Projects of a Mixed Nature

Section 18-2-418, MCA states:

"(1) The contracting agency shall determine, based on the preponderance of labor hours to be worked, whether the public works construction services project is classified as a highway construction project, a heavy construction project, or a building construction project.

(2) Once the project has been classified, employees in each trade classification who are working on that project must be paid at the rate for that project classification"

P. Occupations Definitions

You can find definitions for these occupations on the following Bureau of Labor Statistics website: http://www.bls.gov/oes/current/oes_stru.htm

Q. Welder Rates

Welders receive the rate prescribed for the craft performing an operation to which welding is incidental.

R. Foreman Rates

Rates are no longer set for foremen. However, if a foreman performs journey level work, the foreman must be paid at least the journey level rate.

S. Proper Classification for Pipefitter and Laborer/Pipelayer Work on Water and Wastewater Treatment Plants

The proper classification for the following work is Pipefitter, when it is performed inside a building structure or performed at a location which will later be inside of a building: Joining steel pipe larger than 12 inches in diameter with bolted flange connections that has been pre-fabricated off site and does not require any modification such as cutting, grinding, welding, or other fabrication in order to be installed. All other work previously classified as pipefitter remains in that classification. The proper classification for that work when it is at a location that will always be outside a building is Pipelayer, which is under the Laborer Group 3 classification.

WAGE RATES

BOILERMAKERS

Wage	Benefit
$41.25	$29.65

Duties Include:
Construct, assemble, maintain, and repair stationary steam boilers, boiler house auxiliaries, process vessels, pressure vessels and penstocks. Bulk storage tanks and bolted steel tanks.

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BRICK, BLOCK, AND STONE MASONS

Wage	Benefit
$32.32	$16.78

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CARPENTERS

Wage	Benefit
$38.05	$16.33

Zone Pay:
0-30 mi. free zone
>30-60 mi. + $4.00/hr.
>60mi. + $6.00/hr.

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CEMENT MASONS AND CONCRETE FINISHERS

Wage	Benefit
$31.13	$6.31

Zone Pay:
0-30 mi. free zone
>30-60 mi. + $2.95/hr.
>60mi. + $4.75/hr.

Duties Include:
Smooth and finish surfaces of poured concrete, such as floors, walks, sidewalks, or curbs. Align forms for sidewalks, curbs, or gutters.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 1

Wage	Benefit
$35.97	$18.10

This group includes but is not limited to:
Air Compressor; Auto Fine Grader; Belt Finishing; Boring Machine (Small); Cement Silo; Crane, A-Frame Truck Crane; Crusher Conveyor; DW-10, 15, and 20 Tractor Roller; Farm Tractor; Forklift; Form Grader; Front-End Loader, under 1 cu. yd; Oiler, Herman Nelson Heater; Mucking Machine; Oiler, All Except Cranes/Shovels; Pumpman.

Per Diem:
>60 mi. $150/day

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 2

Wage	Benefit
$37.32	$18.10

This group includes but is not limited to:
Air Doctor; Backhoe\Excavator\Shovel, up to and incl. 3 cu. yds; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine, Large; Broom, Self-Propelled; Concrete Travel Batcher; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer, Rubber-Tired, Push, & Side Boom; Elevating Grader\Gradall; Field Equipment Serviceman; Front-End Loader, 1 cu. yd up to and incl. 5 cu. yds; Grade Setter; Heavy Duty Drills, All Types; Hoist\Tugger, All; Hydralift Forklifts & Similar; Industrial Locomotive; Motor Patrol (except finish); Mountain Skidder; Oiler, Cranes\Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete\Grout Machine; Punch Truck; Roller, other than Asphalt; Roller, Sheepsfoot (Self-Propelled); Roller, 25 tons and over; Ross Carrier; Rotomill, under 6 ft; Trenching Machine; Washing /Screening Plant

Per Diem:
>60 mi. $150/day

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 3

Wage	Benefit
$37.91	$18.10

Per Diem:
>60 mi. $150/day

This group includes but is not limited to:
Asphalt Paving Machine; Asphalt Screed; Backhoe\Excavator\Shovel, over 3 cu. yds; Cableway Highline; Concrete Batch Plant; Concrete Curing Machine; Concrete Pump; Cranes, Creter; Cranes, Electric Overhead; Cranes, 24 tons and under; Curb Machine\Slip Form Paver; Finish Dozer; Front-End Loader, over 5 cu. yds; Mechanic\Welder; Pioneer Dozer; Roller Asphalt (Breakdown & Finish); Rotomill, over 6 ft; Scraper, Single, Twin, or Pulling Belly-Dump; YO-YO Cat Haul Truck, Articulating Trucks, Vac Truck.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 4

Wage	Benefit
$38.98	$18.10

Per Diem:
>60 mi. $150/day

This group includes but is not limited to:
Asphalt\Hot Plant Operator; Cranes, 25 tons up to and incl. 44 tons; Crusher Operator; Finish Motor Patrol; Finish Scraper.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 5

Wage	Benefit
$40.07	$18.10

Per Diem:
>60 mi. $150/day

This group includes but is not limited to:
Cranes, 45 tons up to and incl. 74 tons.

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 6

Wage	Benefit
$41.15	$18.10

Per Diem:
>60 mi. $150/day

This group includes but is not limited to:
Cranes, 75 tons up to and incl. 149 tons; Cranes, Whirley (All).

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CONSTRUCTION EQUIPMENT OPERATORS GROUP 7

Wage	Benefit
$42.23	$18.10

This group includes but is not limited to:
Cranes, 150 tons up to and incl. 250 tons; Cranes, over 250 tons—add $1.00 for every 100 tons over 250 tons; Crane, Tower (All); Crane Stiff-Leg or Derrick; Helicopter Hoist.

Per Diem:
>60 mi. $150/day

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CONSTRUCTION LABORERS GROUP 1/FLAG PERSON FOR TRAFFIC CONTROL

No Rate Established

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CONSTRUCTION LABORERS GROUP 2

Wage	Benefit
$27.96	$10.82

This group includes but is not limited to:
General Labor; Asbestos Removal; Burning Bar; Bucket Man; Carpenter Tender; Caisson Worker; Cement Mason Tender; Cement Handler (dry); Chuck Tender; Choker Setter; Concrete Worker; Curb Machine-lay Down; Crusher and Batch Worker; Heater Tender; Fence Erector; Landscape Laborer; Landscaper; Lawn Sprinkler Installer; Pipe Wrapper; Pot Tender; Powderman Tender; Rail and Truck Loaders and Unloaders; Riprapper; Sign Erection; Guardrail and Jersey Rail; Spike Driver; Stake Jumper; Signalman; Tail Hoseman; Tool Checker and Houseman.

Zone Pay:
0-30 mi. free zone
>30-60 mi. + $3.05/hr.
>60 mi. + $4.85/hr.

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CONSTRUCTION LABORERS GROUP 3

Wage	Benefit
$30.62	$11.89

This group includes but is not limited to:
Concrete Vibrator; Dumpman (Grademan); Equipment Handler; Geotextile and Liners; High-Pressure Nozzleman; Jackhammer (Pavement Breaker) Non-Riding Rollers; Pipelayer; Posthole Digger (Power); Power Driven Wheelbarrow; Rigger; Sandblaster; Sod Cutter-Power and Tamper.

Zone Pay:
0-30 mi. free zone
>30-60 mi. + $3.05/hr.
>60 mi. + $4.85/hr.

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CONSTRUCTION LABORERS GROUP 4

Wage	Benefit
$25.55	$13.44

This group includes but is not limited to:
Hod Carrier; Water Well Laborer; Blaster; Wagon Driller; Asphalt Raker; Cutting Torch; Grade Setter; High-Scaler; Power Saws (Faller & Concrete);
Powderman; Rock & Core Drill; Track or Truck Mounted Wagon Drill and Welder incl. Air Arc

Zone Pay:
0-30 mi. free zone
>30-60 mi. + $3.05/hr.
>60 mi. + $4.85/hr.

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DIVERS

	Wage	Benefit
Stand-By	$55.24	$17.28
Diving	$110.48	$17.28

Zone Pay:
0-30 mi. free zone
31-60 mi. + $4.00/hr.
>61 mi.+ $6.00/hr.

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DIVER TENDERS

Wage	Benefit
$54.24	$17.28

Zone Pay:
0-30 mi. free zone
31-60 mi. + $4.00/hr.
>61 mi. + $6.00/hr.

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ELECTRICIANS

Wage	Benefit
$41.92	$16.32

Per Diem:
60+ mi. $90/day

Duties Include:
Electrical wiring; equipment and fixtures; streetlights; electrical control systems. Installation and/or adjusting of building automation controls also during testing and balancing, commissioning and retro-commissioning.

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INSULATION WORKERS - MECHANICAL (HEAT AND FROST)

Wage	Benefit
$45.51	$22.94

Travel Pay:
0-30 mi. free
31-40 mi. $30/day
>40-50 mi. $40/day
>50-60 mi. $55/day
>60 mi. $65/day, plus: $0.66 for each mile over 60, up to $400 unless:
• Employee traveling in employee's vehicle on employer's time, then rate changes to $0.20/mi., only for miles over 60.
• Employee traveling in company-provided vehicle with company-paid fuel, no additional travel pay mileage required.

Zone Pay:
0-30 mi. free
31-40 mi. $3.75/hr.
>40-50 mi. $5.00/hr.
>50-60 mi. $6.88/hr.
>60 mi. $8.13/hr. only if employee is commuting, if employee is staying over, Per Diem applies instead.

Per Diem:
60+ mi. $130/day; or, employer pays for lodging + $35/day for meals.

Duties Include:
Insulate pipes, ductwork or other mechanical systems.

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IRONWORKERS – REINFORCING IRON AND REBAR WORKERS

Wage	Benefit
$48.00	$25.78

Duties Include:
Position and secure steel bars or mesh in concrete forms in order to reinforce concrete. Use a variety of fasteners, rod-bending machines, blowtorches, and hand tools. Includes rod busters.

Per Diem:
0-45 mi. free
45-85 mi. + $100/day
>85 mi.+ $150/day

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IRONWORKERS – STRUCTURAL IRON AND STEEL WORKERS

Wage	Benefit
$43.32	$25.78

Duties Include:
Structural steel erection; assemble prefabricated metal buildings; cut, bend, tie, and place rebar; energy producing windmill type towers; metal bleacher seating; handrail fabrication and ornamental steel.

Per Diem:
0-45 mi. free
45-85 mi. + $100/day
>85 mi.+ $150/day

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LINE CONSTRUCTION – EQUIPMENT OPERATORS

No Rate Established

Duties Include:
All work on substations

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LINE CONSTRUCTION – GROUNDMAN

Wage	Benefit
$30.33	$18.22

Duties Include
All work on substations

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LINE CONSTRUCTION – LINEMAN

Wage	Benefit
$55.94	$19.96

Duties Include:
All work on substations

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MILLWRIGHTS

Wage	Benefit
$45.26	$23.71

Zone Pay:
0-30 mi free zone
>30-60 mi. + $4.00/hr.
>60 mi. + $6.00/hr.

Per Diem:
$110/day or employer pays for single occupancy lodging

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PAINTERS

Wage	Benefit
$25.00	No Rate Established

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PILE BUCKS

Wage	Benefit
$38.05	$16.33

Zone Pay:
0-30 mi. free zone
>30-60 mi. + $4.00/hr.
>60 mi. + $6.00/hr.

Duties Include:
Set up crane; set up hammer; weld tips on piles; set leads; ensure piles are driven straight with the use of level or plum bob. Give direction to crane operator as to speed, and direction of swing. Cut piles to grade.

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PLUMBERS, PIPEFITTERS, AND STEAMFITTERS

Wage	Benefit
$46.95	$19.47

Duties Include:
Assemble, install, alter, and repair pipelines or pipe systems that carry water, steam, air, other liquids or gases. Testing of piping systems, commissioning and retro-commissioning. Workers in this occupation may also install heating and cooling equipment and mechanical control systems.

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SPRINKLER FITTERS

No Rate Established

Duties Include but not limited to:
Any and all fire protection systems: Installation, dismantling, inspection, testing, maintenance, repairs, adjustments, and corrections of all fire protection and fire control systems, including both overhead and underground water mains, all piping, fire hydrants, standpipes, air lines, tanks, and pumps used in connection with sprinkler and alarm systems.

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TRUCK DRIVERS

Pilot Car Driver	No Rate Established	
Truck Driver	**Wage**	**Benefit**
	$32.56	$8.50

Truck drivers include but are not limited to:
Combination Truck and Concrete Mixer and Transit Mixer; Dry Batch Trucks; Distributor Driver; Dumpman; Dump Trucks and similar equipment; Dumpster; Flat Trucks; Lumber Carriers; Lowboys; Pickup; Powder Truck Driver; Power Boom; Serviceman; Service Truck/Fuel Truck/Tireperson; Truck Mechanic; Trucks with Power Equipment; Warehouseman, Partsman, Cardex and Warehouse Expeditor; Water Trucks.

Zone Pay:
0-30 mi. free zone
>30-60 mi. + $3.05/hr.
>60 mi. + $4.85/hr.
Special Provision: Zone pay only applies to the Truck Driver classification.

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"General Decision Number: MT20260067 05/18/2026

State: Montana

Construction Types: Heavy

Counties: Montana Counties of
Missoula

Modification Number	Publication Date
1	01/30/2026
2	05/18/2026

BOIL0011-003 01/01/2025

	Rates	Fringes
BOILERMAKER	$ 38.75	32.31

CARP0028-011 06/01/2024

	Rates	Fringes
CARPENTER (INCLUDING FORMWORK). ZONE DEFINITION: THE HOURLY RATE APPLICABLE TO EACH PROJECT IS DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL ROUTE FROM THEC OUNTY COURTHOUSE OF THE FOLLOWING TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, LEWISTON, MILES CITY, AND MISSOULA. ZONE 1: 0 TO 30 MILES-BASE RATE. ZONE 2: 31 TO 60 MILES -$4.00. ZONE 3: OVER 60 MILESE - $6.00	$ 36.49	14.33

ELEC0768-009 06/01/2025

	Rates	Fringes
ELECTRICIAN	$ 40.71	17.94

ENGI0400-006 05/01/2025

	Rates	Fringes
POWER EQUIPMENT OPERATOR:, ZONE 1: (7) CRANES, 150 TONS TO INCLUDING 250 TONS (ADD $1.00 FOR EVERY 100 TONS OVER 250 TONS); CRANE, STIFF-LEG OR DERRICK; HELICOPTER HOIST; CRANE, TOWER (ALL). ZONE DEFINITIONS FOR POWER EQUPMENT OPERATORS: THE ZONE HOURLY RATES APPLICABLE TO EACH PROJECT SHALL BE DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL MAINTAINED ROUTE FROM THE NEAREST COUNTY COURT HOUSE OF THE FOLLOWING LISTED TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA ZONE 1: 0 TO 30 MILES - BASE PAY ZONE 2: 30 TO 60 MILES - BASE PAY + $3.50 ZONE 3: OVER 60 MILES - BASE PAY + $5.50	$ 42.23	16.20
POWER EQUIPMENT OPERATOR: ZONE 1: (6)CRANES, 75 TONS TO AND INCL. 149 TONS; WHIRLEY CRANES. ZONE		

DEFINITIONS FOR POWER EQUPMENT OPERATORS: THE ZONE HOURLY RATES APPLICABLE TO EACH PROJECT SHALL BE DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL MAINTAINED ROUTE FROM THE NEAREST COUNTY COURT HOUSE OF THE FOLLOWING LISTED TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA ZONE 1: 0 TO 30 MILES - BASE PAY ZONE 2: 30 TO 60 MILES - BASE PAY + $3.50 ZONE 3: OVER 60 MILES - BASE PAY + $5.50.....$ 41.15 16.20

POWER EQUIPMENT OPERATOR: ZONE 1: (5)CRANES, 45-74 TONS. ZONE DEFINITIONS FOR POWER EQUPMENT OPERATORS: THE ZONE HOURLY RATES APPLICABLE TO EACH PROJECT SHALL BE DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL MAINTAINED ROUTE FROM THE NEAREST COUNTY COURT HOUSE OF THE FOLLOWING LISTED TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA ZONE 1: 0 TO 30 MILES - BASE PAY ZONE 2: 30 TO 60 MILES - BASE PAY + $3.50 ZONE 3: OVER 60 MILES - BASE PAY + $5.50.....$ 40.07 16.20

POWER EQUIPMENT OPERATOR: ZONE 1: (4)CRANES, 25-44 TONS. ZONE DEFINITIONS FOR POWER EQUPMENT OPERATORS: THE ZONE HOURLY RATES APPLICABLE TO EACH PROJECT SHALL BE DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL MAINTAINED ROUTE FROM THE NEAREST COUNTY COURT HOUSE OF THE FOLLOWING LISTED TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA ZONE 1: 0 TO 30 MILES - BASE PAY ZONE 2: 30 TO 60 MILES - BASE PAY + $3.50 ZONE 3: OVER 60 MILES - BASE PAY + $5.50.....$ 38.98 16.20

POWER EQUIPMENT OPERATOR: ZONE 1: (3) MECHANIC, SCRAPER. ZONE DEFINITIONS FOR POWER EQUPMENT OPERATORS: THE ZONE HOURLY RATES APPLICABLE TO EACH PROJECT SHALL BE DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL MAINTAINED ROUTE FROM THE NEAREST COUNTY COURT HOUSE OF THE FOLLOWING LISTED TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA ZONE 1: 0 TO 30 MILES - BASE PAY ZONE 2: 30 TO 60 MILES - BASE PAY + $3.50 ZONE 3: OVER 60 MILES - BASE PAY + $5.50.....$ 24.34 10.40

POWER EQUIPMENT OPERATOR: ZONE 1: (2) EXCAVATOR, CRANE OILER. ZONE DEFINITIONS FOR POWER EQUPMENT OPERATORS: THE ZONE HOURLY RATES APPLICABLE TO EACH PROJECT SHALL BE DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL MAINTAINED ROUTE FROM THE NEAREST COUNTY COURT HOUSE OF THE FOLLOWING LISTED TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA ZONE 1: 0 TO 30 MILES - BASE PAY ZONE 2: 30 TO 60 MILES - BASE PAY + $3.50 ZONE 3: OVER 60 MILES - BASE PAY + $5.50.....$ 23.94 10.40

POWER EQUIPMENT OPERATOR: ZONE 1: (1) A-FRAME TRUCK CRANE, FORKLIFT, OILER (EXCEPT CRANE). ZONE DEFINITIONS FOR POWER EQUPMENT OPERATORS: THE ZONE HOURLY RATES APPLICABLE TO EACH PROJECT SHALL BE DETERMINED BY MEASURING THE ROAD MILES OVER THE SHORTEST PRACTICAL MAINTAINED ROUTE FROM THE NEAREST COUNTY COURT HOUSE OF THE FOLLOWING LISTED TOWNS TO THE CENTER OF THE JOB: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, MISSOULA ZONE 1: 0 TO 30 MILES - BASE PAY ZONE 2: 30 TO 60 MILES - BASE PAY + $3.50 ZONE 3: OVER 60 MILES

- BASE PAY + $5.50.....$ 23.47 10.40

IRON0014-015 01/01/2024

	Rates	Fringes
IRONWORKER: REINFORCING AND STRUCTURAL.....	$ 32.08	29.06

PLUM0459-010 05/01/2024

	Rates	Fringes
PLUMBER.....	$ 39.38	16.23

SUMT2011-043 02/07/2011

	Rates	Fringes
TRUCK DRIVER: DUMP TRUCK.....	$ 19.38	4.74
PAINTER: BRUSH AND SPRAY.....	$ 25.00	0.00
OPERATOR: LOADER (FRONT END).....	$ 22.67	6.54
OPERATOR: BOBCAT/SKID STEER/SKID LOADER.....	$ 25.67	8.05
OPERATOR: BACKHOE.....	$ 22.12	8.37
OPERATOR: ASPHALT ROLLER.....	$ 22.39	3.96
LABORER: COMMON OR GENERAL.....	$ 16.91	9.08

TEAM0190-001 05/01/2025

	Rates	Fringes
TRUCK DRIVER (3) WATER TRUCK ZONE A. ZONE B (30-60 MILES FROM COUNTY COURTHOUSE OF LISTED CITIES*): ADD $3.05 PER HOUR TO ZONE A RATES ZONE C (OVER 60 MILES FROM COUNTY COURTHOUSE OF LISTED CITIES*): ADD $4.85 PER HOUR TO ZONE A RATES. *ZONE PAY WILL BE CALCULATED FROM THE CITY CENTER OF THE FOLLOWING LISTED CITIES: BILLINGS BOZEMAN BUTTE GREAT FALLS HELENA KALISPELL MISSOULA.....	$ 32.88	13.98
TRUCK DRIVER (2) WATER TRUCK ZONE A. ZONE B (30-60 MILES FROM COUNTY COURTHOUSE OF LISTED CITIES*): ADD $3.05 PER HOUR TO ZONE A RATES ZONE C (OVER 60 MILES FROM COUNTY COURTHOUSE OF LISTED CITIES*): ADD $4.85 PER HOUR TO ZONE A RATES. *ZONE PAY WILL BE CALCULATED FROM THE CITY CENTER OF THE FOLLOWING LISTED CITIES: BILLINGS BOZEMAN BUTTE GREAT FALLS HELENA KALISPELL MISSOULA.....	$ 32.88	13.98

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

https://www.dol.gov/agencies/whd/government-contracts.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least $13.65 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract from May 11, 2026, through December 31, 2026. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

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

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than "SU", "UAVG", "SA", or "SC" denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the

collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ﷿SU﷿ identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

﷿SU﷿ wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ﷿SA﷿ identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ﷿SA﷿ identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor

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             200 Constitution Avenue, N.W.
             Washington, DC 20210
  2) If an initial decision has been issued, then any interested
  party (those affected by the action) that disagrees with the
  decision can request review and reconsideration from the Wage
  and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7).
  Requests for review and reconsideration can be submitted via
  email to dba.reconsideration@dol.gov or by mail to:
             Wage and Hour Administrator
             U.S. Department of Labor
             200 Constitution Avenue, N.W.
             Washington, DC 20210
  The request should be accompanied by a full statement of the
  interested party's position and any information (wage payment
  data, project description, area practice material, etc.) that
  the requestor considers relevant to the issue.

  3) If the decision of the Administrator is not favorable, an
  interested party may appeal directly to the Administrative
  Review Board (formerly the Wage Appeals Board).  Write to:
             Administrative Review Board
             U.S. Department of Labor
             200 Constitution Avenue, N.W.
             Washington, DC 20210.
  ================================================================
            END OF GENERAL DECISION
  "
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AFFIDAVIT OF BILLS PAID FOR RELEASE OF FINAL PAYMENT

STATE OF MONTANA)
)
COUNTY OF MISSOULA)

BEFORE ME, the undersigned authority, on this day personally

appeared_____, representing Contractor under the following Contract:

Owner: Missoula County Public Works Department

Contractor: _____

Date: _____

PROJECT: Lolo Street Bridge Replacement

The undersigned was by me duly sworn and now states upon oath:

1. The improvements required by the PROJECT Contract have been erected and completed in full compliance with the Contract and the agreed plans and specifications for the Contract.

2. All bills and claims for materials furnished and labor performed on the Contract have been paid. There are no outstanding unpaid bills or legal claims for labor performed or materials furnished upon the job.

3. This Affidavit is being made by the undersigned realizing that it is in reliance upon the truthfulness of the statements contained in this Affidavit that final and full settlement of the balance due on the Contract is being made, and in consideration of the disbursement of funds by the Owner, the undersigned expressly gives and releases all liens, claims and rights to assert a lien on said premises and agrees to indemnify and hold Owner safe and harmless from and against all losses, damages, costs, and expenses of any character whatsoever, specifically including court costs, bonding fees, and attorney's fees, arising out of or in any way relating to, claims for unpaid labor or material used or associated with construction of improvements under the Contract.

By: _____
(SIGNATURE)

Name: _____

Title: _____

(SEAL)

Subscribed and sworn to before me, the undersigned authority,
on this the_____day of_____, 20___

_____
(SIGNATURE)

_____
Notary Public in and for the State of Montana

My Commission Expires: _____

REQUEST FOR INFORMATION

Project Name: Lolo Street Bridge Replacement
Project No.: 7611

RFI No.: 0000

Date Started: _____ **Rev. No. 1 Date:** _____ **Rev. No. 2 Date:** _____
Respond By Date: _____ **Days Remaining:** _____ **Date Completed:** _____

Issued By: _____
Recipient: _____
Distribution: _____ **Attachments:** _____

Reference Information

Discipline: _____ **Drawing No.:** N/A
Location: _____ **Specification No.:** _____

SUBJECT:

QUESTION:

RESPONSE:

Responded By: _____ Company: **Date:** _____

May 13, 2026

CONTRACTOR REQUEST FOR CONSTRUCTION STAKING

Project Name: Lolo Street Bridge Replacement

Date: _____ Contractor Name & Company: _____

To be completed and returned to DJ&A LLC at a minimum of 72 hours in advance of staking.

Please complete the entire request form. Only the items requested on this form will be staked. If site is not prepared for staking upon site visit, there will be an additional staking charge billed a minimum of 2 hours T&M.

Comments: _____

Priority Number	Type of Staking	Original	Restake	Offset-location-station-etc.

For DJ&A Inspector

Date staking request received: _____

Inspector name: _____

Anticipated stake date: _____

- ☐ Notify survey field supervisor
- ☐ Party chief
- ☐ Scan copies for project inspection binder

SECTION 00900

FUNDING AGENCY SPECIAL PROVISIONS FOR MONTANA PUBLIC FACILITY PROJECTS

This section supplements Division 0 of the Montana Public Works Standard Specifications, Seventh Edition, dated April 2021.

Included herein are supplemental general conditions that are required by Montana public facility funding programs or agencies listed in 1.1 below but are not included in the Montana Public Works Standard Specifications, Division 0.

ARTICLE 1. SPECIAL PROVISIONS

1.1 FUNDING AGENCIES

This project is being funded with funds from one or more of the following public facility funding programs or agencies:

Renewable Resource Grant and Loan Program (RRGL)
Montana Coal Endowment Program (MCEP)
United States Department of Agriculture Rural Development (USDA/RD)
Community Development Block Grant Program (CDBG)
Drinking Water or Water Pollution Control State Revolving Fund Loan Program (SRF)
American Rescue Plan Act (ARPA)

1.1.1 Applicable Funding Agency Special Provisions

In addition to Section 1.2 below, the following sections also apply as indicated:

_____ Section 1.3 (Additional USDA/RD Requirements)
_____ Section 1.4 (Additional CDBG Requirements)
__X__ Section 1.5 (Additional SRF Requirements)
_____ Exhibit A (RD Project Sign Detail)
__X__ Exhibit A-1 (SRF Project Sign Detail)
_____ Exhibit A-2 (MCEP and/or CDBG Project Sign Detail)
_____ Exhibit B (HUD Form 4010)
__X__ Exhibit C (Federal Labor Standards Provisions)
__X__ Exhibit D (Build America, Buy America Forms)

1.2 SPECIAL PROVISIONS FOR ALL FUNDING AGENCIES

The following requirements pertain to all the funding programs or agencies listed in 1.1 above. If project funding sources include any of the programs or agencies listed, the following general requirements must be met in addition to those required in the Montana Public Works Standard Specifications, Division 0:

1.2.1 Reports, Information, and Access to Records

The contractor, at such times and in such form as required by the owner (defined herein as the entity for which the project is being constructed) shall furnish reports pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

The owner and any federal, state or local governmental agency having a valid interest in this project shall be permitted by the contractor to have full access to and the right to examine pertinent documents of the contractor involving transactions related to this contract during the period of the project and for three (3) years from the date of final payment or until all findings have been resolved to the satisfaction of the funding agencies.

1.2.2 Contractor Eligibility and Certification Regarding Debarment

The contractor certifies that the contractor's firm and the firm's principals are not debarred, suspended, or otherwise ineligible to receive any Montana public works contracts or subcontracts pursuant to 18-2-432 (2), MCA.

For federally funded projects, the contractor certifies that the contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in federally assisted contracts under Executive Order 12549, "Debarment and Suspension" (24 CFR 24.505).

1.2.3 Contractor Registration and Worker's Compensation Requirements

Title 39, Chapter 9, Parts 1 and 2 MCA stipulate contractor registration requirements for the State of Montana. Pursuant to 39-9-201 MCA, each construction contractor must be registered with the Montana Department of Labor and Industry. In accordance with 39-9-102 MCA, "construction contractor" means a person, firm, or corporation that, in the pursuit of an independent business, offers to undertake, undertakes, or submits a bid for construction.

No bid shall be considered that does not carry the bidder's Montana Contractor's Registration Number on the bid form.

Registration forms and additional information may be obtained by contacting the Montana Department of Labor and Industry, 1805 Prospect Ave., P.O. Box 8011, Helena, MT 59604-8011, or by calling 406-444-7734.

The contractor must provide certification that workers' compensation insurance will be maintained as required by the Montana Workers' Compensation Act (39-71-101 MCA).

1.2.4 Minimum Wage Requirements

Unless superseded by federal law, 18-2-401 MCA and 18-2-402 MCA require that each employer pay, as a minimum, the rate of wages, including fringe benefits and zone pay applicable for the work being performed, as provided in the current Montana Prevailing W age Requirements as determined by the Montana Department of Labor and Industry.

The current wage determination(s) must be included in the contract documents.

If the SRF Loan Program is funding the project in whole or in part, federal and state laws require that each employer pay, as a minimum, prevailing wages for each classification in accordance with the Federal Labor Standards Provisions (Davis-Bacon) **(Exhibit C)** or Montana Prevailing Wage Requirements, whichever is greater**.**

If the CDBG Program is funding the project in whole or in part, HUD Form 4010-Federal Labor Standards Provisions **(Exhibit B)** must be included in the contract documents.

1.2.5 Compliance With State and Federal Laws and Regulations

All applicable laws, ordinances, rules and regulations of authorities having jurisdiction over construction of the project shall apply to the contract throughout.

The contractor must comply with all applicable state and federal occupational disease and health and safety laws and regulations.

1.2.6 Project Sign

Exhibit A (*RD Project Sign Details*):

All projects will have a sign erected at a prominent location near the major portion of the work in plain view of the general public prior to submittal of the first pay estimate. The sign will generally conform to the following:

"The CONTRACTOR, or such contractor as the ENGINEER may designate, when construction begins, shall erect a sign constructed of 4'X8'X¾" exterior plywood (A-B) and shall be supported by and bolted to two (2) 4"X4" posts with the bottom of the sign at a point at least two (2) feet above the ground line. The project sign shall be maintained in a good condition until project completion. The sign will be edged, painted and lettered as shown on **Exhibit A**. The letters shall be approximately three (3) inches in height.

The cost of the sign is incidental to the contract price. The sign shall remain the property of the owner.

A statement indicating all agencies participating in the financing of the project shall be included on the sign. The sign shall be subject to agency approval prior to being erected.

Exhibit A-1 (*SRF Project Sign Details*):

All projects will have a sign erected at a prominent location near the major portion of the work in plain view of the general public prior to submittal of the first pay estimate. The sign will generally conform to the following:

"The CONTRACTOR, or such contractor as the ENGINEER may designate, when construction begins, shall erect a sign constructed of 4'X8'X¾" exterior plywood (A-B) and shall be supported by and bolted to two (2) 4"X4" posts with the bottom of the sign at a point at least two (2) feet above the ground line. The project sign shall be maintained in a good condition until project completion. The sign details are shown in **Exhibit A-1**. The letters shall be approximately three (3) inches in height.

The cost of the sign is incidental to the contract price. The sign shall remain the property of the owner. The sign shall be subject to agency approval prior to being erected.

Exhibit A-2 (*MCEP and/or CDBG Project Sign Details*):

The grantee must display a sign, no smaller than 18-by-24 inches, at the project site that identifies the grant funding source. The sign should be visible to the public from nearby streets or walkways and not obstructed by trees, buildings or other signage. It may be a window decal, freestanding sign or attached to existing signage, such as a banner or building. The cost of producing the sign may be reimbursable under the grant depending on the program. The sign must use Commerce-provided graphics and durable materials suitable for the weather. Commerce may, in its discretion, provide a window decal that will satisfy this requirement. A photo of the installed sign must be provided to Commerce to verify compliance with these requirements. In some cases, alternatives to the requirements above may be granted in writing at Commerce's discretion.

1.2.7 Gross Receipts Withholding Requirements

Pursuant to Section 15-50-206(2)(3), MCA, the owner is required to withhold one percent (1%) of all payments due the contractor and is required to transmit such moneys to the Montana Department of Revenue as part of the public contractor's license fee. In like fashion, the contractor is required to withhold one percent (1%) from payments to subcontractors.

1.2.8 Clean Air and Clean Water Acts, Executive Order 11738 and EPA Regulations:

If this Contract exceeds $100,000, Contractor shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)); Section 508 of the Clean Water Act (33 USC 1368); Executive Order 11738; and Environmental Protection Agency Regulations (40 CFR Part 15).

1.2.9 Montana Rules Regarding Equipment and the Introduction and Spread of Aquatic Invasive Species:

List all equipment that will be used for construction of the project and how the equipment will be used on land, bank and/or in water. Make sure your vehicles, watercraft, and all equipment are clean and free of weeds, weed seeds, and excess grease before using it on land or water. To prevent the spread of invasive species, to the extent practical, remove mud and vegetation from vehicles, heavy machinery, and all other equipment before moving between waters and work sites, especially when working in areas of known infestations. When working in water, drain water from machinery and let machinery dry before moving to another location. https://fwp.mt.gov/conservation/aquatic-invasive-species.

Requirements in Montana for equipment to be used in water. To prevent the spread of aquatic invasive species, remove (CLEAN) mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites. DRAIN water from machinery and let **DRY** completely before moving to another location.

a) Be sure the equipment is clean and free of weeds, weed seeds, and excess grease before using it in the water waterway.

b) Be sure you remove mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites, especially in waters known to be infested with aquatic invasive species.

c) Drain water from machinery and let dry before moving to another location.

d) Mandatory inspections are now required for all equipment that:
   - Has been previously used outside of Montana
   - Are destined for waters in Montana west of the Continental Divide that has been previously used east of the Continental Divide
   - Are destined for waters of the Flathead Basin that have been previously used outside of the Flathead Basin.

   Any equipment that falls into the scenarios laid out above **must** schedule an inspection by calling the state's Aquatic Invasive Species line at 406-444-2440 at least one week in advance of planned use.

1.3 ADDITIONAL SPECIAL PROVISIONS FOR USDA/RD

1.3.1 The following documents shall be attached to and made a condition of the contract documents for any project funded, in whole or in part, by Rural Development:

If the bid amount exceeds $100,000, signed RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans. Refer to paragraph 18.11 of the General Conditions.

1.3.2 Free and Open Competition

All procurement transactions will be conducted in a manner that provides maximum free and open competition. Examples of what are restrictive of competition include but are not limited to: employment preferences to Montana Bidders or Montana Contractors and Montana residents.

1.3.3 Contractor's Retainage

No payments will be made that, would deplete the retainage nor place in escrow any funds that are required for retainage or invest the retainage for the benefit of the contractor.

1.3.4 Build America, Buy America Act (BABAA) Guidance

a. *Build America, Buy America Act (BABAA)* - Requirements mandated by Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953-58 mandating domestic preference that all iron and steel, manufactured products, and construction materials are produced in the United States.

b. RUS Bulletin 1780-26 "Guidance for the Use of Engineers Joint Contract Documents Committee (EJCDC) Bidding and Contract Documents on Water and Waste Disposal Projects with Rural Utilities Service Financial Assistance" is available on the RUS website at **https://www.rd.usda.gov/directives/b-1780-26**. This Bulletin is to be used by RD staff in providing information and guidance to funding applicants/recipients (Owners) and professional consultants in the development of Bidding and Contract Documents that are legally sufficient, ensure appropriate services are provided at a reasonable fee, and expedite the achievement of the applicant's goals. This Bulletin supports compliance with 7 CFR 1780, 2 CFR 200 and the Build America, Buy America Act requirements under Title IX of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, §§ 70901-70953.

a. CONTRACT PROVISIONS. To ensure compliance with the **BABAA** requirements specific **BABAA** contract language must be included in each contract including agreements for engineering services, construction contract documents and purchase agreements prepared by the owner. The following modifications are made to Bidding and Construction Contract Documents (**EJCDC C-Series, 2018**):

(1) Advertisement for Bids (C-111):
Add at the end of EJCDC C-111 prior to "This Advertisement is issued by:"

Build America, Buy America Act

Domestic Preference
This project is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States.

The following waivers apply to this Contract:
BABAA De Minimis, Small Grants, and Minor Components
[add project specific waivers as applicable; If AIS applies instead of BABAA delete the BABAA waiver reference and insert references to the AIS De Minimis and AIS Minor Component waivers].

(2) Instructions to Bidders (C-200):

This list of changes to be made by ENGINEER to the Instructions to Bidders for Construction Contract (EJCDC C-200, 2018). The ENGINEER will develop the Instructions to Bidders using EJCDC C-200 (2018) and the instructions provided below. In addition, ENGINEER will ensure that any applicable state or federal wage rate requirements are added at Article 24. RD does not require the use of Davis Bacon Wage rates in most cases, but other sources of federal funds may. If other funding sources involved in the project require the use of Davis Bacon Wage rates, RD's version of Davis Bacon 29 CFR 5.5 will be added to these construction Contract Documents, as listed in the checklist in Exhibit A. The ENGINEER may either make the changes below directly to the Instructions to Bidders or insert this exhibit directly behind the Instructions to Bidders. If AIS applies instead of BABAA remove reference to BABAA in 1.01.B and 23.03 and replace it with "American Iron and Steel (AIS) requirements instituted by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 and of 2017 and subsequent annual appropriations for WWD programs." Contact the Rural Development State Office for guidance as needed.

Article 1.01.B - Add the following:

1.01.B "Domestic Preference – The Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953.
Article 3.02 – Delete in its entirety and insert "Deleted".

Article 8.01 – Add to the end of the paragraph “Bid security must be at least 5% of the Bidder’s maximum Bid price.”

Article 9.02 – Delete in its entirety and insert “Deleted”.

Article 10.01 – Delete in its entirety and insert “Deleted”.

Article 10.02 – Insert after the sentence that starts “Each such request…: “Each such request shall include the Manufacturers’ Certification for Compliance with Domestic Preference requirements. Refer to the suggested Manufacturer’s Certification provided in these construction Contract Documents."

Article 10.02 – Add to the end of this paragraph: “Substitutes and “or-equal” materials and equipment may be proposed by Contractor in accordance with Paragraphs 7.05 and 7.06 of the General Conditions after the Effective Date of the Contract. Each such request shall include Manufacturer’s Certification letter to document compliance with Domestic Preference requirements . Refer to Manufacturer’s Certification Letter provided in these Contract Documents.”

Article 11.01 – Delete in its entirety and insert “Deleted”.

Article 11.05 – Add the following:
“11.05 – The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 7.07A.”

Article 13.04 – Delete in its entirety and insert “Deleted”.

Article 13.07 – Delete in its entirety and insert “Deleted”.

Article 18.05.E – Delete in its entirety and insert “Deleted”.

Article 18.05.F – Delete in its entirety and insert “Deleted”.

Add the following, renumbering if Articles 21 and/or 22 are not used:

ARTICLE 23 – FEDERAL REQUIREMENTS
23.01 If the contract price is in excess of $100,000, provisions of the Contract Work Hours and Safety Standards Act at 29 CFR 5.5(b) apply.

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

(3) Bid Form (C-410)

This list of changes to be made by ENGINEER to the Bid Form for Construction Contract (EJCDC C-410, 2018). The ENGINEER may either make the changes directly to the Bid Form or insert this exhibit directly behind the Bid Form.

Article 2.01 Delete the “ and” at the end of 2.01.F

Delete the existing text for 2.01.G and add the following text and the referenced attachments to the Bidding Documents:

G. If Bid amount exceeds $100,000, signed RD Instruction 1940-Q Exhibit A-1, Certification for Contracts, Grants, and Loans.”

J. [List other documents and edit above as pertinent].

Article 4 – Delete in its entirety and insert “Deleted”.

Article 5 – Delete in its entirety and insert “Deleted”.

Article 6.02 – Delete in its entirety and insert “Deleted”.

Article 6.03 – Delete in its entirety and insert “Deleted”.

Article 8.01.A.3 – Delete the period at the end of Article 8.018.A.3 and insert the following language:“, including all Domestic Preference requirements.”

(5) ENGINEER’S DEVELOPMENT OF AGREEMENT BETWEEN OWNER AND CONTRACTOR (C-520, 2018)

This list of changes to be made by the ENGINEER to the Agreement between OWNER and CONTRACTOR for Construction Contract (Stipulated Price) (EJCDC C-520, 2018). The ENGINEER may either make the changes directly to the Agreement or insert this exhibit directly behind the Agreement.

Article 4.05.C – Delete in its entirety and insert “Deleted”.

Article 6.02.A.1.a – Replace “[**number**]” with “95”.

Article 6.02.A.1.a(1) – Delete in its entirety and insert “Deleted”.

Article 6.02.A.1.b – Replace “[**number**]” with “95”.

Article 6.02.B – After “Substantial Completion” insert “of the entire construction to be provided under the construction Contract Documents”.

(6) Supplementary General Conditions (C-800)
This is a list of changes to be made by ENGINEER to the Supplementary Conditions of the Construction Contract (EJCDC C-800, 2018). The ENGINEER may also add other project-specific supplementary conditions as required for the Project.

The Supplementary Conditions (SC) document that is developed for a Project is the contractual means by which the Standard General Conditions of the Construction Contract (EJCDC C-700, 2018) are modified and supplemented for the Project. The references in the Supplementary Conditions items below (and in EJCDC C-800 as published) to adding, deleting, amending, or supplementing are referring to the paragraphs of C-700. Thus, the first item below, SC-1.01.A.8, is a contractual provision that adds the stated language (“The Change Order form to be used etc.”) to Article 1.01.A.8 of C-700.

The Supplementary Conditions items that follow are mandatory for each specific Project, unless noted otherwise. In most cases they are new (supplemental) SC items; in a few cases, they replace or expand on a Supplementary Condition item that is in EJCDC C-800, as published. Guidance notes should not be included in the Bidding Documents.

The ENGINEER (in cooperation with the OWNER) should follow the guidance of EJCDC C-800, as published, to develop Project-specific supplementary conditions; as the published guidance indicates, some of the published SC items are mandatory or require additional Project-specific input, such as insurance coverage limits. Other SC items in C-800 as published are optional but, in many cases, will be useful for the specific Project.

If the project requires compliance with American Iron and Steel instead of Build America Buy America Act, then SC-1.01.A.52 should remove the BABAA reference and define Domestic Preference as “The American Iron and Steel (AIS) requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 of 2017 and subsequent annual appropriations for WWD programs.“ Also, in such cases the BABAA specific waivers listed in SC 19.14 should be removed and replaced with applicable AIS waivers (De Minimis and Small Components). Contract the Rural Development State Office for guidance as needed.

ARTICLE 1 – Delete the sentence “No suggested Supplementary Conditions in this Article.”

SC-1.01.A.8 – Add the following at the end of the Paragraph:
The Change Order form to be used on this Project is EJCDC C-941 (2018). Agency approval is required before Change Orders are effective.

SC-1.01.A.30 – Add the following at the end of the Paragraph:
For the purposes of Rural Development, this term is synonymous with the term “applicant” as defined in 7 CFR 1780.7 (a) (1), (2) and (3) and is an entity receiving financial assistance from the federal programs.

SC-1.01.A.50 – Add the following at the end of the Paragraph:
The Work Change Directive form to be used on this Project is EJCDC C-940 (2018). Agency approval is required before a Work Change Directive is issued.

SC-1.01.A.51 – Add the following new paragraph immediately after Paragraph 1.01.A.50:
51. Agency - The Project is financed in whole or in part by USDA Rural Utilities Service pursuant to the Consolidated Farm and Rural Development Act (7 USC Section 1921 et seq.). The Rural Utilities Service programs are administered through the USDA Rural Development offices; therefore, the Agency for these documents is USDA Rural Development.

SC-1.01.A.52 – Add the following new paragraph with the title “Domestic Preference Definitions” immediately after Paragraph 1.01.A.51:
.
52.a *Build America, Buy America Act (BABAA)* - Requirements mandated by Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953-58 mandating domestic preference that all iron and steel, manufactured products, and construction materials are produced in the United States.

52.b *Construction Materials* - Those articles, materials, or supplies — other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives— that are or consist primarily of: non-ferrous metals, plastic and polymer- based products, glass, lumber or drywall.

52.c *Contractor’s Certification* - Documentation submitted by the Contractor upon Substantial Completion of the Contract that all iron and steel, manufactured products, and construction materials are produced in the United States.

52.d *De Minimis* - Materials and products that represent a small portion of an infrastructure project, specifically no more than 5% of the project costs up to a maximum of $1,000,000,

52.e *Domestic Preference* - The Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953.

52.f *Engineer’s Certification* - Documentation submitted by the Engineer that Drawings, Specifications, and Bidding Documents comply with Domestic Preference requirements.

52.g *Manufactured Product* – Items assembled out of components, or otherwise made or processed from raw materials into finished products. Manufactured products must be manufactured (assembled) in the United States, and the cost of components that were mined, produced, or manufactured in the United States must be greater than 55 percent of the total cost of all components of the product.

52.h *Manufacturer's Certification* - Documentation provided by the Manufacturer stating that Domestic Preference requirements have been satisfied for all provided items. If items are purchased via a Supplier, distributor, vendor, etc. from the Manufacturer directly, then the Supplier, distributor, vendor, etc. will be responsible for obtaining and providing these certifications to the parties purchasing the products.

52.i *Minor Components* - Components *within* an iron and/or Steel product otherwise compliant with the American Iron and Steel requirements. This waiver, typically used by Manufacturers, allows use of non-domestically produced miscellaneous Minor Components comprising up to five percent of the total material cost of an otherwise domestically produced Iron and Steel product. However, unless a separate waiver for a product has been approved, all other Iron and Steel components in said product must still meet the Domestic Preference requirements. This waiver does not exempt the whole product from the Domestic Preference requirements only Minor Components within said product and the iron or Steel components of the product must be produced domestically. 52.j *Primarily Iron or Steel* - A product is made of greater than 50 percent iron or Steel on a materials cost basis.

SC-2.02.A – Delete **[number]** and insert in its place "five." (or whatever amount is needed for all involved parties/entities to have a copy of the registered documents)

SC-4.01.A – Delete the last sentence of paragraph.

SC-4.05.C.5 – Paragraph is mandatory for WWD projects.

SC-4.05.C.5.a – Add the following at the end of this paragraph:
Extreme or unusual weather that is typical for a given region, elevation, or season should not be considered abnormal weather conditions. Requests for time extensions due to abnormal weather conditions will be submitted to the Engineer within five days of the end of the abnormal weather condition event. It is the responsibility of the Contractor to provide the information listed in SC 4.05.C.5.b.

SC-6.01 – Disregard EJCDC Guidance Notes – Performance and Payment Bonds, Note 1. Performance and Payment Bonds are required for WWD projects.

SC-6.01 – EJCDC Guidance Notes – "Other Bonds," Warranty Bond, Note 1. RD does not require a Warranty Bond, and RD will not accept a Warranty Bond in place of a Performance and Payment Bond. The decision to include a Warranty Bond is made by the Owner and their counsel. Please refer to EJCDC for guidance.

SC-7.04.D – Add the following new paragraph immediately after Paragraph 7.04.C:
D. All products must meet Domestic Preference requirements.

SC-7.04.E – Add the following new paragraph immediately after Paragraph 7.04.D:
E. For projects utilizing a *De Minimis* waiver, Contractor shall maintain an itemized list of non-domestically produced components and ensure that the cost is less than 5% of total project cost for project up to a maximum of $1,000,000.

SC-7.05.A – Amend the third sentence of paragraph by striking out the following words:
Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item is permitted,

SC-7.05.A.1.a.3 – Amend the last sentence of Paragraph a.3 by striking out "and;" and adding a period at the end of Paragraph a.3.

SC-7.05.A.1.a.4 – Delete paragraph in its entirety and insert "Deleted."

SC-7.05.B – Add the following at the end of paragraph:
Contractor shall include a Manufacturer's Certification or waiver for compliance with Domestic Preference requirements and supporting data, as applicable. Refer to Sample Language for Manufacturer's Certification provided in these Contract Documents.

SC-7.06.A.3.a.2 – Remove "and" from the end of paragraph.

SC-7.06.A.3.a.3 – Add "; and" to the end of paragraph.

SC-7.06.A.3.a.4 – Add the following new paragraph immediately after Paragraph 7.06.A.3.a.3:
4. Comply with Domestic Preference requirements by providing Manufacturer's Certification or waiver , as applicable. Refer to Sample Language for Manufacturers' Certification provided in these Contract Documents.

SC-7.07.A – Amend by adding the following to the end of the paragraph:
The total amount of work subcontracted by the Contractor shall not exceed fifty percent of the Contract price without prior approval from the Owner, Engineer and Agency.

SC-7.07.B – Delete paragraph in its entirety and insert "Deleted".

SC-7.07.E – Delete the second sentence of paragraph and insert the following in its place:
Owner may not require that Contractor use a specific replacement.

SC-7.12.A Amend paragraph by adding the following after "written interpretations and clarifications,":
Manufacturers' Certifications,

SC-7.16.A.1.c – Amend paragraph by deleting the last period and adding:
, including Manufacturer's Certification, or waiver for any item in the submittal subject to Domestic Preference requirements. Refer to the Sample Language for Manufacturers' Certification provided in these Contract Documents.

SC-7.16.C.9 – Add new paragraph immediately after Paragraph 7.16.C.8:
9. Engineer's review and approval of a Shop Drawing or Sample shall include review of Manufacturers' Certifications and any waivers in order to document compliance with Domestic Preference requirements, as applicable.

SC-7.17.F – Add new paragraph immediately after Paragraph 7.17.E:
F. Contractor shall certify upon Substantial Completion that all Work and Materials have complied with Domestic Preference requirements . Contractor shall provide Certification to Owner and Engineer. Refer to the Sample Language for Contractor's Certification provided in these Contract Documents.

ARTICLE 11 – Delete the sentence "No suggested Supplementary Conditions in this Article."

SC-11.02.C – Add new paragraph immediately after Paragraph 11.02.B:
C. The Engineer or Owner shall contact the Agency for concurrence on each Change Order prior to issuance. All Contract Change Orders must be concurred on (signed) by Agency before they are effective.

SC-11.03.A.2 - Add new Paragraph 11.03.A.2 immediately after Paragraph 11.03.A, which shall be renamed Paragraph 11.03.A.1:
2. The Engineer or Owner shall contact the Agency for concurrence on each Work Change Directive prior to issuance. Once authorized by Owner, a copy of each Work Change Directive shall be provided by Engineer to the Agency.

SC-11.05.B – Add the following at the end of this paragraph:
For Owner-authorized changes in the Work, the Contractor will provide the Manufacturer's Certification, or waiver, for materials subject to Domestic Preference requirements except when sole-source is specified, in which case the Engineer will provide the Manufacturer's Certification, or waiver.

SC-11.09.B.2.c – Add new paragraph immediately after Paragraph 11.09.B.2.b:
c. For change orders involving materials subject to Domestic Preference requirements, Contractor shall include a Manufacturer's Certification or waiver , as applicable. Refer to the Sample Language for Manufacturer's Certification provided in these Contract Documents.

SC-13.02.C – Delete paragraph in its entirety and insert "Deleted".

SC 13.03.E – Delete paragraph in its entirety and replace with SC 13.03.E as shown in the EJCDC C-800 Supplementary Conditions.

ARTICLE 14 – Delete the sentence "No suggested Supplementary Conditions in this Article."

SC-14.03.G – Add new paragraph immediately after Paragraph 14.03.F:
G. Installation of materials that are non-compliant with Domestic Preference requirements shall be considered defective work. Contractor should ensure that Engineer has an approved Manufacturer's Certification, or waiver, prior to any domestic preference compliant item being delivered to the project site.

SC-15.01.B.4 – Add the following language at the end of paragraph:
No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage or invest the retainage for the benefit of the Contractor.

SC-15.01.B.5 – Add new paragraph immediately after Paragraph 15.01.B.4:
5. The Application for Payment form to be used on this Project is EJCDC® C-620. The Agency must approve all Applications for Payment before payment is made.

SC-15.01.B.6 – Add new paragraph immediately after Paragraph 15.01.B.5:
6. By submitting an Application for Payment, based in whole or in part on furnishing equipment or materials, Contractor certifies that such equipment and materials are compliant with Domestic Preference requirements. Manufacturer's Certification for material(s) satisfy these requirements. Refer to the Sample Language for Manufacturer's Certification provided in these Contract Documents.

SC-15.01.C.2.d – Add the following new paragraph immediately after Paragraph 15.01.C.2.c:
d. The materials presented for payment in an Application for Payment comply with American Iron and Steel requirements.

SC-15.01.D.1 – Delete paragraph in its entirety and insert the following in its place:
The Application for Payment with Engineer's recommendations will be presented to the Owner and Agency for consideration. If both the Owner and Agency find the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due twenty (20) days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.

SC-15.02.A – Amend paragraph by striking out the following text: "7 days after".

SC-15.03.A – Modify by adding the following after the last sentence:
Contractor shall also submit the Contractor's Certification of Compliance certifying that to the best of the Contractor's knowledge and belief all Iron and Steel products, Manufactured Products, and Construction

Materials proposed in the Shop Drawings, Change Orders, and Partial Payment Estimates, and those installed for the Project, comply with Domestic Preference requirements.

SC-18.11 – Add new paragraph immediately after Paragraph 18.10:
18.11 *Tribal Sovereignty*
A. No provision of this Agreement will be construed by any of the signatories as abridging or debilitating any sovereign powers of the *[insert name of Tribe]* Tribe; affecting the trust-beneficiary relationship between the Secretary of the Interior, Tribe, and Indian landowner(s); or interfering with the government-to-government relationship between the United States and the Tribe.

SC-19 – Add the following new Article 19 immediately after Article 18:
Article 19 - FEDERAL REQUIREMENTS
19.01 *Agency Not a Party*

A. This Contract is expected to be funded in part with funds provided by Agency. Neither Agency, nor any of its departments, entities, or employees, is a party to this Contract.

19.02 *Contract Approval*
A. Owner and Contractor will furnish Owner's attorney such evidence as required so that Owner's attorney can complete and execute the "Certificate of Owner's Attorney" before Owner submits the executed Contract Documents to Agency for approval. Refer to Certificate of Owner's Attorney and Agency Concurrence provided in these Contract Documents.

B. Agency concurrence is required on both the Bid and the Contract before the Contract is effective.

19.03 *Conflict of Interest*
A. Contractor may not knowingly contract with a Supplier or Manufacturer if the individual or entity who prepared the Drawings and Specifications has a corporate or financial affiliation with the Supplier or Manufacturer. Owner's officers, employees, or agents shall not engage in the award or administration of this Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) the employee, officer or agent; (ii) any member of their immediate family; (iii) their partner or (iv) an organization that employs, or is about to employ, any of the above, has a financial interest or other interest in or a tangible personal benefit from the Contractor. Owner's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractor or subcontractors.

19.04 *Gratuities*
A. If Owner finds after a notice and hearing that Contractor, or any of Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract.

B. In the event this Contract is terminated as provided in paragraph 19.04.A, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.

19.05 *Small, Minority and Women's Businesses*

A. If Contractor intends to let any subcontracts for a portion of the work, Contractor will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps will include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

19.06 *Anti-Kickback*

A. Contractor shall comply with the Copeland Anti-Kickback Act (40 USC 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Buildings or Public Works Financed in Whole or in Part by Loans or Grants of the United States"). The Act provides that Contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public facilities, to give up any part of the compensation to which they are otherwise entitled. Owner shall report all suspected or reported violations to Agency.

19.07 *Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended*

A. Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

19.08 *Equal Employment Opportunity*

A. The Contract is considered a federally assisted construction contract. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

19.09 *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*

A. Contractors that apply or bid for an award exceeding $100,000 must file the required certification (RD Instruction 1940-Q Exhibit A-1). The Contractor certifies to the Owner and every subcontractor certifies to the Contractor that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining the Contract if it is covered by 31 U.S.C. 1352. The Contractor and every subcontractor must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

19.10 Environmental Requirements

A. When constructing a Project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental conditions:

1. Wetlands – When disposing of excess, spoil, or other Construction Materials on public or private property, Contractor shall not fill in or otherwise convert wetlands.
2. Floodplains – When disposing of excess, spoil, or other Construction Materials on public or private property, Contractor shall not fill in or otherwise convert 100-year floodplain areas (Standard Flood Hazard Area) delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, e.g., alluvial soils on NRCS Soil Survey Maps.
3. Historic Preservation - Applicants shall ensure that Contractors maintain a copy of the following inadvertent discovery plan onsite for review:

a. If during the course of any ground disturbance related to any Project, any post review discovery, including but not limited to, any artifacts, foundations, or other indications of past human occupation of the area are uncovered, shall be protected by complying with 36 CFR § 800.13(b)(3) and (c) and shall include the following:

i. All Work, including vehicular traffic, shall immediately stop within a 50 ft. radius around the area of discovery. The Contractor shall ensure barriers are established to protect the area of discovery and notify the Engineer to contact the appropriate RD personnel. The Engineer shall engage a Secretary of the Interior (SOI) qualified professional archeologist to quickly assess the nature and scope of the discovery; implement interim measures to protect the discovery from looting and vandalism; and establish broader barriers if further historic and/or precontact properties, can reasonably be expected to occur.

ii. The RD personnel shall notify the appropriate RD environmental staff member, the Federal Preservation Officer (FPO), and State Historic Preservation Office (SHPO) immediately. Indian tribe(s) or Native Hawaiian Organization (NHOs) that have an interest in the area of discovery shall be contacted immediately. The SHPO may require additional tribes or NHOs who may have an interest in the area of discovery also be contacted. The notification shall include an assessment of the discovery provided by the SOI qualified professional archeologist.

iii. When the discovery contains burial sites or human remains, the Contractor shall immediately notify the appropriate RD personnel who will contact the RD environmental staff member, FPO, and the SHPO. The relevant law enforcement authorities shall be immediately contacted by onsite personnel to reduce delay times, in accordance with tribal, state, or local laws including 36 CFR Part 800.13; 43 CFR Part 10, Subpart B; and the Advisory Council on Historic Preservation’s Policy Statement Regarding treatment of Burial Sites, Human Remains, or Funerary Objects (February 23, 2007).

iv. When the discovery contains burial sites or human remains, all construction activities, including vehicular traffic shall stop within a 100 ft. radius of the discovery and barriers shall be established. The evaluation of human remains shall be conducted at the site of discovery by a SOI qualified professional. Remains that have been removed from their primary context and where that context may be in question may be retained in a secure location, pending further decisions on treatment and disposition. RD may expand this radius based on the SOI professional’s assessment of the discovery and establish broader barriers if further subsurface burial sites, or human remains can reasonably be expected to occur. RD, in consultation with the SHPO and interested tribes or NHOs, shall develop a plan for the treatment of native human remains.

v. Work may continue in other areas of the undertaking where no historic properties, burial sites, or human remains are present. If the inadvertent discovery appears to be a consequence of illegal activity such as looting, the onsite personnel shall contact the appropriate legal authorities immediately if the landowner has not already done so.

vi. Work may not resume in the area of the discovery until a notice to proceed has been issued by RD. RD shall not issue the notice to proceed until it has determined that the appropriate local protocols and consulting parties have been consulted.

vii. Inadvertent discoveries on federal and tribal land shall follow the processes required by the federal or tribal entity.

4. Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service.

5. Mitigation Measures – The following environmental mitigation measures are required on this Project: *[Insert mitigation measures from the Letter of Conditions here]*.

19.11 *Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)*

A. Where applicable, for contracts awarded by the Owner in excess of $100,000 that involve the employment of mechanics or laborers, the Contractor will comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the Contractor will compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic will be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

19.12 *Debarment and Suspension (Executive Orders 12549 and 12689)*

A. A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

19.13 *Procurement of recovered materials*

A. The Contractor will comply with 2 CFR Part 200.322, “Procurement of recovered materials.”

19.14 *Domestic Preference*.

A. Build America, Buy America Act (BABAA). All Iron and Steel Products, Manufactured Products, and Construction Materials used in this project must comply with the Build America, Buy America Act (BABAA) requirements mandated by Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953. Aggregates such as stone, sand, or gravel do not apply to BABAA.

B. The following waivers apply to this Contract:
1. BABAA *De Minimis, Small Grants and Minor Components*
2. *[add project specific waivers as applicable].*

1.4 ADDITIONAL SPECIAL PROVISIONS FOR CDBG

1.4.1 Equal Employment Opportunity Provisions

a. Equal Employment Opportunity (Executive Order 11246). During the performance of this contract, the Contractor agrees as follows:

(i) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(ii) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(iii) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Department's contracting officer advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(iv) The contractor will comply with all of the provision of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(v) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(vi) In the event of the contractor's noncompliance with the non- discrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

(vii) The contractor will include the provisions of paragraphs 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that each provision will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase

order as the Department may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

b. Title VII of the Civil Rights Act of 1964. Provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

c. Section 109 of the Housing and Community Development Act of 1974. "No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity."

d. Section 3 of the Housing and Community Development Act of 1968. The contractor will ensure that to the greatest extent feasible opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to project area residents. Further, the contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of services and supplies.

e. Minority Business Enterprise. Under the provisions of Executive Order 11246 contractors on federally-funded projects are required to take affirmative steps to assure that minority businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the contractor must document all affirmative steps taken to solicit minority businesses and forward this documentation along with the names of the minority subcontractors and suppliers to the owner upon request.

f. Nondiscrimination Provision in all Public Contracts Pursuant to Section 49-3-207, MCA, the Contractor certifies that all hiring will be on the basis of merit and qualifications and there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.

1.4.2 Uniform Federal Accessibility Standards (UFAS)

All design specifications for the construction of any building shall provide access to the physically handicapped in accordance with the Uniform Federal Accessibility Standards and HUD regulations 24 CFR Part 8, "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of HUD".

1.4.3 Certification of Compliance with Federal Clean Air and Water Acts (Applicable to Federally Assisted Construction Contracts and Related Sub-Contracts Exceeding $100,000.)

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR 15, as amended.

1.4.4 Preconstruction Conference

After the contract(s) have been awarded, but before the start of construction, a conference will be held for the purpose of discussion requirements on such matters as project supervision, coordination with city or county officials, on-site inspections, progress schedules and reports, payrolls, payments to contractors, contract change orders, insurance, safety and other items pertinent to the project. The contractor shall arrange to have all supervisory personnel connected with the project on hand to meet with representatives of the engineer and owner to discuss any problems anticipated.

1.4.5 Contract Pricing

The cost plus a percentage of cost method of contracting shall not be used.

1.5 ADDITIONAL SPECIAL PROVISIONS FOR SRF

1.5.1 CIVIL RIGHTS LAWS

The following laws prohibit discrimination in the provision of services or benefits, on the basis of race, color, national origin, sex, handicap or age, in programs or activities receiving federal financial assistance. These anti-discrimination provisions (excerpts provided below) apply to the entire operations of an assistance recipient, not just the specific project or activity that is the object of the assistance.

- **The Age Discrimination Act of 1975**

  No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

- **Section 13 of the Federal Water Pollution Control Act Amendments of 1972**

  No person in the United States shall, on the ground of sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal assistance under the Federal Water Pollution Control Act. This section applies to CWSRF projects only.

- **Section 504 of the Rehabilitation Act of 1973**

  No otherwise qualified individual with a disability in the United Sates shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

- **Title VI of the Civil Rights Act of 1964**

  No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

IMPLEMENTATION IN THE SRF PROGRAM

Because of the extraordinary reach of the civil rights laws, all assistance recipients must comply with these laws and agree not to discriminate on the basis of race, color, national origin or sex. 40 CFR Part 7.

Recipients of federal assistance are required to collect and maintain information to show compliance with the laws. This information includes a list of discrimination complaints, reports of any compliance reviews conducted by other agencies, descriptions of any pending discrimination-based lawsuits, and data on the racial, ethnic, national origin, sex, and handicap characteristics of populations served. If there is "reason to believe" that discrimination may be occurring based on this review, the matter will be referred to the EPA Regional Director of Civil Rights for appropriate action.

1.5.2 Guidance for Participation by Disadvantaged Business (DBE) Enterprises In United States Environmental Protection Agency Programs of 40 CFR 33.

The contractor 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 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. 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 other legally available remedies.

A. REQUIREMENTS

1. The recipient and prime contractor will exercise good faith efforts to attract and utilize small, minority, and women's business (DBEs) enterprises primarily through outreach, recruitment, and race/gender neutral activities. At a minimum, the recipient and project bidders will follow the six affirmative steps below:

a. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities including placing DBEs on solicitation lists and soliciting them whenever they are potential sources;

b. Make information on forthcoming opportunities available to DBEs and arrange time frames and establish delivery schedules, when the requirements of the work permit, which will encourage participation by DBEs;

c. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs; including dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by DBEs;

d. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually;

e. Using the services of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, as appropriate; and

f. Require a. through e. to be taken if subcontracts are awarded.

B. FAIR SHARE OBJECTIVE

1. The fair share objective for this project is 2 %MBE's and 3 % WBE's.

C. DEFINITIONS

1. Minority Business Enterprise (MBE) is a business concern which is:

a. Certified as socially and economically disadvantaged by the Small Business Administration;

(1) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(2) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system is impaired due to diminished capital and credit opportunities, as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Small Business Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individuals. Individuals who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans), are to be considered socially and economically disadvantaged. Economically and socially disadvantaged individuals are deemed to include women.

b. Certified as a minority business enterprise by a State or Federal agency; or

c. An independent business concern which is at least 51 percent owned and controlled by minority group member(s).

(1) A minority group member is an individual who is a citizen of the United States and one of the following:

(a) Black American:

(b) Hispanic American (with origins from Puerto Rico, Mexico, Cuba, South or Central America)

(c) Native American (American Indian, Eskimo, Aleut, native Hawaiian); or
(d) Asian-Pacific American (with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan or the Indian subcontinent).

(2) In order to satisfy the third criteria of the MBE definition, the minority ownership's interest must be real, substantial and continuing. Such interest is characterized by:

(a) Risk of loss/share of profit commensurate with the proportional ownership; and

(b) Receipt of the customary incidents of ownership, such as compensation (i.e. salary and other personnel compensation).

(3) A minority owner must have and exercise control of the business decisions. Characteristics of control include, but are not limited to:

(a) Authority to sign bids and contracts;

(b) Decisions in price negotiations;

(c) Incurring liabilities for the firm;

(d) Final staffing decisions;

(e) Policy-making; and

(f) General company management decisions.

(4) Only those firms performing a useful business function according to custom and practice in the industry are qualified as MBEs. Acting merely as a passive conduit of funds to some other firm where such activity is unnecessary to accomplish the project does not constitute a "useful business function according to custom and practice in the industry." The purpose of this approach is to discourage the use of MBE "fronts" and limit the creation of an artificial supplier and broker marketplace.

2. Women's Business Enterprise (WBE) is a business which is certified as such by a State or Federal agency, or which meets the following definition:

"A women's business enterprise is an independent business concern which is at least 51 percent owned by a woman or women, who also control and operate it. Determination of whether a business is at least 51 percent owned by a woman or otherwise qualified WBE which is 51 percent owned by a married woman in a community property State will not be disqualified because her husband has a 50 percent interest in her share. Similarly, a business which is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become a qualified WBE by virtue of his wife's 50 percent interest in his share of the business."

As in the case of a MBE, only United States citizens will be deemed to be WBEs. Similar to the MBE criteria, WBE should meet the criteria cited in subparagraphs C.1.c.(2), (3), and (4).

3. Fair Share or Fair Share Objective A fair share or a fair share objective is an amount of funds reasonably commensurate with the total project funding and the availability of qualified MBEs and W BEs, taking into account experience on EPA-funded projects and other comparable projects in the area. A fair share objective does not constitute an absolute requirement, but a commitment on the part of the bidder to exercise good faith *efforts* as defined in this section to use MBEs and WBEs to achieve the fair share objective.

4. Small Business (SBE). Any business entity, including its affiliates, that is independently owned and operated, and not dominant in its field of operations in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards set forth in 13 CFR Part 121.

5. Small Business in a Rural Area. A small business in a rural area (SBRA) is a business entity meeting the definition of a small business, and is located and conducts its principal operations in a geographical area (county) listed in the Small Business Administration's Listing of Non-Metropolitan Counties by State.

6. Recipient. A party receiving SRF financial assistance.

7. Project. The work financed through an SRF loan.

8. Bidder. A party seeking to obtain a contract with a recipient through a competitive, advertised, sealed bid process.

9. Offeror. A party seeking to obtain a contract with a recipient through a negotiative procurement process.

10. Prime Contractor. A party that has obtained a contract with a recipient through a competitive, advertised, sealed bid process.

11. Good Faith Efforts. Good faith efforts by a recipient, prime contractor, and/or bidder/offeror means efforts to attract and utilize SBEs, MBEs, and W BEs (DBEs) primarily through outreach, recruitment, and race/gender neutral activities. The following are examples of activities to assist recipients, prime contractors and/or bidders/offerors to comply with good faith efforts.

a. Include qualified SBEs, MBEs, and WBEs on solicitation lists.

(1) Maintain and update a listing of qualified SBEs, MBEs, and WBEs and SBRAs that can be solicited for supplies, construction and/or services.

(2) Provide listings to all interested parties who requested copies of the bidding or proposing documents.

(3) Contact appropriate sources within your geographic area and State to identify qualified MBEs and WBEs for placement on your minority and women's business listings.

(4) Utilize other MBE/WBE listings such as those of the State's Minority Business Office, the Small Business Administration, Minority Business Development Agency, US EPA- Office of Small and Disadvantaged Business Utilization (OSDBU) and the Department of Transportation.

(5) Have the State environmental agency personnel review this solicitation list.

b. Ensure that SBEs, MBEs, and WBEs are solicited.

(1) Conduct meetings, conferences, and follow-ups with SBEs, MBEs, W BEs, and SBRAs, small, minority and/or women's business associations, minority media, etc., to inform these groups of opportunities to provide supplies, services, and construction.

(2) MBE utilization is facilitated if the recipient or prime contractor advertises through the minority media. Such advertisements may include, but are not limited to, contracting and subcontracting opportunities, hiring and employment, or any other matter related to the project.

(3) Conduct pre bid, pre-solicitation, and post-award conferences to ensure that consultants, suppliers, and builders solicit SBEs, MBEs, WBEs, and SBRAs.

(4) Provide bidders and offerors with listings of qualified SBEs, MBEs, WBEs, and SBRAs and establish that a fair share of contracts/procurements should be awarded to these groups.

(5) Advertise in general circulation, trade publications, State agency publications of identified source, minority or women's business focused media, etc., concerning contracting opportunities on your projects. Maintain a list of minority or women's business-focused publications that may be utilized to solicit MBEs or WBEs.

(6) Provide interested SBEs, MBEs, WBEs, or SBRAs with adequate information about plans, specifications, timing and other requirements of the proposed projects.

(7) Provide SBE, SBRA, MBE or WBE trade organizations with succinct summaries of solicitations.

(8) Notify SBEs, MBEs, WBEs, or SBRAs of future procurement opportunities so that they may establish bidding solicitations and procurement plans.

c. Make information on forthcoming opportunities available to DBEs and arrange time frames and establish delivery schedules, where requirements of the work permit, which will encourage participation by SBEs, MBEs, WBEs and SBRAs.

(1) Consider lead times and scheduling requirements often needed by SBE, MBE, WBE or SBRA participation.

(2) Develop realistic delivery schedules which may provide for greater SBE, MBE, WBE or SBRA participation.

(3) Whenever possible, post solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date

d. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs; including dividing total requirements when economically feasible, into small tasks or quantities to permit maximum participation of SBEs, MBEs, WBEs and SBRAs.

(1) Perform an analysis to identify portions of work that can be divided and performed by qualified SBEs, MBEs, WBEs and SBRAs.

(2) Scrutinize the elements of the total project to develop economically feasible units of work that are within the bonding range of SBEs, MBEs, WBEs and SBRAs.

(3) Analyze bid packages for compliance with the good faith efforts to afford SBEs, MBEs, WBEs and SBRAs maximum participation.

(4) Encourage contracting with a consortium of SBEs, MBEs, WBEs, and SBRAs when a contract is too large for one of these firms to handle individually

e. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the US Department of Commerce, as appropriate.

(1) Use the services of outreach programs sponsored by the Minority Business Development Agency and/or the Small Business Administration to recruit bona fide firms for placement on SBEs', MBEs', W BEs', or SBRAs' bidders lists to assist these firms in the development of bid packaging.

(2) Seek out Minority Business Development Centers (MBDCs) to assist recipients and prime contractors in identifying MBEs for potential work opportunities on this project.

f. If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs a. through e. of this section.

D. ADDITIONAL CONTRACT PROVISIONS

1. The prime contractor must pay its subcontractors for satisfactory performance no more than 30 days from the prime contractor’s receipt of payment from the owner.

2. The prime contractor must notify the owner in writing prior to any termination of a DBE subcontractor for convenience.

3. If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement subcontractor, even if the fair share objectives have already been achieved.

E. REPORTING

1. Bidders/offerors shall demonstrate compliance with “good faith” efforts in order to be deemed responsible. Efforts could include maintaining phone/mail logs (see attached MBE/WBE Subcontractor Solicitation Sheet), submitting proof of DBE solicitation advertisements, etc. The owner may specify other methods of demonstrating compliance.

2. Documentation of a “good faith” effort should be submitted with the bid, or within seven (7) calendar days of the bid opening.

MBE/WBE SUBCONTRACTOR SOLICITATION INFORMATION						
Name, Address & Phone No. of Subcontractor Contacted	Date Request for Quote Sent	Description of Work Offered	Date of Phone Follow-up & Person Contacted	Amount of Quote or Reason for Not Quoting*	Quote Accepted? If not, list reason for rejection	Indicate MBE, WBE, or other Subcontractor

* - Use additional sheets if necessary.

The undersigned hereby certifies that the above information is true and correct:

Contractor:_____

By:_____ _____
Signature Title

Date:_____

1.5.3 Certification Regarding Debarment, Suspension and Other Responsibility Matters

A. INSTRUCTIONS

Under Executive Order 12549, an individual or organization debarred or excluded from participation in Federal assistance or benefit programs may not receive any assistance award under a Federal program, or a subagreement thereunder for $25,000 or more. The status of prospective individuals or organizations can be checked at:

https://www.sam.gov

A prospective prime contractor must submit a completed certification (see form on the following page) or explanation to the project owner for the project. Each prospective subcontractor must submit a completed certification or explanation to the prime contractor for the project.

B. HOW TO OBTAIN FORMS

Additional forms may be obtained from the State or may be reproduced.

Build America, Buy America Act (BABAA)
Version

_____
SRF Project Number

United States Environmental Protection Agency
Washington, DC 20460

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or 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;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) 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.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both.

_____
Typed Name & Title of Authorized Representative

_____
Signature of Authorized Representative Date

_____I am unable to certify to the above statements. My explanation is attached.

1.5.4 Discovery of Archaeological and other Historical Items

In the event of an archaeological find during any phase of construction, the following procedure will be followed:

(1) Construction shall be halted, with as little disruption to the archaeological site as possible.

(2) The Contractor shall notify the Owner who shall contact the State Historical Preservation Officer.

(3) The State Historical Preservation Officer may decide to have an archaeologist inspect the site and make recommendations about the steps needed to protect the site, before construction is resumed.

(4) The entire event should be handled as expediently as possible in order to hold the loss in construction time to a minimum while still protecting archaeological finds.

A similar procedure should be followed with regard to more recent historical resources. Should any artifacts, housing sites, etc., be uncovered, the same procedure should be followed as for an archaeological find.

In the event archaeological/historical data are evaluated to meet National Register criteria, the Advisory Council on Historic Preservation may be notified and asked to comment.

1.5.5 Williams-Steiger Occupational Safety and Health Act of 1970

A. AUTHORITY

(1) The contractor is subject to the provisions of the Williams-Steiger Occupational Safety and Health Act of 1970.

(2) These construction documents and the joint and several phases of construction hereby contemplated are to be governed, at all times, by applicable provisions of the Federal law(s) , including but not limited to the latest amendment of the following:

a. Williams-Steiger Occupational Safety and Health Act of 1970, Public Law 94-596;

b. Part 1910 - Occupational Safety and Health Standards, Chapter XVII of Title 29, Code of Federal Regulations;

c. Part 1926 - Safety and Health Regulations for Construction, Chapter XVII of Title 29, Code of Federal Regulations.

B. SAFETY AND HEALTH PROGRAM REQUIREMENTS

(1) This project, its prime contractor and its subcontractors, shall at all times be governed by Chapter XVII of Title 29, Code of Federal Regulations, Part 1926 - Safety and Health Regulations for Construction (29 CFR 22801), as amended to date.

(2) To implement the program and to provide safe and healthful working conditions for all persons, general project safety meetings will be conducted at the site at least once each month during the course of construction, by the construction superintendent or his/her designated safety officer. Notice of such meeting shall be issued not less than three (3) days prior, stating the exact time, location, and agenda to be included. Attendance by the owner, architect, general foreman, shop steward(s), and trades, or their designated representatives, witnessed in writing as such, shall be mandatory.

(3) To further implement the program, each trade shall conduct a short gang meeting, not less than once a week, to review project safety requirements mandatory for all persons during the coming week. The gang

foreman shall report the agenda and specific items covered to the project superintendent, who shall incorporate these items in his/her daily log or report.

(4) The prime contractor and all subcontractors shall immediately report all accidents, injuries, or health hazards to the owner and architect, or their designated representatives, in writing. This shall not obviate any mandatory reporting under the provisions of the Occupational Safety and Health Act of 1970.

(5) This program shall become a part of the contract documents and the contract between the owner and prime contractor, prime contractor and all subcontractors, as though fully written therein.

1.5.6 Wage Determination

The Contractor and all subcontractors shall pay for all labor employed at no less than the minimum standard prevailing rate of wages for each classification, which shall be the higher of either the Montana Prevailing Wage Rates or the Federal Davis-Bacon Prevailing Wage Rates.

Please refer to EXHIBIT C for Federal Labor Standards Provisions for Federally Assisted Construction Contracts.

If you have a question about complying with the prevailing wage regulations (occupations, payroll forms, payment of fringe benefits, travel or per diem, etc.), you should contact the Labor Standards Bureau Wage and Hour Unit of the Montana Department of Labor and Industry or visit their website: http://dli.mt.gov/

1.5.7 Access

1. The recipient must ensure that representatives of the Environmental Protection Agency and the State will have access to project records and the project work whenever it is in preparation or progress and must provide proper facilities for such access and inspection. The recipient must allow the Regional Administrator, the Comptroller General of the United States, the State agency, or any authorized representative, to have access to any books, documents, plans, reports, papers, including records of contractors which are pertinent to the project for the purpose of making audit, examination, excerpts, copies, and transcriptions thereof. The recipient must ensure that a party to a subagreement will afford access to such project work, sites, documents, and records.

1.5.8 Construction Site Erosion and Sediment Control Measures

Every effort shall be made by the contractors and subcontractors to prevent and correct problems associated with erosion and runoff processes which could occur during and after project construction. The efforts should be consistent with applicable local ordinances, the EPA Nonpoint Source Pollution Control Guidance and Department of Environmental Quality Stormwater Management Plan.

Wherever appropriate, the contractor's efforts shall reflect the following engineering principles:

1. When appropriate, land grading and excavating should be kept at a minimum to reduce the possibility of creating runoff and erosion problems which require extensive control measures.

2. Whenever possible, topsoil should be removed and stockpiled before grading begins.

3. Land exposure should be minimized in terms of area and time.

4. Exposed areas subject to erosion should be covered as quickly as possible by means of mulching or vegetation.

5. Natural vegetation should be retained whenever feasible.

6. Appropriate structural or agronomic practices to control runoff and sedimentation should be provided during

and after construction.

7. Early completion of stabilized drainage systems (temporary and permanent systems) will substantially reduce erosion potential.

8. Roadways and parking lots should be paved or otherwise stabilized as soon as feasible.

9. Clearing and grading should not be started until a firm construction schedule is known and can be effectively coordinated with the grading and clearing activity.

1.5.9 Build America, Buy America (BABA) Requirements

On November 15, 2021, the "Infrastructure Investment and Jobs Act," (Public Law 117-58), which includes the Build America, Buy America Act (Public Law 117-58, Title IX, Subtitles A and B, Sections 70901-70941) was enacted. This law applies to most programs that receive federal funds including the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund programs.

Section 70914(a) of the Act states that none of the funds made available for a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.

For iron and steel, all manufacturing processes, from the initial melting stage through the application of coatings must occur in the United States. This includes products made primarily of iron or steel such as lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, and reinforced precast concrete and construction materials made primarily of iron or steel such as wire, cables, rebar, framing, joists, decking, grating, railings, stairs, and fencing.

The term "manufactured product" means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product. This includes (but is not limited to) pumps, motors, drives, mixers, motorized screens, controls and switches, membrane bioreactor systems, membrane filtration systems, clarifiers, disinfection systems, HVAC systems, and skids that contain multiple components (e.g., treatment, pumping, etc.).

For construction materials, all manufacturing processes for the construction material occurred in the United States. This includes an article, material, or supply that is or consists primarily of non-ferrous metals (construction materials made of ferrous metals are covered under iron and steel), plastic- and polymer-based products including PVC, composite building materials, and polymers used in fiber optic cables, glass including optic glass, lumber, and drywall.

BABA CERTIFICATION FORMS – The Contractor must ensure that all qualifying iron and steel components, manufactured products, and construction materials used in the project have met the BABA requirements. To verify BABA compliance, the Contractor must obtain a "Manufacturer Certification" form (or equivalent statement) from the manufacturer and provide the certification to the Owner either prior to or at the time of component, product, or material purchase or when the component, product, or material is delivered. Upon completion of the project, the Contractor shall provide the Owner with the "Contractor Certification" form. The referenced certification forms are located in Exhibit D of this Section.

BABA WAIVERS - A waiver from the Build America, Buy America requirements may be issued by the head of a Federal agency if it is found that: 1) applying the domestic content procurement preference would be inconsistent with the public interest (a "public interest waiver"); 2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or 3) inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an "unreasonable cost waiver"). Waiver requests must be submitted to the state for

review.

NATIONAL BABA WAIVERS – The EPA has issued the following national waivers: 1) Adjustment Period (September 2, 2022); 2) Small Project (September 26, 2022); 3) De Minimis (October 21, 2022).

1.5.10 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

This term and condition implement 2 CFR 200.216 and is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 115-232, section 889, covered telecommunications equipment or services means any of the following:

a. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

b. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

c. Telecommunications or video surveillance services provided by such entities or using such equipment.

d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management exclusion list.

1.5.11 Administration of the Clean Air Act and the Federal Water Pollution Control Act

Section 306 of the Clean Air Act (CAA) and Section 508 of the Clean Water Act (CWA) prohibit federal agencies from procuring goods or services from, or extending assistance by way of grant, loan or contract to persons who have been convicted of violations of either law. Executive Order No. 11738 was issued to coordinate enforcement of these provisions by conferring certain responsibilities on the EPA Administrator. Under section 2(b) of Executive Order No. 11738, the Administrator

> shall… designate facilities which have given rise to a conviction for an offense under (the criminal provisions of the CAA and the CWA).

The Executive Order also prohibits federal agencies from extending assistance to facilities that are not in compliance with either Act. Section 3(b) of Executive Order No. 11738 provides that:

> *(N)o federal agency authorized to extend federal assistance by way of grant, loan or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.*

The prohibition of section 3(b) does not apply if the purpose of the assistance is to remedy the cause of the CAA or CWA violation.

IMPLEMENTATION IN THE SRF PROGRAM

The SRF assistance recipients may not procure goods, services, or materials from listed suppliers. The state must also certify that assistance to borrowers that are not in compliance with the laws will only be awarded for projects that remedy the violations and return the facility to compliance.

1.5.12 Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act establishes a uniform policy for fair and equitable treatment of persons who are displaced from their homes, farms, or businesses to make way for federal or federally assisted projects. It provides basic guidelines for negotiating the acquisition of real property by the federal government. The Act also requires agencies to reimburse individuals for actual and reasonable expenses incident to relocation, such as moving costs, direct loss of tangible personal property associated with moving or discontinuing a business, and expenses involved in searching for a replacement home or business site.

Section 305 of the Uniform Relocation Act prohibits federal agencies from:

> *approv(ing) any program or project or any grant to, or contract or agreement with, a state agency or person provided such authority by regulation under which federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property… unless (the state provides assurances) that—*
>
> *(1) in acquiring real property it will be guided, to the greatest extent practicable under state law, by the land acquisition policies (of title III of the Act), and*
> (2) *property owners will be paid or reimbursed for necessary expenses as specified (in the title III provisions). (42 U.S.C. § 4655 (1988))*

The Uniform Relocation Act was significantly amended in 1987 by the Surface Transportation and Uniform Relocation Assistance Act, Pub. L. No. 100-17, 101 Stat. 132. The 1987 Amendments assigned implementation responsibility to the Department of Transportation. The amendments also enhanced state and local autonomy by authorizing certification of state and local programs which are carried out in accordance with state laws that are consistent with the Act. (42 U.S.C. § 4606 (1988)).

The Uniform Relocation Act was further amended in 1997 to provide that a displaced person is not eligible to receive relocation payments or any other assistance under the Act if the displaced person is an alien not lawfully present in the United States, unless such ineligibility would result in exceptionally and extremely unusual hardship to the alien's spouse, parent, or child and such relative is a citizen or an alien admitted for permanent residence. (42 U.S.C. § 4605).

II. Additional References
- 49 CFR Part 24 (Department of Transportation regulations incorporated by reference at 40 CFR Part 4)

IMPLEMENTATION IN THE SRF PROGRAM

Projects receiving SRF assistance must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act's (the Uniform Relocation Act) implementing regulations at 49 CFR 24.101 through 24.105. The cost of complying with the Uniform Relocation Act is an eligible cost that can be included in the SRF loan. The state SRF agency must certify that state rules governing land acquisition and relocation assistance are consistent with the purposes of the Uniform Relocation Act or that SRF assistance recipients

will comply with federal law, and that assistance recipients will be required to comply with the appropriate rules. A key aspect of the law is to require use of a professional appraisal to determine the fair market value

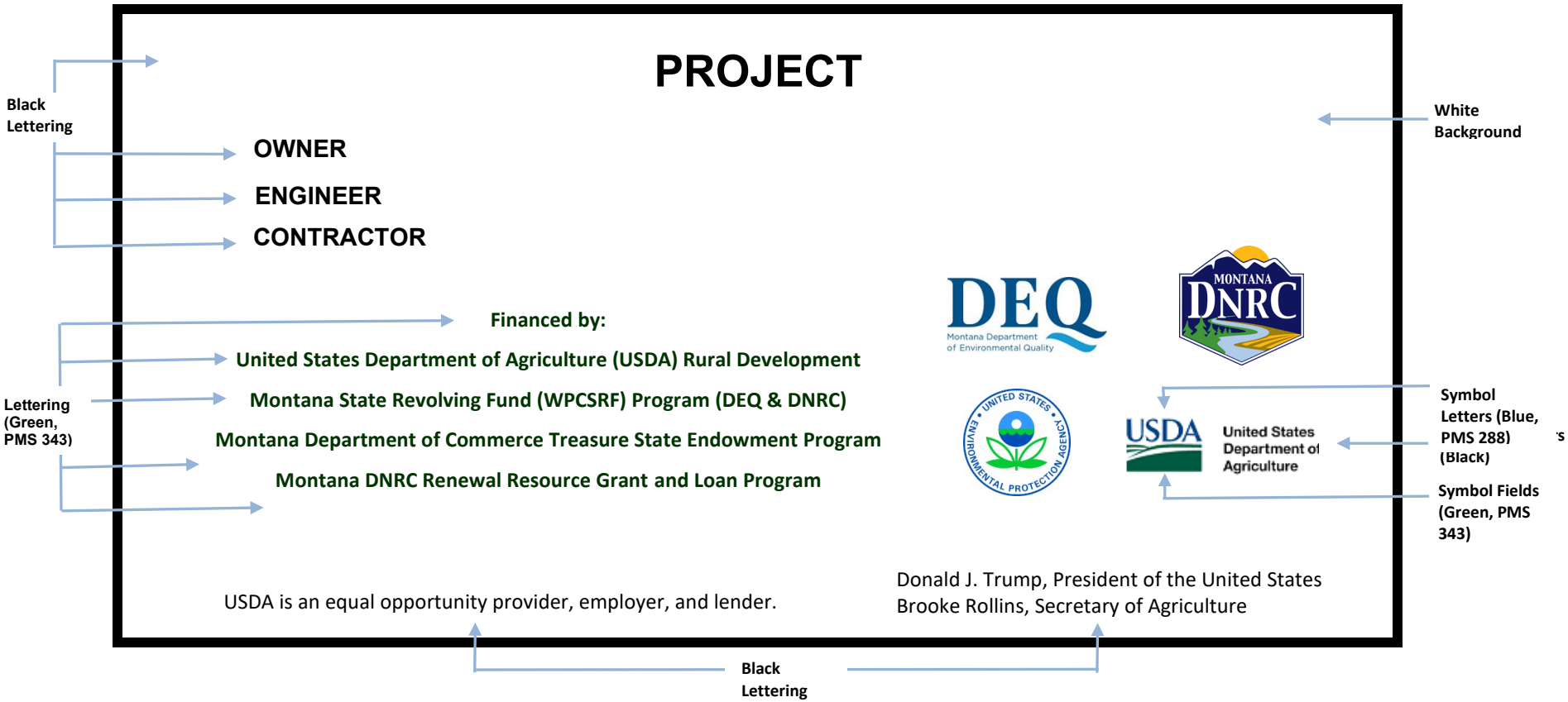
as a basis for establishing the offer price. In the DWSRF program there is a specific requirement in the Safe Drinking Water Act (SDWA) that any land acquired must be from a willing seller. SDWA §1452(a)(2)(E). The term “willing seller” means that the property owner voluntarily agrees to the terms and conditions of the purchase without compulsion to sell.

1.6 EXHIBITS

EXHIBIT A (Required for All Projects)

RD Project Sign Detail

TEMPORARY CONSTRUCTION SIGN

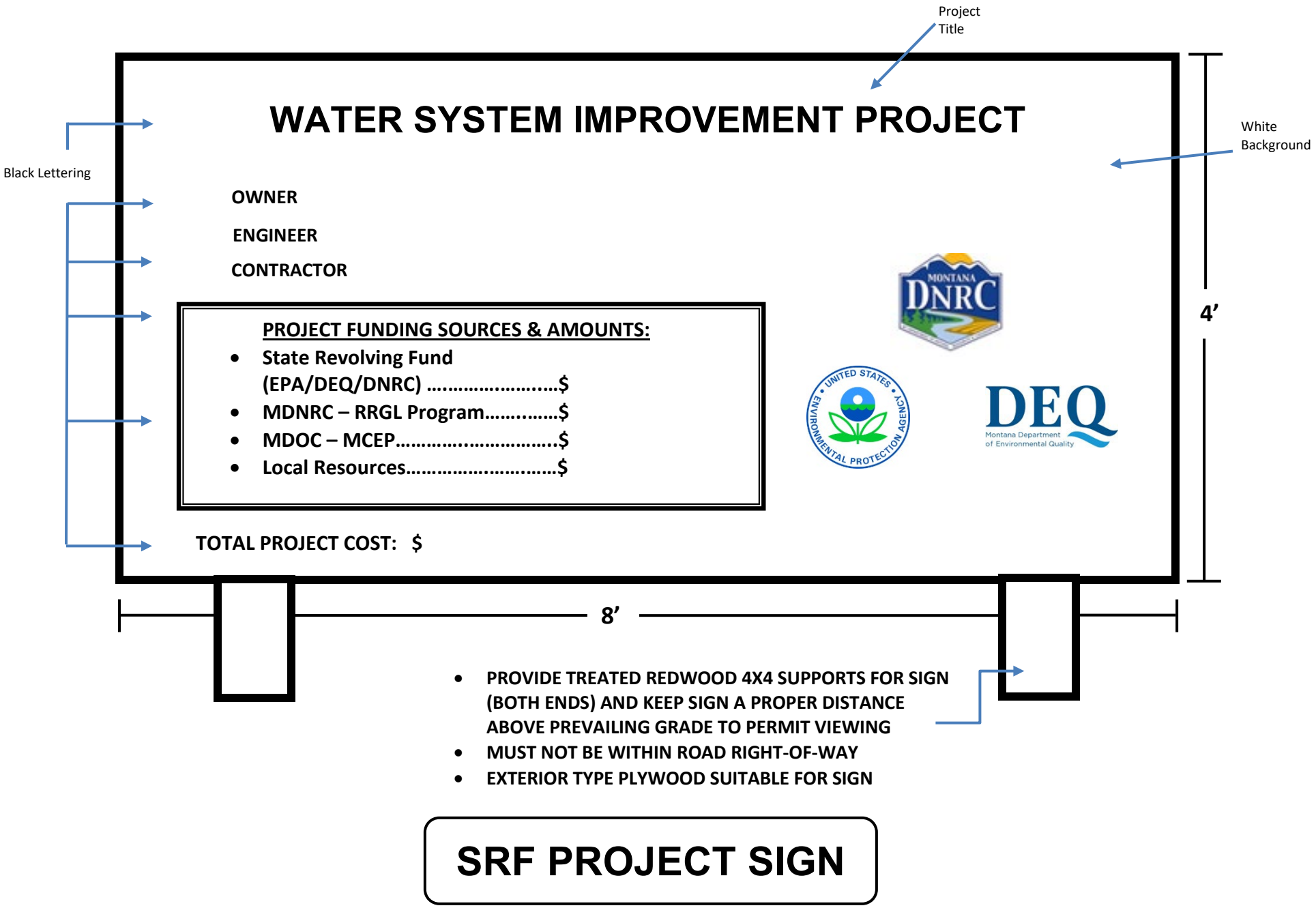


SIGN DIMENSIONS: 1200mm x 2400mm x 19mm (approx. 4’ x 8’ x 3/4 “)

RD PROJECT SIGN

EXHIBIT A-1 (Required for All Projects)

SRF Project Sign Detail



SRF PROJECT SIGN

EXHIBIT A-2 (Required for All Projects)

MCEP and/or CDBG Project Sign
Detail


Funded by: Montana Coal Endowment Fund
MONTANA
DEPARTMENT OF COMMERCE
commerce.mt.gov


Funded by: U.S. Department of Housing
and Urban Development
MONTANA
DEPARTMENT OF COMMERCE
commerce.mt.gov

EXHIBIT B (Required for CDBG Projects)

HUD Form 4010-Federal Labor Standards Provisions

EXHIBIT C (Required for SRF and CDBG Projects)

Federal Labor Standards Provisions
For
Federally Assisted Construction Contracts
United States Department of Labor
CFR Code of Federal Regulations Pertaining to ESA
(Federal Davis-Bacon Wages)

Federal Labor Standards Provisions
For
Federally Assisted Construction Contracts
United States Department of Labor
CFR Code of Federal Regulations Pertaining to ESA
(Federal Davis-Bacon Wages)

Title 29, Chapter I, Part 5, Subpart A (29 CFR 5.5)

Section Name: Contract provisions and related matters.

(a) The Recipient shall assure that the subrecipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the applicable FY appropriation requirements, the following clauses:

(1) Minimum wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 (a)(1)(iv) 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 Sec. 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 (a)(1)(ii) 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.

(ii)(A) 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:
(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and 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 W age and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) 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.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) 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.

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

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

(2) Withholding. The loan or grant recipient 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 (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency or SRF program) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records. (i) 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 (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). 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.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the SRF program if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the SRF program. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the SRF program if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the SRF program, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this 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 sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a ``Statement of Compliance,'' signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

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

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the loan or grant recipient 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 Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

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

registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the 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.

(iii) 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.

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

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the SRF program may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

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

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility. (i) 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).

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

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

(b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any 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 Sec. 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore 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 (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The loan or grant recipient 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 (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(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 (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in Sec. 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the loan or grant recipient and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=99c9a20e960f56be66f17ae91b52c888&rgn=div5&view=text&node=29:1.1.1.1.6&idno=29

EXHIBIT D

MT DEQ, CDBG & Rural Development
Build America, Buy America (BABA) Forms

CONTRACTOR CERTIFICATION

Build America, Buy America Act, 2021

USE OF IRON, STEEL, MANUFACTURED PRODUCTS, AND CONSTRUCTION MATERIALS

On November 15, 2021, the "Infrastructure Investment and Jobs Act," (Public Law 117-58), which includes the Build America, Buy America Act (Public Law 117-58, Title IX, Subtitles A and B, Sections 70901-70941) was enacted. This law applies to most programs that receive federal funds including the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund programs.

Section 70914(a) of the Act states that none of the funds made available for a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.

As the general contractor for the project(s) using revolving loan funds, the undersigned attests that they have performed the necessary oversight to ensure this provision was met on the project(s) being funded.

I, the undersigned authorized representative of_____, do hereby certify that all iron, steel, manufactured products, and construction materials used in the project(s) have complied with the above provision of the Build America, Buy America Act.

Project Name_____,

DEQ Loan Project Number_____,

Authorized Signature_____, Date_____,

Title_____,

Print Name _____

MANUFACTURER CERTIFICATION

Build America, Buy America Act, 2021

USE OF IRON, STEEL, MANUFACTURED PRODUCTS, AND CONSTRUCTION MATERIALS

On November 15, 2021, the "Infrastructure Investment and Jobs Act," (Public Law 117-58), which includes the Build America, Buy America Act (Public Law 117-58, Title IX, Subtitles A and B, Sections 70901-70941) was enacted. This law applies to most programs that receive federal funds including the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund programs.

Section 70914(a) of the Act states that none of the funds made available for a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.

This certification applies to the following specific iron products, steel products, manufactured products, or construction materials to be incorporated into this project:

Manufacturer Name:_____

Material/Product Description:_____

Location of factory where these products were/will be manufactured: _____

Product category (iron and steel, manufactured product, or construction material): _____

As a manufacturer for the project(s) using revolving loan funds, the undersigned attests that they have performed the necessary oversight to ensure this provision was met on the project(s) being funded.

I, the undersigned authorized representative of_____, do hereby certify that all iron, steel, manufactured products, and construction materials used in the project(s) have complied with the above provision of the Build America, Buy America Act including the 55% manufactured product component cost test.

Project Name_____,

DEQ Loan Project Number_____,

Authorized Signature_____, Date_____,

Title_____,

Print Name_____.

CERTIFICATE OF OWNER'S ATTORNEY AND AGENCY CONCURRENCE

Notes to User: This exhibit consists of two certificates, on a single page, to be attached to the Contract and signed upon execution. The first is a certificate to be signed by the Owner's attorney and the second is the concurrence to be signed by the State Engineer. This page is to be inserted after the Agreement between Owner and Contractor for Construction Contract (Stipulated Price) (EJCDC C-520, 2018) in the Construction Contract Documents.

CERTFICATE OF OWNER'S ATTORNEY

_____

PROJECT NAME:

_____

CONTRACTOR NAME AND CONTRACT NUMBER:

I, the undersigned, _____, the duly authorized and acting legal representative of , do hereby certify as follows: I have examined the attached Contract(s) and performance and payment bond(s) and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements is adequate and has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions, and provisions thereof.

Name _____ Date _____

AGENCY CONCURRENCE

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

Agency Representative _____ Date _____

Name _____

DOMESTIC PREFERENCE *DE MINIMIS* LIST FORMAT

Notes to User: This exhibit is an example format for Contractors to use in maintaining a list of items to document the use of the De Minimis waiver of the Domestic Preference requirements. This list or similar is required to be filled out throughout the construction Contract as needed. The State Engineer may periodically ask to review this information. At the Contract completion, this list, along with all Manufacturers' certifications, are to be given to the Engineer for delivery to the Owner. This list is applicable for projects governed by BABAA. USDA-RD State Office can provide guidance if AIS applies to the project instead.

DE MINIMIS COSTING WORKSHEET

Project Name: _____

Contract Name/# (if more than one) _____

Contractor (Company Name): _____

Representative: _____

Date: _____

Total Project Costs : $ _____

Allowable Total *De Minimis* Costs (5% of project costs) $ _____

Total Cost of all *De Minimis* Items $ _____

Remaining Amount Allowed for Future *De Minimis* Items $ _____

No.	Detailed Description and Manufacturer or Local Source of *De Minimis* Material	Quantity	Cost Per Item	Total Item Cost
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

SAMPLE LANGUAGE FOR CONTRACTOR'S
CERTIFICATION OF COMPLIANCE

Notes to User: This exhibit provides sample language that the Contractor can use to certify compliance with the Build America Buy America Act requirements. Note that the language can be modified (for example if the project is subject to AIS the BABAA reference should be replaced with language such as "American Iron and Steel (AIS) requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 and subsequent annual appropriations for WWD programs"). A certification is to be provided by Contractor to Engineer for delivery to the Owner and Agency at Substantial Completion. The certification should be on letterhead and should be signed and dated by an authorized company representative.

GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

Project Name
Owner / Applicant
Contract Number

I hereby certify, that to the best of my knowledge and belief, all Iron and Steel products, Manufactured Products, and Construction Materials installed for this project by my company and by any and all subcontractors and Manufacturers my company has contracted with for this project comply with the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953 or are the subject of a waiver approved by the Secretary of Agriculture or designee.

SAMPLE LANGUAGE FOR MANUFACTURER'S CERTIFICATION OF COMPLIANCE

Notes to User: This exhibit provides sample language for the Manufacturer's Certification of Compliance with Domestic Preference requirements. Contractor should ensure that Engineer has an approved Manufacturers' Certification prior to any domestic preference item being delivered to the project site. The Manufacturer's Certification should be on letterhead and should indicate the project, specific item being certified, reference which domestic preference requirement is being certified and be signed by an authorized company representative. The Manufacturer's Certification may include multiple domestic preference requirements. It is important for the governing domestic preference requirement (whether AIS, BABAA or other) to be clearly included within the certification.

Date:

Company Name:

Company Address:

Subject: Domestic Preference Requirement Certification for {*Owner's Name* and *Project Name (City, State)}* Certification for Project (X), Owner's Name, and Contract Number

Sample text:

I hereby certify that the following product(s) and / or material(s) shipped or provided for the subject project are in full compliance with the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953.

[List common name of items, products and/or materials]

ENGINEER'S CERTIFICATIONS

Notes to User: This exhibit provides sample language for the statements needed for the Engineer of Record's certification; it should be submitted with the bid package to the Agency for concurrence for authorization to bid by Agency. This certification is not intended to be a warranty in any way but rather the designer's professional opinion that to the best of their knowledge the documents comply. This certification does not need to be included in the contract documents. Note that the language can be modified (for example if the project is subject to AIS, the BABAA reference should be replaced with language such as "American Iron and Steel (AIS) requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 and subsequent annual appropriations for WWD programs.").

The final Drawings and Specifications, construction Contract Documents, Bidding Documents, procurement documents, and any other final design phase deliverables, comply with all applicable federal requirements including the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953, or are the subject of a waiver approved by the Secretary of Agriculture or designee. This includes the following:

- The Engineers Joint Contract Documents Committee (EJCDC) documents have been used, and all acceptable revisions identified in this Bulletin have been made in accordance with the terms of the license agreement, which states in part that the Engineer "will plainly show all changes to the standard EJCDC text, using 'Track Changes' (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions." Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

- Any building(s) designed for this Project will comply with the requirements of the Architectural Barriers Act (ABA) of 1968, the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, and any federal, state, or local accessibility standards.

- Any building(s) designed for this Project will comply with the Seismic Safety of Federally Assisted New Building Construction requirements of 7 CFR 1792, and any federal, state, or local standards.

- All referenced Products and Construction Materials in the Drawings, Specifications, and Bidding Documents for the Project comply with BABAA.

- All referenced Products and Construction Materials to be referenced in the Addenda, executed Contracts, and Change Orders will comply with BABAA.

Engineer Signature Date

Engineer Name and Title Engineering Company Name

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. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. 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 classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must 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. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must 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 be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) 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 will be sent by the contracting officer by email to *DBAconformance@dol.gov*. 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.

(4) 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 will, by email to *DBAconformance@dol.gov*, 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.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must 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.

d. *Fringe benefits not expressed as an hourly rate.* 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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* 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, in accordance with the criteria set forth in § 5.28, 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.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and 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.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must 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.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working 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; and

(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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* 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. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must 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, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. 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 journeyworkers 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 must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 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. a. By entering into this contract, the contractor certifies that neither it 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 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

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

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

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 watchpersons 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 and interest from the date of the underpayment. 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 watchpersons 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.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) 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

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

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 200.327.

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 200.327.

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.

* * * * *

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 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).

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.

* * * * *

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

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

(1) 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;

(2) 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

(3) 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)

b. 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 its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

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.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)
This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

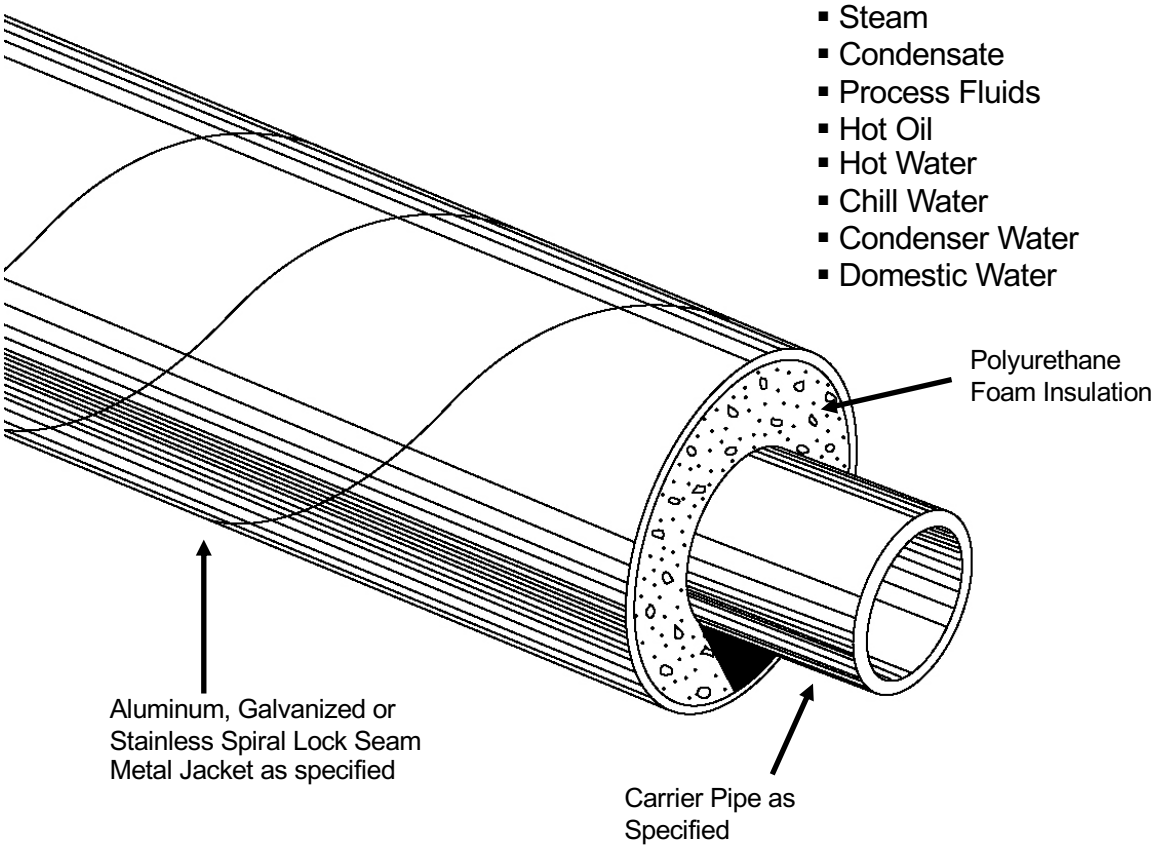
Appendices

Rovanco Hi-Temp

Notes:
1. Preinsulated pipe shall be Rovanco Hi-Temp or approved equivalent. The pipe shall be 14 Class 350 DIP carrier pipe
2. Pipe shall be restrained with TR Flex Restrained Joint or approved equivalent.
3. All pipes, fittings and joints shall be insulated to minimize pipe exposure.

High Temperature Above Ground for Plenums, Tunnels and Trenches (300˚F / 400˚F)

- Steam
- Condensate
- Process Fluids
- Hot Oil
- Hot Water
- Chill Water
- Condenser Water
- Domestic Water



Rovanco's Hi-Temp is designed for above ground, indoor* & outdoor, piping systems. Insulated with polyurethane foam in combination with a durable metal jacket supplied in 20' or 40' lengths, means an economical, high-quality system.

The Spiral lock seam metal jackets can be supported from the outside with maximum support spans and minimum guides. Fittings will be field insulated with material supplied by Rovanco.

The Hi-Temp System comes complete with metal cover, insulation, sealant and banding to make the installation completely watertight for above grade applications

Rovanco's Hi-Temp System with 400˚F insulation can be operated at temperatures up to 400ºF.

To find out more about Rovanco's Hi-Temp System, you can visit our factory, phone us (815) 741-6700, visit our website at www.rovanco.com or e-mail us at marketing@rovanco.com.

This is a generic product datasheet and is not intended for submittal use.

SPECIFICATION FOR OVERHEAD PLENUM, TUNNEL OR TRENCH HI-TEMP SYSTEM

Carrier Pipe:

Shall be A-53 Grade B Schedule 40 seamless or ERW (Schedule 80 for condensate). Lengths shall be 20' or 40', random as specified. Other metallic pipes available.

Insulation:

Insulation shall be a polyurethane foam injected with one shot into the annular space between carrier pipe and jacket. Insulation shall be rigid, minimum 90% closed cell polyurethane with a minimum 2.0 lbs per foot3 density, compressive strength of 30 psi @ 75˚F and a thermal conductivity K factor no higher than 0.180 @ 75˚F per ASTM C-518. Maximum operating temperature of urethane foam shall not exceed 250˚F.

Insulated Fitting and Joints:

All straight joints and fitting joint shall be insulated using material supplied by system manufacturer.

Jacket Fitting and Joint Cover:

Provide metal covers designed to fit snugly on the jacketing to provide a watertight closure. All covers shall be banded in place with 3/8" wide stainless steel straps and will be the same thickness as the jacketing.

Anchors:

All anchors will be ½" thick steel plate welded to internal pipe and sealed at jacket areas per manufacturer's recommendations.

Approved Vendors:

HT Systems by Rovanco, Joliet, Illinois. All other ISO Certified manufacturers wishing to bid on this project must provide the engineer with certified test data from either foam manufacturer or an independent testing agency that the product is capable of withstanding the service temperature continuously. The manufacturer shall obtain written approval from the engineer 10 days prior to bid date.

* Contact our home office or local representative for insulation sizing.

Jacketing Material:

Jacket Size In Inches	Aluminum Jacket Spiral Aluminum with impact and Chemical resistance equivalent to H-14 Temper T-3003 in accordance with ASTM-B 313 specifications	Galvanized Steel Jacket Spiral Seam Galvanized Steel in accordance with ASTM A-366 ASTM A-26 G90.	Stainless Steel Jacket Spiral Seam Stainless Steel in accordance with ASTM A-366 ASTM A-26 G90.
4	22 Gauge	26 Gauge	26 Gauge
6	22 Gauge	26 Gauge	26 Gauge
8	22 Gauge	26 Gauge	26 Gauge
10	22 Gauge	26 Gauge	26 Gauge
12	22 Gauge	26 Gauge	26 Gauge
14	18 Gauge	22 Gauge	22 Gauge
16	18 Gauge	22 Gauge	22 Gauge
18	18 Gauge	22 Gauge	22 Gauge
20 & larger	18 Gauge	22 Gauge	22 Gauge

cc #10162025

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Contact Rovanco® for the name of your local Representative

20535 S.E. Frontage Road • Joliet, Illinois 60431 • (815) 741-6700

Website: www.rovanco.com • E-mail: marketing@rovanco.com

This is a generic product datasheet and is not intended for submittal use.

Notes:
1. Pipe hanger supports shall be Eaton Adjustable Double Roller Guide or approved equivalent.

B3122A - Adjustable Double Roller Guide

Size Range: 2" (50mm) thru 24" (600mm) pipe

Material: Cast iron roller and steel axle
(Non-metallic polyurethane rollers are available)

Function: Designed for supporting and guiding pipe where longitudinal movement and vertical adjustment are required.

Approvals: Conforms to Federal Specification WW-H-171E & A-A-1192A, Type 42, 2" (50mm) thru 24" (600mm), and Manufacturers Standardization Society ANSI/MSS SP-69 & SP-58, Type 41

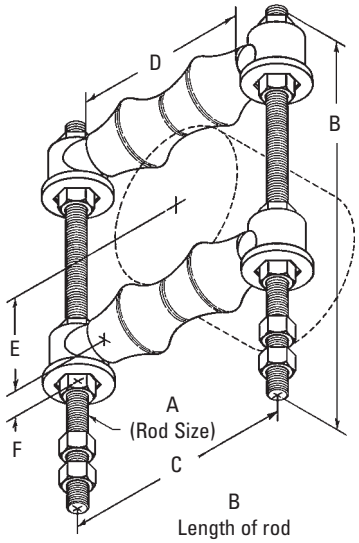
Note: When pipe line is insulated, total outside diameter of pipe and covering should be used to determine size of hanger; also see B3160 to B3165 on pages 158 thru 163.

Finish: Plain. Contact customer service for alternative finishes and materials.

Furnished With: B3114 Roller, two support rods and twelve HN Hex Nuts — not assembled.

Order By: Part number, pipe size and finish

Note: Not for continuous cycling applications.



B
Length of rod

C
Center to center distance of rod.

D
Length of Roller

E
Center of axle to center of pipe.

F
Center of axle to bottom of socket.

Part No.	Pipe Size in.	(mm)	Rod Size A	B in.	(mm)	C in.	(mm)	D in.	(mm)
B3122A-2	2"	(50)	3/8"-16	12"	(304.8)	4 1/8"	(104.8)	2 5/8"	(66.7)
B3122A-2 1/2	2 1/2"	(65)	1/2"-13	14"	(355.6)	4 7/8"	(123.8)	3 1/8"	(79.4)
B3122A-3	3"	(80)	1/2"-13	14"	(355.6)	5 1/2"	(139.7)	3 3/4"	(95.2)
B3122A-3 1/2	3 1/2"	(90)	1/2"-13	14"	(355.6)	6 1/8"	(155.6)	4 1/4"	(107.9)
B3122A-4	4"	(100)	5/8"-11	18"	(457.2)	6 3/4"	(171.4)	4 3/4"	(120.6)
B3122A-5	5"	(125)	5/8"-11	18"	(457.2)	8 1/16"	(204.8)	5 13/16"	(147.6)
B3122A-6	6"	(150)	3/4"-10	24"	(609.6)	9 9/16"	(242.9)	6 7/8"	(174.6)
B3122A-8	8"	(200)	7/8"-9	24"	(609.6)	11 15/16"	(303.2)	8 7/8"	(225.4)
B3122A-10	10"	(250)	7/8"-9	30"	(762.0)	14 1/16"	(357.2)	11"	(279.4)
B3122A-12	12"	(300)	7/8"-9	30"	(762.0)	15 13/16"	(401.6)	13"	(330.2)
B3122A-14	14"	(350)	1"-8	36"	(914.4)	17 3/4"	(450.8)	14 1/4"	(361.9)
B3122A-16	16"	(400)	1"-8	36"	(914.4)	19 3/4"	(501.6)	16 1/4"	(412.7)
B3122A-18	18"	(450)	1"-8	42"	(1066.8)	21 7/8"	(555.6)	18 1/4"	(463.5)
B3122A-20	20"	(500)	1 1/4"-7	42"	(1066.8)	24 1/4"	(615.9)	20 1/4"	(514.3)
B3122A-24	24"	(600)	1 1/2"-6	48"	(1219.2)	28 7/8"	(733.4)	24 1/4"	(615.9)



Part No.	E in.	(mm)	F in.	(mm)	Design Load Lbs.	(kN)	Approx. Wt./100 Lbs.	(kg)
B3122A-2	1 9/16"	(39.7)	3/4"	(19.0)	600	(2.67)	323	(146.5)
B3122A-2 1/2	1 7/8"	(47.6)	3/4"	(19.0)	660	(2.93)	465	(210.9)
B3122A-3	2 3/16"	(55.6)	3/4"	(19.0)	700	(3.11)	501	(227.2)
B3122A-3 1/2	2 1/2"	(63.5)	3/4"	(19.0)	750	(3.33)	525	(238.1)
B3122A-4	2 3/4"	(69.8)	3/4"	(19.0)	750	(3.33)	757	(343.4)
B3122A-5	3 3/8"	(85.7)	3/4"	(19.0)	750	(3.33)	872	(395.5)
B3122A-6	3 15/16"	(100.0)	1 1/8"	(28.6)	1070	(4.76)	1687	(765.2)
B3122A-8	5 1/16"	(128.6)	1 1/8"	(28.6)	1350	(6.00)	2277	(1032.8)
B3122A-10	6 1/4"	(158.7)	1 1/8"	(28.6)	1730	(7.69)	2830	(1283.7)
B3122A-12	7 3/8"	(187.3)	1 1/8"	(28.6)	2400	(10.67)	3817	(1731.4)
B3122A-14	8 1/4"	(209.5)	1 1/2"	(38.1)	3130	(13.92)	6513	(2954.3)
B3122A-16	9 7/16"	(242.9)	1 1/2"	(38.1)	3970	(17.66)	6759	(3065.9)
B3122A-18	10 1/2"	(266.7)	1 1/2"	(38.1)	4200	(18.68)	7518	(3410.1)
B3122A-20	11 1/2"	(292.1)	1 1/2"	(38.1)	4550	(20.24)	11222	(5090.3)
B3122A-24	13 13/16"	(350.8)	2"	(50.8)	6160	(27.40)	17666	(8013.3)

Note: If using D.I. pipe refer to page 321 for sizing. Non-metallic rollers with hot-dip galvanized sockets and stainless steel hardware are available for most sizes (B3122ANM-Pipe Size). Contact Eaton Engineering for more information.

All dimensions in charts and on drawings are in inches. Dimensions shown in parentheses are in millimeters unless otherwise specified.

Appendix A: Conservation Measures under SLOPES

1. All work should be performed in the dry when possible. Any work in flowing water must be completed by working from the top of the bank and work areas must be isolated from flowing or open water using cofferdams, silt curtains, sandbags or other approved means to keep sediment from entering flowing or open water, unless isolating the area and working in the channel would result in less habitat disturbance.
2. The Corps will check with appropriate sources to determine whether or not listed fish are present or likely to be present during any proposed in-water work. Where necessary, work timeframes will be added as special permit conditions to minimize adverse impacts to listed fish.
    a. Bull trout: For projects involving in-channel or riparian disturbance (e.g., excavation or construction within the bank-full channel or a 35 ft buffer each side of channel) the following timing stipulations will apply as the period when activities are allowable to minimize adverse impacts: (1) July 1 to September 30 in foraging, migration or over-wintering habitats; and (2) May 1 to August 31 in spawning and rearing habitats.
    b. Kootenai white sturgeon: In-channel disturbance is limited to the period between August 1 to April 1.
3. Only the minimum amount of native material necessary to maintain the function of the structure or fill will be removed.
4. Woody debris removal will be completed in the following priority: (1) Pull and release whole logs or trees downstream; (2) pull whole logs and trees and place in the riparian area; (3) remove whole logs or trees for replacement within the same stream reach or a reach nearby; and (4) pull, cut only as necessary, and release logs and trees downstream.
5. Replacement of existing stream crossings will be designed to promote natural sediment transport, allow maximum fluvial debris movement, and improve horizontal and vertical continuity and connectivity of the stream-floodplain systems where practicable.
6. If replacing a bridge with a culvert, the culvert must be sized to allow for equal or increased cross sectional area of the ordinary high water channel as compared to the previously existing bridge. The new culvert must be an open bottom arch or box, or must be oversized and countersunk into the substrate to allow unimpeded natural movement of existing streambed material.
7. Utility stream crossings shall be perpendicular to the watercourse, or nearly so, and designed in the following priority: (1) directional drilling, boring and jacking; and (2) dry trenching or plowing.
8. If trenching or plowing are used, all work shall be completed in the dry and backfilled with native material and any large wood displaced by trenching or plowing will be returned to its original position wherever feasible.
9. Install utility lines or cables using a static plow or knifing method.

10. At stream crossings, the area along the bank disturbed by the utility work will be revegetated with native species. A revegetation plan must be submitted with the application specifying species, planting or seeding rates and maintenance measures to ensure 80% cover (ground or canopy) after three years.
11. All pits and other excavations associated with utility installation will be placed where they will not cause damage to the streambed or streambanks, or allow wastewater or spoil material to enter the water. Erosion and sediment control measures must be put in place prior to beginning work and remain in place until the work is completed and the trench is backfilled and stabilized.
12. Structural fills with materials such as concrete shall be placed into tightly sealed forms or cells that do not contact the waterway until fully cured.
13. Any intake structure shall meet NOAA screening criteria.
14. All construction impacts must be confined to the minimum area necessary to complete the project and boundaries of clearing limits associated with site access and construction will be clearly marked to avoid or minimize disturbance of riparian vegetation, wetlands and other sensitive sites.
15. Project operations must cease under high flow conditions that may result in inundation of the project area.
16. If native woody riparian vegetation must be removed for temporary access purposes, the vegetation must be cut flush with the ground surface or folded over. The root mass must be left intact, and any exposed soil must be reseeded with native grasses or forbs after construction is completed.
17. Each non-native tree or shrub that must be removed as a result of the project, will be replaced with a native species of tree or shrub in accordance with NRCS recommendations for native species appropriate for the project location.
18. The design of any proposed stabilization structures must incorporate bioengineering principles.
19. Any structure that protrudes into the river must be designed by a professional engineer/hydrologist experienced in the design of such structures.
20. The largest riprap/rock material must be keyed into the toe of the bank.
21. Existing channel form and dimension must be maintained to the maximum extent possible.
22. If using wood, it must be intact, hard, and undecayed to partly decaying with untrimmed root wads to provide functional refugia habitat for fish. Wood must be obtained from outside of the channel.
23. Unless naturally-occurring material is present at the site, appropriate measures must be taken to ensure retention of fine soil particles beneath riprap/rock material. Measures can include the use of coarse sand and fine gravel, suitable biodegradable geotexile material, or a 50/50 mixture of native streambed material taken from the toe trench where riprap will be keyed into the river bed, and topsoil from sloping of the upper bank area placed behind the riprap/rock.
24. Clean natural angular rock or stone may be used to anchor or stabilize large wood, fill scour holes, prevent scouring or undercutting of an existing structure, or to construct a

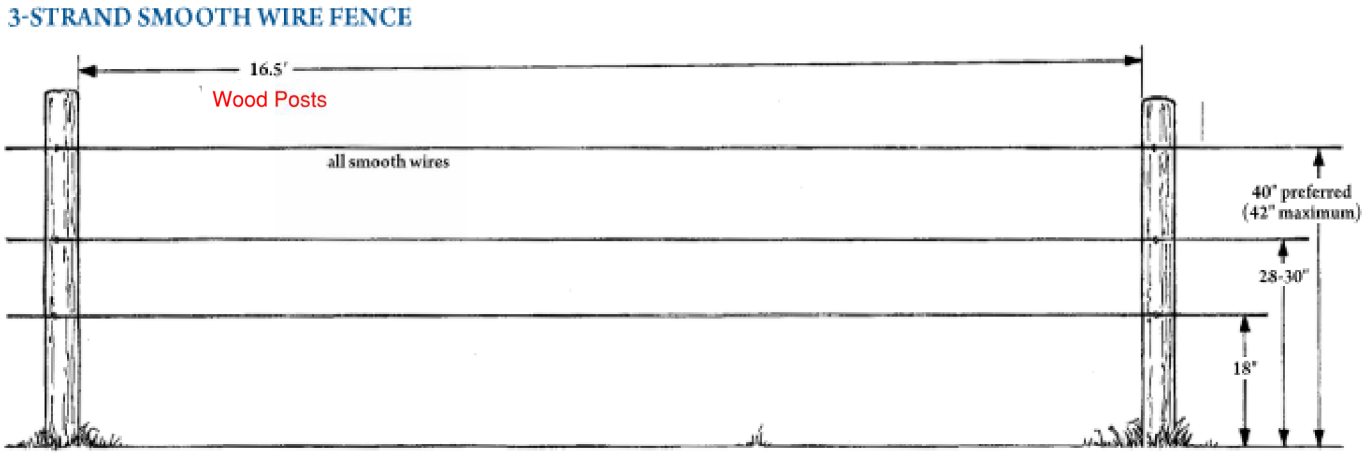
barb, weir or other properly designed and approved in-water structure. The use of rock or stone must comply with the Corps policy on prohibited materials.

25. Rock riprap shall be individually placed without end dumping.
26. All repairs of previously existing bank protection structures (unless such repairs are exempt from Section 404 compliance) shall incorporate bioengineering principles, with minimal use of clean natural rock or stone and maximum revegetation of the bankline above the ordinary high water mark.
27. If the entire structure has been destroyed or damaged beyond repair, replacement of the structure shall utilize bioengineering principles and methods, and will incorporate native vegetation.
28. Stabilization activities shall not exceed 300 linear feet per continuous run of material.
29. Where applicable, the applicant shall follow mitigation requirements as defined in the Montana Stream Mitigation Procedures. (Includes Idaho, to the extent applicable.)
30. Stabilization activities shall involve the discharge of no more than 1 cubic yard per linear foot below ordinary high water (OHW).
31. No refueling of equipment will take place within 100 linear feet of OHW or the wetland boundary.
32. Equipment must have a five gallon capacity spill kit on board at all times when working near water.
33. Within the first planting season post-construction, the stabilized bank shall be revegetated with native or other approved species.
34. A revegetation plan must be submitted with the application specifying species, planting or seeding rates and maintenance measures to ensure 80% coverage after three years.
35. Replacement of existing or new permanent stream crossings shall be designed to promote natural sediment and debris transport and maximize connectivity of the stream-floodplain system. If the crossing will occur near a known or suspected spawning area, only full span bridges or streambed simulation may be used.
36. Culvert replacements or modifications shall be done in the dry (could be accomplished by temporary dewatering), unless it can be confirmed by a qualified fisheries biologist that no listed fish are present during instream activities.
37. Appropriate grade controls shall be included to prevent culvert failure caused by changes in stream elevation.
38. Road crossing and bridge structures shall be designed to direct surface drainage into areas or features designed to prevent erosion of soil and entry of other pollutants directly into waterways or wetlands (such as biofiltration swales or other treatment facilities).
39. Cleaning of culverts and trash racks and removal of drift material shall be conducted by working from the top of the bank, unless isolating the area and working in the channel would result in less habitat disturbance. Only the minimum amount of wood, sediment and other natural debris necessary to maintain structure function shall be removed. All large wood recovered during cleaning will be placed downstream. All routine work will be done in the dry, using work area isolation if necessary.
40. No part of water control structure, such as barbs, may exceed bank full elevation, including all rock buried in the bank key.

41. Maximum barb length will not exceed 1/4 of the bankfull channel width.
42. Structures that protrude into the stream (barbs, vanes, spurs) must be designed by a qualified engineer, or geomorphologist.
43. Trenches excavated for a bank key above ordinary high water shall be backfilled with soil and planted with native vegetation.
44. Rock shall be individually placed without end dumping.
45. All stream and wetland restoration activities shall include adequate precautions to prevent post-construction stranding of juvenile or adult fish which must be described in detail in the application.
46. Any proposals to add spawning gravel must first be reviewed and approved by the local state fisheries biologist. Spawning gravel must be inspected by either a state fisheries biologist or a qualified fisheries biologist familiar with the site's characteristics and requirements.

APPENDIX A3

3-STRAND BARBLESS WILDLIFE FRIENDLY FENCE DETAIL



MDT 607 continues to govern all specifications concerning materials, construction requirements, and measurement/payment.