

**HOL COUNTY
TRAIL REPAIR NO. 2
RESURFACING PROJECT**

DBE GOAL – 5%

HOLMES COUNTY, OHIO

03/24/2025

Legal Notice

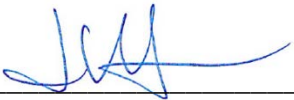
Sealed bids will be received by the Holmes Park District (the "Owner"), as provided in this notice, for the HOL County Trail Repair No. 2 (the "Project"). The contract documents can be requested for no charge by emailing Palmer Engineering's Matt Johnson at mjohnson@palmernet.com and copying Vincent Dragich vdragich@palmernet.com.

Each Bid shall be enclosed and delivered in a sealed opaque envelope with the Bidder's name, the title of the Project, bid opening date, and addressed as follows: Holmes Park District, Attn: HOL County Trail Repair, 1 Trail Drive, Suite A, Millersburg, Ohio 44654. Bids will be received until **10:00 am**, local time on **June 2, 2025**; and will be publicly opened and read aloud.

Questions regarding plans and specifications should be addressed in writing to Matt Johnson at email: mjohnson@palmernet.com and by copying Vincent Dragich at vdragich@palmernet.com.

Bidders must be currently pre-qualified with and in good standing with ODOT. The bidder must possess work types and perform work equal to at least 30% of the total amount of the submitted bid price.

All bids must include a Bid Guaranty, as described in the Instructions to Bidders. Davis-Bacon wage rates apply. No bidder may withdraw its bid within 60 days after the opening; the Owner reserves the right to waive irregularities, reject any or all bids, and conduct necessary investigations to determine bidder responsibility.

BY:  , Director

Publish: June 10, 2025, June 17, 2025, and June 24, 2025

Publish in the Bargain Hunter

OWNER-CONTRACTOR AGREEMENT

OWNER:	Holmes Park District	CONTRACT:	<u>General Contractor</u>
ADDRESS:	1 Trail Drive, Suite A Millersburg, OH 44654	ALTERNATES:	_____
PROJECT:	HOL County Trail Repair No. 2	CONTRACTOR:	_____
		ADDRESS:	_____ _____

This document is an agreement between the Owner and the Contractor for the Work described in the Contract Documents related to the Contract identified above for the Project defined above and is effective as of the date the Agreement is signed by the Owner.

The Owner and the Contractor agree as set forth in the following sections:

1. **CONTRACT DOCUMENTS.** The Contract Documents consist of the following documents:
 - A. Legal Notice;
 - B. Instructions to Bidders (**Exhibit 1**);
 - C. Bid Form (**Exhibit 2**);
 - D. Bid Guaranty and Contract Bond (**Exhibit 3**);
 - E. Contractor's Qualification Statement (**Exhibit 4**);
 - F. Non-Discrimination and Equal Employment Opportunity Affidavit (**Exhibit 5**);
 - G. Non-Collusion Affidavit (**Exhibit 6**);
 - H. Owner-Contractor Agreement;
 - I. General Conditions of the Contract for Construction (EJCDC C-700, 2013 edition), as modified (**Exhibit 7**);
 - J. Contractor's Personal Property Tax Affidavit (O.R.C. 5719.042) (**Exhibit 8**);
 - K. Statement of Claim Form (**Exhibit 9**);
 - L. Sales & Use Tax Construction Contract Exemption Certificate (**Exhibit 10**);
 - M. Contractor's Waiver & Release Affidavit (**Exhibit 11**);
 - N. Subcontractors, Suppliers Waiver & Release Affidavit (**Exhibit 12**);
 - O. Contractor's Affidavit and Certification with List of Subcontractors and Suppliers with any Amounts Withheld (**Exhibit 13**);
 - P. Contractor's Final Waiver & Release Affidavit (**Exhibit 14**);
 - Q. Subcontractors, Suppliers Final Waiver & Release Affidavit (**Exhibit 15**);
 - R. ODOT LPA Bid Packet / FHWA 1273 (**Exhibit 16**);
 - S. Prevailing Wage Rates (**Exhibit 17**);
 - T. EEO Certification Form (**Exhibit 18**);
 - U. Modifications issued after the execution of the contract, including:
 - i. A written amendment to the Agreement signed by both parties;
 - ii. A Change Order;
 - iii. A Work Change Directive; or,
 - iv. A written order for a minor change of the Work issued by the Design Professional in accordance with the General Conditions;
 - V. Drawings and Specifications; and
 - W. Addenda issued.

- 1.1 Notwithstanding anything in the Contract Documents to the contrary, in the event of any inconsistency, the provisions of this Agreement shall control over any other Contract Document, proposal, document, or other attachment. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after execution of the Agreement, Contractor shall provide the better quality or greater quantity of Work or comply with the more stringent requirements.

Note: Non-Contract Documents. The following are the reports and tests of subsurface conditions at or contiguous to the Site, if any, that the Design Professional has used in preparing the Contract Documents. These are not Contract Documents. Geotechnical data is not a warranty of subsurface conditions and is not to be relied upon as a complete representation of all possible soil conditions. Neither Owner nor its consultants warrant the accuracy of the geotechnical data. It is possible that there may be other reports, and/or tests of subsurface conditions at or contiguous to the Site not prepared by or on behalf of Owner. The Owner makes no representation about such reports and/or tests, assuming they exist. Additional information, if needed by Contractor for geotechnical data or site survey, shall be obtained by the Contractor at no additional cost to Owner. The General Conditions, as modified, contain additional terms related to these reports and tests.

Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings listed below, and except for such reliance on "technical data," Contractor shall not rely upon or make any claim against Owner or Architect 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. For example, all interpolations and extrapolations of data performed by Contractor to estimate locations or quantities of subsurface strata are independent factual assumptions which Owner does not warrant. (None if none are listed.)

Note: Non-Contract Documents. The following are those reports and drawings related to any Hazardous Conditions at the Site, if any. These are not Contract Documents. The General Conditions, as modified, contain additional terms related to these reports and drawings. (None if none are listed.)

2. **DESIGN PROFESSIONAL RELATIONSHIP.** The Contract Documents shall not be construed to create a contractual relationship of any kind between the Design Professional and the Contractor or any Subcontractor or Material Supplier to the Project. The Design Professional, however, shall be entitled to performance of the obligations of the Contractor intended for its benefit and to enforcement of such obligations, but nothing contained herein shall be deemed to give the Contractor or any third party any claim or right of action against the Design Professional that does not otherwise exist without regard to this Contract. The Contractor and its Subcontractors shall not be deemed to be beneficiaries of any of the acts or services of the Design Professional that are performed for the sole benefit of the Owner. The Contractor shall forward all communications to the Owner through the Design Professional and hereby acknowledges and agrees that any instructions, reviews, advice, approvals, orders, or directives that are rendered to it by the Design Professional are specifically authorized and directed by the Owner to the Contractor through the Design Professional acting on behalf of the Owner.

2.1 The Design Professional (also called the "Engineer") is:

Palmer Engineering
3745 Medina Rd, Suite A
Medina, Ohio 44256
Telephone: 330-952-1464

The Design Professional's Representative is Matt Johnson

3. TIME FOR COMPLETION AND PROJECT COORDINATION.

3.1 DATE FOR COMMENCEMENT. The date for commencement of the Work shall be the date established in a written Notice to Proceed issued by the Owner, through the Engineer, to the Contractor. If no Notice to Proceed is issued, then the date for commencement shall be the Effective Date of the Agreement.

3.2 DATE OF SUBSTANTIAL COMPLETION. The Project and Work for the Project consists of all labor, materials, equipment, and services necessary for construction of the Project, all in accordance with the Drawings and Specifications prepared by the Design Professional. The Contractor shall achieve Substantial Completion of its Work on the Project, as defined in the General Conditions, within 60 calendar days of the Date of Commencement ("Date of Substantial Completion").

3.2.1 DATE OF FINAL COMPLETION. The Contractor shall achieve Final Completion of its Work on the Project, as defined in the General Conditions, within 30 calendar days of achieving Substantial Completion ("Date of Substantial Completion").

3.2.2 MILESTONE DATES: The following Milestone Date(s) shall be met:

Milestone No. 1 – The resurfacing shall be complete and the trail open to traffic on or before September 30, 2025.

3.2.3 SHUTDOWN DATES. Due to events scheduled by the Owner and/or other Owner considerations, Contractor will not be able to perform Work on the Project on the dates listed below (none, if none are listed.) Contractor's Construction Schedule for performing the Work shall account for Contractor not being able to perform Work on these dates and the contractual dates for Substantial Completion and Final Completion will not be changed due to Contractor not being able to perform Work on these dates.

3.2.4 UTILITIES AND OPERATIONS. Contractor shall not interrupt utilities to facilities or existing operations without prior written notice and approval by Owner.

3.2.5 CONSTRUCTION SCHEDULE. The Construction Schedule shall be developed by the Contractor as provided in the Contract Documents.

3.3 LIQUIDATED DAMAGES. If the Contractor does not have its Work on the Project Substantially Complete by its Date for Substantial Completion or Finally Complete by its Date Final Completion, the Contractor shall pay the Owner (and the Owner may set off from sums coming due the Contractor) Liquidated Damages in the per diem amounts as set forth in the following tables, whichever may be applicable:

LIQUIDATED DAMAGES – DATE FOR SUBSTANTIAL COMPLETION

<u>Contract Amount</u>	<u>Dollars Per Day</u>
\$1.00 to \$50,000.00	\$ 250.00
\$50,000.01 to \$150,000.00	\$ 500.00
\$150,000.01 to \$500,000.00	\$1,000.00

\$500,000.01 to \$2,000,000.00	\$1,500.00
\$2,000,000.01 to \$5,000,000.00	\$2,500.00
\$5,000,000.01 to \$10,000,000.00	\$3,000.00
\$10,000,000.01 and greater	\$3,500.00

LIQUIDATED DAMAGES – FINAL COMPLETION

<u>Contract Amount</u>	<u>Dollars Per Day</u>
\$1.00 to \$50,000.00	\$ 50.00
\$50,000.01 to \$150,000.00	\$ 100.00
\$150,000.01 to \$500,000.00	\$ 200.00
\$500,000.01 to \$2,000,000.00	\$ 300.00
\$2,000,000.01 to \$5,000,000.00	\$ 500.00
\$5,000,000.01 to \$10,000,000.00	\$ 600.00
\$10,000,000.01 and greater	\$ 700.00

Contractor acknowledges that such amounts of Liquidated Damages represent a reasonable estimate of the actual damages for loss of or interference with the intended use of the Project that the Owner would incur if the Contractor's Work is not Substantially Complete by its Date for Substantial Completion or Finally Complete by the required date for Final Completion.

4. CONTRACT SUM (also called Contract Price). The Contract Sum to be paid by the Owner to the Contractor, as provided herein, for the satisfactory performance and completion of the Work and all of the duties, obligations, and responsibilities of the Contractor under this Agreement and the other Contract Documents is _____ Dollars (\$_____), subject to adjustment as set forth in the Contract Documents. The Contract Sum includes Allowances, Accepted Alternates, and all federal, state, county, municipal, and other taxes imposed by law, including but not limited to any sales, use, commercial activity, and personal property taxes payable by or levied against the Contractor on account of the Work or the materials incorporated into the Work. The Contractor will pay any such taxes. The Contract Sum includes the following:

4.1 Base Bid Amount: \$_____ (Lump Sum Bid); and

4.2 Accepted Alternates, included in the Contract Sum:

	Alternate Description	Add or Deduct	Cost
1			

4.3 Allowances included in the Contract Sum:

Allowance Description	Amount
	\$ _____
	\$ _____

4.4 Unit Prices included in the Contract Sum:

Pay Item	Item or Spec Ref	Item Description	Est. Quant.	Units	Labor Cost	Material Cost	Combined Unit Price	Bid Item Total Cost
					\$ _____	\$ _____	\$ _____	\$ _____
					\$ _____	\$ _____	\$ _____	\$ _____

					\$_____	\$_____	\$_____	\$_____
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4.5 If after Substantial Completion of its Work, the Contractor fails to submit its final payment application with all the documents required to be submitted with such application within ninety (90) days after written notice to do so from the Owner and without prejudice to any other rights and remedies the Owner may have available to it, the balance of the Contract Sum shall become the Owner's sole and exclusive property, and the Contractor shall have no further interest in or right to such balance.

5. **RETAINAGE.** Retainage applicable to the Contract by Ohio Revised Code Sections 153.12, .13, and .14 will be withheld as defined in the Modified General Conditions. The Contractor agrees that the financial institution selected by the Owner for deposit of retained funds is acceptable to the Contractor and will sign any documents requested related to said account.

6. **GENERAL.**

6.1 **MODIFICATION.** No modification or waiver of any of the terms of this Agreement or of any other Contract Documents will be effective against a party unless set forth in writing and signed by or on behalf of a party. In the case of the Owner, the person executing the modification or waiver must have express authority to execute the Modification on behalf of the Owner pursuant to a resolution that is duly adopted by the Owner. Under no circumstances will forbearance, including the failure or repeated failure to insist upon compliance with the terms of the Contract Documents, constitute the waiver or modification of any such terms. The parties acknowledge that no person has authority to modify this Agreement or the other Contract Documents or to waive any of its or their terms, except as expressly provided in this section.

6.2 **ASSIGNMENT.** The Contractor may not assign this Agreement without the written consent of the Owner, which the Owner may withhold in its sole discretion.

6.3 **LAW AND JURISDICTION.** All questions regarding the validity, intention, or meaning of this Agreement or any modifications of it relating to the rights and obligation of the parties will be construed and resolved under the laws of the State of Ohio. Any suit, which may be brought to enforce any provision of this Agreement or any remedy with respect hereto, shall be brought in the Common Pleas Court of Fairfield County, Ohio and each party hereby expressly consents to the exclusive jurisdiction of such court to the exclusion of any other court, including any U.S. District Court or any other federal court.

6.4 **CONSTRUCTION.** The parties acknowledge that each party has reviewed this Agreement and the other Contract Documents and entered into this Agreement as a free and voluntary act. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement, the other Contract Documents, or any amendments or exhibits to it or them.

6.5 **APPROVALS.** Except as expressly provided herein, the approvals and determinations of the Owner and Design Professional will be subject to the sole discretion of the respective party and be valid and binding on the Contractor, provided only that they be made in good faith, i.e., honestly. If the Contractor challenges any such approval or determination, the Contractor has the burden of proving that it was not made in good faith by clear and convincing evidence.

6.6 **PARTIAL INVALIDITY.** If any term or provision of this Agreement is found to be illegal, unenforceable, or in violation of any laws, statutes, ordinances, or regulations of any public authority having jurisdiction, then, notwithstanding such term or provision, this Agreement will remain in full force and effect and such term will be deemed stricken; provided this Agreement will be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision.

6.7 COMPLIANCE WITH LAWS AND REGULATIONS. The Contractor, at its expense, will comply with all applicable federal, state, and local laws, rules, and regulations applicable to the Work, including but not limited to Sections 153.59 and 153.60 of the Ohio Revised Code, which prohibit discrimination in the hiring and treatment of employees, with respect to which the Contractor agrees to comply and to require its subcontractors to comply.

6.7.1 NON-DISCRIMINATION. Contractor agrees:

- .1 That in the hiring of employees for the performance of Work under this Agreement or in any subcontract, neither the Contractor, subcontractor, or any person acting on behalf of either of them, shall by reason of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.
- .2 That neither the Contractor, subcontractor, nor any person acting on behalf of either of them shall, in any manner, discriminate against or intimidate any employee hired for the performance of Work under this Agreement on account of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color.
- .3 That there shall be deducted from the amount payable to the Contractor by the Owner under this Agreement a forfeiture of twenty-five dollars (\$25.00) as required by Ohio Revised Code Section 153.60 for each person who is discriminated against or intimidated in violation of this Agreement.
- .4 That this Agreement may be canceled or terminated by the Owner and all money to become due hereunder may be forfeited for a second or subsequent violation of the terms of this section of this Agreement.

6.7.2 FEDERAL CONTRACT PROVISIONS. The Owner will pay all or part of the compensation due to the Contractor using federal grant funding. Accordingly, the following provisions shall apply:

- .1 Contracts for more than the simplified acquisition threshold, currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Accordingly, the Owner reserves all rights and privileges under the applicable laws and regulations with respect to this procurement process in the event of breach of contract by either party.
- .2 All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. Accordingly, Owner reserves the right to terminate any agreement resulting from this procurement process pursuant to the terms of the Agreement.
- .3 Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Accordingly, Contractor certifies that during

the term of the Agreement, Contractor agrees to comply with all applicable requirements referenced above.

- .4 Record Retention Requirements - Contractor certifies that during the term of the Agreement, Contractor will comply with the record retention requirements detailed in 2 CFR § 200.333. The Contractor further certifies that all records will be retained as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
- .5 Energy Policy and Conservation Act Compliance - To the extent applicable, Contractor certifies that during the term of the Agreement, Contractor will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
- .6 Recovered Materials (2 C.F.R. § 200.322) - Contractor agrees to the extent practical it complies with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
- .7 Access to Records (2 C.F.R. § 200.336) - Contractor agrees that duly authorized representatives of the Agency shall have access to any books, documents, papers and records of Contractor that are directly pertinent to Contractor's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Contractor's personnel for the purpose of interview and discussion relating to such documents.
- .8 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment - Contractor, nor its subcontractors shall provide or install equipment, services, or systems that uses "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" is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 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); telecommunications or video surveillance services provided by such entities or using such equipment; or 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.

The Contractor and its subcontractors, regardless of tier, shall strictly comply with all other obligations of the Davis-Bacon Act, and the Contract Work Hours and Safety Standards Act.

6.7.3 ETHICS. By signing and entering into this agreement with the Owner, the Contractor represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements. The Contractor understands that failure to comply with the ethics laws is, in itself, grounds for termination of this contract and may result in the loss of other contracts with the Owner.

6.7.4 CONTINUOUS TREATMENT.

Federal regulations prohibit by-passing of any sewage during construction operations. The Contractor will be responsible for providing any required temporary pumping facilities piping, etc., necessary to complete the project without any plant by-passing and continuous treatment must be provided at the same level during construction as existed prior to construction.

Unless otherwise previously or subsequently specified, the Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of his Contract.

The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to the performance of the work required to complete their Contract.

6.7.5 VIOLATING FACILITIES. Contractor agrees to comply with all applicable standards, orders, or requirements 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 EPA regulations, 40 CFR Part 32, which prohibits the use under non-exempt Federal contracts, grants, or loans of facilities included in the EPA List of Violating Facilities.

6.8 LIMITATION ON LIABILITY. The Owner's total liability under this Agreement will be limited to the amount set forth in the Fiscal Officer's certificate accompanying this Agreement. Under no circumstances will the elected officials, officers, employees, board or council members, or agents of the Owner be personally liable for any obligations or claims arising out of or related to this Agreement.

6.9 JOB MEETINGS. The Contractor or one of its representatives with authority to bind the Contractor will attend all job meetings. The Owner anticipates that job meetings will be scheduled on a weekly basis during construction or as needed. The Contractor will ensure that its Subcontractors also hold regular job meetings at which safety issues and job matters are discussed as these relate to the Work being performed. Job meetings include, but are not limited to, pre-construction meetings, weekly job meetings, weekly safety tool box meetings, and monthly safety meetings.

6.10 PROPERTY TAX AFFIDAVIT. The Contractor's affidavit given under Section 5719.024, Ohio Revised Code, is incorporated herein.

6.11 PARTNERING. Contractor agrees that it will participate, as part of the Contract Sum, in any partnering sessions scheduled by Owner.

6.12 ENTIRE AGREEMENT. This Agreement and the other Contract Documents constitute the entire agreement among the parties with respect to their subject matter and will supersede all prior and contemporaneous, oral or written, agreements, negotiations, communications, representations, and understandings with respect to such subject matter, and no person is justified in relying on such agreements, negotiations, communications, representations, or understandings.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their properly authorized representatives and agree that this Agreement is effective as of the date first set forth above.

Owner: **Holmes Park District**

Contractor: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Date: _____

Title: _____

Date: _____

CERTIFICATE

(Section 5705.41, R.C.)

The undersigned, fiscal officer of the Owner, certifies that the moneys required to pay that part of the Contract Sum coming due during the current fiscal year, under the Agreement to which this Certificate is attached have been lawfully appropriated for such purpose and are in the appropriate account of the Owner, or in the process of collection to the credit of the appropriate account or fund, free from any previous encumbrances. Moneys due in excess of the Contract Sum shall require an additional and separate Fiscal Officer's Certificate.

DATED: _____

Fiscal Officer

EXHIBIT 1

INSTRUCTIONS TO BIDDERS (ITB)

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A. BIDDER'S PLEDGE AND AGREEMENT

1. Each Bidder acknowledges that this is a public project involving public funds and that the Owner expects and requires that each successful Bidder adhere to the highest ethical and performance standards. Each Bidder by submitting a bid pledges and agrees that (a) it will act at all times with absolute integrity and truthfulness in its dealings with the Owner and the Design Professional, (b) it will use its best efforts to cooperate with the Owner and the Design Professional and all other Contractors on the Project and at all times will act with professionalism and dignity in its dealings with the Owner, Design Professional, and other Contractors, (c) it will assign only competent supervisors and workers to the Project, each of whom is fully qualified to perform the tasks that are assigned to him/her, and (d) it has read, understands and will comply with the terms of the Contract Documents.

B. EXAMINATION OF CONTRACT DOCUMENTS AND SITE CONDITIONS AND RELIANCE UPON TECHNICAL DATA

1. Each Bidder shall have a competent person carefully and diligently review each part of the Contract Documents, including the Divisions of the Specifications and parts of the Drawings that are not directly applicable to the Work on which the Bidder is submitting its bid. By submitting its bid, each Bidder represents and agrees, based upon its careful and diligent review of the Contract Documents, that it is not aware of any conflicts, inconsistencies, errors, or omissions in the Contract Documents for which it has not notified the Owner in writing at least ten (10) days prior to the bid opening. If there are any such conflicts, inconsistencies, errors, or omissions in the Contract Documents, the Bidder (i) will provide the labor, equipment, or materials of the better quality or greater quantity of Work and/or (ii) will comply with the more stringent requirements. The Bidder will not be entitled to any Change Order, additional compensation, or additional time on account of such conditions for any conflicts, inconsistencies, errors, or omissions that would have been discovered by such careful and diligent review, unless it has given prior written notice to the Owner.
2. Each Bidder shall have a competent person carefully and diligently inspect and examine the entire site and the surrounding area, including all parts of the site applicable to the Work for which it is submitting its bid, including location, condition, and layout of the site and the location of utilities, and carefully correlate the results of the inspection with the requirements of the Contract Documents. The Bidder's bid shall include all costs attributable to site and surrounding area conditions that would have been discovered by such careful and diligent inspection and examination of the site and the surrounding area, and the Bidder shall not be entitled to any Change Order, additional compensation, or additional time on account of such conditions.
3. The Bidder may rely upon the general accuracy of any technical data identified in the Owner-Contractor Agreement (e.g., any soils exploration reports, soil boring logs, site survey, or abatement reports) in preparing its bid, but such technical data are not part of the Contract Documents. Except for the limited reliance described in the preceding sentence, Bidder may not, if awarded a contract for the Work, rely upon or make any Claim against the Owner or Engineer, or any of their agents or employees, with respect to any of the following:
 - a. the completeness of such reports and drawings for Bidder's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by the successful Bidder and safety precautions and programs incident thereto; or

- b. any interpretation by the successful Bidder of or conclusion drawn from any technical data or any such other data, interpretations, opinions, or information. For example, all interpolations and extrapolations of data performed by the Bidder to estimate locations or quantities of subsurface strata are independent factual assumptions, which Owner does not warrant.
4. Each Bidder will be deemed to have actual knowledge of all information provided or discussed at the pre-bid meeting.

C. OWNER & DESIGN PROFESSIONAL

1. The Owner is:

Holmes Park District
1 Trail Drive, Suite A
Millersburg, Ohio 44654
Telephone: 330-674-3353

The Owner's Representative is: Jen Halverson

2. The Design Professional (referred to as the "Design Professional" or "Engineer" in the Contract Documents) is

Palmer Engineering
3745 Medina Rd, Suite A
Medina, OH 44256
Telephone: 330-952-1464

The Design Professional's Representative is Matt Johnson

D. PROJECT

1. The Project and Work for the Project consists of all labor, materials, equipment, and services necessary for construction of the project identified as **HOL County Trail Repair No. 2** ("the Project"), all in accordance with the Drawings and Specifications prepared by the Design Professional. The Project must be substantially complete by the Date for Substantial Completion discussed in Section Q below and as set forth in Section 3 of the Owner-Contractor Agreement.

E. WORK

1. Only one contract will be issued by the Owner for constructing the Project, the General Contract, which will cover all scopes of work necessary to construct the Project.
2. The Contractor awarded the General Contract (General Contractor) will be responsible for the performance and coordination of any and all subcontractors and suppliers either directly or indirectly contracted with the General Contractor.
3. Owner will provide Bidders access to the Project site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, 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, regulations and Owner's policies relative to excavation and utility locates.

F. ESTIMATE OF COST

1. The total estimated construction cost for the base bid Work for the Project for which bids are being solicited at this time is **\$704,372.**
2. The estimated construction cost of the Alternates for which Owner is seeking bids is as follows:

Alternate 1 NA : \$ NA

Alternate 2 NA : \$ NA

G. CONTRACT DOCUMENTS

The Contract Documents consist of the documents listed in Section 1 of the Owner-Contractor Agreement.

Bidders may request electronic copies of the Contract Documents from Palmer Engineering, whom is the only authorized source of the Contract Documents. Neither the Owner nor the Engineer will be responsible for full or partial sets of Bidding Documents, including any addenda, obtained from other sources. **Payment for Contract Documents is non-refundable, no partial sets or individual drawing sheets/document pages will be issued, and payment arrangements are required before documents are issued.** It is the responsibility of any person or organization interested in a hard copy of the Contract Documents to pay all costs associated with printing.

Bidders shall use complete sets of Contract Documents in preparing bids. Neither the Owner nor the Design Professional assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Contract Documents.

The Owner or the Design Professional, in making the Contract Documents available on the above terms, does so only for the purpose of obtaining bids on the Work and does not confer a license or grant for any other use.

H. PREPARATION OF BIDS

1. All bids must be submitted on the "Bid Form" furnished with the Contract Documents.
2. All blank spaces shall be filled in, in ink or typewritten, in words and figures, and in figures only where no space is provided for words, and signed by the Bidder. The wording on the Bid Form shall be used without change, alteration, or addition. Any change in the wording or omission of specified accompanying documents may cause the bid to be rejected. If there is an inconsistency or conflict in the Bid, the lowest amount shall control, whether expressed in numbers or words.
3. Bidders shall note receipt of Addenda on the Bid Form. If the Bidder fails to acknowledge receipt of each Addendum, the Bid shall be deemed non-responsive, unless the Bid amount clearly and unambiguously reflects receipt of the Addendum or the Addendum involves only a matter of form and does not materially affect the price, quantity or quality of the Work to be performed.
4. Each Bidder shall submit **1 original** of its bid to the Owner. The Bid Form shall be signed with the name typed or printed below the signature. A Bid shall not be submitted by facsimile transmission. A Bidder that is a corporation shall sign its bid with the legal name of the corporation followed by the name of the state of incorporation and the legal signature of an officer authorized to bind the corporation to a contract.
5. Each Bid shall be enclosed in a sealed opaque envelope with the Bidder's name and the title of the Project printed in the upper left hand corner and addressed as follows:

Holmes Park District
ATTN: HOL County Trail Repair
1 Trail Drive, Suite A
Millersburg, Ohio 44654

Bids must be received at the designated location for the bid opening before **10:00 am**, local time, on **June 2, 2025**.

6. The completed Bid Form shall be accompanied by the following completed documents, excluding the DBE Utilization Form, which should be submitted electronically when applicable:

- a. Bid Guaranty and Contract Bond with the Ohio Department of Transportation and the Owner as an obligee (See Exhibit 3 and Paragraph H.8, below.)
- b. Contractor's Qualification Statement (See Exhibit 4 and Paragraph I.4, below.)
- c. Non-Discrimination and Equal Employment Opportunity Affidavit (See Exhibit 5.)
- d. Equal Employment Certification (See Exhibit 18.)
- e. Non-Collusion Affidavit (See Exhibit 6.)
- f. Bidder shall furnish a valid Certificate of Compliance with Affirmative Action Programs, issued by the State EEO Coordinator dated prior to the date fixed for the opening of bids as specified in Section 9 of Exhibit 16.
- g. If there is a DBE Goal established for the Project, all Bidders shall submit a DBE Utilization Plan *electronically* at the time of bid setting forth specific information demonstrating how the Bidder will achieve the DBE goal via https://odot.formstack.com/forms/dbe_copy (See Exhibit 16). The DBE Utilization Plan shall include the following information:
 - (1) The names and addresses of the certified DBE firm(s) that will be used to meet the DBE goal;
 - (2) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (3) Whether the DBE firm(s) being used to meet the goal will be utilized as a subcontractor, regular dealer, manufacturer, consultant or other capacity; and
 - (4) The dollar amount of the participation of each DBE firm used to meet the DBE goal.
- h. ODOT LPA Bid Packet with FHWA 1273 (See Exhibit 16.)

- i. **Contractor's Personal Property Tax Affidavit (See Exhibit 8.)**
- j. **Bidders shall refer to ODOT LPA Bid Packet with FHWA 1273 for any additional documents that must be completed before and/or during construction activities. (See Exhibit 16.)**

7. The Bidder shall take the following precautions in preparing its bid:

- a. Sign the bid and check to ensure all blank spaces have been filled in with requested information and that the specified accompanying documents (listed in Paragraph H.6 above) have been included in a sealed opaque envelope addressed as described in Paragraph H.5 above.
- b. When the Bid Form provides for quoting either an addition or deduction for an Alternate item, indicate whether the sum named is an addition or deduction. If it is not indicated, it will be conclusively presumed that the amount is a deduction.
- c. When the Bid Form provides for quoting a unit price, the Bidder should quote the unit price as set forth in the Bid Documents.
- d. When applicable, make sure that the Bid Guaranty is properly executed and signed by:
 - 1) The Bidder
 - 2) The Surety or Sureties
- e. Make sure that the amount of the Bid Guaranty (if the Bid Guaranty is in the form of a certified check, letter of credit, or cashier's check) is for a specific sum in an amount as instructed in Paragraph H.8.a below. If the Bid Guaranty is in the form of the Bid Guaranty and Contract Bond, the amount may be left blank; if an amount is inserted, it must equal the total of the base bid and all add alternates included. If inserted, then the failure to state an amount equal to the total of the base bid and all add alternates shall make the bid non-responsive if the Owner selects alternates not included in the amount.
- f. Make sure that the appropriate bid package and scope of work is inserted in the correct space on the Bid Guaranty and Contract Bond Form. Failure to include work covered by the bid submitted may make the bid non-responsive.

8. Bonds and Guarantees

- a. Bid Guaranty: Bidder shall furnish a Bid Guaranty, as prescribed in Sections 153.54, 153.57, and 153.571 of the Ohio Revised Code, in the form of either: (1) a bond for the full amount of the bid in the form of the Bid Guaranty and Contract Bond included in the Bid Documents; or (2) a certified check, cashier's check, or irrevocable letter of credit in a form satisfactory to the Owner in an amount equal to 10% of the bid. Bid amount shall be the total of all sums bid, including all add alternatives, but excluding all deduct alternatives. NOTE: AIA or EJCDC Bid Bond forms are not acceptable.
- b. Contract Bond: The successful Bidder, who, as a Bid Guaranty, submits a certified check, cashier's check, or irrevocable letter of credit in an amount equal to 10% of the bid (including all alternates), shall furnish a

Contract Bond in the form included in the Bid Documents in an amount equal to 100% of the Contract Sum. NOTE: AIA or EJCDC Bond forms are not acceptable.

- c. The bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio and acceptable to the Owner. The bond must be issued by a surety capable of demonstrating a record of competent underwriting, efficient management, adequate reserves, and sound investments. These criteria will be deemed to be met if the surety currently has an A.M. Best Company Policyholders Rating of "A-" or better and has or exceeds the Best Financial Size Category of Class VI. Other sureties may be acceptable to the Owner, in its sole discretion.
- d. All bonds shall be signed by an authorized agent of an acceptable surety and by the Bidder.
- e. Surety bonds shall be supported by credentials showing the Power of Attorney of the agent, a certificate showing the legal right of the Surety Company to do business in the State of Ohio, and a financial statement of the Surety.
- f. The Bid Guaranty, as applicable, shall be in the name of or payable to the order of the Holmes Park District and the Ohio Department of Transportation.
- g. The name and address of the Surety and the name and address of the Surety's Agent must be typed or printed on each bond.

I. METHOD OF AWARD

- 1. All bids shall remain open for acceptance for sixty (60) days following the day of the bid opening, but the Owner may, in its sole discretion, release any bid and return the Bid Guaranty prior to that date. The Bid Guaranty shall be subject to forfeiture, as provided in the Ohio Revised Code, if a bid is withdrawn during the period when bids are being held.
- 2. The Owner reserves the right to reject any, part of any, or all bids and to waive any informalities and irregularities. The Bidder expressly acknowledges this right of the Owner to reject any or all bids or to reject any incomplete or irregular bid. Bidders must furnish all information requested on the Bid Form. Failure to do so may result in disqualification of the bid.
- 3. Determination of the Lowest and Best Bid. Subject to the right of the Owner to reject any or all bids, Owner will award the Contract for the Work to the bidder submitting the lowest and best bid, taking into consideration accepted alternates. In evaluating bids, the Owner will consider the qualifications of the Bidders, whether or not the bids comply with the prescribed requirements, and alternates and unit prices, if requested, on the Bid Form. The Owner may also consider the qualifications and experience of subcontractors and suppliers. The Owner may conduct such investigations as are deemed necessary to establish the qualifications and financial ability of the Bidder and its subcontractors and suppliers. The factors the Owner may consider in determining which bid is lowest and best include the factors set forth below, including the Additional Criteria. Depending upon the type of the work, the Owner, in its discretion, may also consider other essential factors, as the Owner may determine and as are included in the Specifications. The Owner, in its discretion, may consider and give such weight to these criteria as it deems appropriate. The Owner, in its discretion, reserves the right to request additional information and documentation relating to these criteria from Bidders after the bid opening.

- a. Work to be subcontracted. The Bidder must identify all work to be subcontracted where the value of the subcontracted work is greater than \$50,000.00. See paragraph I.9 below. All subcontractors are subject to the approval of the Owner based on the criteria set forth in this Section I.
- b. The Bidder's work history. The Bidder should have a record of consistent customer satisfaction and of consistent completion of projects, including previous projects with the Owner and including projects that are comparable to or larger and more complex than the Owner's Project, on time and in accordance with the applicable Contract Documents, and based upon the Bidder's claims history. If the Bidder's management operates or has operated another construction company, the Owner may consider the work history of that company in determining whether the Bidder submitted the lowest and best bid.

The Owner will consider the Bidder's prior experience on prior projects of any size and scope with the Owner and/or Design Professional and on other projects of similar scope/and or complexity, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time, and will also consider its ability and capacity to perform a substantial portion of the project with its own forces and its ability to work with the Owner and Design Professional as a willing, cooperative, and successful team member. Bringing overstated claims, an excessive number of claims, acting uncooperatively, and filing lawsuits against project owners and/or their design professionals on prior projects of similar scope and/or complexity will be deemed evidence of a Bidder's inability to work with the Owner and Engineer as a willing, cooperative, and successful team member.

The Bidder authorizes the Owner and its representatives to contact the owners and design professionals (and construction managers, if applicable) on projects on which the Bidder has worked and authorizes and requests such owners and design professionals (and construction managers) to provide the Owner with a candid evaluation of the Bidder's performance. By submitting its bid, the Bidder agrees that if it or any person, directly or indirectly, on its behalf or for its benefit brings an action against any of such owners or design professionals (or construction managers) or the employees of any of them as a result of or related to such candid evaluation, the Bidder will indemnify and hold harmless such owners, design professionals (and construction managers) and the employees of any of them from any claims, whether or not proven, that are part of or are related to such action and from all legal fees and expenses incurred by any of them arising out of or related to such legal action. This obligation is expressly intended for the benefit of such owners, design professionals (and construction managers), and the employees of each of them.

- c. The Bidder's prior history, with the Owner or other owners, design professionals, and construction managers, regarding timeliness of performance, quality of work, the Bidder's history of filing claims and having claims filed against it, extension requests, fines and penalties imposed and payments thereof, and contract defaults, with explanations.
- d. The Bidder's compliance with federal, state, and local laws, rules, and regulations, including but not limited to the Occupational Safety and Health Act, Davis-Bacon Act and Ohio ethics laws.

- e. The Bidder's prior experience in type and size with similar work on comparable or more complex projects.
- f. The number of years the Bidder has been actively engaged as a contractor in the construction industry.
- g. The Bidder's recent experience record in the construction industry, including the original contract price for each construction job undertaken by the bidder, the amount of any change orders or cost overruns on each job, the reasons for the change orders or cost overruns, and the bidder's record for complying with and meeting completion deadlines on construction projects.
- h. A public entities' determination, within the previous five years, that the Bidder was not a responsible bidder, the reasons given by the public entity, and the Bidder's explanation thereof.
- i. The Bidder's financial ability to complete the Contract successfully and on time without resort to its Surety.
- j. Financial responsibility demonstrated by the Bidder and whether Bidder possesses adequate resources and availability of credit, the means and ability to procure insurance and acceptable performance bonds required for the Project and whether any claims have been made against performance bonds secured by the bidder on other construction projects.
- k. Any suspension or revocations of any professional license of any director, officer, owner, or managerial employees of the Bidder, to the extent that any work to be performed on this Project is within the field of such licensed profession.
- l. The Bidder's equipment and facilities.
- m. The size and experience, of the Bidder's work force and the Bidder's ability to complete the Contract successfully and on time.
- n. The experience and the continuity of the Bidder's work force including the project manager and project superintendent's tenure with the Bidder.
- o. The Bidder's participation in a drug-free workplace program acceptable to the Owner, and the Bidder's record for both resolved and unresolved findings of the Auditor of State for recovery as defined in Section 9.24 of the Ohio Revised Code.
- p. The Owner's prior experience with the Bidder's surety.
- q. The Bidder's interest in the Project as evidenced by its attendance at any pre-bid meetings or conferences for bidders.
- r. The foregoing information with respect to each of the Subcontractors and Suppliers that the Bidder intends to use on the Project.

4. Qualifications Statement. Each Bidder will submit with its bid a completed Contractor Qualifications Statement, which is included with the Project Manual, and thereafter provide the Engineer promptly with such additional information as the Engineer may request regarding the Bidder's qualifications. A Bidder shall submit

any requested additional information within three (3) business days of the date on the request.

- a. The bidder may withhold the documents, requested in Section 5 – Financing of the Contractor's Qualifications Statement. The apparent low bidder shall submit Section 5 – Financing within 5 working days of the bid opening. Other bidders shall submit Section 5 – Financing within 5 working days after a request from the Owner or the Engineer.
5. (Reserved.)
 6. Additional Criteria for Determining Lowest and Best Bid. Owner reserves the right to request additional information and documentation, including but not limited to information and documentation relating to the following factors, from Bidders after the bid opening. The Owner may consider such information and documentation in determining which bid is lowest and best. The Owner, in its discretion, may consider and give such weight to these criteria as it deems appropriate.
 - a. Any and all OSHA citations within the previous three years, together with the Bidder's description and explanation of remediation or other steps taken regarding such citations and notices of citations.
 - b. Any and all violations within the previous five years pertaining to unlawful intimidation or discrimination against any employee by reason of race, creed, color, disability, gender, or national origin and/or violation of any employee's civil or labor rights or equal employment opportunities.
 - c. Any litigation in which the Bidder has been named as a defendant or third party defendant in an action involving a claim for personal injury or wrongful death arising from performance of work related to any project in which it has been engaged within the previous five years.
 - d. Any violations of the prevailing wage law and any other state or federal labor law, including, but not limited to, child labor violations, failure to pay wages, or unemployment insurance tax delinquencies or unfair labor practices within the past five years.
 - e. Violations of the workers compensation law.
 - f. Any criminal convictions or criminal indictments, involving the Bidder, its officers, directors, owners, and/or managers within the past five years.
 - g. Any violation within the past five years or pending charges concerning federal, state, or municipal environmental and/or health laws, codes, rules and/or regulations.
 - h. Documentation that the Bidder provides health insurance and pension benefits to its employees.
 - i. Whether the Bidder has adopted and implemented a comprehensive drug and alcohol testing program for its employees.
 - j. Whether the Bidder's employees are OSHA-10 hour and/or OSHA-30 hour safety certified.

- k. The foregoing information with respect to each of the Subcontractors and Suppliers that the Bidder intends to use on the Project.
7. The failure to submit requested information on a timely basis may result in the determination that the Bidder has not submitted the lowest and best bid.
8. By submitting its bid, the Bidder agrees that the Owner's determination of which bidder is the lowest and best bidder shall be final and conclusive, and that if the Bidder or any person on its behalf challenges such determination in any legal proceeding, the Bidder will indemnify and hold the Owner and its employees and agents harmless from any claims included or related to such legal proceeding, and from legal fees and expenses incurred by the Owner, its employees, or agents that arise out of or are related to such challenge.
9. **After bid opening, within three (3) business days of a request made by the Design Professional, the apparent low Bidder and any other Bidder so requested by the Engineer or Owner must submit the following:**

For all subcontracts with an estimated value of at least \$50,000, a list of all Subcontractors that the Bidder will use to construct the Project, as well as an indication of whether or not the Bidder has ever worked with a proposed Subcontractor before, including the following information for the three most recent projects on which the Bidder and each Subcontractor have worked together:

 - i. **Project Owner**
 - ii. **Project Name**
 - iii. **Subcontract Scope**
 - iv. **Subcontract Value**
 - v. **Owner's contact name and phone number.**

If Bidder and a proposed Subcontractor have not worked together on at least three projects in the past five years, Bidder must submit the information set forth above for the three most recent similar projects to the Project that a proposed Subcontractor has worked on.

The above Subcontractor information, as well as the criteria set forth in Paragraph I.3 herein, as it pertains to each Subcontractor may be used in the Owner's determination of the lowest and best bid.

Once a Bidder identifies its proposed Subcontractors as set forth in this Paragraph I.9, the list shall not be changed unless written approval or direction for the change is made by Owner.
10. Additional Post-Bid Submittals
 - a) Affidavit as to Personal Property Taxes. The successful Bidder shall submit, prior to the time of the entry into the Contract, an affidavit in the form required by Section 5719.042, Ohio Revised Code, regarding the status of the Bidder's personal property taxes. A copy of the affidavit form is included with the Contract Documents.
11. No Bidder may withdraw its bid within sixty (60) days after the date bids are opened. The Owner reserves the right to waive any formalities or irregularities or to reject any or all bids.

12. The Owner reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices on the part of the Bidder.
13. Award of Contract. The award of the Contract, when required, will only be made pursuant to Holmes Park District approval.

J. EXECUTION OF CONTRACT

1. Within the time designated by the Holmes Park District after award of the Contract, the successful Bidder shall execute and deliver to the Holmes Park District the required number of copies of the Owner-Contractor Agreement, in the form included in the Contract Documents, and all accompanying documents requested, including, but not limited to, a Contract Bond (if applicable), insurance certificates, and a valid Workers' Compensation Certificate. The successful Bidder shall have no property interest or rights under the Owner-Contractor Agreement until the Agreement is executed by the Owner.

K. SUBSTITUTIONS/NON-SPECIFIED PRODUCTS

1. Certain brands of material or apparatus are specified. Each bid will be based on these brands, which may be referred to in the Contract Documents as Standards. The use of another brand (referred to as a substitution or proposed equal in the Contract Documents, when a bidder or the contractor seeks to have a different brand of material or apparatus than that specified approved by the Owner for use in the Project) may be requested as provided herein. Substitutions, however, will not be considered in determining the lowest responsible bid.
2. The products specified in the Contract Documents establish a standard of required function, dimension, appearance, and quality.
3. Bidders wishing to obtain approval to bid non-specified products shall submit written requests to the Design Professional a minimum of fifteen (15) working days before the bid date and hour. To facilitate the submission of requests, a Pre-Bid Substitution Form is included in the Contract Documents. The Bidder shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution, including the name of the proposed manufacturer and/or product and a complete description of the proposed product including manufacturer's name and model number or system proposed, drawings, product literature, performance and test data, color selections or limitations, and any other information necessary for evaluation. Include a statement including any changes in other materials, equipment, or other work that would be required if the proposed product is incorporated in the materials, equipment, or other work that would be required if the proposed product is incorporated in the work. The burden of proof of the merit of the proposed product is on the proposer. The Design Professional's decision on approval of a proposed product will be final.

The following will be cause for rejection of a proposed substitution:

- a. Requests submitted by subcontractors, material suppliers, and individuals other than Bidders;
- b. Requests submitted without adequate documentation;
- c. Requests received after the specified cut-off date.
4. When the Design Professional approves a product submission before receipt of bids, the approval will be included in an Addendum, and Bidders may include the pricing of this product in their bid. Bidders shall not rely on approvals made in any other manner.

5. In proposing a non-specified product or a substitution, the Bidder represents and warrants that each proposed product will not result in any changes to the Project, including changes to the Work of other contractors, or any decrease in the performance of any equipment or systems to be installed in the Project and agrees to pay any additional costs incurred by the Owner and the Owner's consultants as a result of a non-specified or substitute product that is accepted.
6. Following the award of the Contract, there shall be no substitutions for specified products, except pursuant to a Change Order. The Owner in its sole discretion may decline to consider a substitution for a Change Order.

L. ALTERNATES

1. The Owner may request bids on alternates. If the Owner requests bids on alternates, the Bidder should include the cost of the alternates requested on its Bid Form.
2. At the time of awarding the Contract, the Owner will select or reject alternates as it determines is in its best interest. A Bidder's failure to include on its Bid Form the cost of an alternate selected by the Owner and applicable to the Bidder's work shall render the bid non-responsive and be grounds for the rejection of the bid. Otherwise, the failure to include the cost of an alternate will not be deemed material.
3. The Bidder acknowledges that although there is an estimate for the cost of the Project, the market conditions may and frequently do result in the estimate being different from the sum of the bids received, either higher or lower. The Bidder understands that the Owner may include alternates, which may include deduct alternates as well as add alternates, to give it flexibility to build the Project with the funds available. The Bidder further understands and acknowledges that use of add and deduct alternates is a long held customary practice in the construction industry in the State of Ohio. The Bidder also acknowledges that the Owner will not make a decision about the alternates on which to base the award of contracts until the bids are received, and the Owner can compare its available funds with the base bids and the cost or savings from selecting different alternates. The Bidder understands that the award to the Bidder submitting the lowest and best bid will be based on the lowest base bid plus selected alternates, and may result in an award to a Bidder other than the Bidder that submitted the lowest base bid.
4. If, during the progress of the Work, the Owner desires to reinstate any alternate not included in the Contract, the Owner reserves the right to reinstate the alternate at the price bid by the Contractor provided that such action is taken in sufficient time so as not to delay the progress of the work or cause the Contractor additional expense.

M. UNIT PRICES

1. Where unit prices are requested in the Bid Form the Bidder should quote a unit price. Unless otherwise expressly provided in the Bid Documents, such unit prices shall include all labor, materials, and services necessary for the timely and proper installation of the item for which the unit prices are requested. The unit prices quoted in the bid shall be the basis for any Change Orders entered into under the Owner-Contractor Agreement, unless the Design Professional determines that the use of such unit prices will cause substantial inequity to either the Contractor or the Owner.

N. ADDENDA

1. The Owner reserves the right to issue Addenda changing, altering, or supplementing the Contract Documents prior to the time set for receiving bids. The Owner and/or Design Professional will issue the Addenda to clarify bidders' questions and/or to change, alter, or supplement the Contract Documents.

2. Any explanation, interpretation, correction, or modification of the Contract Documents will be issued in writing in the form of an Addendum, which shall be the only means considered binding; explanations, interpretations, etc., made by any other means shall NOT be legally binding. All Addenda shall become a part of the Contract Documents.
3. All Addenda will be issued, except as hereafter provided, and mailed or otherwise furnished to persons who have obtained Contract Documents for the Project, at least seventy-two (72) hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays. If any Addendum is issued within such seventy-two (72) hour period, then the time for opening of bids shall be extended one (1) week with no further advertising of bids required.
4. Copies of each Addendum will be sent only to the Bidders to whom Contract Documents have been issued and to Plan Rooms where copies of the Contract Documents are maintained. Receipt of Addenda shall be indicated by Bidders in the space provided on the Bid Form. Bidders are responsible for acquiring issued Addenda in time to incorporate them into their bid. Bidders should contact the Owner prior to the bid opening to verify the number of Addenda issued.
5. Each Bidder shall carefully read and review the Contract Documents and immediately bring to the attention of the Owner any error, omission, inconsistency, or ambiguity therein.
6. If a Bidder fails to indicate receipt of all Addenda through the last Addendum issued by the Owner on its Bid Form, the bid of such Bidder will be deemed to be responsive only if:
 - a. The bid received clearly indicates that the Bidder received the Addendum, such as where the Addendum added another item to be bid upon and the Bidder submitted a bid on that item; or
 - b. The Addendum involves only a matter of form or is one which has either no effect or has merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

O. INTERPRETATION

1. If a Bidder contemplating submitting a bid for the proposed Project is in doubt as to the true meaning of any part of the Contract Documents, it may submit a written request for an interpretation thereof to Matt Johnson of Palmer Engineering at mjohnson@palmernet.com and copying Vincent Dragich at vdragich@palmernet.com.
2. **Requests received fewer than 7 days prior to bid opening may not be answered.** Any interpretation of the proposed documents will be made by Addendum only, and a copy of such Addendum will be mailed or delivered to each Bidder receiving a set of Contract Documents and each plan room where the Contract Documents are maintained. The Owner will not be responsible for any other explanation or interpretation of the proposed documents.
3. In interpreting the Contract Documents, words describing materials that have a well-known technical or trade meaning, unless otherwise specifically defined in the Contract Documents, shall be construed in accordance with the well-known meaning recognized by the trade.
4. Bidders are responsible for notifying the Owner in a timely manner of any ambiguities, inconsistencies, errors, or omissions in the Contract Documents. The Bidder shall not, at any time after the execution of the Contract, be compensated for a claim alleging insufficient data, incomplete Contract Documents, or incorrectly assumed conditions

regarding the nature or character of the Work, if no request was made by the Bidder prior to the bid opening.

P. STATE SALES AND USE TAXES

1. The Owner is a political subdivision of the State of Ohio and is exempt from taxation under the Ohio Sales Tax and Use Tax Laws. Building materials that the successful Bidder purchases for incorporation into the Project will be exempt from state sales and use taxes if the successful Bidder provides a properly completed Ohio Department of Taxation Construction Contract Exemption Certificate to the vendors or suppliers when the materials are acquired. The Owner will execute properly completed certificates on request.

Q. DATE FOR SUBSTANTIAL COMPLETION / DATE FOR FINAL COMPLETION / LIQUIDATED DAMAGES

1. Dates for Substantial Completion. The Date of Substantial and Final Completion are listed in §3 of the Owner-Contractor Agreement.
2. Liquidated Damages.
 - a. Overall Project Substantial Completion. If the successful Bidder does not have its Work Substantially Complete by its Date for Substantial Completion or Finally Complete, the daily amounts of Liquidated Damages for Overall Project Substantial Completion are set forth in the tables included in the Owner-Contractor Agreement.
 - b. The Bidder acknowledges and agrees, by submitting its bid for the Work and entering into a Contract with the Owner, that such amounts of Liquidated Damages represent a reasonable estimate of the actual damages for loss of or interference with the intended use of the Project that the Owner would incur if the Bidder's Work is not Substantially Complete by its Date for Substantial Completion and/or not Finally Complete.

R. OWNER'S RIGHT TO WAIVE DEFECTS AND IRREGULARITIES

1. The Owner reserves the right to waive any and all irregularities provided that the defects and irregularities do not affect the amount of the bid in any material respect or otherwise give the Bidder a competitive advantage.

S. MODIFICATION/WITHDRAWAL OF BIDS

1. Modification. A Bidder may modify its bid by written communication to the Owner addressed to the Owner's Representative at any time prior to the scheduled closing time for receipt of bids, provided such written communication is received by Owner's Representative prior to the bid deadline. The written communication shall not reveal the bid price, but should provide the addition or subtraction or other modification so that the final prices or terms will not be known until the sealed bid is opened. If the Bidder's written instructions with the change in bid reveal the bid amount in any way prior to the bid opening, the bid may be rejected as non-responsive.
2. Withdrawal Prior to Bid Deadline. A Bidder may withdraw its bid at any time for any reason prior to the bid deadline for the opening of bids established in the Legal Notice. The request to withdraw shall be made in writing to and received by the Owner's Representative prior to the time of the bid opening.

3. Withdrawal after Bid Deadline.

- a. All bids shall remain valid and open for acceptance for a period of at least 60 days after the bid opening; provided, however, that a Bidder may withdraw its bid from consideration after the bid deadline when all of the following apply:
 - (1) the price bid was substantially lower than the other bids;
 - (2) the reason for the bid being substantially lower was a clerical mistake, rather than a mistake in judgment, and was due to an unintentional and substantial error in arithmetic or an unintentional omission of a substantial quantity of work, labor, or material;
 - (3) the bid was submitted in good faith; and
 - (4) the Bidder provides written notice to the Owner, to the attention of the Owner's Representative, within two (2) business days after the bid opening for which the right to withdraw is claimed.
- b. No bid may be withdrawn under this provision if the result would be the awarding of the contract on another bid for the bid package from which the Bidder is withdrawing its bid to the same Bidder.
- c. If a bid is withdrawn under this provision, the Owner may award the Contract to another Bidder determined by the Owner to be the lowest and best bidder or the Owner may reject all bids and advertise for other bids. In the event the Owner advertises for other bids, the withdrawing Bidder shall pay the costs incurred in connection with the rebidding by the Owner, including the cost of printing new Contract Documents, required advertising, and printing and mailing notices to prospective bidders, if the Owner finds that such costs would not have been incurred but for such withdrawal.

T. COMPLIANCE WITH APPLICABLE LAWS

- 1. By submitting a bid for Work on the Project, the Bidder acknowledges that it is in compliance with applicable federal, state, and local laws and regulations, including, but not limited to, the following:
 - a. Equal Employment Opportunity/Nondiscrimination. The Bidder agrees that if it is awarded a contract that in the hiring of employees for performance of work under the contract or any subcontract, neither it nor any subcontractor, or any person acting on its behalf or its subcontractor's behalf, by reason of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform work to which the employment relates. The Bidder further agrees that neither it nor any subcontractor or any person on its behalf or on behalf of any subcontractor, in any manner, shall discriminate against or intimidate any employees hired for the performance of the work under the contract on account of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color.
 - b. Ethics Laws. The Bidder represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and

3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

U. FINDINGS FOR RECOVERY

1. By submitting its bid, each Bidder certifies for reliance of the Owner that it has no unresolved finding for recovery against it issued by the Auditor of the State of Ohio on or after January 1, 2001, except as permitted by Section 9.24 (F) of the Ohio Revised Code.

V. PREVAILING WAGES

1. The prevailing wage rates of the Department of Labor (Davis-Bacon Act), as set forth in General Wage Decision **OH 20210001** (included in the Project Manual) apply to this project. The Labor Standards Provisions found at 29 CFR 5.5(a) also apply to this project, as well as provisions of the Contract Work Hours and Safety Standards Act at 29 CFR 5.5(b).

W. OTHER FEDERAL REQUIREMENTS

1. Federal Contract Provisions. The Owner will pay all or part of the compensation due to the Contractor using federal grant funding. Accordingly, the "Contract Provisions for Non-Federal Entity Contracts Using Federal Award" attached hereto shall apply and "Davis-Bacon Contract Provisions" attached hereto shall apply.

END OF INSTRUCTIONS TO BIDDERS

EXHIBIT 2

BID FORM

1.01 BID SUBMITTED BY:

(Contractor)

Date bid submitted: _____

1.02 DELIVER TO:

HOLMES PARK DISTRICT
ATTN: HOL County Trail Repair NO. 2
1 Trail Drive, Suite A
Millersburg, Ohio 44654

1.03 Having carefully reviewed the Instructions to Bidders, Drawings, Specifications and other Contract Documents for the Project titled **HOL County Trail Repair No. 2 (the "Project")** including having also received, read, and taken into account the following Addenda:

Addendum No.	Dated
_____	_____
_____	_____
_____	_____

and likewise having inspected the site and the conditions affecting and governing the Project, the undersigned hereby proposes to furnish all materials and to perform all labor, as specified and described in the said Specifications and/or as shown on the said Drawings for all Work necessary to complete the Project on a timely basis and in accordance with the Contract Documents regardless of whether expressly provided for in such Specifications and Drawings.

1.04 Before completing the Bid Form, the undersigned represents that it has carefully reviewed the Legal Notice to Bidders, Instructions to Bidders, this Bid Form, Form of Bid Guaranty and Contract Bond, Contractor's Affidavit (O.R.C. 5719.042), Non-Collusion Affidavit, Owner-Contractor Agreement, General Conditions of the Contract (Modified EJCDC C-700, 2018), Drawings, Project Specifications, and other Contract Documents. Failure to comply with provisions of the Contract Documents may be cause for disqualification of the bid.

1.05 BONDS AND CONTRACT: If the undersigned is notified of bid acceptance, it agrees to furnish required bonds as indicated in the Instructions to Bidders.

1.06 COMPLETION OF WORK: In submitting a bid, the undersigned agrees to execute the Owner-Contractor Agreement in the form included in the Contract Documents and to substantially complete its Work as required by the Contract Documents.

NOTE A: The wording of the Bid Form shall be used throughout, without change, alteration, or addition. Any change may cause it to be rejected.

NOTE B: Bidder is cautioned to bid only on the Brands or Standards specified.

2.01 BID:

Unit Pricing: Bidder is to include the cost of all labor and material for the Project in the Unit Prices Sheet, included as **Attachment 1** to the Bid Form. The Unit Prices Sheet shall be completed in accordance with the instructions in the Contract Documents, including, but not limited to, the Instructions to Bidders.

The Owner will verify the accurate mathematical totaling of all Bid amounts provided on the Unit Price Sheet(s). In the event there are any mathematical errors on the Bidder's Unit Price Sheet, as determined by Owner, each individual unit price will control over the Unit Price Total.

2.02 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Lump Sum – All work, including any Allowances but not including unit price work or alternates.

NA Dollars (\$0)
(Words) (Figures)

2.03 Alternates

Alternate 1: NA

ADD or DEDUCT (*circle whichever applies*) \$0
(Figures)

Total Alternate 1 Cost in Words: NA

Alternate 2: NA

ADD or DEDUCT (*circle whichever applies*) \$0
(Figures)

Total Alternate 2 Cost in Words: NA

2.04 Unit Prices

Unit Prices Total – All unit price work totaled from Attachment 1.

(Words) Dollars (\$)
(Figures)

3.01 INSTRUCTIONS FOR SIGNING

- A. The person signing for a sole proprietorship must be the sole proprietor or his authorized representative. The name of the sole proprietor must be shown below.
- B. The person signing for a partnership must be a partner or his authorized representative.
- C. The person signing for a corporation must be the president, vice president or other authorized representative; or he must show authority, by affidavit, to bind the corporation.
- D. The person signing for some other legal entity must show his authority, by affidavit, to bind the legal entity.

4.01 BIDDER CERTIFICATIONS. The Bidder hereby acknowledges that the following representations in this bid are material and not mere recitals:

1. **The Bidder acknowledges that this is a public project involving public funds, and that the Owner expects and requires that each successful Bidder adhere to the highest ethical and performance standards. The Bidder by submitting its bid pledges and agrees that (a) it will act at all times with absolute integrity and truthfulness in its dealings with the Owner and the Design Professional, (b) it will use its best efforts to cooperate with the Owner and the Design Professional and all other Contractors on the Project and at all times will act with professionalism and dignity in its dealings with the Owner, Design Professional and other Contractors, (c) it will assign only competent supervisors and workers to the Project, each of whom is fully qualified to perform the tasks that are assigned to him/her, and (d) it has read, understands and will comply with the terms of the Contract Documents.**
2. The Bidder represents that it has had a competent person carefully and diligently review each part of the Contract Documents, including any Divisions of the Specifications and parts of the Drawings that are not directly applicable to the Work on which the Bidder is submitting its bid. By submitting its bid, each Bidder represents and agrees, based upon its careful and diligent review of the Contract Documents, that it is not aware of any conflicts, inconsistencies, errors or omissions in the Contract Documents for which it has not notified the Owner in writing at least ten (10) days prior to the bid opening. If there are any such conflicts, inconsistencies, errors or omissions in the Contract Documents, the Bidder (i) will provide the labor, equipment or materials of the better quality or greater quantity of Work; and/or (ii) will comply with the more stringent requirements. The Bidder will not be entitled to any Change Order, additional compensation or additional time for any conflicts, inconsistencies, errors or omissions that would have been discovered by such careful and diligent review, unless it has given such prior written notice to Owner.
3. The Bidder represents that it has had a competent person carefully and diligently inspect and examine the entire site for the Project and the surrounding area, including all parts of the site applicable to the Work for which it is submitting its bid, and carefully correlate the results of the inspection with the requirements of the Contract Documents. The Bidder agrees that its bid shall include all costs attributable to site and surrounding area conditions that would have been discovered by such careful and diligent inspection and examination of the site and the surrounding area, and the Bidder shall not be entitled to

any Change Order, additional compensation, or additional time on account of conditions that could have been discovered by such an investigation.

4. The Bidder represents, understands and agrees that a) the Claim procedures in the General Conditions are material terms of the Contract Documents, b) if it has a Claim, it will have its personnel provide complete and accurate information to complete and submit the Statement of Claim form on a timely basis, c) the proper completion and timely submission of a Statement of Claim form is a condition precedent to any change in the Contract Sum or the Contract Time(s), and d) the proper and timely submission of the Statement of Claim form provides the Owner and the Design Professional with necessary information so that the Owner may investigate the Claim and mitigate its damages.
5. The Bidder represents that the bid contains the name of every person interested therein and is based upon the Standards specified by the Contract Documents.
6. The Bidder and each person signing on behalf of the Bidder certifies, and in the case of a bid by joint venture, each member thereof certifies as to such member's entity, under penalty of perjury, that to the best of the undersigned's knowledge and belief: (a) the Base Bid, any Unit Prices and any Alternate bid in the bid have been arrived at independently without collusion, consultation, communication or agreement, or for the purpose of restricting competition as to any matter relating to such Base Bid, Unit Prices or Alternate bid with any other Bidder; (b) unless otherwise required by law, the Base Bid, any Unit Prices and any Alternate bid in the bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the bid opening, directly or indirectly, to any other Bidder who would have any interest in the Base Bid, Unit Prices or Alternate bid; (c) no attempt has been made or will be made by the Bidder to induce any other Person to submit or not to submit a bid for the purpose of restricting competition; and (d) the statements made in this Bid Form are true and correct.
7. The Bidder will execute the form of Owner-Contractor Agreement in the form included with the Contract Documents, if a Contract is awarded on the basis of this bid, and if the Bidder does not execute the Owner-Contractor Agreement for any reason, other than as authorized by law, the Bidder and the Bidder's Surety are liable to the Owner.
8. The Bidder certifies that the upon the award of a Contract, the Contractor will ensure that all of the Contractor's employees, while working on the Project site, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
9. The Bidder agrees to furnish any information requested by the Design Professional or the Owner's authorized representative to evaluate that the Bidder has submitted the lowest responsible bid and that the bid is responsive to the specifications.
10. The Bidder certifies that it has no unresolved findings for recovery issued by the Auditor of State.
11. The Bidder certifies that it is aware of and in compliance with the requirements of Ohio Revised Code Section 3517.13 regarding campaign contributions.

LEGAL NAME OF BIDDER: _____

BIDDER IS (check one): ☐ sole proprietor ☐ partnership ☐ corporation ☐ other legal entity

NAME & TITLE OF PERSON LEGALLY AUTHORIZED TO BIND BIDDER TO A CONTRACT:

Name	Title
DATE SIGNED: _____	SIGNATURE: _____
	ADDRESS: _____

	TELEPHONE: _____
	FAX: _____
	FEDERAL TAX I.D. # _____

When the Bidder is a partnership or a joint venture, state name and address of each partner in the partnership or participant in the joint venture below:

_____	_____
_____	_____
Name	_____
_____	Address
_____	_____
_____	_____
Name	_____
_____	Address
_____	_____
_____	_____
Name	_____
_____	Address

Name

Name

Address

Address

ATTACHMENT 1
HOL COUNTY TRAIL REPAIR NO. 2
UNIT PRICE SHEET

Item	Item Description	Quantity	Unit	Unit Price	Total Price
253E01000	PAVEMENT REPAIR	895	SY		
254E01000	PAVEMENT PLANING, ASPHALT CONCRETE, 1.25"	10,570	SY		
254E01000	PAVEMENT PLANING, ASPHALT CONCRETE, 3.00"	8,928	SY		
407E10000	TACK COAT	2,024	GAL		
422E21000	AGGREGATE, DOUBLE CHIP SEAL	33,576	SY		
422E25000	EMULSION, CHIP SEAL	26,861	GAL		
423E00204	CRACK SEALING, TYPE II	1,250	SY		
441E70000	ASPHALT CONCRETE SURFACE COURSE, TYPE 1, (449), PG64-22	679	CY		
441E70300	ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE 2, (449)	434	CY		
642E00300	CENTER LINE, TYPE 1	7.59	MILE		
644E50100	PAVEMENT MARKNG, MISC.: NO HORSES THIS SIDE	3	EACH		
614E11001	MAINTAINING TRAFFIC, AS PER PLAN	1	LS		
623E10000	CONSTRUCTION LAYOUT STAKES AND SURVEYING	1	LS		
624E10000	MOBILIZATION	1	LS		

EXHIBIT 3

BID GUARANTY AND CONTRACT BOND (O.R.C. § 153.571)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____ ("Contractor") as principal and _____ as surety are hereby held and firmly bound unto the **Holmes Park District and Ohio Department of Transportation**, as obligee in the penal sum of the dollar amount of the bid submitted by the principal to the obligee on _____, 20____, to undertake the construction of the **HOL County Trail Repair No. 2** ("Project"). The penal sum referred to herein shall be the dollar amount of the principal's bid to the obligee, incorporating any additive or deductive Alternates made by the principal on the date referred to above to the obligee, which are accepted by the obligee. In no case shall the penal sum exceed the amount of _____ Dollars (\$_____). (If the foregoing blank is not filled in, the penal sum will be the full amount of the principal's bid, including add Alternates. Alternatively, if the blank is filled in the amount stated must not be less than the full amount of the bid including add Alternates, in dollars and cents. A percentage is not acceptable.) For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

Signed this _____ day of _____, 2025.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH that whereas the above named principal has submitted a bid for work on the Project.

Now, therefore, if the obligee accepts the bid of the principal and the principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material; and in the event the principal pays to the obligee the difference not to exceed ten percent (10%) of the penalty hereof between the amount specified in the bid and such larger amount for which the obligee may in good faith contract with the next lowest bidder to perform the work covered by the bid; or in the event the obligee does not award the contract to the next lowest bidder and resubmits the project for bidding, the principal pays to the obligee the difference not-to-exceed ten percent (10%) of the penalty hereof between the amount specified in the bid, or the costs, in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect; if the obligee accepts the bid of the principal and the principal within ten (10) days after the awarding of the contract enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of material, which said contract is made a part of this bond the same as though set forth herein.

Now also, if the said principal shall well and faithfully do and perform the things agreed by said principal to be done and performed according to the terms of said contract; and shall pay all lawful claims of subcontractors, materialmen, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said contract; we agreeing and assenting that this undertaking shall be for the benefit of any materialman or laborer having a just claim, as well as for the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; and surety shall indemnify the obligee against all damage suffered by failure of the principal to perform the contract according to its provisions and in accordance with the plans, details, specifications, and bills of material therefor and to pay all lawful claims of subcontractors, materialmen, and laborers for labor performed or material furnished in carrying forward, performing, or completing the contract and surety further agrees and assents that this undertaking is for the benefit of any subcontractor, materialman, or laborer having a just claim, as well as for the obligee; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications, omissions, or additions in or to the terms of the said contract or in or to the plans or specifications therefore shall in any wise affect the obligations of said surety on its bond, and does hereby waive notice of any such modifications, omissions or additions to the terms of the contract or to the work or to the specifications.

Signed and sealed this _____ day of _____, 20__.

PRINCIPAL

By: _____

Printed Name & Title: _____

SURETY

By: _____

Printed Name & Title: _____

Surety's Address: _____

Surety's Telephone Number: _____

Surety's Fax Number: _____

SURETY'S AGENT

Surety's Agent's Address: _____

Surety's Agent's Telephone Number: _____

Surety's Agent's Fax Number: _____

NOTE: The Contract Bond form that follows is to be used ONLY by a bidder that is awarded a contract and submits a form of bid guaranty other than the combined Bid Guaranty and Contract Bond with its bid. If a bidder submits a combined Bid Guaranty and Contract Bond, then the bid guaranty becomes the contract bond when the contract is awarded.

AIA Bid Bond or Payment and Performance Bond forms are not acceptable for this Project.

CONTRACT BOND
(O.R.C. § 153.57)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned ("Contractor"), as principal, and _____, as surety, are hereby held and firmly bound unto the **Holmes Park District and Ohio Department of Transportation** ("Owner") as obligee, in the penal sum of _____ Dollars (\$ _____), for the payment of which well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH that whereas, the above-named principal did on the _____ day of _____, 20____, enter into a contract with the Owner for construction of the _____ ("Project"), which said contract is made a part of this bond the same as though set forth herein:

Now, if the said Contractor shall well and faithfully do and perform the things agreed by the Contractor to be done and performed according to the terms of said contract; and shall pay all lawful claims of subcontractors, materialmen, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said contract; we agreeing and assenting that this undertaking shall be for the benefit of any materialman or laborer having a just claim, as well as for the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications, omissions, or additions in or to the terms of the said contract or in or to the plans or specifications therefore shall in any wise affect the obligations of said surety on its bond, and does hereby waive notice of any such modifications, omissions or additions to the terms of the contract or to the work or to the specifications.

Signed and sealed this _____ day of _____, 20____.

(PRINCIPAL)

(SURETY)

By: _____

By: _____

Printed Name & Title: _____

Printed Name & Title: _____

Surety's Address: _____

Surety's Telephone Number: _____

Surety's Fax Number: _____

NAME OF SURETY'S AGENT

Surety's Agent's Address: _____

Surety's Agent's Telephone Number: _____

Surety's Agent's Fax Number: _____

EXHIBIT 4

CONTRACTOR'S QUALIFICATION STATEMENT

SUBMITTED TO: Holmes Park District
1 Trail Drive, Suite A
Millersburg, Ohio 44654

SUBMITTED BY:

NAME:

ADDRESS:

PRINCIPAL OFFICE:

- ☐ Corporation
- ☐ Partnership
- ☐ Individual
- ☐ Joint Venture
- ☐ Other

NAME OF PROJECT:

1. ORGANIZATION

1.1 How many years has your organization been in business as a Contractor?

1.2 How many years has your organization been in business under its present business name?

1.2.1 Under what other or former names has your organization operated?

1.3 If your organization is a corporation, answer the following:

1.3.1 Date of incorporation:

1.3.2 State of incorporation:

1.3.3 President's name:

1.3.4 Vice President's name(s):

1.3.5 Secretary's name:

1.3.6 Treasurer's name:

1.4 If your organization is a partnership, answer the following:

1.4.1 Date of organization:

1.4.2 Type of partnership (if applicable):

1.4.3 Name(s) of general partner(s):

1.5 If your organization is individually owned, answer the following:

1.5.1 Date of organization:

1.5.2 Name of owner:

1.6 If the form of your organization is other than those listed above, describe it and name the principals:

2. LICENSING

2.1 List jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.

2.2 List jurisdictions in which your organization's partnership or trade name is filed.

3. EXPERIENCE

3.1 List the categories of work that your organization normally performs with its own forces.

3.2 Claims and Lawsuits (If the answer to any of the questions below is yes, please attach details.)

3.2.1 Has your organization ever failed to complete any work?

3.2.2 Within the last five (5) years has your organization or any of its officers prosecuted any Claims, had any Claims prosecuted against it or them, or been involved in or is currently involved in any mediation or arbitration proceedings or lawsuits suits related to any construction project, or has any judgments or awards outstanding against it or them? If the answer is yes, please attach the details for each Claim, including the names and telephone numbers of the persons who are parties, the amount of the Claim, the type of Claim and basis for the Claim, and the outcome.

Note: As used in this document "Claim" means a Claim initiated under the Contract Documents for a project.

3.3 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? If the answer is yes, please attach details for each instance, including the names and telephone numbers of the persons who are parties to the contract, and the reason(s) the contract was not completed.

3.4 On a separate sheet, list construction projects your organization has in progress with an original Contract Sum of more than \$100,000.00, giving the name of project, owner and its telephone number, design professional and its telephone number, contract amount, percent complete and scheduled completion date.

3.4.1 State total amount of work in progress and under contract:

3.5 Provide the following information for each contract your organization has had during the last five (5) years, including current contracts, where the Contract Sum is fifty percent (50%) or more of the bid amount for this Project, including add alternates. If there are more than ten (10) of these contracts only provide information on the most recent ten (10) contracts, including current contracts.

Project And Work	Contract Sum	Owner's Representative & Telephone Number	Engineer's Or Architect's Representative Name & Telephone Number

Project And Work	Contract Sum	Owner's Representative & Telephone Number	Engineer's Or Architect's Representative Name & Telephone Number

- 3.5.1 Provide the following information for each project your organization has had during the last five (5) years, which your organization believes is of comparable or greater size and complexity than the Owner's project. If there are more than five (5) of these projects, only provide information on the most recent five (5) projects, including current projects.

Project And Work	Contract Sum	Owner's Representative & Telephone Number	Engineer's Or Architect's Representative Name & Telephone Number

- 3.5.2 State average annual amount of construction work your organization has performed during the last five years.

- 3.5.3 If any of the following members of your organization's management--president, chairman of the board, or any director--operates or has operated another construction company during the last five (5) years, identify the member of management and the name of the construction company.

- 3.5.4 If your organization is operating under a trade name registration with the Secretary of State for the State of Ohio, identify the entity for which the trade name is registered. If none, state "none."

- 3.5.5. If your organization is a division or wholly-owned subsidiary of another entity or has another relationship with another entity, identify the entity of which it is a division or wholly-owned subsidiary or with which it has another relationship and also identify the nature of the relationship. If none, state "not applicable."

- 3.6 On a separate sheet, list the construction education, training and construction experience for each person who will fill a management role on the Project, including without limitation the Project Executive, Project Architect, Project Manager, and Project Superintendent.

For each person listed, include with the other information the last three projects on which the person worked and the name and telephone number of the Design Professional and the Owner.

4. REFERENCES

4.1 Trade References:

4.2 Bank References:

4.3 Surety:

4.3.1 Name of bonding company:

4.3.2 Name and address of agent:

5. FINANCING

5.1 Financial Statement

5.1.1 Attach a financial statement, preferably audited, including your organization's latest balance sheet and income statement showing the following items:

Current Assets (e.g., cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory and prepaid expenses);

Net Fixed Assets;

Other Assets;

Current Liabilities (e.g., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries and accrued payroll taxes); and

Other Liabilities (e.g., capital, capital stock, authorized and outstanding shares par values, earned surplus and retained earnings).

5.1.2 Name and address of firm preparing attached financial statement, and date thereof.

5.1.3 Is the attached financial statement for the identical organization named on page one?

5.1.4 If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent-subsiary).

5.2 Will the organization whose financial statement is attached act as guarantor of the contract for construction?

Certification. The undersigned certifies for the reliance of the Owner that after diligent investigation, to the best of the undersigned's belief, the information provided with this Contractor's Qualification Statement is true, accurate and not misleading.

SIGNATURE

Dated at this ____ day of _____, 20__.

Name of Organization: _____

By: _____[PRINT NAME]

Signature: _____

Title: _____

_____, being duly sworn, deposes and says that the information provided herein is true and sufficiently complete so as not to be misleading.

Subscribed and sworn before me this ____ day of _____ 20__. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public

My Commission Expires: _____

SEAL

EXHIBIT 5

NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY AFFIDAVIT (THIS AFFIDAVIT IS PART OF THE BID)

STATE OF _____ SS
COUNTY OF _____

_____ being first duly sworn, deposes and says that
he is _____ of _____ the part who
(Title) (Company)
made the foregoing proposal; that such party as bidder does not and shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, religion, handicap, familial status or national origin. If awarded the bid and contract under this proposal, said party shall take affirmative action to insure that applicants are employed and that employees are treated, during employment, without origin. If successful as the lowest and best bidder under the foregoing proposal, this party shall post non-discrimination notices in conspicuous places available to employees and applicants for employment setting forth the provisions of this affidavit.

Furthermore, said party agrees to abide by the assurance found in Section 153.54 of the Ohio Revised Code in the Contract Provisions with the Owner if selected as the successful bidder by the Owner.

Signature

Affiant

Company/Corporation

Address

City/State/Zip Code

Sworn to and subscribed before me this _____ day of _____, 20____. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

(Seal)

Notary Public

EXHIBIT 6

NON-COLLUSION AFFIDAVIT

State of Ohio)
) SS
County of _____)

Bid Identification _____

Contractor, _____, being first duly sworn, deposes
and says that he is _____ of _____
(sole owner, a partner, president, secretary, etc.)

the party making the foregoing bid; that such bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that said bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of said bidder or of any other bidder, or to fix any overhead, profit, or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in such bid are true; and, further that said bidder has not, directly or indirectly, submitted his bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to such person or persons as have a partnership or other financial interest with said bidder in his general business.

In accordance with Title 23 United States Code, Section 112 and Ohio Revised Code, Chapter 1331 et. seq: and Sections 2921.11 and 2921.13, the bidder hereby states, under penalty of perjury and under other such penalties as the law provides, that he or his agents or employees have not entered either directly or indirectly into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. Execution of this proposal on the signature portion thereof shall constitute also signature of this Non-Collusion Affidavit as permitted by title 28 United States Code, Section 1746.

SIGNED _____

TITLE _____

Subscribed and sworn to before me this _____ day of _____, 20____. The
notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with
regard to the notarial act certified to hereby.

(SEAL)

Notary Public

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



Endorsed By



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GUIDELINES FOR USE OF EJCDC® C-700, STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

1.0 PURPOSE AND INTENDED USE OF THE DOCUMENT

EJCDC® C-700, Standard General Conditions of the Construction Contract (2018), is the foundation document for the EJCDC Construction Series. The General Conditions define the basic rights, responsibilities, risk allocations, and contractual relationship of the Owner and Contractor, and establish how the Contract is to be administered.

2.0 OTHER DOCUMENTS

EJCDC documents are intended to be used as a system and changes in one EJCDC document may require a corresponding change in other documents. Other EJCDC documents may also serve as a reference to provide insight or guidance for the preparation of this document.

These General Conditions have been prepared for use with either EJCDC® C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price), or EJCDC® C-525, Agreement Between Owner and Contractor for Construction Contract (Cost-Plus-Fee) (2018 Editions). The provisions of the General Conditions and the Agreement are interrelated, and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018).

The full EJCDC Construction series of documents is discussed in the EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).

3.0 ORGANIZATION OF INFORMATION

All parties involved in a construction project benefit significantly from a standardized approach in the location of subject matter throughout the documents. Experience confirms the danger of addressing the same subject matter in more than one location; doing so frequently leads to confusion and unanticipated legal consequences. Careful attention should be given to the guidance provided in EJCDC® N-122/AIA® A521, Uniform Location of Subject Matter (2012 Edition) when preparing documents. EJCDC® N-122/AIA® A521 is available at no charge from the EJCDC website, www.ejcdc.org, and from the websites of EJCDC's sponsoring organizations.

If CSI MasterFormat™ is used for organizing the Project Manual, consult CSI MasterFormat™ for the appropriate document number (e.g., under 00 11 00, Advertisements and Invitations), and accordingly number the document and its pages.

4.0 EDITING THIS DOCUMENT

Remove these Guidelines for Use. Some users may also prefer to remove the two cover pages.

Although it is permissible to revise the Standard EJCDC Text of C-700 (the content beginning at page 1 and continuing to the end), it is common practice to leave the Standard EJCDC Text of C-700 intact and unaltered, with modifications and supplementation of C-700's provisions set forth in EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018). If the Standard Text itself is revised, the

user must comply with the terms of the License Agreement, Paragraph 4.0, Document-Specific Provisions, concerning the tracking or highlighting of revisions. The following is a summary of the relevant License Agreement provisions:

1. The term “Standard EJCDC Text” for C-700 refers to all text prepared by EJCDC in the main body of the document. Document covers, logos, footers, instructions, or copyright notices are not Standard EJCDC Text for this purpose.
2. During the drafting or negotiating process for C-700, it is important that the two contracting parties are both aware of any changes that have been made to the Standard EJCDC Text. Thus, if a draft or version of C-700 purports to be or appears to be an EJCDC document, the user must plainly show all changes to the Standard EJCDC Text, using “Track Changes” (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.
3. If C-700 has been revised or altered and is subsequently presented to third parties (such as potential bidders, grant agencies, lenders, or sureties) as an EJCDC document, then the changes to the Standard EJCDC Text must be shown, or the third parties must receive access to a version that shows the changes.
4. Once the document is ready to be finalized (and if applicable executed by the contracting parties), it is no longer necessary to continue to show changes to the Standard EJCDC Text. The user may produce a final version of the document in a format in which all changes are accepted, and the document at that point does not need to include any “Track Changes,” redline/strikeout, highlighting, or other indication of additions and deletions to the Standard EJCDC Text.

5.0 LICENSE AGREEMENT

This document is subject to the terms and conditions of the **License Agreement, 2018 EJCDC® Construction Series Documents**. A copy of the License Agreement was furnished at the time of purchase of this document, and is available for review at www.ejcdc.org and the websites of EJCDC’s sponsoring organizations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*
 - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by

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

- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
 - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
 - d. A demand for money or services by a third party is not a Claim.
- 11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
 - 12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
 - 13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
 - 14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
 - 15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
 - 16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
 - 17. *Cost of the Work*—See Paragraph 13.01 for definition.
 - 18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
 - 19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
 - 20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
 - 21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or

communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.
23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
 - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.

32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part

thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.

43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
 - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
 - c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

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

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - 1. does not conform to the Contract Documents;
 - 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
 - 1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 - 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 - 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.

- 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

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

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. *Evidence of Owner’s Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 2. a preliminary Schedule of Submittals; and
 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
 - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

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

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take

precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

- a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.

- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. Abnormal weather conditions;
 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
 3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

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

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

- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

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

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise;

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

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
 - 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
 - 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

- D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
 4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
 2. is of such a nature as to require a change in the Drawings or Specifications;
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

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

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

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

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

E. *Possible Price and Times Adjustments*

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

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

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

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 2. complying with applicable state and local utility damage prevention Laws and Regulations;
 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review:* Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
 2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
 3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
 4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written

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

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

F. *Possible Price and Times Adjustments*

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

5.06 *Hazardous Environmental Conditions at Site*

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

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

2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the

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

- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
 - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and

2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
 1. include at least the specific coverages required;
 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;

4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
 4. not seek contribution from insurance maintained by the additional insured; and
 5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.

- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
 - 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

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

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

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 “Or Equals”

- A. *Contractor’s Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an “or equal” item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
 - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) has a proven record of performance and availability of responsive service; and
 - 4) is not objectionable to Owner.
 - b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor’s Expense:* Contractor shall provide all data in support of any proposed “or equal” item at Contractor’s expense.
- C. *Engineer’s Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each “or-equal” request. Engineer may require Contractor to furnish additional data about the proposed “or-equal” item. Engineer will be the sole judge of acceptability. No “or-equal” item will be ordered, furnished, installed, or utilized until Engineer’s review is complete and Engineer determines that the proposed item is an “or-equal,” which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer’s Determination:* Neither approval nor denial of an “or-equal” request will result in any change in Contract Price. The Engineer’s denial of an “or-equal” request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.

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

7.06 *Substitutes*

- A. *Contractor’s Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in

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

- B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or

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

- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

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

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

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

7.09 *Permits*

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

7.10 *Taxes*

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

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to

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

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

7.12 *Record Documents*

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

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any

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

- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 Hazard Communication Programs

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

7.15 Emergencies

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

7.16 Submittals

A. Shop Drawing and Sample Requirements

1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.

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

1. Shop Drawings

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

2. Samples

- a. Contractor shall submit the number of Samples required in the Specifications.
- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer

may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.

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

C. Engineer's Review of Shop Drawings and Samples

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two

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

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

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

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.

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

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
 1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and

2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
1. Observations by Engineer;
 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. Use or occupancy of the Work or any part thereof by Owner;
 5. Any review and approval of a Shop Drawing or Sample submittal;
 6. The issuance of a notice of acceptability by Engineer;
 7. The end of the correction period established in Paragraph 15.08;
 8. Any inspection, test, or approval by others; or
 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

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

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

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

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.

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

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

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

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

1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.

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

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

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

9.02 *Replacement of Engineer*

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

9.03 *Furnish Data*

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

9.04 *Pay When Due*

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

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

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

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

9.07 *Change Orders*

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

9.08 *Inspections, Tests, and Approvals*

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

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

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

9.11 *Evidence of Financial Arrangements*

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

9.12 *Safety Programs*

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

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

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

10.02 *Visits to Site*

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

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

10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.
- E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

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

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

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

10.07 *Limitations on Engineer's Authority and Responsibilities*

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

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

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

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

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. If Owner has issued a Work Change Directive and:
1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving

- the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
 - C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit will be determined as follows:
 - 1. A mutually acceptable fixed fee; or
 - 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;

- c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
- d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
- f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

B. *Change Proposal Procedures*

1. *Submittal*: Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data*: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review*: Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
 4. *Engineer's Full Review and Action on the Change Proposal*: Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 *Notification to Surety*

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

ARTICLE 12—CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 - 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal

and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 Cost of the Work

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe

benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
 - c. *Construction Equipment Rental*
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment,

machinery, or parts must cease when the use thereof is no longer necessary for the Work.

- 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded*: The term Cost of the Work does not include any of the following items:
1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.

2. The cost of purchasing, renting, or furnishing small tools and hand tools.
3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
6. Expenses incurred in preparing and advancing Claims.
7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. Contractor's Fee

1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
 - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

- E. Documentation and Audit:** Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.
- E. *Adjustments in Unit Price*
 - 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

- b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 3. by manufacturers of equipment furnished under the Contract Documents;
 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved

by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then

Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.

- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
 - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. Review of Applications

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;

- c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

- e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - l. Other items entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.

2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment

bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as

to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
 - 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
 - 1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 - 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 - 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be

as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

EXHIBIT 8

CONTRACTOR'S PERSONAL PROPERTY TAX AFFIDAVIT (O.R.C. § 5719.042)

State of Ohio
County of Holmes, ss:

_____, being first duly sworn, deposes and says that he is the
(Name)

_____ of _____, with offices located at
(Title) (Contractor)

_____, and as its duly
(Address of Contractor)

authorized representative, states that effective this ____ day of _____, 20__,

(Name of Contractor)

() is charged with delinquent personal property taxes on the general list of personal property as set forth below:

<u>County</u>	<u>Amount</u> (include total amount penalties and interest thereon)
_____ County	\$ _____
_____ County	\$ _____
_____ County	\$ _____

() is not charged with delinquent personal property taxes on the general list of personal property in any Ohio county.

(Affiant)

Sworn to and subscribed this ____ day of _____, 20__. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

(Notary Public)

My commission expires

_____, 20__

EXHIBIT 9

STATEMENT OF CLAIM FORM

Claim No. ____ for Contractor

1. Name of Contractor: _____

2. Date written claim given: _____.

3. Contractor's representative to contact regarding the claim:

Name: _____ Title: _____

Telephone No. _____ (office) FAX No. _____

E-mail: _____

4. General description of claim:

5. Contract Documents. If the claim is based upon any part or provision in the Contract Documents, including but not limited to pages in the Drawings and/or paragraphs in the Specifications, Owner-Contractor Agreement, General Conditions or Supplementary General Conditions, state upon which parts or provisions the claim is based:

6. Delay claims:

6.1 Date delay commenced: _____

6.2 Duration or expected duration of the delay, if known: _____

6.3 Apparent cause of the delay and part of critical path affected:

6.4 Expected impact of the delay and recommendations for minimizing such impact:

7. Additional compensation. Set forth in detail all additional compensation to which the Contractor believes it is entitled with respect to this claim:

8. Instructions for Completing the Statement of Claim Form ("Instructions"). The Instructions are incorporated in this Form.

9. Truth of Claim. By submitting this claim, the Contractor and its representative certify that after conscientious and thorough review and to the best of his or her knowledge and belief a) the Contractor has complied fully with the Instructions, b) the information in this State of Claim is accurate, c) the Contractor is entitled to recover the compensation in paragraph 7, and d) the Contractor has not knowingly presented a false or fraudulent claim. The Contractor by its authorized representative must acknowledge this Statement of Claim before a notary public.

CONTRACTOR: _____

By: _____

Name and Title: _____

Date: _____

CONTRACTOR'S ACKNOWLEDGMENT

State of _____,

County of _____, ss:

_____ first being sworn, states that after conscientious and thorough review, the statements made in attached Statement of Claim Form are complete and true to the best of his or her knowledge and belief.

Sworn to before me a notary public by _____ on _____, 20___. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public

WHEN COMPLETED, FORWARD A COPY OF THIS NOTICE AND STATEMENT OF CLAIM FORM TO THE OWNER AND DESIGN PROFESSIONAL.

INSTRUCTIONS FOR COMPLETING THE STATEMENT OF CLAIM FORM

1. Completing the Statement of Claim Form ("Claim Form") is a material term of the Contract. The Claim Form tells the Owner and Design Professional that the Contractor is making a Claim and that they need to act promptly to mitigate the effects of the occurrence giving rise to the Claim. The Claim Form also provides them with information so that they can mitigate such effects. The Contractor acknowledges that constructive knowledge of the conditions giving rise to the Claim through job meetings, correspondence, site observations, etc. is inadequate notice, because knowledge of these conditions does not tell the Owner and Design Professional that the Contractor will be making a Claim and most often is incomplete.
2. If the space provided in the Claim Form is insufficient, the Contractor, as necessary to provide complete and detailed information, must attach pages to the Claim Form with the required information.
3. Paragraph 4. The Contractor must state what it wants, *i.e.*, time and/or compensation, and the reason why it is entitled to time and/or compensation.
4. Paragraph 5. The Contractor must identify the exact provisions of the Contract Documents it is relying on in making its Claim. For example, if the Claim is for a change in the scope of the Contractor's Work, the Contractor must identify the specific provisions of the Specifications, and the Plan sheets and details that provide the basis for the scope change.
5. Paragraph 6. This paragraph applies to delay claims, including delays that the Contractor believes result in constructive acceleration. The Contractor must identify the cause of the delay, party or parties responsible, and what the party did or did not do that caused the delay, *i.e.*, specific work activities. The Contractor acknowledges that general statements are not sufficient, and do not provide the Owner with sufficient information to exercise the remedies available to the Owner or to mitigate the effects of the delay.

For example, if the Contractor claims a slow response time on submittals caused a delay, the Contractor must identify the specific submittals, all relevant dates, and then show on the applicable schedule, by circling or highlighting, the activities immediately affected by the delays. Also for example, if the Contractor claims it was delayed by another Contractor, the Contractor must identify the delaying Contractor, specifically what the delaying Contractor did or did not do that caused the delay, and then show the applicable schedule, by circling or highlighting, the activities immediately affected by the delays. Further by example, if the Contractor seeks an extension of time for unusually severe weather, the Contractor must submit comparative weather data along with a record of the actual weather at the job site and job site conditions.

6. Paragraph 6.4. Time is of the essence under the Contract Documents. If there is a delay, it is important to know what can be done to minimize the impact of the delay. It therefore is important that the Contractor provide specific recommendations on how to do so.
7. Paragraph 7. The Contractor must provide a specific and detailed breakdown of the additional compensation it seeks to recover. For future compensation, the Contractor shall provide its best estimate of such compensation.
8. Paragraph 8 and Acknowledgment. By submitting this Claim, the Contractor and its representative certify that after conscientious and thorough review and to the best of his or her knowledge and belief a) the Contractor has complied fully with the Instructions, b) the information in this Claim Form is accurate, c) the Contractor is entitled to recover the compensation in paragraph 7, and d) the Contractor has not knowingly presented a false or fraudulent claim. The Contractor by its authorized representative must acknowledge this Statement of Claim before a notary public.

End of Instructions



Sales and Use Tax Construction Contract Exemption Certificate

Identification of Contract:

Contractee's (owner's) name _____

Exact location of job/project _____

Name of job/project as it appears
on contract documentation _____

The undersigned hereby certifies that the tangible personal property purchased under this exemption certificate is purchased exempt of the tax for incorporation into:

A building used exclusively for charitable purposes by a nonprofit organization operated exclusively for charitable purposes as defined in Ohio Revised Code (R.C.) section 5739.02(B)(12);	Real property that is owned, or will be accepted for ownership at the time of completion, by the United States government, its agencies, the state of Ohio or an Ohio political subdivision;
A horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock;	Real property under a construction contract with the United States government, its agencies, the state of Ohio, or an Ohio political subdivision;
The original construction of a sports facility under R.C. section 307.696;	A building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes;
A hospital facility entitled to exemption under R.C. section 140.08;	
A computer data center entitled to exemption under R.C. 122.175; ___ % exempt per OH Dept. of Development	A house of public worship or religious education;
A megaproject entitled to exemption as described in R.C. 5739.02(B)(13).	Building and construction materials and services sold for incorporation into real property comprising a convention center that qualifies for property tax exemption under R.C. 5709.084 (until one calendar year after the construction is completed).
Real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;	

The original of this certificate must be signed by the owner/contractee and/or government official and must be retained by the prime contractor. Copies must be maintained by the owner/contractee and all subcontractors. When copies are issued to suppliers when purchasing materials, each copy must be signed by the contractor or subcontractor making the purchase.

Prime Contractor

Name _____

Signed by _____

Title _____

Street address _____

City, state, ZIP code _____

Date _____

Subcontractor

Name _____

Signed by _____

Title _____

Street address _____

City, state, ZIP code _____

Date _____

Owner/Contractee

Name _____

Signed by _____

Title _____

Street address _____

City, state, ZIP code _____

Date _____

Political Subdivision

Name _____

Signed by _____

Title _____

Street address _____

City, state, ZIP code _____

Date _____

EXHIBIT 11

**CONTRACTOR'S WAIVER & RELEASE AFFIDAVIT
("AFFIDAVIT")**

Project: HOL County Trail Repair No. 2

The undersigned hereby acknowledges receipt of payment for all Work on the Project through the date of the prior Application for Payment by the **Holmes Park District** (the "Owner") with which it has a contract for the Project.

In return for said payment, and/or pursuant to certain contractual obligations of the undersigned, the undersigned hereby waives and releases any rights it has or may have through the date of the last Application for Payment to any and all types of claims relating to the Project, including without limitation claims of payment, Mechanic's Lien, stop notice, equitable lien, labor and material bond, breach of contract or unjust enrichment, or any other claim against the Owner, for any labor, materials, or equipment the undersigned may have delivered or provided to the Project, except for any Claims the undersigned has made by properly and timely submitting a Statement of Claim form. The undersigned further certifies that this Affidavit covers claims by all contractors, subcontractors, and suppliers who may have provided any labor, material, or equipment to the Project through the undersigned or at the undersigned's request. The undersigned acknowledges that all such contractors, subcontractors, sub-subcontractors and suppliers have signed an affidavit in the form of this Affidavit releasing any and all claims against the Owner, except for any Claims the undersigned has made by properly and timely submitting a Statement of Claim form. The undersigned hereby represents and warrants that it has paid any and all welfare, pension, vacation or other contributions required to be paid on account of the employment by the undersigned of any laborers on the Project.

This Affidavit is for the benefit of, and may be relied upon by the Owner. The undersigned hereby agrees to indemnify, defend and hold harmless each of the foregoing, the Project, work of improvement, and real property from any and all claims, or liens that are or should have been released in accordance with this Affidavit.

Company Name

Authorized Signature (Company Officer)

Title

Date

State of: _____ County of _____

Subscribed and sworn to before me this _____
day of _____. The notarial
act certified hereby is a jurat. An oath or affirmation was
administered to the signer with regard to the notarial act
certified to hereby.

Notary Public: _____

My Commission Expires: _____

EXHIBIT 12

SUBCONTRACTORS, SUPPLIERS WAIVER & RELEASE AFFIDAVIT ("AFFIDAVIT")

Project: HOL County Trail Repair No. 2

The undersigned hereby acknowledges receipt of payment for all Work on the Project through the following date _____, 20____, which is on or after the date of the prior Application for Payment by the Contractor ("Contractor") with which it has a contract.

In return for said payment, and/or pursuant to certain contractual obligations of the undersigned, the undersigned hereby waives and releases any rights it has or may have through the above date and to any and all types of claims relating to the Project, including without limitation claims of payment, Mechanic's Lien, stop notice, equitable lien, labor and material bond, breach of contract or unjust enrichment, or any other claim against the Contractor, the Contractor's surety, and/or the Holmes Park District (the "Owner"), for any labor, materials, or equipment the undersigned may have delivered or provided to the Project, except for any Claims the undersigned has made by properly and timely submitting a Statement of Claim form, a copy of which has been delivered to the Owner. The undersigned further certifies that this Affidavit covers claims through the above date by all contractors, subcontractors and suppliers who may have provided any labor, material, or equipment to the Project through the undersigned or at the undersigned's request. The undersigned acknowledges that all such contractors, subcontractors, sub-subcontractors and suppliers have signed an affidavit in the form of this Affidavit releasing any and all claims against the Contractor, the Contractor's surety, and/or the Owner, except for any Claims made by properly and timely submitting a Statement of Claim form a copy of which has been delivered to the Owner. The undersigned hereby represents and warrants that it has paid any and all welfare, pension, vacation or other contributions required to be paid on account of the employment by the undersigned of any laborers on the Project.

The undersigned agrees that upon receipt of the payment from the Contractor with respect to the Contractor's current Application for Payment, it shall, if applicable, immediately execute and cause to be filed or recorded a legally effective Satisfaction of Lien, Release of Lien, or any other legal instrument necessary to cause prejudicial dismissal and release of any lien, encumbrance, lawsuit, or other claim against the Contractor, the Contractor's surety and the Owner, the property where the Project is located, and/or any surety bond posted by the Contractor or the Owner to the extent of the foresaid payment. Upon request of the Contractor, the undersigned shall provide proof of having complied with this obligation.

This Affidavit is for the benefit of, and may be relied upon by, the Contractor, the Contractor's surety and the Owner. The undersigned hereby agrees to indemnify, defend and hold harmless each of the foregoing, the Project, its Work, and real property from any and all claims, or liens that are or should have been released in accordance with this Affidavit and from any liability, cost, or expense incurred as a result of any breach of this Affidavit by the undersigned.

Company Name

Authorized Signature (Company Officer)

Title

Date

State of: _____ County of _____

Subscribed and sworn to before me this _____
day of _____. The notarial
act certified hereby is a jurat. An oath or affirmation was
administered to the signer with regard to the notarial act
certified to hereby.

Notary Public: _____

My Commission Expires: _____

EXHIBIT 13

**CONTRACTOR'S AFFIDAVIT and CERTIFICATION WITH LIST OF SUBCONTRACTORS
AND SUPPLIERS WITH ANY AMOUNTS WITHHELD**

PROJECT:
HOL County Trail Repair No. 2

CONTRACTOR:

In Support of PAYMENT APPLICATION No.: _____

For the Period Through: _____

STATE OF _____ :
: SS,
COUNTY OF _____ :

The undersigned after first being sworn swears that a) 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; b) set forth below is a complete list of its Subcontractors and Suppliers; and c) set forth below is a complete description of all amounts withheld from any Subcontractor or Supplier and the reason why. Attach additional sheets if necessary.

Typed or Printed Name of Subcontractor or Supplier	Address of Subcontractor or Supplier	Telephone Number of Subcontractor or Supplier

WITHHOLDINGS FROM SUBCONTRACTORS AND/OR SUPPLIERS:

Typed or Printed Name of Subcontractor or Supplier	Amount Withheld	Reason for Withholding

Moreover, Contractor certifies that, except for as set forth immediately above, Contractor has paid all of its subcontractors and suppliers who were due to be paid with the proceeds of the prior Application for Payment and Contractor acknowledges that Owner is relying upon such certification when paying Contractor the amount asked for in the payment application that this Affidavit and Certification supports.

CONTRACTOR: [insert name]

BY:

(Signature of authorized representative)

NOTARY PUBLIC

Subscribed and sworn to before me on this date by _____ on behalf of _____.
The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Signature of Notary Public

Notary Public: _____

My Commission Expires: _____

EXHIBIT 14

CONTRACTOR'S FINAL WAIVER & RELEASE AFFIDAVIT ("AFFIDAVIT")

Project: HOL County Trail Repair No. 2 Project

In consideration for payment received from the Holmes Park District (the "Park District") in the amount requested in Contractor's Final Application for Payment to the Park District, the receipt of which is hereby acknowledged, the undersigned Contractor hereby waives and releases any rights it has or may have to any and all types of claims relating to the Project, including without limitation claims of payment, Mechanic's Lien, stop notice, equitable lien, labor and material bond, breach of contract or unjust enrichment, or any other claim against the Park District, for any labor, materials, or equipment the undersigned may have delivered or provided to the Project, except for any Claims the undersigned has made by properly and timely submitting a Statement of Claim form. The undersigned further certifies that this Affidavit covers claims by all contractors, subcontractors, and suppliers who may have provided any labor, material, or equipment to the Project through the undersigned or at the undersigned's request. The undersigned acknowledges that all such contractors, subcontractors, sub-subcontractors and suppliers have signed an affidavit in the form of this Affidavit releasing any and all claims against the Park District, except for any Claims the undersigned has made by properly and timely submitting a written statement of its Claim. The undersigned hereby represents and warrants that it has paid any and all welfare, pension, vacation or other contributions required to be paid on account of the employment by the undersigned of any laborers on the Project.

This Affidavit is for the benefit of, and may be relied upon by the Park District. The undersigned hereby agrees to indemnify, defend and hold harmless each of the foregoing, the Project, work of improvement, and real property from any and all claims, or liens that are or should have been released in accordance with this Affidavit.

_____	State of: _____ County of _____
Company Name	
_____	Subscribed and sworn to before me this _____
Authorized Signature (Company Officer)	day of _____
_____	Notary Public: _____
Title	My Commission Expires: _____

Date	

EXHIBIT 15

**SUBCONTRACTORS, SUPPLIERS
FINAL WAIVER & RELEASE AFFIDAVIT
("AFFIDAVIT")**

Project: HOL County Trail Repair No. 2

Upon receipt of payment in the amount of \$_____ received from _____ ("Prime Contractor") the undersigned Subcontractor or Supplier waives and relinquishes all rights of lien or claim that it may have either in law or equity (including but not limited to rights under Ohio Mechanics' Lien Laws, O.R.C. 1311.01 *et seq.*) with respect to the construction project known as _____ ("the Project"), for all labor, all equipment, and/or materials provided to or on behalf of the Project throughout its entirety, except for claims previously made pursuant to the agreement in place between Subcontractor or Supplier and Prime Contractor, and any lien previously perfected and remaining unreleased.

The undersigned Subcontractor or Supplier acknowledges and agrees that such payment represents final payment in full for all such labor, equipment and/or materials including retainage, if any, and that the Subcontractor or Supplier has completed its work on the Project. The undersigned Subcontractor or Supplier certifies that all amounts have been paid by the Subcontractor or Supplier for all work or materials furnished by others to the Subcontractor or Supplier for which the Subcontractor or Supplier has received previous payments from Prime Contractor, and Subcontractor or Supplier acknowledges that Prime Contractor is now making payment to the Subcontractor or Supplier in reliance upon such certification. The undersigned Subcontractor or Supplier further certifies that it will pay all amounts lawfully owing for all work or materials furnished by others to the Subcontractor or Supplier with the payment received from Contractor referenced herein.

This Affidavit is for the benefit of, and may be relied upon by, the Contractor, the Contractor's surety and the Owner. The undersigned hereby agrees to indemnify, defend and hold harmless each of the foregoing, the Project, its Work, and real property from any and all claims, or liens that are or should have been released in accordance with this Affidavit and from any liability, cost, or expense incurred as a result of any breach of this Affidavit by the undersigned.

IN WITNESS WHEREOF, the undersigned has caused this Affidavit to be executed by its authorized representative as of the date indicated below.

THE INDIVIDUAL SIGNING THIS AFFIDAVIT REPRESENTS THAT HE/SHE IS AUTHORIZED TO DO SO.

SUBCONTRACTOR OR SUPPLIER:

Company Name

Authorized Signature (Company Officer)

Title

Date

State of: _____ County of _____

Subscribed and sworn to before me this _____
day of _____. The notarial
act certified hereby is a jurat. An oath or affirmation was
administered to the signer with regard to the notarial act
certified to hereby.

Notary Public: _____

My Commission Expires: _____

**ODOT's LPA Template (ODOT Spec Book and LPA Spec Book)
Required Contract Provisions.**

1. ODOT'S 2023 CONSTRUCTION AND MATERIAL SPECIFICATIONS (C&MS) AND ITS SUPPLEMENTS

ODOT's Construction and Material Specifications (C&MS) and its supplements are hereby incorporated by reference, in their entirety, as if rewritten herein. **The incorporation of this document by reference does not interfere with the order of precedence set forth in Section 105.04 of the C&MS Manual.**

When bidding this project, the contractor should replace the terms "the department", "the engineer", "the DCE" and "the DCA" with the term "the Local Public Agency (LPA)." Furthermore, nothing in this document is intended to alter the LPA's adherence to Ohio Revised Code, local ordinance or other applicable requirements which are properly established.

2. PN 100 FOR LPA PROJECTS

PN 100 outlines general provisions to a construction contract. Local public agencies (LPAs) may choose to incorporate this document to include LPA specific preferences.

PN 100 is included in the contract ☐

PN 100 is not included in the contract ☒

3. PN 133 – 10/20/2023 – Products Made in the United States

The requirements of this note replace the domestic material requirements in 106.09 of the Construction & Material Specifications.

This note is automatically inserted into all projects that have federal funding in the construction phase or any prior phase. If there was federal participation in environmental studies, right of way acquisition, preliminary engineering or other phase defined in the environmental document, this note should be included in the proposal.

Furnish products that are made in the United States according to the applicable provisions of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, which includes the Build America, Buy America Act Pub. L. 117-58, §§ 70901-52.

A. Federal Requirements. All steel or iron products incorporated permanently into the Work must be made of steel or iron produced in the United States and all subsequent manufacturing must be performed in the United States. Manufacturing is any process that modifies the chemical content; physical shape or size; or final finish of a product. Manufacturing begins with the initial melting and mixing and continues through the bending and coating stages. If a domestic product is taken out of the United States for any process, it becomes a foreign source material.

All construction materials must be manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

"Construction materials" includes an article, material, or supply—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 is or consists primarily of:

- Non-ferrous metals;

- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- Glass (including optic glass);
- Fiber optic cable (including drop cable);
- Optical fiber;
- Lumber;
- Engineered wood; and
- Drywall.

To provide clarity to item, product, and material manufacturers and processors, we note that items that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.

All manufactured products used in the project are not required to be produced in the United States.

B. Exceptions. The Director may grant specific written permission to use non-domestic steel or iron products in any type of construction in accordance with 23 CFR 635.410(b)(4). The Director may grant such exceptions under the following condition:

- The cost of products to be used does not exceed 0.1 percent of the total Contract cost, or \$2,500, whichever is greater. The cost is the value of the product as delivered to the project.

The Director may grant specific written permission to use non-domestic construction materials and manufactured products in any type of construction in accordance with 2 CFR Part 184. The Director may grant such exceptions under the following conditions:

- The total value of the non-compliant products is no more than the lesser of \$1,000,000 or 5% of total applicable costs for the project; or
 - applicable costs are defined as the cost of materials (including the cost of any manufactured products) used in the project that are subject to a domestic preference requirement
 - the actual cost of the materials, not the anticipated cost of those materials.
- The total amount of the Federal funding applied to the project, through awards or subawards, is below \$500,000;

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

C. Proof of Domestic Origin. Furnish certification to the Engineer showing the domestic origin of all products covered by this section before they are incorporated into the Work. The Daily Source Report form itself is not acceptable certification of domestic origin. Non-domestic product(s) incorporated into the Work does not relieve the Contractor of any responsibility to correct the Work up to and including removal and replacement of the non-domestic product(s). Products without a traceable domestic origin will be treated as a non-domestic product.

4. CERTIFICATION AGAINST DEBARMENT AND SUSPENSION

The bidder hereby certifies by signing this proposal that, except as noted below, under penalty of perjury and under other such penalties as the laws of this state and the United States of America provide, that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds is **not** currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency; that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds has **not** been suspended, debarred, voluntarily excluded or determined ineligible by any

federal agency within the past three (3) years; that the company or any person associated therewith in the capacity of owner, partner, director, manager, auditor, or any position involving the administration of federal funds does **not** have a proposed debarment pending; that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator has **not** been indicted, convicted, or had a civil judgment rendered against the company or themselves by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

If there are exceptions to any of the above clauses, please include a statement with the bid package detailing these exceptions.

Exceptions will not necessarily result in denial of award but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, initiating agency and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. Execution of this proposal on the signature portion thereof shall also constitute signature of this certification as permitted by Title 28 United States Code, Section 1746.

5. PREQUALIFICATION

Only prequalified contractors are eligible to submit bids for this project. Prequalification status must be in force **at the time of bid, at the time of award, and through the life of the construction contract**. For work types that ODOT does not prequalify, the LPA must still select a qualified contractor. Subcontractors are not subject to the prequalification requirement. The “prime” contractor must perform no less than 30 percent of the total original contract price.

6. PN 033 - 4/18/2008- AS PER PLAN DESIGNATION

(Not required by FHWA, but strongly suggested if As Per Plan is used by the LPA)

The “As Per Plan” designation is sometimes added to item descriptions in the proposal to assist contractors with easily identifying standard items that have been altered by plan notes.

The “As Per Plan” designation has proven to be a very useful tool for the contractors. However, its use was never intended to relieve the contractors of their responsibility to read, bid, and construct all items in accordance with all governing plan notes. Therefore, the absence of an “As Per Plan” designation on some item descriptions in the proposal for which there are clear and controlling plan notes does not relieve the contractors of the responsibility to read, bid, and construct those particular items in accordance with the governing plan notes.

Be advised that the item descriptions in the bidding proposal must be read or interpreted with the governing plan notes and the Construction and Material Specification Manual. A claim based upon an “order of precedence” basis will be denied. In the event that a conflict, either real or perceived, exists between the item description and the governing plan note, the contractors are to request clarification through the pre-bid process.

7. FEDERALLY REQUIRED EQUAL EMPLOYMENT OPPORTUNITY (EEO) CERTIFICATION FORM

The bidder hereby certifies that he or she **has**, **has not**, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he or she **has**, **has not**, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements. The bidder must circle the appropriate “has” or “has not” above.

8. PN 017 - 10/15/2004 - FEDERALLY REQUIRED EEO CERTIFICATION CLAUSE

The Federally Required EEO Certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)) and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

9. PN 026 - 10/15/2004 - CERTIFICATION OF NON-SEGREGATED FACILITIES

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

"Notice to Prospective Subcontractors and Material Suppliers of Requirement for Certification of Non-segregated Facilities" -

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

The LPA, under Title VI of the Civil Rights Act and related statutes, ensures that no person within the LPA shall on the grounds of race, color, national origin, sex, disability, or age be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers.

11. CERTIFICATION OF COMPLIANCE

In accordance with Ohio Revised Code §9.47, before any Contract is awarded, the LPA will require the Bidder to furnish a valid Certificate of Compliance issued by the State EEO Coordinator dated prior to the date fixed for the opening of bids.

12. PN 059 - 10/15/2004 - WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
 - * An existing published wage determination
 - * A survey underlying a wage determination
 - * A Wage and Hour Division letter setting forth a position on a wage determination matter
 - * A conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response for this initial contact is not satisfactory, the process described in 2.) and 3.) should be followed.

Regarding any other matter not yet ready for the formal process described within this section, initial contact should be made with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determination
Wage and Hour Division
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D. C. 20210

- 2.) If the answer to the question in 1.) is yes, an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (see 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D. C. 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 requester 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, D. C. 20210

- 4.) All decisions by the Administrative Review Board are final.

13. PN 061 –10/22/2012- WAGE SCALE ON ALL FEDERAL-AID PROJECTS

The wage rates for this project were determined by the Secretary of Labor in accordance with Federal-Aid requirements. The LPA must formally incorporate them into the contract documents.

Contractors shall use only the classifications and wage rates set forth in the United States Department of Labor (USDOL) wage decision found at the website noted below on payrolls submitted to the ODOT District Office. Additionally, please note that the wage modification in effect at the time of the project sale date shall be used by all contractors.

This USDOL wage decision may be viewed by accessing the United States Department of Labor (USDOL) website at:

<https://sam.gov/content/wage-determinations>

This contract requires the payment of the total of the basic hourly rates plus the fringe benefits payments for each classification in accordance with the following regulations which by reference are made part of this contract:

- 1) The U.S. Department of Labor Regulations, Title 29, Subtitle A, Part 5, Sections 5.5, 5.31, and 5.32, most recent revision at contract execution.
- 2) The portions of Form FHWA-1273 (most recent revision at contract execution) relating to Payment of Predetermined Minimum Wage and Statements and Payrolls. (Form FHWA-1273 shall be physically incorporated in all contracts, subcontracts, and lower-tier subcontracts.)

The failure to pay prevailing wages to all laborers and mechanics employed on this project shall be considered a breach of contract. Such a failure may result in the termination of the contract and debarment.

The contractor and all subcontractors shall pay all wages and fringe benefits by company funds transfer or legal tender. All payroll records and company funds transfer transactions or legal tender transactions shall be maintained for at least three (3) years after final acceptance as defined in Section 109.12 of the ODOT C&MS. The contractor's and all subcontractor's payroll records and canceled pay checks shall be made available for inspection by the Department and the U.S. Department of Labor, upon request, anytime during the life of the contract, and for three (3) years thereafter by the U.S. Department of Labor. Additionally, the contractor and all subcontractors shall permit such representatives to interview any employees during working hours while the employee is on the job.

The wage and fringe rates determined for this project shall be posted by the contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers.

The contractor and all subcontractors shall submit to the District Construction Office certified payrolls each week beginning three (3) weeks after the start of work. These payrolls shall be on a Form WH-347 or equivalent and shall show the following:

- 1) Employee name, address, classification, and hours worked.
- 2) The basic hourly and overtime rate paid, total pay, and the manner in which fringe benefit payments have been irrevocably made.
- 3) The project number and pay week dates.
- 4) Original signature of a company officer on the certification statement.

Additionally, a copy of the "Apprentice Certification" obtained from the Ohio State Apprenticeship Council must accompany all certified payrolls submitted for all apprentices working on this project.

Please be aware it is ultimately the responsibility of the contractor to ensure all laws relating to prevailing wages in the USDOL Regulations, Title 29, parts 1 and 5, are strictly adhered to by all subcontractors on the project.

If the contractor or any subcontractor fails to comply with any of the provisions contained in this proposal note, the Department may terminate the contract, ⁶debar the contractor or subcontractor, and/or withhold or suspend pay estimates after written notice and a reasonable opportunity to comply has been provided.

The applicable wage and fringe rates for this project are to be incorporated in their entirety as an attachment to the executed contract.

14. LIMITATION ON USE OF CONTRACT FUNDS FOR LOBBYING

- A. The prospective bidder certifies, by signing and submitting this bid proposal, to the best of his or her knowledge and belief that:
1. 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.
 2. 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.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. The prospective bidder also agrees by submitting his or her bid proposal that he or she shall require the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subcontractors shall certify and disclose accordingly.

15. PN 045 - 10/15/2004 - NON -COLLUSION AFFIDAVIT

In accordance with Title 23 USC, Section 112 and ORC, Chapter 1331 et. seq: and Sections 2921.11 and 2921.13, the bidder hereby states, under penalty of perjury and under other such penalties as the law provides, that he/she or his/her agents or employees have not entered, either directly or indirectly, into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. Execution of this proposal on the signature portion thereof shall also constitute signature of this Non-Collusion Affidavit as permitted by title 28 USC, Section 1746.

REPORTING BID RIGGING

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

16. PN 014 - 10/15/2004 - DRUG-FREE WORKPLACE

The prime contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace. The prime contractor shall make a good faith effort to ensure that all its employees while working on this project will not purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

The prime contractor shall also require this contractual obligation be placed in all subcontractor and materialman contracts it enters into and further requires all subcontractors and materialmen place the same contractual obligations in each of their lower-tier contracts.

17. PN 034 - 05/25/2011 – DRUG FREE SAFETY PROGRAM

During the life of this project, the contractor and all its subcontractors who provide labor on the project site must be enrolled in and remain in good standing in the Ohio Bureau of Worker's Compensation (OBWC) Drug-Free Safety Program (DFSP) or a comparable program approved by the OBWC.

In addition to being enrolled in and in good standing in an OBWC-approved DFSP or a comparable Drug Free Workplace Program (DFWP) approved by the OBWC, the LPA requires each contractor and subcontractor that provides labor to subject its employees who perform labor on the project site to random drug testing of five (5) percent of its employees. The random drug testing percentage must also include the on-site supervisors of the contractors and subcontractors. Upon request, the contractor and subcontractor shall provide evidence of required testing to the LPA.

Each subcontractor shall require all lower-tier subcontractors who provide labor on the project site with whom the subcontractor is in contract for the work to be enrolled in and be in good standing in the OBWC DFSP or an OBWC-approved DFWP prior to a lower-tier subcontractor providing labor at the site.

The LPA will declare a bid non-responsive and ineligible for award if the contractor is not enrolled in and in good standing in the OBWC's DFSP Discount Program or a similar program approved by the OBWC within eight (8) days of the bid opening. Furthermore, the LPA will deny all requests to sublet when the subcontractor does not comply with the provisions of this proposal note.

Failure of the contractor to require a subcontractor to be enrolled in and be in good standing in the OBWC DFSP or an OBWC-approved DFWP prior to the time the subcontractor provides labor at the site shall result in the contractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that contractor or the subcontractor who was not enrolled in a program for future contracts with the State for five (5) years after the date of the breach.

18. OHIO WORKERS' COMPENSATION COVERAGE

The contractor must secure and maintain valid Ohio workers' compensation coverage until the project has been finally accepted by ODOT. A certificate of coverage evidencing valid workers' compensation coverage must be submitted to the LPA before the contract will be executed by the LPA.

The contractor must immediately notify the LPA in writing if it or any subcontractor fails or refuses to renew their workers' compensation coverage. Furthermore, the contractor must notify the LPA in writing if its or any of its subcontractor's workers' compensation policies are canceled, terminated, or lapse.

The failure to maintain valid workers' compensation coverage shall be considered a breach of contract which may result in the contractor or subcontractor being removed from the project, withholding of pay estimates, and/or termination of the contract.

19. PN 038 - 10/15/2004 - UNRESOLVED FINDING FOR RECOVERY

The contractor affirmatively represents to the LPA that it is not subject to a finding for recovery under ORC §9.24, or that it has taken the appropriate remedial steps required under §9.24 or otherwise qualifies under that section. The contractor agrees that if this representation is deemed to be false, the contract shall be void ab initio as between the parties to this contract, and any funds paid by the state hereunder shall be immediately

repaid to the LPA, or an action for recovery may be immediately commenced by the LPA and/or for recovery of said funds.

20. PN 039 - 10/15/2004 - ASSIGNMENT OF ANTITRUST CLAIMS IN STATE CONTRACT LANGUAGE

The contractor should recognize that in actual economic practice, overcharges resulting from antitrust violations are usually borne by ODOT and/or the LPA. As consideration for the Award of the Contract and intent to be legally bound, the contractor acting herein by and through the person signing this contract on behalf of the contractor as a duly authorized agent, hereby assigns, sells, conveys, and transfers to ODOT and/or the LPA any and all right, title, and interest to any and all claims and causes of action the contractor now has or hereafter requires under state or federal antitrust laws provided the claims or causes of action related to the goods or services are the subject to the contract. In addition, the contractor warrants and represents that it will require all of its subcontractors and first-tier suppliers to assign all federal and state antitrust claims and causes of action to ODOT and/or the LPA. The provisions of this article shall become effective at the time the LPA executes this contract without further acknowledgment by any of the parties.

All contracting entities shall assign their rights and responsibilities to ODOT and/or the LPA for all antitrust claims and causes of action regarding subcontractors.

21. PN 024 – 04/21/2006 – US ARMY CORPS OF ENGINEERS AND OHIO ENVIRONMENTAL PROTECTION AGENCY PERMITS

The above referenced permits are incorporated and made a part of this contract as special provisions incorporated herein. Therefore, in the event the contractor or its agents refuse or fail to adhere to the requirements of the US Army Corps of Engineers 404 Permit and/or the Ohio Environmental Protection Agency's 401 Water Quality Certification and an assessment or fine is made or levied against ODOT and/or the LPA, the contractor shall reimburse the Department within thirty (30) calendar days of the notice of assessment or fine, or the Department may withhold the amount of the fine from the contractor's next pay estimate. All money collected or withheld from the contractor shall be delivered to the permitting agencies issuing the assessment or fine.

These fines are not to be construed as a penalty but are liquidated damages to recover costs assessed against the Department due to the contractor's refusal or failure to comply with the permits.

22. PN 007 – 1/31/2021- DBE TRUCKING

Title 49 CFR Section 26.55(d)(4)(5)(6) governs trucking operations.

The Disadvantaged Business Enterprise (DBE) trucking firm must be able to quote and negotiate its own prices. The DBE trucking firm must also provide a quote for each project on which the firm is to be utilized toward the project DBE goal.

The DBE will be responsible for the management and supervision of their trucking operation on each contract. A DBE is not performing a Commercially Useful Function (CUF) if the contract exists for the purpose of creating the appearance of DBE participation.

The DBE must own and operate at least one fully licensed, insured, and operational truck used on the contract.

The DBE receives credit for the total value of the transportation services the DBE provides on the contract using trucks the DBE owns, insures, and operates using drivers it employs (not 1099/independent contractors).

The DBE may lease trucks on a long-term basis (a year or more) and receive full DBE credit as long as employees of the DBE operate the truck.

A lease must indicate the DBE has exclusive use of and control over the truck, including responsibility of maintenance and insurance. This does not preclude the leased truck from working for others during the term of the lease with the DBE's consent as long as the lease gives the DBE absolute priority for use of the leased

truck. Leased trucks must display the DBE's name and identification number as well.

The DBE must carry a copy of the lease agreement in the leased truck when working onsite.

Truck Monitoring:

Credit for expenditures with DBEs for materials or supplies toward the DBE goal is described as follows:

1. A DBE firm may be a regular dealer in bulk items such as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementation of a regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
2. When the materials or supplies are obtained from a DBE Materials and Supplies Vendor (MSV) manufacturer the prime contractor may receive credit for 100 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
3. When the materials or supplies are purchased from a DBE MSV regular dealer or supplier, the prime contractor may receive credit for up to 60 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a regular dealer or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Historically, 60% of the cost of materials and supplies purchased from a DBE MSV (100% from a DBE MSV manufacturer) would normally be counted toward DBE goals. Effective September 1, 2018:

- Prime contractors must obtain information about the method of procurement for each item to be procured from a DBE MSV. The DBE Affirmation Form has been modified to accommodate this information.
- To be eligible to receive 100% credit toward DBE goals for a materials and supplies subcontract:
 - The DBE MSV must be certified with the correct (manufacturer) NAICS code for the item
 - The DBE MSV must be certified with the correct descriptor for the item
 - The role the DBE MSV will play on the specific procurement in question must be consistent with the manufacture of the item, as indicated by the information provided by the DBE MSV
- To be eligible to receive 60% credit toward DBE goals for a materials and supplies subcontract:
 - The DBE MSV must be certified with the correct (wholesale or retail) NAICS code for the item
 - The DBE MSV must be certified with the correct descriptor for the item
 - The role the DBE MSV will play on the specific procurement in question must be consistent with the regular sale or lease of the item, as indicated by the information provided by the DBE MSV
 - The item must not be drop-shipped
- The above scenario applies to both bulk items (petroleum products, steel, cement, gravel, stone, asphalt, and others that ODOT may consider to be bulk items) and non-bulk items. For bulk items, there is an additional scenario whereby a contract with a DBE MSV could receive 60% credit. To be eligible to receive 60% credit toward DBE goals for a bulk item materials and supplies subcontract:
 - The DBE MSV must be certified with the correct (wholesale or retail and trucking) NAICS codes for the item
 - The DBE MSV must be certified with the correct descriptor for the item

- The role the DBE MSV will play on the specific procurement in question must be consistent with the regular sale or lease of the item, as indicated by the information provided by the DBE MSV
 - The DBE MSV must deliver the bulk item from a non-DBE vendor to the prime contractor using distribution equipment that it both owns [or for which it has a long-term (1 year or more) lease] and operates with its regular (not ad hoc) employees
- If not eligible for 100% or 60% credit, an item may still be eligible for credit toward DBE goals, but only for the fee or commission the DBE MSV receives for its services, and only if the following additional criteria are met:
- The DBE MSV must be certified with NAICS code 425120 Wholesale Trade Agents and Brokers
 - The DBE MSV must convincingly explain how the prime contractor benefits by transacting business with it rather than directly with the non-DBE vendor from which the DBE MSV is re-selling
- The usual good faith efforts process applies.
- All credit toward DBE goals is conditional. Actual credit will be determined based upon invoices, receipts, and/or transportation documents/bills of lading, which must be submitted to ODOT as they are received throughout the course of the project.

DBE TRUCKING DISCLOSURE AFFIDAVIT

In order to ensure the prime contractors are monitoring DBE trucking/hauling operations on projects with federal funding, prime contractors must complete the DBE Trucking Disclosure Affidavits Section (“Affidavit”) when completing and submitting the Prompt Payment Spreadsheet for reimbursement. The Affidavit will be completed by the prime contractor on the Prompt Payment Spreadsheet and, once submitted, will be routed to the project’s SharePoint site. This information will be used to affirm DBE and non-DBE trucking utilized by each DBE firm performing those duties during the previous month. The LPA and ODOT will monitor trucking with the following requirements for all Local-let projects:

- Prime contractors will be required to provide a master list of all anticipated DBE trucking firms to the District Construction Monitor (DCM) at the time of the Pre-Construction Meeting.
- If no DBE trucking is anticipated on a project, the prime contractor will check the box “No Anticipated DBE Trucking Affidavit” on the first submittal of the Prompt Payment Spreadsheet. If DBE trucking/hauling does occur, the prime contractor must notify the LPA within seven (7) days of the DBE trucking activity. The prime contractor will then complete the Affidavits as required below on each Prompt Payment Spreadsheet.
- Prime contractors will be required to complete the Affidavit disclosing the DBE trucking operations during the previous month when completing the new Prompt Payment Spreadsheet. The prime contractor will complete the Trucking Affidavit section on the Prompt Payment Spreadsheet on each reimbursement submittal. The prime contractor will select one of the following options on the Trucking Affidavit section of the form.
- The DBE firm performed trucking by utilizing their own equipment and workforce and/or work was subcontracted to another DBE (i.e., only trucking that can be counted for DBE participation was utilized).
 - No other information is required. The prime contractor will sign and submit the Affidavit.
 - The DBE firm utilized DBE & Non-DBE trucking.
 - If selected, the prime contractor will provide a list of non-DBE trucking that was utilized (i.e., not all trucking will earn DBE credit).
 - No trucking was performed.
 - No other information is required. The prime contractor will sign and submit the Affidavit.

- The DCM will perform a check of the Affidavit when reviewing the Prompt Payment Spreadsheet when submitted for reimbursement. The LPA and/or Compliance Managers will follow up on any red flags. For example, if the LPA compares information collected during the CUF process with the affidavit and sees any discrepancies. ([Prompt Payment, DBE Tracking and CUF | Ohio Department of Transportation](#))
- Trucking will continue to be monitored at project sites by construction field staff and the LPAs.

SANCTIONS AND ADMINISTRATIVE REMEDIES

Failure by the prime contractor to follow the DBE Trucking Disclosure Affidavit requirements may result in the issuance of sanctions as follows:

- 1st Level Occurrence: The Department will issue a Letter of Reprimand to the contractor (applies if there is a failure to submit the Affidavits and/or the Affidavits are not submitted timely; if the prime contractor completes the No Anticipated DBE Trucking Affidavit, utilizes DBE trucking, and does not notify the LPA within seven (7) days of the activity).
- 2nd Level Occurrence: The Department may withhold an estimate in the amount due to the DBE trucking firm the Affidavit was not submitted for (applies if there is a failure to submit the Affidavits and/or the Affidavits are not submitted timely; if the prime contractor completes the No Anticipated DBE Trucking Affidavit, utilizes DBE trucking and does not notify the LPA within seven (7) days of the activity).
- 3rd Level Occurrence: If a pattern of not submitting the Affidavit(s) persists or the contractor has falsified, misrepresented, or withheld information; ODOT can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- The contractor's past project practices,
- The magnitude and the type of offense,
- The degree of the contractor's culpability,
- Any steps taken to rectify,
- The contractor's record of performance on other projects, and
- The number of times the contractor has been previously sanctioned by ODOT.

DBE MSV DIRECTORY - <http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/DBE-Directory.aspx> (select MSV only)

DBE AFFIRMATION FORM - The new DBE Affirmation Form is now available at [DBE Affirmation Form - Projects Sold on or after 9/1/18 | Ohio Department of Transportation](#).

Opening Prompt Payment (PP) Spreadsheet (Trucking Affidavit Section on PP Spreadsheet) through GoFormz:

1. Obtain a MyODOT account
 - a. Click [Link](#)
 - b. Click "Request an Account."
 - c. Review instructions under "Request an Account."
 - d. Go to <http://myodot.dot.state.oh.us/> to complete account application.
2. Getting GoFormz Access
 - a. Email GoFormz.Help@dot.ohio.gov put Create GoFormz Account in the subject line
 - b. Login for GoFormz will be emailed back
 - c. Click www.goformz.com

Additional guidance can be found at [GoFormzEndUserGuide.docx](#)

23. PN 013 – 10/20/23 DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION PLAN AND GOOD FAITH EFFORTS – LPA Projects

DEFINITION OF DAYS

Unless otherwise noted, *days* means calendar days, but in computing any period of time described in this proposal note, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal or State holiday. See <https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays> for a list of Federal holidays. State holidays are those designated in division (A) of section 124.19 of the Revised Code (<https://codes.ohio.gov/ohio-revised-code/section-124.19>), with modifications as designated in the first two sentences of division (B)(4) of section 124.18 of the Revised Code (<https://codes.ohio.gov/ohio-revised-code/section-124.18>). (State holidays are generally the same as Federal holidays.)

DBE UTILIZATION PLAN

The bidder's DBE Utilization Plan **must be submitted by the bidder prior to bid opening at https://odot.formstack.com/forms/dbe_copy**. By submitting a DBE Utilization Plan, the Bidder affirms it will be using the DBE firms identified in the Utilization Plan to meet the DBE contract goal. The Bidder further affirms it will not deviate from the Utilization Plan without ODOT's prior written consent.

Unless the bidder is a certified DBE firm, **a bid opened without a DBE Utilization Plan submitted prior to bid opening will be deemed unresponsive.**

The DBE Utilization Plan shall include the following information:

1. The names of the certified DBE firms(s) that will be used to meet the DBE goal
2. A description of the work each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract
3. Whether the DBE firms(s) being used to meet the goal will be utilized as a subcontractor, regular dealer, manufacturer, consultant, or other capacity
4. The dollar amount of the participation of each DBE firm used to meet the DBE goal.

PROJECTS AWARDED ON ALTERNATES

In the event the project is awarded on alternates, which increases or decreases the total dollar amount of the bid, a revision to the DBE Utilization Plan and DBE Affirmation Form(s) shall be submitted and approved by the Office of Business & Economic Opportunity within five (5) days after the notification of the alternates.

DBE AFFIRMATION

The Apparent Low Bidder (ALB) shall ensure the DBE firms being utilized to meet the DBE goal affirm their participation in the bid within five (5) days after the bid opening to ODOT. The contract dollar amount(s) and/or DBE firm(s) included in the ALB's DBE Utilization Plan must match the contract dollar amount(s) and/or DBE firm(s) included on the DBE Affirmation Form(s). If the contract dollar amount(s) and/or DBE firm(s) do not match, the ALB shall utilize the Request for Consent to Terminate/Reduce a DBE Commitment form located at [DBE Commitment Reduction or Termination Form | Ohio Department of Transportation](#) and submit for review and approval by the Office of Business & Economic Opportunity within five (5) days of the bid opening.

The ALB shall utilize the DBE Affirmation Form located at [DBE Affirmation Form - Projects Sold on or after 9/1/18 | Ohio Department of Transportation](#). The DBE Affirmation Form will be utilized as written confirmation from each listed DBE firm that it is participating in the contract in the type and amount of work provided in the bidder's DBE Utilization Plan. The ALB shall submit a separate DBE Affirmation Form for each DBE it is utilizing for the DBE goal as well as their Good Faith Efforts package if they were not able to attain the DBE Goal via DBE participation.

All other bidders shall submit a DBE Affirmation Form(s) if notified the information is required in order for ODOT to complete its assessment. Bidders shall have five (5) days from the date of notification to submit all required DBE Affirmation Forms to ODOT. Notification will be by email.

In the event a DBE firm fails to confirm the information contained in the DBE Affirmation Form within five (5) days of bid opening, the ALB shall submit a Request for Consent to Terminate/Reduce a DBE Commitment form, as set forth herein. The Request for Consent to Terminate/Reduce a DBE Commitment form shall be submitted within five (5) days after bid opening in order for the ALB to still be considered for contract award. The ALB shall include as its reason for termination the DBE firm's failure to provide a timely affirmation and should include all efforts the ALB made to obtain the affirmation from the DBE firm and shall attach proof of these efforts, if available. If the ALB intends to replace the DBE Firm, it shall include the replacement firm's information on the form. In the event the ALB is unable to affirm a DBE firm included in its original DBE Utilization Plan at bid submission and it results in a goal shortfall, Good Faith Efforts (GFE's) must be submitted by the fifth day after bid opening. All GFE documentation submitted for consideration should demonstrate the efforts the bidder made prior to the time of bid submission to secure sufficient DBE participation on the project to meet the DBE goal although the bidder was unable to do so. A DBE firm's failure to timely confirm information contained in the DBE Affirmation Form will be considered as good cause to terminate the DBE firm and will also be considered a part of the ALB's Good Faith Efforts in meeting the goal.

DBE BIDDERS

In the event the Bidder is a certified DBE firm, the Bidder is not required to complete a DBE Utilization Plan as set forth above and would not need to submit a DBE Affirmation Form for the work it is planning to self-perform in order to meet the goal.

JOINT VENTURES

If the bidder is a Joint Venture, the Joint Venture will only be considered a Certified DBE firm if the Joint Venture itself has been certified. The Joint Venture may, however, utilize a Certified DBE firm that is also a partner in the Joint Venture as part of its DBE Utilization Plan. The Certified DBE Firm/Joint Venture Partner, however, does not need to submit a DBE Affirmation Form for any work the Certified DBE Firm/Joint Venture Partner is going to perform to meet the goal. ODOT will consider submission of the Joint Venture's bid as the Certified DBE Firm/Joint Venture Partner's confirmation that it is participating in the contract.

GOOD FAITH EFFORTS (GFE's)

If the DBE contract goal established by ODOT is not met, the ALB shall demonstrate it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

If the ALB does not meet the goal at bid time, the ALB shall submit its Good Faith Efforts (GFE's) documentation within five (5) days of the bid opening. Submission of DBE affirmation(s) with additional participation sufficient to meet the DBE contract goal does not cure the ALB's failure to meet the goal at bid time or eliminate the ALB's responsibility of submitting GFE's within five (5) days of the bid opening.

The ALB shall demonstrate its GFE's by submitting the following information within five (5) days after the bid opening:

1. All written quotes received from certified DBE firms
2. All written (including email) communications between the ALB and DBE firms
3. All written solicitations to DBE firms, even if unsuccessful
4. Copies of each non-DBE quote when a non-DBE was selected over a DBE for work on the contract
5. Phone logs of communications with DBE firms

The ALB shall utilize the Pre-Bid GFE Template to document their GFE's. This template and supporting documentation shall be sent along with any DBE Affirmation Forms within five (5) days of bid opening. ODOT has provided Good Faith Efforts Guidance located at [Good Faith Efforts \(GFE\) for Contractors | Ohio Department of Transportation](#)

All other bidders shall submit documentation of GFE's if notified the information is required in order for ODOT to complete its bid assessment. Bidders shall have five (5) days from the date of notification to submit all required GFE documentation. Notification will be by email.

ODOT shall utilize the guidance set forth in 49 CFR §26.53 Appendix A in determining whether the bidder has made adequate good faith efforts to meet the goal.

ADMINISTRATIVE RECONSIDERATION

ODOT will review the GFE documentation and issue a written determination on whether adequate GFE's have been demonstrated prior to contract award. If ODOT determines the ALB has failed to demonstrate adequate GFE's to meet the goal, the ALB will have an opportunity for administrative reconsideration prior to the contract being awarded.

As part of this reconsideration, the ALB may provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. Such written documentation or argument must be provided to ODOT, attention to the Office of Chief Legal Counsel, 1980 West Broad Street, MS 1500, Columbus, Ohio 43223 (with copy to the Office of Contract Sales, MS 4110), within two (2) business days of ODOT's written determination that GFE's were not adequately demonstrated. The ALB may also include in their written documentation a request for an in-person meeting to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. ODOT's Office of Chief Legal Counsel will respond to the ALB within five (5) business days of receiving written documentation or holding the in-person meeting.

ODOT will send the ALB a written decision on reconsideration explaining the basis for finding that the ALB did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the United States Department of Transportation.

TERMINATION OR REPLACEMENT OF A DBE

By submitting a DBE Utilization Plan, the bidder is committing to use the DBE firms identified in the plan. The ALB/Awarded Contractor shall utilize the specific DBEs listed in the DBE Utilization Plan to perform the work and supply the materials for which each is listed unless the ALB/Awarded Contractor obtains written consent as provided in this paragraph. In order to request termination or substitution of a DBE firm, the ALB/Awarded Contractor shall utilize the Request for Consent to Terminate/Reduce a DBE Commitment form located at [DBE Commitment Reduction or Termination Form | Ohio Department of Transportation](#).

This termination/replacement procedure applies only to DBE firms or the amount of work being utilized to meet the goal.

Without ODOT's written consent to terminate/replace a DBE firm being utilized to meet the goal, the Awarded Contractor shall not be entitled to any payment for DBE listed work or material unless it is performed or supplied by the listed DBE.

GOOD CAUSE

ODOT may provide written consent to terminate a DBE only if it agrees, for reasons stated in a concurrence document, the ALB/Awarded Contractor has good cause to terminate the DBE firm.

For purposes of this section, good cause to terminate a DBE includes the following circumstances:

- 1) The listed DBE firm fails or refuses to provide the required DBE Affirmation Form or to execute a written contract
- 2) The listed DBE firm fails or refuses to perform the work of its subcontract in a manner consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE firm to perform its work on the subcontract results from the bad faith or discriminatory action of the awarded contractor
- 3) The listed DBE firm fails or refuses to meet the awarded contractor's reasonable, nondiscriminatory bond requirements.
- 4) The listed DBE firm becomes bankrupt, insolvent, or exhibits credit unworthiness

- 5) The listed DBE firm is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law
- 6) ODOT has determined the listed DBE firm is not a responsible contractor
- 7) The listed DBE firm voluntarily withdraws from the project and provides to the contractor written notice of its withdrawal
- 8) The listed DBE is ineligible to receive DBE credit for the type of work required
- 9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract; and
- 10) Other documented good cause that ODOT determines compels the termination of the DBE firm. Provided that good cause does not exist if the awarded contractor seeks to terminate a DBE it relied upon to obtain the contract so the awarded contractor can self-perform the work for which the DBE contractor was engaged or so the awarded contractor can substitute another DBE or non-DBE contractor after contract award.

REPLACEMENT

When a DBE firm is terminated or fails to complete its work on the contract for any reason, the Awarded Contractor must make GFEs to find another DBE firm to replace the original DBE. These GFEs shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal. The GFEs shall be documented by the Awarded Contractor. If ODOT requests documentation under this provision, the Awarded Contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days if necessary, at the request of the contractor, and ODOT shall provide a written determination to the contractor stating whether GFEs have been demonstrated.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions and substitutions of DBE firms put forward by bidders in the DBE Utilization Plan.

ADDITION

In the event additional DBE participation is required for the project, the Awarded Contractor shall utilize the DBE Affirmation Form located at [DBE Affirmation Form - Projects Sold on or after 9/1/18 | Ohio Department of Transportation](#). The DBE Affirmation Form will be utilized as written confirmation from each DBE firm that it is participating in the contract in the kind and amount of work on the project.

WRITTEN NOTICE TO DBE

Before transmitting to ODOT its request to terminate and/or substitute a DBE firm, the ALB/Awarded Contractor must give notice in writing to the DBE firm with a copy to ODOT of its intent to request to terminate and/or substitute and the reason(s) for the request.

The ALB/Awarded Contractor must give the DBE five (5) days to respond to the notice, advising ODOT and the ALB/Awarded Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why ODOT should not approve the ALB/Awarded Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), ODOT may provide a response period shorter than five (5) days.

GOAL ATTAINMENT POST AWARD

The Awarded Contractor shall make available upon request a copy of all DBE subcontracts. The Awarded Contractor shall ensure that all subcontracts or agreements with DBEs require that the subcontract and all lower-tier subcontracts be performed in accordance with this Proposal Note.

Approval of a DBE Utilization Plan does not ensure approval of C-92 Requests to Sublet, nor does approval of a DBE Utilization Plan indicate the DBE goal has been met. ODOT will monitor goal attainment throughout the life of the project. It is the responsibility of the Awarded Contractor to advise ODOT of any changes to the DBE Utilization plan throughout the life of the project. The DBE goal of a project is stated as a percentage of the contract. In the event the contract amount increases or decreases, the actual dollar amount of the DBE goal for the project may increase or decrease accordingly.

SANCTIONS AND ADMINISTRATIVE REMEDIES

PRE-BID

Failure by the ALB to do any of the following shall result in the bid being rejected as non-responsive in accordance with ORC §5525.08:

1. Failure to submit a complete DBE Utilization Plan prior to bid opening
2. Failure to submit DBE Affirmation Form(s) and/or failure to submit Request for Consent to Terminate/Reduce a DBE Commitment form(s) as required by this Proposal Note; or
3. Failure to meet the goal and/or failure to demonstrate GFEs to meet the goal as required by this Proposal Note.

POST-BID

Failure by the Awarded Contractor to carry out the requirements of this Proposal Note, including the submission of adequate good faith efforts to meet the goal for a project, is a material breach of the contract and may result in the issuance of sanctions as follows:

- 1st Tier: Letter of Reprimand
- 2nd Tier: Damages equivalent to the DBE shortfall
- 3rd Tier: If a pattern of paying damages persists or the contractor has falsified, misrepresented, or withheld information, ODOT can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to, the following:

- the magnitude and the type of offense
- the degree of the contractor's culpability
- any steps taken to rectify
- the contractor's record of performance on other projects including, but not limited to:
 - annual DBE participation
 - annual DBE participation on projects without goals
 - the number of complaints ODOT has received regarding the contractor
 - the number of times the contractor has been previously sanctioned by ODOT

24. PN 031 - 6/27/2023 – PROMPT PAYMENT - LOCAL-LET CONSTRUCTION PROJECTS

The U.S. Department of Transportation's (USDOT's) rules related to Disadvantaged Business Enterprises are published in 49 CFR Part 26. Within 49 CFR Part 26, 49 CFR 26.29 lays out the prompt payment requirements that apply to ODOT (the Department), its subrecipients (LPA's), and, by extension, both prime contractors and subcontractors (including non-DBEs). The 49 CFR 26.29 requirements apply only to federally funded contracts (i.e., contracts with USDOT financial assistance). The prime contractor must comply with this Proposal Note and the Department's prompt payment requirements as published in 107.21 of the C&MS.

Second-tier subcontract means a subcontract awarded directly by the subcontractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a contractor's general and administrative expenses or indirect costs.

The Department will monitor payments made by prime contractors and subcontractors for compliance with this Proposal Note, C&MS 107.21 and, where applicable, 49 CFR 26.29. To facilitate this monitoring, the Department requires both prime **and** subcontractors to report their payments to all subcontractors/second-tier subcontractors with the submission of each invoice. The payment data reported must include any retainage withheld (*when allowable under the Department's [Retainage Policy dated 4/14/21](#)*) and any previously withheld retainage released. All such reporting must take place through a web-based submission on GoFormz. Please note: submission through GoFormz is required for all Local-let projects. Invoices will not be approved and processed for payment unless this reporting form has been submitted and received by the Department.

The prime/subcontractor must report the following information:

- The name of the payee
- The dollar amount of the payment to the payee
- The date the payee was paid
- The amount of retainage withheld (if any)

Ohio's 10-day prompt payment requirement is based on the payer's payment issuance date and NOT the payee's payment receipt date.

The prime/subcontractor must sign each reported payment and submit to ODOT via the GoFormz website.

The second-tier subcontractor is responsible for completing the affirmation of payment form in GoFormz.

The prime is responsible for ensuring that all subcontractors and second-tier subcontractors are correctly completing all prompt payment forms via the GoFormz website.

If the prime or subcontractor(s) fail to submit the aforementioned documentation with each invoice, they will be determined to be non-compliant and invoices will not be processed for payment.

Payees must verify each payment reported by the payer within thirty (30) days of the payment being signed by the payer. This verification must include:

- Whether the payment was received, and if so, whether it was or was not as expected
- The dollar amount of the payment received
- The date the payment was received

The prime contractor shall fully complete the last prompt payment form upon receipt of final payment.

SANCTIONS AND ADMINISTRATIVE REMEDIES

Failure by the prime contractor and/or subcontractor(s) to follow Prompt Payment requirements may result in the issuance of sanctions as follows:

- 1st Tier: Notice of Violation via a Letter of Reprimand
- 2nd Tier: If corrective actions are not taken within the specified three (3) business days, a pay estimate in the amount due to the subcontractor(s) that was not reported or paid may be withheld.
- 3rd Tier: If a pattern of paying damages persists or the contractor or subcontractor(s) has falsified, misrepresented, or withheld information, ODOT can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- the magnitude and the type of offense
- the degree of the contractor's or subcontractor's culpability
- any steps taken to rectify
- the contractor's or subcontractor's record of performance on other projects
- the number of times the contractor or subcontractor has been previously sanctioned by ODOT

25. WAIVER OF C&MS 614.03

ODOT's 2023 C&MS section 614.03, third paragraph, does not apply to any project which is not physically located on the National Highway System (NHS), and/or does not impact NHS traffic in any way.

26. ODOT AS OBLIGEE ON BOND

The contractor shall furnish a performance and payment bond in an amount at least equal to 100 percent of the estimate as security for the faithful performance of its contract. In addition to the project owner, ODOT shall be named as an obligee.

27. NON-DISCRIMINATION PROVISIONS

A. Compliance with Regulations: The contractor will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the USDOT Title 49 CFR, Part 21, as they may be amended from time to time, (hereinafter referred to as the “Regulations”), which are herein incorporated by reference and made a part of this contract.

In addition, the contractor will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as “ADA/504”).

B. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate, either directly or indirectly, in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

C. Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a contract or subcontract including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

D. Information and Reports: The contractor will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State or FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor will so certify to the State or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the LPA will impose such contract sanctions as it or State/FHWA may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments to the contractor under the contract until the contractor complies, and/or
- (2) Cancellation, termination, or suspension of the contract, in whole or in part.

F. Incorporation of Provisions: The contractor will include the provisions of paragraphs (A) through (E) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor will take such action with respect to any subcontractor procurement as the LPA or State/FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the LPA/State to enter into such litigation to protect the interests of the LPA and the State. In addition, the LPA/State may request the United States to enter into such litigation to protect the interests of the United States.

The required contract provisions for federal-aid construction contracts are hereby incorporated by reference as if rewritten herein. The current version of Form FHWA-1273 (available at <https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>) shall be physically incorporated in all contracts, subcontracts, and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreement for supplies or services related to a construction contract). The prime contractor shall be responsible for ensuring that the FHWA-1273 is physically incorporated into all lower-tier subcontracts.

SANCTIONS AND ADMINISTRATIVE REMEDIES

Failure by the prime contractor to include the provisions of FHWA-1273 in their contract or in their lower-tier subcontracts may result in the issuance of sanctions as follows:

1st Tier: Letter of Reprimand

2nd Tier: Damages equivalent to the daily liquidated damages amount found in C&MS section 108.07 for each incident of non-compliance

3rd Tier: If a pattern of paying damages persists or the contractor has falsified, misrepresented, or withheld information, the LPA can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- the magnitude and the type of offense
- the degree of the contractor's culpability
- any steps taken to rectify
- the contractor's record of performance on other projects; and
- the number of times the contractor has been previously sanctioned by the LPA.

29. PN 032 – 01/31/2021 – C92s REQUIRED ON LOCAL-LET CONSTRUCTION PROJECTS

State and Federal law requires that all contractors and subcontractors participating on state or federally funded projects be evidenced in writing and in conformity with all applicable state and federal laws and regulations.

Effective immediately, all projects advertising after 2/1/2021 will require that a Request to Sublet (C92) form is completed for each subcontractor and DBE materials supplier working on the project prior to the start of work.

A template for this form may be found and submit via the GoFormz website located at www.goformz.com.

**30. REQUIRED CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS
(Electronic Form FHWA 1273 – October 23, 2023) (SEE NEXT PAGE)**

FHWA-1273 – Revised October 23, 2023

**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 repurchase 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/WHDLegacy/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 journeymen 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 journeymen 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 procurement 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.

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

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

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

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

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

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

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

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

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

3. Instructions for Certification - Lower Tier Participants:

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

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

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general 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.

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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.

"General Decision Number: OH20250001 02/14/2025

Superseded General Decision Number: OH20240001

State: Ohio

Construction Types: Heavy and Highway

Counties: Ohio Statewide.

Heavy and Highway Construction Projects

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none">. Executive Order 14026 generally applies to the contract.. The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none">. Executive Order 13658 generally applies to the contract.. The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the

Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/03/2025
1	02/07/2025
2	02/14/2025

* BROH0001-001 06/01/2024

DEFIANCE, FULTON (Excluding Fulton, Amboy & Swan Creek Townships), HENRY (Excluding Monroe, Bartlow, Liberty, Washington, Richfield, Marion, Damascus & Townships & that part of Harrison Township outside corporate limits of city of Napoleon), PAULDING, PUTNAM and WILLIAMS COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

BROH0001-004 06/01/2023		

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 32.40	19.30

* BROH0003-002 06/01/2024		

FULTON (Townships of Amboy, Swan Creek & Fulton), HENRY (Townships of Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion), LUCAS and WOOD (Townships of Perrysburg, Ross, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids) COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

BROH0005-003 06/01/2020		

CUYAHOGA, LORAIN & MEDINA (Hinckley, Granger, Brunswick, Liverpool, Montville, York, Homer, Harrisville, Chatham, Litchfield & Spencer Townships and the city of Medina)

	Rates	Fringes
BRICKLAYER		
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS.....	\$ 36.64	17.13
SANDBLASTERS.....	\$ 36.39	17.13
SEWER BRICKLAYERS & STACK BUILDERS.....	\$ 36.64	17.13
SWING SCAFFOLDS.....	\$ 37.14	17.13

* BROH0006-005 06/01/2024

CARROLL, COLUMBIANA (Knox, Butler, West & Hanover Townships),
STARK & TUSCARAWAS

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0007-002 06/01/2024

LAWRENCE

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

BROH0007-005 06/01/2023

PORTAGE & SUMMIT

	Rates	Fringes
BRICKLAYER.....	\$ 32.40	19.30

* BROH0007-010 06/01/2024

PORTAGE & SUMMIT

	Rates	Fringes
MASON - STONE.....	\$ 33.39	20.06

* BROH0008-001 06/01/2024

COLUMBIANA (Salem, Perry, Fairfield, Center, Elk Run,
Middleton, & Unity Townships and the city of New Waterford),
MAHONING & TRUMBULL

	Rates	Fringes
BRICKLAYER.....	\$ 33.39	20.06

* BROH0009-002 06/01/2024

BELMONT & MONROE COUNTIES and the Townships of Warren & Mt.
Pleasant and the Village of Dillonvale in JEFFERSON COUNTY

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06
Refractory.....	\$ 31.45	19.01

* BROH0010-002 06/01/2024

COLUMBIANA (St. Clair, Madison, Wayne, Franklin, Washington,
Yellow Creek & Liverpool Townships) & JEFFERSON (Brush Creek &
Saline Townships)

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0014-002 06/01/2024

HARRISON & JEFFERSON (Except Mt. Pleasant, Warren, Brush Creek,
Saline & Salineville Townships & the Village of Dillonvale)

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

BROH0016-002 06/01/2023

ASHTABULA, GEAUGA, and LAKE COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 32.40	19.30

* BROH0018-002 06/01/2024

BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Gasper, Dixon,
Israel, Lanier, Somers & Gratis Townships) & WARREN COUNTIES:

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0022-004 06/01/2024

CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, HIGHLAND, LOGAN,
MIAMI, MONTGOMERY, PREBLE (Jackson, Monroe, Harrison, Twin,
Jefferson & Washington Townships) and SHELBY COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0032-001 06/01/2024

GALLIA & MEIGS

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0035-002 06/01/2024

ALLEN, AUGLAIZE, MERCER and VAN WERT COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0039-002 06/01/2024

ADAMS & SCIOTO

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0040-003 06/01/2024

ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND,
WAYNE and WYANDOT (Except Crawford, Ridge, Richland & Tymochtee

Townships) COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

FOOTNOTE: Layout Man and Sawman rate: \$1.00 per hour above journeyman rate.

Free standing stack work ground level to top of stack;
Sandblasting and laying of carbon masonry material in swing stage and/or scaffold; Ramming and spading of plastics and gunniting: \$1.50 per hour above journeyman rate.

""Hot"" work: \$2.50 above journeyman rate.

* BROH0044-002 06/01/2024

	Rates	Fringes
Bricklayer, Stonemason COSHOCTON, FAIRFIELD, GUERNSEY, HOCKING, KNOX, KICKING, MORGAN, MUSKINGUM, NOBLE (Beaver, Buffalo, Seneca & Wayne Townships) & PERRY COUNTIES:.....	\$ 33.39	20.06

BROH0045-002 06/01/2023

FAYETTE, JACKSON, PIKE, ROSS and VINTON COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 35.39	17.47

* BROH0046-002 06/01/2024

ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Townships) and WYANDOT (Tymochtee, Crawford, Ridge & Richland Townships) COUNTIES & the Islands of Lake Erie north of Sandusky

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

FOOTNOTE: Layout Man and Sawman rate: \$1.00 per hour above

journeyman rate.

Free standing stack work ground level to top of stack;
Sandblasting and laying of carbon masonry material in swing
stage and/or scaffold; Ramming and spading of plastics and
gunniting: \$1.50 per hour above journeyman rate.

""Hot"" work: \$2.50 above journeyman rate.

* BROH0052-001 06/01/2024

ATHENS COUNTY

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0052-003 06/01/2024

NOBLE (Brookfield, Noble, Center, Sharon, Olive, Enoch, Stock,
Jackson, Jefferson & Elk Townships) and WASHINGTON COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

* BROH0055-003 06/01/2024

DELAWARE, FRANKLIN, MADISON, PICKAWAY and UNION COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.39	20.06

CARP0003-004 05/01/2017

MAHONING & TRUMBULL

	Rates	Fringes
CARPENTER.....	\$ 26.20	17.42

CARP0069-003 05/01/2017

CARROLL, STARK, TUSCARAWAS & WAYNE

	Rates	Fringes
CARPENTER.....	\$ 25.98	15.98

CARP0069-006 05/01/2017

COSHOCTON, HOLMES, KNOX & MORROW

	Rates	Fringes
CARPENTER.....	\$ 24.04	15.29

CARP0171-002 05/01/2024

BELMONT, COLUMBIANA, HARRISON, JEFFERSON & MONROE

	Rates	Fringes
CARPENTER.....	\$ 31.82	25.11

CARP0200-002 05/01/2024

ADAMS, ATHENS, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA,
GUERNSEY, HIGHLAND, HOCKING, JACKSON, LAWRENCE, LICKING,
MADISON, MARION, MEIGS, MORGAN, MUSKINGUM, NOBLE, PERRY,
PICKAWAY, PIKE, ROSS, SCIOTO, UNION, VINTON and WASHINGTON
COUNTIES

	Rates	Fringes
CARPENTER.....	\$ 33.15	22.43
Diver.....	\$ 39.41	10.40
PILEDRIVERMAN.....	\$ 33.15	22.43

CARP0248-005 07/01/2008

LUCAS & WOOD

	Rates	Fringes
CARPENTER.....	\$ 27.27	14.58

CARP0248-008 07/01/2008

	Rates	Fringes
CARPENTER DEFIANCE, FULTON, HANCOCK, HENRY, PAULDING & WILLIAMS COUNTIES.....	\$ 23.71	13.28

CARP0254-002 05/01/2017

ASHTABULA, CUYAHOGA, GEAUGA & LAKE

	Rates	Fringes
CARPENTER.....	\$ 32.40	16.97

CARP0372-002 05/01/2024		

ALLEN, AUGLAIZE, HARDIN, MERCER, PUTNAM & VAN WERT

	Rates	Fringes
CARPENTER.....	\$ 30.73	25.09

CARP0639-003 05/01/2017		

MEDINA, PORTAGE & SUMMIT

	Rates	Fringes
CARPENTER.....	\$ 30.42	16.99

CARP0735-002 05/01/2024		

ASHLAND, ERIE, HURON, LORAIN & RICHLAND

	Rates	Fringes
CARPENTER.....	\$ 33.43	22.31

CARP1311-001 05/01/2017		

BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, DARKE,
GREENE, HAMILTON, LOGAN, MIAMI, MONTGOMERY, PREBLE, SHELBY &
WARREN

	Rates	Fringes
Carpenter & Piledrivermen.....	\$ 29.34	15.95
Diver.....	\$ 40.58	9.69

CARP1393-002 05/01/2024		

CRAWFORD, DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA,
PAULDING, SANDUSKY, SENECA, WILLIAMS & WOOD

Rates	Fringes
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Piledrivermen & Diver's Tender...	\$ 36.84	27.72
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DIVERS - \$250.00 per day

CARP1393-003 05/01/2024

ALLEN, AUGLAIZE, HARDIN, MERCER, PUTNAM, VAN WERT & WYANDOT

	Rates	Fringes
Piledrivermen & Diver's Tender...	\$ 34.68	27.60

DIVERS - \$250.00 per day

CARP1871-006 05/01/2017

BELMONT, HARRISON, & MONROE

	Rates	Fringes
Diver, Wet.....	\$ 48.11	17.33
Piledrivermen; Diver, Dry.....	\$ 32.07	17.33

CARP1871-008 05/01/2017

ASHLAND, ASHTABULA, CUYAHOGA, ERIE, GEAUGA, HURON, LAKE,
LORAIN, MEDINA, PORTAGE, RICHLAND & SUMMIT

	Rates	Fringes
Diver, Wet.....	\$ 45.80	18.84
Piledrivermen; Diver, Dry.....	\$ 30.53	18.84

CARP1871-014 05/01/2017

CARROLL, STARK, TUSCARAWAS & WAYNE

	Rates	Fringes
Diver, Wet.....	\$ 38.34	16.95
Piledrivermen; Diver, Dry.....	\$ 25.56	16.95

CARP1871-015 05/01/2017

COSHOCTON, HOLMES, KNOX & MORROW

	Rates	Fringes
Diver, Wet.....	\$ 37.34	16.07

Piledrivermen; Diver, Dry.....	\$ 24.89	16.07
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CARP1871-017 05/01/2017

MAHONING & TRUMBULL

	Rates	Fringes
Diver, Wet.....	\$ 40.65	17.62
Piledrivermen; Diver, Dry.....	\$ 27.10	17.62

CARP2235-012 01/01/2014

COLUMBIANA & JEFFERSON

	Rates	Fringes
PILEDRIVERMAN.....	\$ 31.74	16.41

CARP2239-001 07/01/2008

CRAWFORD, OTTAWA, SANDUSKY, SENECA & WYANDOT

	Rates	Fringes
CARPENTER.....	\$ 23.71	13.28

* ELEC0008-002 05/27/2024

DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING,
PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD

	Rates	Fringes
CABLE SPLICER.....	\$ 38.98	18.96
ELECTRICIAN.....	\$ 48.40	4.5%+23.06

ELEC0032-003 06/01/2024

ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT &
WYANDOT (Crawford, Jackson, Marseilles, Mifflin, Ridgeland,
Ridge & Salem Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 35.17	22.92

ELEC0038-002 04/29/2024

CUYAHOGA, GEAUGA (Bainbridge, Chester & Russell Townships) &
LORAIN (Columbia Township)

	Rates	Fringes
ELECTRICIAN		
Excluding Sound & Communications Work.....	\$ 45.23	23.88

FOOTNOTES;

- a. 6 Paid Holidays: New Year's Day; Memorial Day; July 4th;
Labor Day; Thanksgiving Day; & Christmas Day
- b. 1 week's paid vacation for 1 year's service; 2 weeks' paid
vacation for 2 or more years' service

ELEC0038-008 04/29/2024

CUYAHOGA, GEAUGA (Bainbridge, Chester & Russell Townships) &
LORAIN (Columbia Township)

	Rates	Fringes
Sound & Communication Technician		
Communications Technician...	\$ 32.30	14.38
Installer Technician.....	\$ 31.05	14.34

FOOTNOTES;

- a. 6 Paid Holidays: New Year's Day; Memorial Day; July 4th;
Labor Day; Thanksgiving Day; & Christmas Day
- b. 1 week's paid vacation for 1 year's service; 2 weeks' paid
vacation for 2 or more years' service

ELEC0064-003 11/25/2024

COLUMBIANA (Butler, Fairfield, Perry, Salem & Unity Townships)
MAHONING (Austintown, Beaver, Berlin, Boardman, Canfield,
Ellsworth, Coitsville, Goshen, Green, Jackson, Poland,
Springfield & Youngstown Townships), & TRUMBULL (Hubbard &
Liberty Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 39.80	21.03

ELEC0071-001 01/01/2024

ASHLAND, CHAMPAIGN, CLARK, COSHOCTON, CRAWFORD, DELAWARE,
FAIRFIELD, FAYETTE, FRANKLIN, GUERNSEY, HIGHLAND, HOCKING,
JACKSON (Coal, Jackson, Liberty, Milton, Washington & Wellston
Townships), KNOX, LICKING, MADISON, MARION, MONROE, MORGAN,
MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE (Beaver,
Benton, Jackson, Mifflin, Pebble, Peepee, Perry & Seal
Townships), RICHLAND, ROSS, TUSCARAWAS (Auburn, Bucks, Clay,
Jefferson, Oxford, Perry, Salem, Rush, Washington & York
Townships), UNION, VINTON (Clinton, Eagle, Elk, Harrison,
Jackson, Richland & Swan Townships), and WASHINGTON COUNTIES

	Rates	Fringes
Line Construction		
Equipment Operators.....	\$ 39.11	17.14
Groundmen.....	\$ 25.90	13.97
Linemen & Cable Splicers....	\$ 44.52	18.43

ELEC0071-004 01/01/2024

AUGLAIZE, CLINTON, DARKE, GREENE, LOGAN, MERCER, MIAMI,
MONTGOMERY, PREBLE, and SHELBY COUNTIES

	Rates	Fringes
Line Construction		
Equipment Operator.....	\$ 39.11	17.14
Groundman.....	\$ 25.90	13.97
Lineman & Cable Splicers....	\$ 44.52	18.43

ELEC0071-005 01/06/2025

ASHTABULA, CUYAHOGA, GEAUGA, LAKE & LORAIN

	Rates	Fringes
LINE CONSTRUCTION: Equipment Operator		
DOT/Traffic Signal & Highway Lighting Projects...	\$ 39.97	27%+8.00
Municipal Power/Transit Projects.....	\$ 49.46	27%+8.25
LINE CONSTRUCTION: Groundman		
DOT/Traffic Signal & Highway Lighting Projects...	\$ 31.10	27%+8.00

Municipal Power/Transit Projects.....	\$ 38.47	27%+8.25
LINE CONSTRUCTION:		
Linemen/Cable Splicer DOT/Traffic Signal & Highway Lighting Projects...	\$ 43.89	27%+8.00
Municipal Power/Transit Projects.....	\$ 54.96	27%+8.25

ELEC0071-008 01/01/2024

COLUMBIANA, MAHONING, and TRUMBULL COUNTIES

	Rates	Fringes
Line Construction		
Equipment Operator.....	\$ 39.11	17.14
Groundman.....	\$ 25.90	13.97
Lineman & Cable Splicers....	\$ 44.52	18.43

ELEC0071-010 01/01/2024

	Rates	Fringes
Line Construction		
Equipment Operator.....	\$ 39.11	17.14
Groundman.....	\$ 25.90	13.97
Lineman & Cable Splicers....	\$ 44.52	18.43

ELEC0071-013 01/01/2024

BROWN, BUTLER, CLERMONT, HAMILTON, and WARREN COUNTIES

	Rates	Fringes
Line Construction		
Equipment Operator.....	\$ 39.11	17.14
Groundman.....	\$ 25.90	13.97
Lineman & Cable Splicers....	\$ 44.52	18.43

ELEC0071-014 01/01/2024

ADAMS, ATHENS, GALLIA, JACKSON (Bloomfield, Franklin, Hamilton,
Lick, Jefferson, Scioto & Madison Townships), LAWRENCE, MEIGS,
PIKE (Camp Creek, Marion, Newton, Scioto, Sunfish & Union
Townships), SCIOTO & VINTON (Brown, Knox, Madison, Vinton &
Wilkesville Townships)

	Rates	Fringes
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Line Construction

Equipment Operator.....	\$ 39.11	17.14
Groundman.....	\$ 25.90	13.97
Lineman & Cable Splicers....	\$ 44.52	18.43

* ELEC0082-002 12/02/2024

CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE & WARREN
(Wayne, Clear Creek & Franklin Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 38.00	22.49

* ELEC0082-006 11/25/2024

CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE & WARREN
(Wayne, Clear Creek & Franklin Townships)

	Rates	Fringes
Sound & Communication Technician		
Cable Puller.....	\$ 13.85 **	5.30
Installer/Technician.....	\$ 27.70	15.71

ELEC0129-003 02/26/2024

LORAIN (Except Columbia Township) & MEDINA (Litchfield &
Liverpool Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 41.40	18.36

ELEC0129-004 02/26/2024

ERIE & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman,
Sherman, Peru, Bronson, Hartland, Clarksfield, Norwich,
Greenfield, Fairfield, Fitchville & New London Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 41.40	18.36

ELEC0141-003 06/02/2024

BELMONT COUNTY

	Rates	Fringes
CABLE SPLICER.....	\$ 42.94	27.74
ELECTRICIAN.....	\$ 39.04	27.62

ELEC0212-003 11/26/2018

BROWN, CLERMONT & HAMILTON

	Rates	Fringes
Sound & Communication Technician.....	\$ 24.35	10.99

ELEC0212-005 06/03/2024

BROWN, CLERMONT, and HAMILTON COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 35.43	22.05

ELEC0245-001 08/26/2024

ALLEN, HARDIN, VAN WERT & WYANDOT (Crawford, Jackson,
Marseilles, Mifflin, Richland, Ridge & Salem Townships)

	Rates	Fringes
Line Construction		
Equipment Operator.....	\$ 32.95	28%+7.85
Groundman Truck Driver.....	\$ 20.59	28%+7.85
Lineman.....	\$ 47.07	28%+7.85

FOOTNOTE: a. Half day's Paid Holiday: The last 4 hours of
the workday prior to Christmas or New Year's Day

* ELEC0245-003 01/01/2025

DEFIANCE, FULTON, HANCOCK, HENRY, HURON, LUCAS, OTTAWA,
PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, and WOOD COUNTIES

Rates	Fringes
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Line Construction		
Cable Splicer.....	\$ 53.90	8.10+28%
Groundman/Truck Driver.....	\$ 20.51	8.10+28%
Heli-arc Welding.....	\$ 47.17	8.10+28%
Lineman.....	\$ 46.87	8.10+28%
Operator - Class 1.....	\$ 37.50	8.10+28%
Operator - Class 2.....	\$ 32.81	8.10+28%
Traffic Signal & Lighting		
Technician.....	\$ 42.18	8.10+28%

FOOTNOTE: a. 6 Observed Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; & Christmas Day. Employees who work on a holiday shall be paid at a rate of double their applicable classified straight-time rates for the work performed on such holiday.

ELEC0245-004 08/26/2024

ERIE COUNTY

	Rates	Fringes
Line Construction		
Cable Splicer.....	\$ 49.14	26.75%+6.75
Cablesplicer.....	\$ 54.13	28%7.85
Groundman/Truck Driver.....	\$ 20.59	28%7.85
Lineman.....	\$ 47.07	28%7.85
Operator - Class 1.....	\$ 36.70	28%7.85
Operator - Class 2.....	\$ 32.95	28%7.85

FOOTNOTE: a. 6 Observed Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; & Christmas Day. Employees who work on a holiday shall be paid at a rate of double their applicable classified straight-time rates for the work performed on such holiday.

ELEC0246-001 10/28/2024

	Rates	Fringes
ELECTRICIAN.....	\$ 44.00	30.38%+24.31

FOOTNOTE: a. 1 1/2 Paid Holidays: The last scheduled workday prior to Christmas & 4 hours on Good Friday.

ELEC0306-005 05/27/2024

MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield & York Townships), PORTAGE (Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro & Suffield Townships), SUMMIT & WAYNE (Baughman, Canaan, Chester, Chippewa, Congress, Green, Milton, & Wayne Townships)

	Rates	Fringes
CABLE SPLICER.....	\$ 46.81	20.95
ELECTRICIAN.....	\$ 42.55	20.95

ELEC0317-002 05/29/2023		

GALLIA & LAWRENCE

	Rates	Fringes
CABLE SPLICER.....	\$ 32.68	18.13
ELECTRICIAN.....	\$ 37.15	28.48

ELEC0540-005 01/01/2024		

CARROLL (Northern half, including Fox, Harrison, Rose & Washington Townships), COLUMBIANA (Knox Township), HOLMES, MAHONING (Smith Township), STARK, TUSCARAWAS (North of Auburn, Clay, Rush & York Townships), and WAYNE (South of Baughman, Chester, Green & Wayne Townships) COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 36.96	28.18

* ELEC0573-003 11/25/2024		

ASHTABULA (Colebrook, Wayne, Williamsfield, Orwell & Windsor Townships), GEAUGA (Auburn, Middlefield, Parkman & Troy Townships), MAHONING (Milton Township), PORTAGE (Charlestown, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham Townships), and TRUMBULL (Except Liberty & Hubbard Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 42.20	23.20

ELEC0575-001 05/29/2023

ADAMS, FAYETTE, HIGHLAND, HOCKING, JACKSON (Bloomfield, Franklin, Hamilton, Jefferson, Lick, Madison, Scioto, Coal, Jackson, Liberty, Milton & Washington Townships), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek & Wayne Townships), PIKE (Beaver, Benton, Jackson, Mifflin, Pebble, PeePee, Perry, Seal, Camp Creek, Newton, Scioto, Sunfish, Union & Marion Townships), ROSS, SCIOTO & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland & Swan Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 37.00	22.26

ELEC0648-001 08/26/2024

BUTLER and WARREN COUNTIES (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Townships)

	Rates	Fringes
CABLE SPLICER.....	\$ 30.50	18.23
ELECTRICIAN.....	\$ 36.00	23.06

ELEC0673-004 05/27/2024

ASHTABULA (Excluding Orwell, Colebrook, Williamsfield, Wayne & Windsor Townships), GEAUGA (Burton, Chardon, Claridon, Hambden, Huntsburg, Montville, Munson, Newbury & Thompson Townships) and LAKE COUNTIES

	Rates	Fringes
CABLE SPLICER.....	\$ 33.81	21.47
ELECTRICIAN.....	\$ 39.64	23.86

ELEC0683-002 05/27/2024

CHAMPAIGN, CLARK, DELAWARE, FAIRFIELD, FRANKLIN, MADISON, PICKAWAY (Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut & Washington Townships), and UNION COUNTIES

	Rates	Fringes
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CABLE SPLICER.....	\$ 41.50	24.19
ELECTRICIAN.....	\$ 40.50	25.20

ELEC0688-003 05/30/2022

ASHLAND, CRAWFORD, HURON (Richmond, New Haven, Ripley & Greenwich Townships), KNOX (Liberty, Clinton, Union, Howard, Monroe, Middleberry, Morris, Wayne, Berlin, Pike, Brown & Jefferson Townships), MARION, MORROW, RICHLAND and WYANDOT (Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee Townships) COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 32.30	21.83

ELEC0972-002 06/01/2023

ATHENS, MEIGS, MONROE, MORGAN, NOBLE, VINTON (Brown, Knox, Madison, Vinton & Wilkesville Townships), and WASHINGTON COUNTIES

	Rates	Fringes
CABLE SPLICER.....	\$ 35.70	30.26
ELECTRICIAN.....	\$ 35.45	30.25

ELEC1105-001 05/27/2024

COSHOCTON, GUERNSEY, KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliar, Butler, Harrison, Pleasant & College Townships), LICKING, MUSKINGUM, PERRY, and TUSCARAWAS (Auburn, York, Clay, Jefferson, Rush, Oxford, Washington, Salem, Perry & Bucks Townships) COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 39.60	24.41

ENGI0018-003 05/01/2024

ASHTABULA, CUYAHOGA, ERIE, GEauga, LAKE, LORAIN, MEDINA, PORTAGE, and SUMMIT COUNTIES

	Rates	Fringes
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POWER EQUIPMENT OPERATOR

GROUP 1.....	\$ 45.63	16.41
GROUP 2.....	\$ 45.53	16.41
GROUP 3.....	\$ 44.49	16.41
GROUP 4.....	\$ 43.27	16.41
GROUP 5.....	\$ 37.98	16.41
GROUP 6.....	\$ 46.63	16.41
GROUP 7.....	\$ 46.63	16.41

OPERATING ENGINEER CLASSIFICATIONS

GROUP 1 - Air Compressor on Steel Erection; Barrier Moving Machine; Boiler Operator on Compressor or Generator when mounted on a Rig; Cableway; Combination Concrete Mixer & Tower; Concrete Plant (over 4 yd. Capacity); Concrete Pump; Crane (All Types, Including Boom Truck, Cherry Picker); Crane-Compact, Track or Rubber over 4,000 lbs. capacity; Cranes-Self Erecting, Stationary, Track or Truck (All Configurations); Derrick; Dragline; Dredge (Dipper, Clam or Suction); Elevating Grader or Euclid Loader; Floating Equipment (All Types); Gradall; Helicopter Crew (Operator-Hoist or Winch); Hoe (all types); Hoisting Engine on Shaft or Tunnel Work; Hydraulic Gantry (Lifting System); Industrial-Type Tractor; Jet Engine Dryer (D8 or D9) Diesel Tractor; Locomotive (Standard Gauge); Maintenance Operator Class A; Mixer, Paving (Single or Double Drum); Mucking Machine; Multiple Scraper; Piledriving Machine (All Types); Power Shovel; Prentice Loader; Quad 9 (Double Pusher); Rail Tamper (with auto lifting & aligning device); Refrigerating Machine (Freezer Operation); Rotary Drill, on Caisson work; Rough Terrain Fork Lift with Winch/Hoist; Side-Boom; Slip-Form Paver; Tower Derrick; Tree Shredder; Trench Machine (Over 24" wide); Truck Mounted Concrete Pump; Tug Boat; Tunnel Machine and/or Mining Machine; Wheel Excavator; and Asphalt Plant Engineer (Cleveland District Only).

GROUP 2 - Asphalt Paver; Automatic Subgrader Machine, Self-Propelled (CMI Type); Bobcat Type and/or Skid Steer Loader with Hoe Attachment Greater than 7,000 lbs.; Boring Machine More than 48"; Bulldozer; Endloader; Horizontal Directional Drill (Over 50,000 ft lbs thrust); Hydro Milling Machine; Kolman-type Loader (production type-Dirt); Lead Greaseman; Lighting & Traffic Signal Installation Equipment (includes all groups or classifications); Material Transfer Equipment (Shuttle Buggy) Asphalt; Pettibone-Rail Equipment; Power Grader; Power Scraper; Push Cat; Rotomill (all), Grinders & Planers of All types; Trench Machine (24" wide & under); Vermeer type Concrete Saw; and Maintenance Operators (Portage and Summit

Counties Only).

GROUP 3 - A-Frame; Air Compressor on Tunnel Work (low pressure); Asphalt Plant Engineer (Portage and Summit Counties Only); Bobcat-type and/or Skid Steer Loader with or without Attachments; Highway Drills (all types); Locomotive (narrow gauge); Material Hoist/Elevator; Mixer, Concrete (more than one bag capacity); Mixer, one bag capacity (Side Loader); Power Boiler (Over 15 lbs. Pressure) Pump Operator installing & operating Well Points; Pump (4" & over discharge); Roller, Asphalt; Rotovator (lime soil stabilizer); Switch & Tie Tampers (without lifting & aligning device); Utility Operator (Small equipment); Welding Machines; and Railroad Tie Insert/Remover; Articulating/straight bed end dumps if assigned (minus \$4.00 per hour).

GROUP 4 - Backfiller; Ballast Re-locator; Bars, Joint & Mesh Installing Machine; Batch Plant; Boring Machine Operator (48" or less); Bull Floats; Burlap & Curing Machine; Concrete Plant (capacity 4 yd. & under); Concrete Saw (Multiple); Conveyor (Highway); Crusher; Deckhand; Farm-type Tractor with attachments (highway); Finishing Machine; Fireperson, Floating Equipment (all types); Forklift; Form Trencher; Hydro Hammer expect masonry; Hydro Seeder; Pavement Breaker; Plant Mixer; Post Driver; Post Hole Digger (Power Auger); Power Brush Burner; Power Form Handling Equipment; Road Widening Trencher; Roller (Brick, Grade & Macadam); Self-Propelled Power Spreader; Self-Propelled Power Subgrader; Steam Fireperson; Tractor (Pulling Sheepfoot, Roller or Grader); and Vibratory Compactor with Integral Power.

GROUP 5 - Compressor (Portable, Sewer, Heavy & Highway); Drum Fireperson (Asphalt Plant); Generator; Masonry Fork Lift; Inboard-Outboard Motor Boat Launch; Oil Heater (asphalt plant); Oiler/Helper; Power Driven Heater; Power Sweeper & Scrubber; Pump (under 4" discharge); Signalperson; Tire Repairperson; VAC/ALLS; Cranes - Compact, track or rubber under 4,000 pound capacity; fueling and greasing; and Chainmen.

GROUP 6 - Master Mechanic & Boom from 150 to 180.

GROUP 7 - Boom from 180 and over.

ENGI0018-004 05/01/2024

ADAMS, ALLEN, ASHLAND, ATHENS, AUGLAIZE, BELMONT, BROWN,

BUTLER, CARROLL, CHAMPAIGN, CLARK, CLERMONT, CLINTON,
 COSHOCTON, CRAWFORD, DARKE, DEFIANCE, DELAWARE, FAIRFIELD,
 FAYETTE, FRANKLIN, FULTON, GALLIA, GREENE, GUERNSEY, HAMILTON,
 HANCOCK, HARDIN, HARRISON, HENRY, HIGHLAND, HOCKING, HOLMES,
 HURON, JACKSON, JEFFERSON, KNOX, LAWRENCE, LICKING, LOGAN,
 LUCAS, MADISON, MARION, MEIGS, MERCER, MIAMI, MONROE,
 MONTGOMERY, MORGAN, MORROW, MUSKINGUM, NOBLE, OTTAWA, PAULDING,
 PERRY, PICKAWAY, PIKE, PREBLE, PUTNAM, RICHLAND, ROSS,
 SANDUSKY, SCIOTO, SENECA, SHELBY, STARK, TUSCARAWAS, UNION, VAN
 WERT, VINTON, WARREN, WASHINGTON, WAYNE, WILLIAMS, WOOD, and
 YANDOT COUNTIES

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1.....	\$ 44.14	16.41
GROUP 2.....	\$ 44.02	16.41
GROUP 3.....	\$ 42.98	16.41
GROUP 4.....	\$ 41.80	16.41
GROUP 5.....	\$ 36.34	16.41
GROUP 6.....	\$ 45.14	16.41
GROUP 7.....	\$ 45.14	16.41

OPERATING ENGINEER CLASSIFICATIONS

GROUP 1 - Air Compressor on Steel Erection; Barrier Moving Machine; Boiler Operator on Compressor or Generator when mounted on a Rig; Cableway; Combination Concrete Mixer & Tower; Concrete Plant (over 4 yd. Capacity); Concrete Pump; Crane (All Types, Including Boom Truck, Cherry Picker); Crane-Compact, Track or Rubber over 4,000 lbs. capacity; Cranes-Self Erecting, Stationary, Track or Truck (All Configurations); Derrick; Dragline; Dredge (Dipper, Clam or Suction); Elevating Grader or Euclid Loader; Floating Equipment (All Types); Gradall; Helicopter Crew (Operator-Hoist or Winch); Hoe (all types); Hoisting Engine on Shaft or Tunnel Work; Hydraulic Gantry (Lifting System); Industrial-Type Tractor; Jet Engine Dryer (D8 or D9) Diesel Tractor; Locomotive (Standard Gauge); Maintenance Operator Class A; Mixer, Paving (Single or Double Drum); Mucking Machine; Multiple Scraper; Piledriving Machine (All Types); Power Shovel; Prentice Loader; Quad 9 (Double Pusher); Rail Tamper (with auto lifting & aligning device); Refrigerating Machine (Freezer Operation); Rotary Drill, on Caisson work; Rough Terrain Fork Lift with Winch/Hoist; Side-Boom; Slip-Form Paver; Tower Derrick; Tree Shredder; Trench Machine (Over 24" wide); Truck Mounted Concrete Pump; Tug Boat; Tunnel Machine and/or Mining Machine; and Wheel Excavator.

GROUP 2 - Asphalt Paver; Automatic Subgrader Machine, Self-Propelled (CMI Type); Bobcat Type and/or Skid Steer Loader with Hoe Attachment Greater than 7,000 lbs.; Boring Machine More than 48"; Bulldozer; Endloader; Hydro Milling Machine; Horizontal Directional Drill (over 50,000 ft. lbs. thrust); Kolman-type Loader (production type-Dirt); Lead Greaseman; Lighting & Traffic Signal Installation Equipment (includes all groups or classifications); Material Transfer Equipment (Shuttle Buggy) Asphalt; Pettibone-Rail Equipment; Power Grader; Power Scraper; Push Cat; Rotomill (all), Grinders & Planers of All types; Trench Machine (24" wide & under); and Vermeer type Concrete Saw.

GROUP 3 - A-Frame; Air Compressor on Tunnel Work (low pressure); Asphalt Plant Engineer; Bobcat-type and/or Skid Steer Loader with or without Attachments; Highway Drills (all types); Locomotive (narrow gauge); Material Hoist/Elevator; Mixer, Concrete (more than one bag capacity); Mixer, one bag capacity (Side Loader); Power Boiler (Over 15 lbs. Pressure) Pump Operator installing & operating Well Points; Pump (4" & over discharge); Railroad Tie Insert/Remover; Roller, Asphalt; Rotovator (lime soil stabilizer); Switch & Tie Tampers (without lifting & aligning device); Utility Operator (Small equipment); and Welding Machines; Articulating/straight bed end dumps if assigned (minus \$4.00 per hour).

GROUP 4 - Backfiller; Ballast Re-locator; Bars, Joint & Mesh Installing Machine; Batch Plant; Boring Machine Operator (48" or less); Bull Floats; Burlap & Curing Machine; Concrete Plant (capacity 4 yd. & under); Concrete Saw (Multiple); Conveyor (Highway); Crusher; Deckhand; Farm-type Tractor with attachments (highway); Finishing Machine; Fireperson, Floating Equipment (all types); Fork Lift; Form Trencher; Hydro Hammer except masonry; Hydro Seeder; Pavement Breaker; Plant Mixer; Post Driver; Post Hole Digger (Power Auger); Power Brush Burner; Power Form Handling Equipment; Road Widening Trencher; Roller (Brick, Grade & Macadam); Self-Propelled Power Spreader; Self-Propelled Power Subgrader; Steam Fireperson; Tractor (Pulling Sheepfoot, Roller or Grader); and Vibratory Compactor with Integral Power.

GROUP 5 - Compressor (Portable, Sewer, Heavy & Highway); Drum Fireperson (Asphalt Plant); Generator; Masonary Forklift; Inboard-Outboard Motor Boat Launch; Oil Heater (asphalt plant); Oiler/Helper; Power Driven Heater; Power Sweeper & Scrubber; Pump (under 4" discharge); Signaller; Tire Repairperson; VAC/ALLS; Cranes - Compact, track or rubber

under 4,000 pound capacity; fueling and greasing; and Chainmen.

GROUP 6 - Master Mechanic & Boom from 150 to 180.

GROUP 7 - Boom from 180 and over.

ENGI0066-023 06/01/2023

COLUMBIANA, MAHONING & TRUMBULL COUNTIES

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
ASBESTOS; HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 1 - A & B.....	\$ 44.63	24.30
ASBESTOS; HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 2 - A & B.....	\$ 44.30	24.30
ASBESTOS; HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 3 - A & B.....	\$ 38.47	24.30
ASBESTOS; HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 4 - A & B.....	\$ 34.52	24.30
ASBESTOS; HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 5 - A & B.....	\$ 31.13	24.30
HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 1 - C & D.....	\$ 40.91	24.30
HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 2 - C & D.....	\$ 40.61	24.30
HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 3 - C & D.....	\$ 35.27	24.30
HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 4 - C & D.....	\$ 31.65	24.30
HAZARDOUS/TOXIC WASTE PROJECTS		
GROUP 5 - C & D.....	\$ 28.53	24.30
ALL OTHER WORK		
GROUP 1.....	\$ 37.19	24.30
ALL OTHER WORK		
GROUP 2.....	\$ 36.92	24.30
ALL OTHER WORK		

GROUP 3.....	\$ 32.06	24.30
ALL OTHER WORK		
GROUP 4.....	\$ 28.77	24.30
ALL OTHER WORK		
GROUP 5.....	\$ 25.94	24.30

GROUP 1 - Rig, Pile Driver or Caisson Type; & Rig, Pile Hydraulic Unit Attached

GROUP 2 - Asphalt Heater Planer; Backfiller with Drag Attachment; Backhoe; Backhoe with Shear attached; Backhoe-Rear Pivotal Swing; Batch Plant-Central Mix Concrete; Batch Plant, Portable concrete; Berm Builder-Automatic; Boat Derrick; Boat-Tug; Boring Machine Attached to Tractor; Bullclam; Bulldozer; C.M.I. Road Builder & Similar Type; Cable Placer & Layer; Carrier-Straddle; Carryall-Scraper or Scoop; Chicago Boom; Compactor with Blade Attached; Concrete Saw (Vermeer or similar type); Concrete Spreader Finisher; Combination, Bidwell Machine; Crane; Crane-Electric Overhead; Crane-Rough Terrain; Crane-Side Boom; Crane-Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Digger-Wheel (Not trencher or road widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Easy Pour Median Barrier Machine (or similar type); Electromatic; Frankie Pile; Gradall; Grader; Gurry; Self-Propelled; Heavy Equipment Robotics Operator/Mechanic; Hoist-Monorail; Hoist-Stationary & Mobile Tractor; Hoist, 2 or 3 drum; Horizontal Directional Drill Operator; Jackall; Jumbo Machine; Kocal & Kuhlman; Land-Seagoing Vehicle; Loader, Elevating; Loader, Front End; Loader, Skid Steer; Locomotive; Mechanic/Welder; Metro Chip Harvester with Boom; Mucking Machine; Paver-Asphalt Finishing Machine; Paver-Road Concrete; Paver-Slip Form (C.M.I. or similar); Place Crete Machine with Boom; Post Driver (Carrier mounted); Power Driven Hydraulic Pump & Jack (When used in Slip Form or Lift Slab Construction); Pump Crete Machine; Regulator-Ballast; Hydraulic Power Unit not attached to Rig for Pile Drillings; Rigs-Drilling; Roto Mill or similar Full Lane (8' Wide & Over); Roto Mill or similar type (Under 8'); Shovel; Slip Form Curb Machine; Speedwing; Spikemaster; Stonecrusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor with Attachments; Truck-Boom; Truck-Tire; Trench Machine; Tunnel Machine (Mark 21 Java or similar); & Whirley (or similar type)

GROUP 3 - Asphalt Plant; Bending Machine (Pipeline or similar type); Boring machine, Motor Driven; Chip Harvester without Boom; Cleaning Machine, Pipeline Type; Coating Machine, Pipeline Type; Compactor; Concrete Belt Placer;

Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift (Home building only); Fork lift & Lulls; Fork Lift Walk Behind (Hoisting over 1 buck high); Form Line Machine; Grease Truck operator; Grout Pump; Gunnite Machine; Horizontal Directional Drill Locator; Single Drum Hoist with or without Tower; Huck Bolting Machine; Hydraulic Scaffold (Hoisting building materials); Paving Breaker (Self-propelled or Ridden); Pipe Dream; Pot Fireperson (Power Agitated); Refrigeration Plant; Road Widener; Roller; Sasgen Derrick; Seeding Machine; Soil Stabilizer (Pump type); Spray Cure Machine, Self-Propelled; Straw Blower Machine; Sub-Grader; Tube Finisher or Broom C.M.I. or similar type; & Tugger Hoist

GROUP 4 - Air Curtain Destructor & Similar Type; Batch Plant-Job Related; Boiler Operator; Compressor; Conveyor; Curb Builder, self-propelled; Drill Wagon; Generator Set; Generator-Steam; Heater-Portable Power; Hydraulic Manipulator Crane; Jack-Hydraulic Power driven; Jack-Hydraulic (Railroad); Ladavator; Minor Machine Operator; Mixer-Concrete; Mulching Machine; Pin Puller; Power Broom; Pulverizer; Pump; Road Finishing Machine (Pull Type); Saw-Concrete-Self-Propelled (Highway Work); Signal Person; Spray Cure Machine-Motor Powered; Stump Cutter; Tractor; Trencher Form; Water Blaster; Steam Jenny; Syphon; Vibrator-Gasoline; & Welding Machine

GROUP 5 - Brakeperson; Fireperson; & Oiler

IRON0017-002 05/01/2024

ASHTABULA (North of Route 6, starting at the Geauga County Line, proceeding east to State Route 45), CUYAHOGA, ERIE (Eastern 2/3), GEAUGA, HURON (East of a line drawn from the north border through Monroeville & Willard), LAKE, LORAIN, MEDINA (North of Old Rte. #224), PORTAGE (West of a line from Middlefield to Shalersville to Deerfield), and SUMMIT (North of Old Rte. #224, including city limits of Barberton) COUNTIES

	Rates	Fringes
IRONWORKER		
Ornamental, Reinforcing, & Structural.....	\$ 36.83	29.01

IRON0017-010 05/01/2024

ASHTABULA (Eastern part from Lake Erie on the north to route

#322 on the south to include Conneaut, Kingsville, Sheffield, Denmark, Dorset, Cherry Valley, Wayne, Monroe, Pierpont, Richmond, Andover & Williamsfield Townships)

	Rates	Fringes
IRONWORKER		
Structural, including		
metal building erection &		
Reinforcing.....	\$ 36.83	29.01

IRON0044-001 06/01/2022

ADAMS (Western Part), BROWN, BUTLER (Southern Part), CLERMONT, CLINTON (South of a line drawn from Blanchester to Lynchburg), HAMILTON, HIGHLAND (Excluding eastern one-fifth & portion of county inside lines drawn from Marshall to Lynchburg from the northern county line through E. Monroe to Marshall) and WARREN (South of a line drawn from Blanchester through Morrow to the west county line) COUNTIES

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 32.37	22.30
Beyond 30-mile radius of		
Hamilton County Courthouse..	\$ 28.67	21.20
Up to & including 30-mile		
radius of Hamilton County		
Courthouse.....	\$ 27.60	20.70

IRON0044-002 06/01/2024

CLINTON (South of a line drawn from Blanchester to Lynchburg), HAMILTON, HIGHLAND (Excluding eastern one-fifth & portion of county inside lines drawn from Marshall to Lynchburg from the northern county line through E. Monroe to Marshall) & WARREN (South of a line drawn from Blanchester through Morrow to the west county line)

	Rates	Fringes
IRONWORKER		
Fence Erector.....	\$ 33.60	23.00
Ornamental; Structural.....	\$ 35.37	23.00

IRON0055-003 07/01/2024

CRAWFORD (Area Between lines drawn from where Hwy #598 & #30 meet through N. Liberty to the northern border & from said Hwy junction point due west to the border), DEFIANCE (S. of a line drawn from where Rte. #66 meets the northern line through Independence to the eastern county border), ERIE (Western 1/3), FULTON, HANCOCK, HARDIN (North of a line drawn from Maysville to a point 4 miles south of the northern line on the eastern line), HENRY, HURON (West of a line drawn from the northern border through Monroeville & Willard), LUCAS, OTTAWA, PUTNAM (East of a line drawn from the northern border down through Miller City to where #696 meets the southern border), SANDUSKY, SENECA, WILLIAMS (East of a line drawn from Pioneer through Stryker to the southern border), WOOD & WYANDOT (North of Rte. #30)

	Rates	Fringes
IRONWORKER		
Fence Erector.....	\$ 26.40	24.62
Flat Road Mesh.....	\$ 29.77	21.30
Tunnels & Caissons Under Pressure.....	\$ 29.77	21.30
All Other Work.....	\$ 35.50	29.20

IRON0147-002 06/01/2024

ALLEN (Northern half), DEFIANCE (Northern part, excluding south of a line drawn from where Rte. #66 meets the northern line through Independence to the eastern county border), MERCER (Northern half), PAULDING, PUTNAM (Western part, excluding east of a line drawn from the northern border down through Miller City to where #696 meets the southern border), VAN WERT, and WILLIAMS (Western part, excluding east of a line drawn from Pioneer through Stryker to the southern border) COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 34.20	26.39

IRON0172-002 06/01/2024

CHAMPAIGN (Eastern one-third), CLARK (Eastern one-fourth), COSHOCTON (West of a line beginning at the northwestern county line going through Walhonding & Tunnel Hill to the southern county line), CRAWFORD (South of Rte. #30), DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN (Excluding a line drawn from Roundhead to Maysville), HIGHLAND (Eastern one-fifth), HOCKING, JACKSON (Northern half), KNOX, LICKING, LOGAN (Eastern

one-third), MADISON, MARION, MORROW, MUSKINGUM (West of a line starting at Adams Mill going to Adamsville & going from Adamsville through Blue Rock to the southern border), PERRY, PICKAWAY, PIKE (Northern half), ROSS, UNION, VINTON and WYANDOT (South of Rte. #30) COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 36.77	22.85

IRON0207-004 06/01/2024		

ASHTABULA (Southern part starting at the Geauga County line), COLUMBIANA (E. of a line from Damascus to Highlandtown), MAHONING (N. of Old Route #224), PORTAGE (E. of a line from Middlefield to Shalersville to Deerfield) & TRUMBULL

	Rates	Fringes
IRONWORKER		
Layout; Sheeter.....	\$ 35.83	27.41
Ornamental; Reinforcing;		
Structural.....	\$ 34.83	27.41
Ornamental; Reinforcing.....	\$ 28.92	25.61

IRON0290-002 06/01/2024		

ALLEN (Southern half), AUGLAIZE, BUTLER (North of a line drawn from east to the west county line going through Oxford, Darrtown & Woodsdale), CHAMPAIGN (Excluding east of a line drawn from Catawla to the point where #68 intersects the northern county line), CLARK (Western two-thirds), CLINTON (Excluding south of a line drawn from Blanchester to Lynchburg), DARKE, GREENE, HIGHLAND (Inside lines drawn from Marshall to Lynchburg & from the northern county line through East Monroe to Marshall), LOGAN (West of a line drawn from West Liberty to where the northern county line meets the western county line of Hardin), MERCER (Southern half), MIAMI, MONTGOMERY, PREBLE, SHELBY & WARREN (Excluding south of a line drawn from Blanchester through Morrow to the western county line) COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 35.39	24.35

IRON0549-003 12/01/2022		

BELMONT, GUERNSEY, HARRISON, JEFFERSON, MONROE & MUSKINGUM
 (Excluding portion west of a line starting at Adams Mill going
 to Adamsville and going from Adamsville through Blue Rock to
 the south border)

	Rates	Fringes
IRONWORKER.....	\$ 35.19	25.66

IRON0550-004 05/01/2024		

ASHLAND, CARROLL, COLUMBIANA (W. of a line from Damascus to
 Highlandtown), COSHOCTON (E. of a line beginning at NW Co. line
 going through Walhonding & Tunnel Hill to the South Co. line),
 HOLMES, HURON (S. of Old Rte. #224), MAHONING (S. of Old Rte.
 #224), MEDINA (S. of Old Rte. #224), PORTAGE (S. of Old Rte.
 #224), RICHLAND, STARK, SUMMIT (S. of Old Rte. #224, Excluding
 city limits of Barberton), TUSCARAWAS, & WAYNE

	Rates	Fringes
Ironworkers:Structural, Ornamental and Reinforcing.....	\$ 34.70	22.88

IRON0769-004 06/01/2024		

ADAMS (Eastern Half), GALLIA, JACKSON (Southern Half), LAWRENCE
 & SCIOTO

	Rates	Fringes
IRONWORKER.....	\$ 37.66	29.24

IRON0787-003 06/01/2024		

ATHENS, MEIGS, MORGAN, NOBLE, and WASHINGTON COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 33.00	24.25

LAB00265-008 05/01/2024		

	Rates	Fringes
LABORER		

ASHTABULA, ERIE, HURON, LORAIN, LUCAS, MAHONING, MEDINA, OTTAWA, PORTAGE, SANDUSKY, STARK, SUMMIT, TRUMBULL & WOOD COUNTIES		
GROUP 1.....	\$ 35.95	14.45
GROUP 2.....	\$ 36.12	14.45
GROUP 3.....	\$ 36.45	14.45
GROUP 4.....	\$ 36.90	14.45
CUYAHOGA AND GEAUGA COUNTIES ONLY: SEWAGE PLANTS, WASTE PLANTS, WATER TREATMENT FACILITIES, PUMPING STATIONS, & ETHANOL PLANTS CONSTRUCTION.....		
	\$ 38.56	14.45
CUYAHOGA, GEAUGA & LAKE COUNTIES		
GROUP 1.....	\$ 37.18	14.45
GROUP 2.....	\$ 37.35	14.45
GROUP 3.....	\$ 37.68	14.45
GROUP 4.....	\$ 38.13	14.45
REMAINING COUNTIES OF OHIO		
GROUP 1.....	\$ 35.52	14.45
GROUP 2.....	\$ 35.69	14.45
GROUP 3.....	\$ 36.02	14.45
GROUP 4.....	\$ 36.47	14.45

LABORER CLASSIFICATIONS

GROUP 1 - Asphalt Laborer; Carpenter Tender; Concrete Curing Applicator; Dump Man (Batch Truck); Guardrail and Fence Installer; Joint Setter; Laborer (Construction); Landscape Laborer; Mesh Handlers & Placer; Right-of-way Laborer; Riprap Laborer & Grouter; Scaffold Erector; Seal Coating; Surface Treatment or Road Mix Laborer; Sign Installer; Slurry Seal; Utility Man; Bridge Man; Handyman; Waterproofing Laborer; Flagperson; Hazardous Waste (level D); Diver Tender; Zone Person & Traffic Control

GROUP 2 - Asphalt Raker; Concrete Puddler; Kettle Man Pipeline); Machine Driven Tools (Gas, Electric, Air); Mason Tender; Brick Paver; Mortar Mixer; Power Buggy or Power Wheelbarrow; Paint Striper; Sheeting & Shoring Man; Surface Grinder Man; Plastic Fusing Machine Operator; Pug Mill Operator; & Vacuum Devices (wet or dry); Rodding Machine Operator; Diver; Screwman or Paver; Screed Person; Water Blast, Hand Held Wand; Pumps 4" & Under (Gas, Air or Electric) & Hazardous Waste (level C); Air Track and Wagon Drill; Bottom Person; Cofferdam (below 25 ft. deep);

Concrete Saw Person; Cutting with Burning Torch; Form Setter; Hand Spiker (Railroad); Pipelayer; Tunnel Laborer (without air) & Caisson; Underground Person (working in Sewer and Waterline, Cleaning, Repairing & Reconditioning); Sandblaster Nozzle Person; & Hazardous Waste (level B)

GROUP 3 - Blaster; Mucker; Powder Person; Top Lander; Wrencher (Mechanical Joints & Utility Pipeline); Yarnner; Hazardous Waste (level A); Concrete Specialist; Concrete Crew in Tunnels (With Air-pressurized - \$1.00 premium); Curb Setter & Cutter; Grade Checker; Utility Pipeline Tapper; Waterline; and Caulker

GROUP 4 - Miner (With Air-pressurized - \$1.00 premium); & Gunite Nozzle Person

TUNNEL LABORER WITH AIR-PRESSURIZED ADD \$1.00 TO BASE RATE

SIGNAL PERSON WILL RECEIVE THE RATE EQUAL TO THE RATE PAID THE LABORER CLASSIFICATION FOR WHICH HE OR SHE IS SIGNALING.

PAIN0006-002 05/01/2023

ASHTABULA, CUYAHOGA, GEAUGA, LAKE, LORAIN, PORTAGE (N. of the East-West Turnpike) & SUMMIT (N. of the East-West Turnpike)

	Rates	Fringes
PAINTER		
COMMERCIAL NEW WORK; REMODELING; & RENOVATIONS		
GROUP 1.....	\$ 30.75	18.95
GROUP 2.....	\$ 31.15	18.95
GROUP 3.....	\$ 31.45	18.95
GROUP 4.....	\$ 37.01	18.95
COMMERCIAL REPAINT		
GROUP 1.....	\$ 29.25	18.95
GROUP 2.....	\$ 29.65	18.95
GROUP 3.....	\$ 29.95	18.95

PAINTER CLASSIFICATIONS - COMMERCIAL NEW WORK; REMODELING; & RENOVATIONS

GROUP 1 - Brush; & Roller

GROUP 2 - Sandblasting & Buffing

GROUP 3 - Spray Painting; Closed Steel Above 55 feet; Bridges

& Open Structural Steel; Tanks - Water Towers; Bridge
Painters; Bridge Riggers; Containment Builders

GROUP 4 - Bridge Blaster

PAINTER CLASSIFICATIONS - COMMERCIAL REPAINT

GROUP 1 - Brush; & Roller

GROUP 2 - Sandblasting & Buffing

GROUP 3 - Spray Painting

PAIN007-002 07/01/2024

FULTON, HENRY, LUCAS, OTTAWA (Excluding Allen, Bay, Bono,
Catawba Island, Clay Center, Curtice, Danbury, Eagle Beach,
Elliston, Elmore, Erie, Fishback, Gem Beach & Genova) & WOOD

	Rates	Fringes
PAINTER		
NEW COMMERCIAL WORK		
GROUP 1.....	\$ 31.84	20.79
GROUP 2.....	\$ 32.84	20.79
GROUP 3.....	\$ 32.84	20.79
GROUP 4.....	\$ 32.84	20.79
GROUP 5.....	\$ 32.84	20.79
GROUP 6.....	\$ 32.84	20.79
GROUP 7.....	\$ 32.84	20.79
GROUP 8.....	\$ 32.84	20.79
GROUP 9.....	\$ 32.84	20.79

REPAINT IS 90% OF JR

PAINTER CLASSIFICATIONS

GROUP 1 - Brush; Spray & Sandblasting Pot Tender

GROUP 2 - Refineries & Refinery Tanks; Surfaces 30 ft. or
over where material is applied to or labor performed on
above ground level (exterior), floor level (interior)

GROUP 3 - Swing Stage & Chair

GROUP 4 - Lead Abatement

GROUP 5 - All Methods of Spray

GROUP 6 - Solvent-Based Catalized Epoxy Materials of 2 or More Component Materials, to include Solvent-Based Conversion Varnish (excluding water based)

GROUP 7 - Spray Solvent Based Material; Sand & Abrasive Blasting

GROUP 8 - Towers; Tanks; Bridges; Stacks Over 30 Feet

GROUP 9 - Epoxy Spray (excluding water based)

PAIN0012-008 05/01/2019

BUTLER COUNTY

	Rates	Fringes
PAINTER		
GROUP 1.....	\$ 21.95	10.20
GROUP 2.....	\$ 25.30	10.20
GROUP 3.....	\$ 25.80	10.20
GROUP 4.....	\$ 26.05	10.20
GROUP 5.....	\$ 26.30	10.20

PAINTER CLASSIFICATIONS

GROUP 1: Bridge Equipment Tender; Bridge/Containment Builder

GROUP 2: Brush & Roller

GROUP 3: Spray

GROUP 4: Sandblasting; & Waterblasting

GROUP 5: Elevated Tanks; Steeplejack Work; Bridge; & Lead Abatement

PAIN0012-010 05/01/2019

BROWN, CLERMONT, CLINTON, HAMILTON & WARREN

	Rates	Fringes
PAINTER		
HEAVY & HIGHWAY BRIDGES-		
GUARDRAILS-LIGHTPOLES-		

STRIPING

Bridge Equipment Tender and Containment Builder....	\$ 21.95	10.20
Bridges when highest point of clearance is 60 feet or more; & Lead Abatement Projects.....	\$ 26.30	10.20
Brush & Roller.....	\$ 25.30	10.20
Sandblasting & Hopper Tender; Water Blasting.....	\$ 26.05	10.20
Spray.....	\$ 25.80	10.20

PAIN0093-001 12/01/2024

ATHENS, GUERNSEY, HOCKING, MONROE, MORGAN, NOBLE and
WASHINGTON COUNTIES

Rates	Fringes
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PAINTER

Bridges; Locks; Dams; Tension Towers; & Energized Substations.....	\$ 36.44	24.46
Power Generating Facilities.	\$ 33.29	24.46

PAIN0249-002 05/01/2024

CLARK, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE

Rates	Fringes
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PAINTER

GROUP 1 - Brush & Roller....	\$ 27.15	13.64
GROUP 2 - Swing, Scaffold Bridges; Structural Steel; Open Acid Tank; High Tension Electrical Equipment; & Hot Pipes.....	\$ 27.15	13.64
GROUP 3 - Spray; Sandblast; Steamclean; Lead Abatement.....	\$ 27.90	13.64
GROUP 4 - Steeplejack Work..	\$ 28.10	13.64
GROUP 5 - Coal Tar.....	\$ 28.65	13.64
GROUP 6 - Bridge Equipment Tender & or Containment Builder.....	\$ 35.86	13.64
GROUP 7 - Tanks, Stacks & Towers.....	\$ 31.09	13.64
GROUP 8 - Bridge Blaster,		

Rigger.....	\$ 38.86	13.64
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PAIN0356-002 09/01/2009

KNOX, LICKING, MUSKINGUM, and PERRY

	Rates	Fringes
PAINTER		
Bridge Equipment Tenders and Containment Builders....	\$ 27.93	7.25
Bridges; Blasters; and Riggers.....	\$ 34.60	7.25
Brush and Roller.....	\$ 20.93	7.25
Sandblasting; Steam Cleaning; Waterblasting; and Hazardous Work.....	\$ 25.82	7.25
Spray.....	\$ 21.40	7.25
Structural Steel and Swing Stage.....	\$ 25.42	7.25
Tanks; Stacks; and Towers...	\$ 28.63	7.25

PAIN0438-002 12/01/2023

BELMONT, HARRISON and JEFFERSON COUNTIES

	Rates	Fringes
PAINTER		
Bridges, Locks, Dams, Tension Towers & Energized Substations.....	\$ 36.09	19.49
Power Generating Facilities.	\$ 32.94	19.49

PAIN0476-001 06/01/2024

COLUMBIANA, MAHONING, and TRUMBULL COUNTIES

	Rates	Fringes
PAINTER		
GROUP 1.....	\$ 28.39	17.14
GROUP 2.....	\$ 35.02	17.14
GROUP 3.....	\$ 28.60	17.14
GROUP 4.....	\$ 28.89	17.14
GROUP 5.....	\$ 29.04	17.14
GROUP 6.....	\$ 29.29	17.14
GROUP 7.....	\$ 30.39	17.14

PAINTER CLASSIFICATIONS:

GROUP 1: Painters, Brush & Roller

GROUP 2: Bridges

GROUP 3: Structural Steel

GROUP 4: Spray, Except Bar Joist/Deck

GROUP 5: Epoxy/Mastic; Spray- Bar Joist/Deck; Working Above
50 Feet; and Swingstages

GROUP 6: Tanks; Sandblasting

GROUP 7: Towers; Stacks

PAIN0555-002 11/01/2023

ADAMS, HIGHLAND, JACKSON, PIKE & SCIOTO

	Rates	Fringes
PAINTER		
GROUP 1.....	\$ 32.18	20.29
GROUP 2.....	\$ 33.81	20.29
GROUP 3.....	\$ 35.44	20.29
GROUP 4.....	\$ 38.63	20.29

PAINTER CLASSIFICATIONS

GROUP 1 - Containment Builder

GROUP 2 - Brush; Roller; Power Tools, Under 40 feet

GROUP 3 - Sand Blasting; Spray; Steam Cleaning; Pressure
Washing; Epoxy & Two Component Materials; Lead Abatement;
Hazardous Waste; Toxic Materials; Bulk & Storage Tanks of
25,000 Gallon Capacity or More; Elevated Tanks

GROUP 4 - Stacks; Bridges

PAIN0639-001 05/01/2011

	Rates	Fringes
Sign Painter & Erector.....	\$ 20.61	3.50+a+b+c

FOOTNOTES: a. 7 Paid Holidays: New Year's Day; Memorial Day;

July 4th; Labor Day; Thanksgiving Day; Christmas Day & 1 Floating Day

b. Vacation Pay: After 1 year's service - 5 days' paid vacation; After 2, but less than 10 years' service - 10 days' paid vacation; After 10, but less than 20 years' service - 15 days' paid vacation; After 20 years' service - 20 days' paid vacation

c. Funeral leave up to 3 days maximum paid leave for death of mother, father, brother, sister, spouse, child, mother-in-law, father-in-law, grandparent and inlaw provided employee attends funeral

PAIN0788-002 06/01/2024

ASHLAND, CRAWFORD, ERIE, HANCOCK, HURON, MARION, MORROW, OTTAWA (Allen, Bay, Bono, Catawba Island, Clay Center, Curtice, Danbury, Eagle Beach, Elliston, Elmore, Erie, Fishback, Gem Beach & Genoa), RICHLAND, SANDUSKY, SENECA & WYANDOT

	Rates	Fringes
PAINTER		
Brush & Roller.....	\$ 29.13	17.52
Structural Steel.....	\$ 30.73	17.52

WINTER REPAINT: Between December 1 to March 31 - 90%JR

\$.50 PER HOUR SHALL BE ADDED TO THE RATE OF PAY FOR THE CLASSIFICATION OF WORK:

While working swingstage, boatswain chair, needle beam and horizontal cable. While operating sprayguns, sandblasting, cobblasting and high pressure waterblasting (4000psi).

\$1.00 PER HOUR SHALL BE ADDED TO THE RATE OF PAY FOR THE CLASSIFICATION OF WORK:

For the application of catalized epoxy, including latex epoxy that is deemed hazardous, lead abatement, or for work or material where special precautions beyond normal work duties must be taken. For working on stacks, tanks, and towers over 40 feet in height.

PAIN0813-005 12/01/2008

GALLIA, LAWRENCE, MEIGS & VINTON

	Rates	Fringes
PAINTER		
Base Rate.....	\$ 24.83	10.00
Bridges, Locks, Dams & Tension Towers.....	\$ 27.83	10.00

PAIN0841-001 06/01/2023

MEDINA, PORTAGE (South of and including Ohio Turnpike), and
SUMMIT (South of and including Ohio Turnpike) COUNTIES

	Rates	Fringes
Painters:		
GROUP 1.....	\$ 30.18	15.50
GROUP 2.....	\$ 30.83	15.50
GROUP 3.....	\$ 30.93	15.50
GROUP 4.....	\$ 31.03	15.50
GROUP 5.....	\$ 31.43	15.50
GROUP 6.....	\$ 39.20	11.75
GROUP 7.....	\$ 31.68	15.50

PAINTER CLASSIFICATIONS:

GROUP 1 - Brush, Roller & Paperhanger

GROUP 2 - Epoxy Application

GROUP 3 - Swing Scaffold, Bosum Chair, & Window Jack

GROUP 4 - Spray Gun Operator of Any & All Coatings

GROUP 5 - Sandblast, Painting of Standpipes, etc. from
Scaffolds, Bridge Work and/or Open Structural Steel,
Standpipes and/or Water Towers

GROUP 6 - Public & Commerce Transportation, Steel or
Galvanized, Bridges, Tunnels & Related Support Items
(concrete)

GROUP 7 - Synthetic Exterior, Drywall Finisher and/or Taper,
Drywall Finisher and Follow-up Man Using Automatic Tools

PAIN0841-002 06/01/2023

CARROLL, COSHOCTON, HOLMES, STARK, TUSCARAWAS & WAYNE

	Rates	Fringes
PAINTER		
Bridges; Towers, Poles & Stacks; Sandblasting Steel; Structural Steel & Metalizing.....	\$ 31.43	15.50
Brush & Roller.....	\$ 30.18	15.50
Spray; Tank Interior & Exterior.....	\$ 31.03	15.50

PAIN1020-002 07/01/2024

ALLEN, AUGLAIZE, CHAMPAIGN, DEFIANCE, HARDIN, LOGAN, MERCER,
PAULDING, PUTNAM, SHELBY, VAN WERT, and WILLIAMS COUNTIES

	Rates	Fringes
PAINTER		
Brush & Roller.....	\$ 26.54	17.66
Drywall Finishing & Taping..	\$ 27.29	17.66
Lead Abatement.....	\$ 28.29	17.66
Spray, Sandblasting Pressure Cleaning, & Refinery.....	\$ 27.29	17.66
Swing Stage, Chair, Spiders, & Cherry Pickers...	\$ 26.79	17.66
Wallcoverings.....	\$ 27.29	17.66

All surfaces 40 ft. or over where material is applied to or
labor performed on, above ground level (exterior), floor
level (interior) - \$.50 premium

Applying Coal Tar Products - \$1.00 premium

PAIN1275-002 05/01/2024

DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY, ROSS
& UNION

	Rates	Fringes
PAINTER		
Bridges.....	\$ 36.26	14.91
Brush; Roller.....	\$ 30.65	14.91
Sandblasting; Steamcleaning;		

Waterblasting (3500 PSI or Over)& Hazardous Work.....	\$ 31.35	14.91
Spray.....	\$ 31.15	14.91
Stacks; Tanks; & Towers.....	\$ 33.46	14.91
Structural Steel & Swing Stage.....	\$ 29.50	14.91

PLAS0109-001 06/01/2024

MEDINA, PORTAGE, STARK, and SUMMIT COUNTIES

	Rates	Fringes
PLASTERER.....	\$ 31.70	23.63

PLAS0109-003 06/01/2024

CARROLL, HOLMES, TUSCARAWAS, and WAYNE COUNTIES

	Rates	Fringes
PLASTERER.....	\$ 31.70	23.63

PLAS0132-002 07/01/2024

BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, WARREN COUNTIES

	Rates	Fringes
PLASTERER.....	\$ 30.40	16.54

PLAS0404-002 05/01/2018

ASHTABULA, CUYAHOGA, GEAUGA, AND LAKE COUNTIES

	Rates	Fringes
PLASTERER.....	\$ 29.63	17.11

PLAS0404-003 05/01/2018

LORAIN COUNTY

	Rates	Fringes
PLASTERER.....	\$ 28.86	17.11

PLAS0526-022 05/01/2018

COLUMBIANA, MAHONING, and TRUMBULL COUNTIES

	Rates	Fringes
PLASTERER.....	\$ 28.86	17.11

PLAS0526-023 05/01/2018		

BELMONT, HARRISON, and JEFFERSON COUNTIES

	Rates	Fringes
PLASTERER.....	\$ 28.21	17.11

PLAS0886-001 07/01/2024		

FULTON, HANCOCK, HENRY, LUCAS, PUTNAM, and WOOD COUNTIES

	Rates	Fringes
PLASTERER.....	\$ 33.73	23.25

PLAS0886-003 07/01/2024		

	Rates	Fringes
PLASTERER.....	\$ 33.73	23.25

PLAS0886-004 07/01/2024		

	Rates	Fringes
PLASTERER.....	\$ 33.73	23.25

PLUM0042-002 07/01/2024		

ASHLAND, CRAWFORD, ERIE, HURON, KNOX, LORAIN, MORROW, RICHLAND
& WYANDOT

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 40.62	25.67

PLUM0050-002 07/01/2024		

DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING,
PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 49.70	30.76

PLUM0055-003 05/01/2024		

ASHTABULA, CUYAHOGA, GEAUGA, LAKE, MEDINA (N. of Rte. #18 & Smith Road) & SUMMIT (N. of Rte. #303, including the corporate limits of the city of Hudson)

	Rates	Fringes
PLUMBER.....	\$ 42.36	29.90

PLUM0083-001 07/01/2023		

BELMONT & MONROE (North of Rte. #78)

	Rates	Fringes
Plumber and Steamfitter.....	\$ 35.94	37.35

PLUM0094-002 05/01/2024		

CARROLL (Northen Half), STARK, and WAYNE COUNTIES

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 45.23	24.89

PLUM0120-002 04/29/2024		

ASHTABULA, CUYAHOGA, GEAUGA, LAKE, LORAIN (the C.E.I. Power House in Avon Lake), MEDINA (N. of Rte. #18) & SUMMIT (N. of #303)

	Rates	Fringes
PIPEFITTER.....	\$ 47.07	28.15

PLUM0162-002 06/01/2024		

CHAMPAIGN, CLARK, CLINTON, DARKE, FAYETTE, GREENE, MIAMI, MONTGOMERY & PREBLE

Rates	Fringes
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Plumber, Pipefitter, Steamfitter.....	\$ 43.05	27.18
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PLUM0168-002 06/01/2024

MEIGS, MONROE (South of Rte. #78), MORGAN (South of Rte. #78)
& WASHINGTON

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 39.43	37.29

PLUM0189-002 06/01/2024

DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MADISON,
MARION, PERRY, PICKAWAY, ROSS & UNION

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 43.25	26.94

PLUM0219-002 06/01/2024

MEDINA (Rte. #18 from eastern edge of Medina Co., west to
eastern corporate limits of the city of Medina, & on the county
road from the west corporate limits of Medina running due west
to and through community of Risley to the western edge of
Medina County - All territory south of this line), PORTAGE, and
SUMMIT (S. of Rte. #303) COUNTIES

	Rates	Fringes
Plumber and Steamfitter.....	\$ 45.37	27.64

PLUM0392-002 06/01/2024

BROWN, BUTLER, CLERMONT, HAMILTON & WARREN

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 40.65	26.75

PLUM0396-001 06/01/2024

COLUMBIANA (Excluding Washington & Yellow Creek Townships &

Liverpool Twp. - Secs. 35 & 36 - West of County Road #427),
MAHONING and TRUMBULL COUNTIES

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 38.45	28.96

PLUM0495-002 06/01/2024		

CARROLL (Rose, Monroe, Union, Lee, Orange, Perry & Loudon Townships), COLUMBIANA (Washington & Yellow Creek Townships & Liverpool Township, Secs. 35 & 36, West of County Rd. #427), COSHOCTON, GUERNSEY, HARRISON, HOLMES, JEFFERSON, MORGAN (South to State Rte. #78 & from McConnelsville west on State Rte. #37 to the Perry County line), MUSKINGUM, NOBLE, and TUSCARAWAS COUNTIES

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 37.82	36.70

PLUM0577-002 06/01/2024		

ADAMS, ATHENS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO & VINTON

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 41.65	27.48

PLUM0776-002 07/01/2024		

ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY and VAN WERT COUNTIES

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 42.07	29.35

TEAM0377-003 05/01/2024		

STATEWIDE, EXCEPT CUYAHOGA, GEAUGA & LAKE

	Rates	Fringes
TRUCK DRIVER		
GROUP 1.....	\$ 32.54	16.80
GROUP 2.....	\$ 32.96	16.80

TRUCK DRIVER CLASSIFICATIONS

GROUP 1 - Asphalt Distributor; Batch; 4- Wheel Service;
4-Wheel Dump; Oil Distributor & Tandem

GROUP 2 - Tractor-Trailer Combination: Fuel; Pole Trailer;
Ready Mix; Semi-Tractor; & Asphalt Oil Spraybar Man When
Operated From Cab; 5 Axles & Over; Belly Dump; End Dump;
Articulated Dump; Heavy Duty Equipment; Low Boy; & Truck
Mechanic

TEAM0436-002 05/01/2024

CUYAHOGA, GEAUGA & LAKE

	Rates	Fringes
TRUCK DRIVER		
GROUP 1.....	\$ 32.25	18.95
GROUP 2.....	\$ 33.75	18.95

GROUP 1: Straight & Dump, Straight Fuel

GROUP 2: Semi Fuel, Semi Tractor, Euclids, Darts, Tank,
Asphalt Spreaders, Low Boys, Carry-All, Tourna-Rockers,
Hi-Lifts, Extra Long Trailers, Semi-Pole Trailers, Double
Hook-Up Tractor Trailers including Team Track & Railroad
Siding, Semi-Tractor & Tri-Axle Trailer, Tandem Tractor &
Tandem Trailer, Tag Along Trailer, Expandable Trailer or
Towing Requiring Road Permits, Ready-Mix (Agitator or
Non-Agitator), Bulk Concrete Driver, Dry Batch Truck,
Articulated End Dump

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher
minimum wage under Executive Order 14026 (\$17.75) or 13658
(\$13.30). Please see the Note at the top of the wage

determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

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

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END OF GENERAL DECISION"

EXHIBIT 18

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION (THIS CERTIFICATION IS PART OF THE BID)

The bidder hereby certifies that he has, has not, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he has, has not, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements. **The Bidder must circle the appropriate "has or has not" above.**

FEDERALLY REQUIRED EEO CERTIFICATION CLAUSE

The Federally Required EEO Certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)) and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontractors which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Signature

Company/Corporation

Address

City/State/Zip Code