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Letting September 20, 2024

Notice to Bidders, Specifications and Proposal



**Contract No. 85762
LEE County
Section 22-00183-00-BR (Dixon)
Various Routes
Project 5LY7-916 ()
District 2 Construction Funds**

Prepared by

Checked by

F

(Printed by authority of the State of Illinois)



- 1. TIME AND PLACE OF OPENING BIDS.** Electronic bids are to be submitted to the electronic bidding system (iCX-Integrated Contractors Exchange). All bids must be submitted to the iCX system prior to 12:00 p.m. September 20, 2024 at which time the bids will be publicly opened from the iCX SecureVault.
- 2. DESCRIPTION OF WORK.** The proposed improvement is identified and advertised for bids in the Invitation for Bids as:

**Contract No. 85762
LEE County
Section 22-00183-00-BR (Dixon)
Project 5LY7-916 ()
Various Routes
District 2 Construction Funds**

Construction of a pedestrian bridge, shared--use path, lighting, HMA pavement, sidewalk, drainage improvements and modular block retaining wall along Page Drive, Lincoln Statue Drive, and through Page Park in Dixon.

- 3. INSTRUCTIONS TO BIDDERS.** (a) This Notice, the invitation for bids, proposal and letter of award shall, together with all other documents in accordance with Article 101.09 of the Standard Specifications for Road and Bridge Construction, become part of the contract. Bidders are cautioned to read and examine carefully all documents, to make all required inspections, and to inquire or seek explanation of the same prior to submission of a bid.

(b) State law, and, if the work is to be paid wholly or in part with Federal-aid funds, Federal law requires the bidder to make various certifications as a part of the proposal and contract. By execution and submission of the proposal, the bidder makes the certification contained therein. A false or fraudulent certification shall, in addition to all other remedies provided by law, be a breach of contract and may result in termination of the contract.
- 4. AWARD CRITERIA AND REJECTION OF BIDS.** This contract will be awarded to the lowest responsive and responsible bidder considering conformity with the terms and conditions established by the Department in the rules, Invitation for Bids and contract documents. The issuance of plans and proposal forms for bidding based upon a prequalification rating shall not be the sole determinant of responsibility. The Department reserves the right to determine responsibility at the time of award, to reject any or all proposals, to re-advertise the proposed improvement, and to waive technicalities.

By Order of the
Illinois Department of Transportation

Omer Osman,
Secretary

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FOR
SUPPLEMENTAL SPECIFICATIONS
AND RECURRING SPECIAL PROVISIONS

Adopted January 1, 2024

This index contains a listing of SUPPLEMENTAL SPECIFICATIONS, frequently used RECURRING SPECIAL PROVISIONS, and LOCAL ROADS AND STREETS RECURRING SPECIAL PROVISIONS.

ERRATA Standard Specifications for Road and Bridge Construction (Adopted 1-1-22) (Revised 1-1-24)

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BDE SPECIAL PROVISIONS

The following special provisions indicated by an "X" are applicable to this contract. An * indicates a new or revised special provision for the letting.

<u>File Name</u>	<u>Pg.</u>	<u>Special Provision Title</u>	<u>Effective</u>	<u>Revised</u>
80099		<input type="checkbox"/> Accessible Pedestrian Signals (APS)	April 1, 2003	Jan. 1, 2022
80274	101	<input checked="" type="checkbox"/> Aggregate Subgrade Improvement	April 1, 2012	April 1, 2022
80192		<input type="checkbox"/> Automated Flagger Assistance Device	Jan. 1, 2008	April 1, 2023
80173		<input type="checkbox"/> Bituminous Materials Cost Adjustments	Nov. 2, 2006	Aug. 1, 2017
80426		<input type="checkbox"/> Bituminous Surface Treatment with Fog Seal	Jan. 1, 2020	Jan. 1, 2022
80241		<input type="checkbox"/> Bridge Demolition Debris	July 1, 2009	
50531		<input type="checkbox"/> Building Removal	Sept. 1, 1990	Aug. 1, 2022
50261		<input type="checkbox"/> Building Removal with Asbestos Abatement	Sept. 1, 1990	Aug. 1, 2022
80449	104	<input checked="" type="checkbox"/> Cement, Type II	Aug. 1, 2023	
80384	105	<input checked="" type="checkbox"/> Compensable Delay Costs	June 2, 2017	April 1, 2019
80198		<input type="checkbox"/> Completion Date (via calendar days)	April 1, 2008	
80199		<input type="checkbox"/> Completion Date (via calendar days) Plus Working Days	April 1, 2008	
80453		<input type="checkbox"/> Concrete Sealer	Nov. 1, 2023	
80261		<input type="checkbox"/> Construction Air Quality – Diesel Retrofit	June 1, 2010	Nov. 1, 2014
80434		<input type="checkbox"/> Corrugated Plastic Pipe (Culvert and Storm Sewer)	Jan. 1, 2021	
80029	109	<input checked="" type="checkbox"/> Disadvantaged Business Enterprise Participation	Sept. 1, 2000	Mar. 2, 2019
80229		<input type="checkbox"/> Fuel Cost Adjustment	April 1, 2009	Aug. 1, 2017
80452		<input type="checkbox"/> Full Lane Sealant Waterproofing System	Nov. 1, 2023	
80447		<input type="checkbox"/> Grading and Shaping Ditches	Jan 1, 2023	
80433		<input type="checkbox"/> Green Preformed Thermoplastic Pavement Markings	Jan. 1, 2021	Jan. 1, 2022
80443		<input type="checkbox"/> High Tension Cable Median Barrier Removal	April 1, 2022	
80456	119	<input checked="" type="checkbox"/> Hot-Mix Asphalt	Jan. 1, 2024	
80446	120	<input checked="" type="checkbox"/> Hot-Mix Asphalt – Longitudinal Joint Sealant	Nov. 1, 2022	Aug. 1, 2023
80438		<input type="checkbox"/> Illinois Works Apprenticeship Initiative – State Funded Contracts	June 2, 2021	April 2, 2024
80045		<input type="checkbox"/> Material Transfer Device	June 15, 1999	Jan. 1, 2022
80450		<input type="checkbox"/> Mechanically Stabilized Earth Retaining Walls	Aug. 1, 2023	
80441	122	<input checked="" type="checkbox"/> Performance Graded Asphalt Binder	Jan 1, 2023	
80451	127	<input checked="" type="checkbox"/> Portland Cement Concrete	Aug. 1, 2023	
* 80459		<input type="checkbox"/> Preformed Plastic Pavement Marking	June 2, 2024	
34261		<input type="checkbox"/> Railroad Protective Liability Insurance	Dec. 1, 1986	Jan. 1, 2022
80455	128	<input checked="" type="checkbox"/> Removal and Disposal of Regulated Substances	Jan. 1, 2024	April 1, 2024
80445	130	<input checked="" type="checkbox"/> Seeding	Nov. 1, 2022	
* 80457		<input type="checkbox"/> Short Term and Temporary Pavement Markings	April 1, 2024	April 2, 2024
80448	136	<input checked="" type="checkbox"/> Source of Supply and Quality Requirements	Jan. 2, 2023	
80340		<input type="checkbox"/> Speed Display Trailer	April 2, 2014	Jan. 1, 2022
80127		<input type="checkbox"/> Steel Cost Adjustment	April 2, 2014	Jan. 1, 2022
80397	137	<input checked="" type="checkbox"/> Subcontractor and DBE Payment Reporting	April 2, 2018	
80391	138	<input checked="" type="checkbox"/> Subcontractor Mobilization Payments	Nov. 2, 2017	April 1, 2019
80437	139	<input checked="" type="checkbox"/> Submission of Payroll Records	April 1, 2021	Nov. 2, 2023
80435		<input type="checkbox"/> Surface Testing of Pavements – IRI	Jan. 1, 2021	Jan. 1, 2023
80410		<input type="checkbox"/> Traffic Spotters	Jan. 1, 2019	
20338	141	<input checked="" type="checkbox"/> Training Special Provisions	Oct. 15, 1975	Sept. 2, 2021
80429		<input type="checkbox"/> Ultra-Thin Bonded Wearing Course	April 1, 2020	Jan. 1, 2022
80439	144	<input checked="" type="checkbox"/> Vehicle and Equipment Warning Lights	Nov. 1, 2021	Nov. 1, 2022
* 80458		<input type="checkbox"/> Waterproofing Membrane System	Aug. 1, 2024	
80302	145	<input checked="" type="checkbox"/> Weekly DBE Trucking Reports	June 2, 2012	Nov. 1, 2021
80454		<input type="checkbox"/> Wood Sign Support	Nov. 1, 2023	
80427	146	<input checked="" type="checkbox"/> Work Zone Traffic Control Devices	Mar. 2, 2020	
80071		<input type="checkbox"/> Working Days	Jan. 1, 2002	

GUIDE BRIDGE SPECIAL PROVISION INDEX/CHECK SHEET

Effective as of the: August 2, 2024 Letting

Pg #	√	File Name	Title	Effective	Revised
	<input type="checkbox"/>	GBSP 4	Polymer Modified Portland Cement Mortar	June 7, 1994	April 1, 2016
	<input type="checkbox"/>	GBSP 13	High-Load Multi-Rotational Bearings	Oct 13, 1988	Sept 2, 2022
	<input type="checkbox"/>	GBSP 14	Jack and Remove Existing Bearings	April 20, 1994	April 13, 2018
	<input type="checkbox"/>	GBSP 16	Jacking Existing Superstructure	Jan 11, 1993	April 13, 2018
	<input type="checkbox"/>	GBSP 18	Modular Expansion Joint	May 19, 1994	Oct 27, 2023
	<input type="checkbox"/>	GBSP 21	Cleaning and Painting Contact Surface Areas of Existing Steel Structures	June 30, 2003	Oct 23, 2020
	<input type="checkbox"/>	GBSP 25	Cleaning and Painting Existing Steel Structures	Oct 2, 2001	April 15, 2022
	<input type="checkbox"/>	GBSP 26	Containment and Disposal of Lead Paint Cleaning Residues	Oct 2, 2001	Apr 22, 2016
	<input type="checkbox"/>	GBSP 28	Deck Slab Repair	May 15, 1995	Feb 2, 2024
	<input type="checkbox"/>	GBSP 29	Bridge Deck Microsilica Concrete Overlay	May 15, 1995	April 30, 2021
	<input type="checkbox"/>	GBSP 30	Bridge Deck Latex Concrete Overlay	May 15, 1995	April 30, 2021
	<input type="checkbox"/>	GBSP 31	Bridge Deck High-Reactivity Metakaolin (HRM) Conc Overlay	Jan 21, 2000	April 30, 2021
	<input type="checkbox"/>	GBSP 33	Pedestrian Truss Superstructure	Jan 13, 1998	Oct 27, 2023
	<input type="checkbox"/>	GBSP 34	Concrete Wearing Surface	June 23, 1994	Oct 4, 2016
	<input type="checkbox"/>	GBSP 45	Bridge Deck Thin Polymer Overlay	May 7, 1997	Feb 6, 2013
148	<input checked="" type="checkbox"/>	GBSP 53	Structural Repair of Concrete	Mar 15, 2006	Aug 9, 2019
	<input type="checkbox"/>	GBSP 55	Erection of Curved Steel Structures	June 1, 2007	
	<input type="checkbox"/>	GBSP 59	Diamond Grinding and Surface Testing Bridge Sections	Dec 6, 2004	April 15, 2022
	<input type="checkbox"/>	GBSP 60	Containment and Disposal of Non-Lead Paint Cleaning Residues	Nov 25, 2004	Apr 22, 2016
	<input type="checkbox"/>	GBSP 61	Slipform Parapet	June 1, 2007	April 15, 2022
	<input type="checkbox"/>	GBSP 67	Structural Assessment Reports for Contractor's Means and Methods	Mar 6, 2009	Oct 5, 2015
	<input type="checkbox"/>	GBSP 71	Aggregate Column Ground Improvement	Jan 15, 2009	Oct 15, 2011
	<input type="checkbox"/>	GBSP 72	Bridge Deck Fly Ash or GGBF Slag Concrete Overlay	Jan 18, 2011	April 30, 2021
159	<input checked="" type="checkbox"/>	GBSP 78	Bridge Deck Construction	Oct 22, 2013	Dec 21, 2016
	<input type="checkbox"/>	GBSP 79	Bridge Deck Grooving (Longitudinal)	Dec 29, 2014	Mar 29, 2017
	<input type="checkbox"/>	GBSP 81	Membrane Waterproofing for Buried Structures	Oct 4, 2016	March 1, 2019
	<input type="checkbox"/>	GBSP 82	Metallizing of Structural Steel	Oct 4, 2016	Oct 20, 2017
	<input type="checkbox"/>	GBSP 83	Hot Dip Galvanizing for Structural Steel	Oct 4, 2016	March 24, 2023
	<input type="checkbox"/>	GBSP 85	Micropiles	Apr 19, 1996	Oct 23, 2020
	<input type="checkbox"/>	GBSP 86	Drilled Shafts	Oct 5, 2015	Oct 27, 2023
	<input type="checkbox"/>	GBSP 87	Lightweight Cellular Concrete Fill	Nov 11, 2001	Apr 1, 2016
	<input type="checkbox"/>	GBSP 88	Corrugated Structural Plate Structures	Apr 22, 2016	April 13, 2018
	<input type="checkbox"/>	GBSP 89	Preformed Pavement Joint Seal	Oct 4, 2016	March 24, 2023
	<input type="checkbox"/>	*GBSP 90	Three Sided Precast Concrete Structure (Special)	Dec 21, 2016	March 22, 2024
	<input type="checkbox"/>	GBSP 91	Crosshole Sonic Logging Testing of Drilled Shafts	Apr 20, 2016	March 24, 2023
	<input type="checkbox"/>	GBSP 92	Thermal Integrity Profile Testing of Drilled Shafts	Apr 20, 2016	March 24, 2023
	<input type="checkbox"/>	GBSP 93	Preformed Bridge Joint Seal	Dec 21, 2016	March 24, 2023
	<input type="checkbox"/>	GBSP 94	Warranty for Cleaning and Painting Steel Structures	Mar 3, 2000	Nov 24, 2004
	<input type="checkbox"/>	GBSP 96	Erection of Bridge Girders Over or Adjacent to Railroads	Aug 9, 2019	
	<input type="checkbox"/>	GBSP 97	Folded/formed PVC Pipeliner	April 15, 2022	
	<input type="checkbox"/>	GBSP 98	Cured-in-Place Pipe Liner	April 15, 2022	
	<input type="checkbox"/>	GBSP 99	Spray-Applied Pipe Liner	April 15, 2022	
161	<input checked="" type="checkbox"/>	GBSP 100	Bar Splicers, Headed Reinforcement	Sept 2, 2022	Oct 27, 2023
	<input type="checkbox"/>	GBSP 101	Noise Abatement Wall, Ground Wall	Dec 9, 2022	
	<input type="checkbox"/>	GBSP 102	Noise Abatement Wall, Structure Mounted	Dec 9, 2022	
	<input type="checkbox"/>	GBSP 103	Noise Abatement Wall Anchor Rod Assembly	Dec 9, 2022	

An * indicates a new or revised special provision.

City of Dixon
Section 22-00183-00-BR
Special Provisions

The following Special Provisions supplement the “Standard Specifications for Road and Bridge Construction”, Adopted January 1, 2022 , the latest edition of the “Manual on Uniform Traffic Control Devices for Streets and Highways”, and the “Manual of Test Procedures of Materials” in effect on the date of invitation of bids, and the Supplemental Specifications and Recurring Special Provisions indicated on the Check Sheet included here in which apply to and govern the construction of Section 22-00183-00-BR, Dixon , and in case of conflict with any part, or parts, of said Specifications, the said Special Provisions shall take precedence and shall govern.

LOCATION OF PROJECT

The project is located within the limits of the City of Dixon, Illinois (Owner). This project is located in the Northeast quarter of Section 5, Township 21 North and Southwest quarter of Section 32, Township 22 North, Range 9 East of the 4th Principal Meridian in the City of Dixon, IL.

The roadway improvements are along Page Drive and Lincoln Statue Drive terminating at IL Route 2 and Peoria Avenue within the City of Dixon, IL. The multi-use paths extend along Page Drive, throughout Page Park, and across the Rock River via the proposed pedestrian bridge and terminating north of West 1st Street.

DESCRIPTION OF PROJECT

This project consists of the construction of a pedestrian bridge, shared-use paths, lighting, roadway earthwork, erosion control, seeding, asphalt pavement, sidewalk, aggregate subbase, storm sewer, curb and gutter, modular block retaining walls, and pavement markings.

PRECAUTIONS FOR UTILITIES

The Contractor shall take whatever precautions which may be necessary to protect the property of the various public utilities which may be located underground or above ground, at or adjacent to the site of these improvements. If so required, the respective utility companies will make the needed adjustments of these facilities. These facilities shall be saved, and care shall be exercised so as not to disrupt or destroy the services provided by these utilities. The Contractor will be required to repair or replace any utility property, which has been damaged through his/her efforts. The procedure and specifications of repair will be in accordance with the regulations and/or policy of the utility.

THE CONTRACTOR SHALL CONTACT AND COORDINATE HIS/HER ACTIVITIES BY CONTACTING J.U.L.I.E. AT (800) 892-0123.

GENERAL

The Contractor shall cooperate with landowners and tenants regarding access to private property, as well as the U.S. Post Office for mail delivery and Republic Services for removal of garbage. All existing street and traffic signs in conflict with the proposed reconstruction shall be removed, safely stored, and re-installed by the Contractor as directed by the Engineer. Cost shall be incidental to this contract.

Contractor shall take care to minimize disturbed areas with construction equipment. Any areas disturbed outside the Plans will be re-graded, repaired, and re-seeded at the Contractor's expense. This work shall be considered incidental to the contract. No additional compensation will be made for repair to any damaged turf areas outside the construction zones.

Saw Cuts shall have a neat and squared appearance and are considered incidental to the contract. No additional compensation will be made.

Manholes and Valve Boxes to be adjusted that are within the pavement shall have concrete used as fill and have a diamond-shaped appearance as shown in the Plans and as specified in these Special Provisions.

HMA QUALITY CONTROL

Quality Control shall be in accordance with Article 1030.05 of the Standard Specifications for Road and Bridge Construction. The Contractor shall perform, or have performed, the inspection and tests required to assure conformance to the contract requirements. In particular, the Contractor shall be responsible for controlling the compaction process by testing the mix density at random locations, as specified in Article 1030.05(d)(3), to ensure that density of the Hot Mix Asphalt Binder and Surface Courses are within the ranges specified in the Standard Specification for Road and Bridge Construction. This testing shall be performed on each day that bituminous production takes place, regardless of the quantity or tonnage installed on that day. The cost for conformance to Quality Control shall be incidental to the contract. No additional compensation will be allowed.

STAKING AND LAYOUT

The Engineer shall set stakes for line and depth of excavation, as well as line and grade for curb and storm sewer. It shall remain the Contractor's responsibility to complete the work to the lines, grades, elevations, and dimensions specified in the Plans. Any inspection or checking of the Contractor's layout or work by the Engineer, and the acceptance of all or any part of it, shall not relieve the Contractor of his/her responsibility to secure the proper dimensions, grades, elevations, and depth of excavation, of the several parts of the work. Any stakes that are damaged by the Contractor and need to be reset, shall be the responsibility of the Contractor.

COMPLETION DATE PLUS WORKING DAYS

Revise Article 108.05 (b) of the Standard Specifications as follows:

"When a completion date plus working days is specified, the Contractor shall complete all contract items and safely open all roadways to traffic by 11:59 PM on November 30th, 2025 except as specified herein.

The Contractor will be allowed to complete all clean-up work and punch list items within 5 working days after the completion date for opening the roadway to traffic. Under extenuating circumstances the Engineer may direct that certain items of work, not affecting the safe opening of the roadway to traffic, may be completed within the working days allowed for clean up work and punch list items. Temporary lane closures for this work may be allowed at the discretion of the Engineer.

The completion date for All Concrete Work shall be October 1st, 2025.

Article 108.09 or the Special Provision for "Failure to Complete the Work on Time", if included in this contract, shall apply to both the completion date and the number of working days.

STATUS OF UTILITIES TO BE ADJUSTED

Utility companies involved in this project have provided the following estimated durations:

<u>Name of Utility</u>	<u>Type</u>	<u>Company Job #</u>	<u>Status</u>
Comcast Attn: Martha Gieras 688 Industrial Dr. Elmhurst, Illinois 60126 (224) 229-5862	Cable TV		No Conflicts
ComEd Attn: Ron Konopasek Ronald.Konopasek@ComEd.com One Lincoln Center Oakbrook Terrace, IL 60181 (630) 432-2710	Electric		No Conflicts
Nicor Gas Attn: Sakibul Forah Sforah@Sothernco.com 1844 Ferry Rd. Naperville, IL 60563 (630) 388-3319	Gas	N17980	Coordination in Progress
Adesta Attn: Aaron Rydell Aaron.rydell@aus.com 2000 Bloomingdale Rd Suite 245 Glendale Heights, IL 60139 (630) 962-7139	Fiber Optic		No Conflicts
Brightspeed Attn: Case Wells Case.wells@brightspeed.com (704) 314-2503	Fiber Optic		No Conflicts
Illinois Fiber Resources Attn: Lance Sandy lsandy@niu.edu (815) 753-6075	Fiber Optic		Coordination in Progress
Midwest Fiber Networks, LLC Attn: Nathan Wright utilitylocates@midwestfibernetworks.com (414) 459-3546	Fiber Optic		Coordination in Progress
Bluebird Network Attn: Patrick Higgins Patrick.Higgins@bluebirdnetwork.com (314) 458-7922	Fiber Optic		Coordination in Progress
Windstream KDL Locate.desk@windstream.com 800 289 1901	Fiber Optic		Coordination in Progress

City of Dixon Attn: Matt Huyett Matt.huyett@discoverdixon.org (815) 288-3009	Water & Sewer		No Conflicts
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All adjustments shall be made prior to construction.

J.U.L.I.E.

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The above represents the best information of the Municipality and is only included for the convenience of the bidder. The applicable provisions of Articles 105.07, 107.37 and 107.39 of the Standard Specifications for Road and Bridge Construction shall apply.

In accordance with 605 ILCS 5/9-113 of the Illinois Compiled Status, utility companies have 90 days to complete the relocation of their facilities after receipt of written notice from the Municipality. The 90-day written notice will be sent to the utility companies after the following occurs:

- 1) Proposed right of way is clear for contract award.
- 2) Final plans have been sent to and received by the utility company.
- 3) Utility permit is received by the Municipality and the Municipality is ready to issue said permit.
- 4) If a permit has not been submitted, a 15-day letter is sent to the utility company notifying them they have 15 days to provide their permit application. After allowing 15 days for submission of the permit the 90-day notice is sent to the utility company.
- 5) Any time within the 90 days relocation period the utility company may request a waiver for additional time to complete their relocation. The Municipality has 10 days to review and respond to a waiver request.

PROTECTION OF WATERWAYS, LAKES AND RESERVOIRS

Construction adjacent to waterways, lakes and reservoirs shall be performed in such a manner as to avoid washing, sloughing, or placing materials into waters in a way that causes undue contamination, pollution or siltation. The Contractor shall not dispose of bituminous materials, oil or other petroleum-based materials, or any other waste materials within the right of way or contiguous to any lake, stream or waterway.

Any materials excavated or otherwise removed from project waterways will not be wasted or used as embankment in or near the waterway but shall be incorporated into a self-contained area or embankment core where it will not readily be eroded and discharged into the waterway.

Fording of waterways shall not be permitted unless the Contractor’s plan for such an operation meets with the approval of the Engineer and provides for minimizing siltation of the waterway. Unless otherwise approved by the Engineer, mechanized equipment shall not be operated in waterways except as may be required to construct channel changes and temporary or permanent structures.

Concrete work forms shall be constructed and placed securely enough to prevent seepage of wet concrete under or around them. In no case shall any concrete be poured or disposed of in the water.

Reasonable measures shall be taken to reduce the amount of concrete or debris from entering the waterway. The Contractor shall be responsible for the removal of any concrete or debris that enters the waterway because of his construction operations.

Any broken concrete when used as riprap will have the rebars or wire cut off flush with the surface of concrete. Any bituminous pavement or any concrete, which has bituminous materials, attached to it or mixed with it shall not be used as riprap in or adjacent to the waterway.

When work areas or pits are located in or adjacent to waterways, lakes or reservoirs such areas shall be separated from the rest of the waterway by a dike or other barrier to keep sediment from entering the main waterway. Care shall be taken during the construction and removal of such barriers to minimize the siltation of the waterway.

Water from aggregate washing or other operations containing sediment shall be treated by filtration, a settling basin or other means sufficient to reduce the sediment content to not more than that of the stream or lake into which it is discharged.

The Contractor and work under this contract is subject to restrictions of the Federal regulation governing the Corps of Engineers' permit program, Section 404.

All costs incurred in conforming to these requirements are included in the cost of the Contract.

DEPARTMENT OF THE ARMY CORPS OF ENGINEERS PERMIT

The construction of this project shall be performed in accordance with Nationwide Permit Number 14 issued under Section 404 of the Federal Clean Water Act as administered by the U.S. Army Corps of Engineers. The Nationwide Permit Conditions and General Conditions, including Section 401 Water Quality Certification Conditions, are included herein and must be complied with by the Contractor. Should the Contractor plan to undertake construction activities, which are not covered by the N.W.P., he shall obtain the necessary permit at his expense and present it to the Engineer prior to starting the work.

The cost of complying with the Department of the Army Corps of Engineers permit(s) will not be paid for separately but shall be considered as incidental to the contract.

TEMPORARY WATERWAY CROSSINGS

If the Contractor proposes to build any temporary construction waterway crossings, he/she shall submit his proposal and obtain approval from the Engineer and the Army Corps of Engineers prior to starting work. If a construction crossing is required, it shall be constructed of a coarse aggregate material extending 25 feet back from each bank.

Upon completion of the work and removal of the temporary crossing, all aggregate material shall be removed as described in Section 513.08 of the Standard Specifications, and the area shall be shaped to its original configuration, topsoil replaced and seeded.

The Contractor shall be responsible for obtaining the appropriate Section 404 Permit, if required, and any temporary construction easements, which may be required.

All costs conforming to this specification are included in the cost of the Contract.

ROCK EXCAVATION

This work shall be done in accordance with applicable portions Section 202 of the Standard Specifications for Road and Bridge Construction.

Wherever "rock" is used as the name of an excavated material, it shall mean boulders or pieces of rock, concrete, or masonry measuring one-half cubic yard or more, hard shale or solid ledge rock and masonry which, in the opinion of the ENGINEER, requires for its removal the continuous use of pneumatic tools for drilling. NO BLASTING WILL BE ALLOWED.

Before payment is allowed for Rock Excavation, the CONTRACTOR shall be required to demonstrate the material cannot be removed "by hand pick" or by power operated excavator or shovel. No payment will be made for Rock Excavation unless the ENGINEER approves such payment in writing in advance, upon being satisfied that the material meets the above criteria.

Payment shall be made at the Contract unit price bid per CUBIC YARD for ROCK EXCAVATION. These prices shall be full compensation for furnishing all materials; for all preparation and excavation of rock; and for all labor, equipment, tools and incidentals necessary to complete the item. A soil boring log is included at the end of the specifications for the contractor's reference.

REMOVAL AND DISPOSAL OF UNSUITABLE MATERIAL

This work shall be done in accordance with Section 202 of the Standard Specifications for Road and Bridge Construction and will be performed at the discretion of the Engineer in any unstable areas that may develop during construction. This item shall not be utilized until the sub-grade has been treated in accordance with Section 301 of the Standard Specifications for Road and Bridge Construction and the resulting stability determined inadequate.

This work shall be paid for at the contract unit price per CUBIC YARD for REMOVAL AND DISPOSAL OF UNSUITABLE MATERIAL. These areas shall be filled with a material meeting the specifications of AGGREGATE SUBGRADE IMPROVEMENT, included elsewhere within these Special Provisions.

PORTLAND CEMENT CONCRETE SIDEWALK 5 INCH

This item shall be in accordance with Section 424 of the Standard Specifications for Road and Bridge Construction and the Details included in the Plans. Aggregate Base Course, Type B (CA-6) 4" in thickness shall be placed under the sidewalk and shall be paid for separately as AGGREGATE BASE COURSE, TYPE B.

The Contractor shall pay special attention to the elevations and grades of the sidewalk for ADA compliance.

This item shall include all side curbs and curbed ramps as detailed in the Plans.

Also included in these items are the following:

1. Side curbs as detailed in the Plans or as directed by the Engineer.
2. All exposed vertical surfaces poured against formwork shall be rubbed to a depth of 3" below grade to provide a smooth dense surface free from pits and irregularities. This work shall only be performed with a rubbing stone and the use of power tools and burlap sacks is strictly prohibited. This work shall be performed to the satisfaction of the Engineer.
3. All exposed, above grade surfaces that are not poured against formwork shall receive a light broom finish.
4. Joint locations shall be approved by the Engineer prior to placing concrete.

The Contractor shall install handicap ramps as shown on the Plans or at locations directed by the Engineer in the field. Detectable warnings, in compliance with Illinois Accessibility Codes and ADA standards, shall be installed as shown on the Plans and paid for separately as DETECTABLE WARNINGS.

Basis of payment shall be at the contract unit price per SQUARE FOOT for PORTLAND CEMENT CONCRETE SIDEWALK 5 INCH. Price shall include all labor, materials, and equipment necessary to complete the work.

MANHOLES TO BE ADJUSTED

This item shall be in accordance with Section 602 of the Standard Specifications and the Details shown in the Plans.

All final adjustments shall be made after installing the Hot Mix Asphalt Surface Course.

Adjustment for manholes within paved surfaces shall consist of the removal of the new pavement and base (4' x 4'), and replacement with concrete 10 inches in thickness, as detailed in the Plans. Cost of this work shall be incidental to this item.

Included in this item is the repair of any damage to manholes caused by the Contractor, removal of all debris pushed into the manhole by the Contractor, sealing the joint between the concrete and asphalt with an approved sealant, and re-adjustment of any frames and grates and valve boxes that are not flush with the final pavement.

It is the Contractor's responsibility to have all manholes located prior to beginning work.

Payment will not be made until all manholes have been inspected by the Engineer and are free of all accumulations of debris.

Payment will be made at the contract unit price bid per EACH for MANHOLES TO BE ADJUSTED and no additional compensation will be allowed.

REMOVAL OF EXISTING STRUCTURES NO. 1

REMOVAL OF EXISTING STRUCTURES NO. 2

This work shall be done in accordance with Section 501 of the Standard Specifications. The work shall consist of removal, salvage, and storing stone from existing abutments as specified.

No.	Station	Description
1	RT 16+34 – 16+65	Stone abutment South Side of Rock River
2	RT 26+64 – 26+87	Stone abutment North Side of Rock River

Salvaged stone from the existing abutments shall be stored on site and remain the property of the City of Dixon.

This work shall be paid for at the contract unit price per EACH for REMOVAL OF EXISTING STRUCTURES of the number specified.

PIPE HANDRAIL
PEDESTRIAN RAIL, SPECIAL

DESCRIPTION: This work shall include furnishing and installing railings throughout the project: Pedestrian Rail, Special top of walls and adjacent to paths; Pipe Handrail adjacent to stairs and ramps as detailed on the plans in accordance with the applicable portions of Sections 506 and 509 of the Standard Specifications and as specified herein.

MATERIALS: In accordance with Section 509 of the standard specifications. Shop rail splices of all top elements shall not be allowed over vertical posts. Splices shall be made adjacent to the vertical posts. All splice and expansion joint locations shall be shown on the shop drawings. Base plates shall not be placed over transverse joints.

New steel shall receive a 3 coat of paint system. The organic zinc rich primer / epoxy / urethane paint system shall be used for painting of the steel railing except where otherwise noted. The entire system shall be shop applied, with the exception of masked off connection surfaces, field installed fasteners and damaged areas shall be touched up in the field.

The color of the final finish coat for the steel surfaces shall be dark green, Munsell 7.5G 2/4.

SUBMITTALS:

Product Data: For each type of product indicated. Include construction details, material descriptions, dimensions of individual components and profiles, finishes, field-assembly requirements, installation details and maintenance instructions prepared by manufacturer.

Shop Drawings: Provide plans, details, installation instructions and details by the manufacturer.

EQUIPMENT: In accordance with Section 509 of the standard specifications

CONSTRUCTION REQUIREMENTS: In accordance with Section 509 of the standard specifications

BASIS OF PAYMENT: All labor, equipment and materials necessary for completion of this work shall be paid for at the contract unit price per FOOT for PEDESTRIAN RAIL, SPECIAL and PIPE HANDRAIL and shall include those items specified herein.

PRECAST MODULAR RETAINING WALL

DESCRIPTION: This work shall consist of furnishing and constructing the retaining wall system(s), as specified to the lines, grades, and dimensions shown on the plans in accordance with Section 522 of the Standard Specifications, as directed by the Engineer. and as specified herein. This work shall include any necessary base preparation, select backfill, footing levelling pads, furnishing and installing geogrid soil reinforcement of the type, size, location, and lengths as required by the wall manufacturer.

GENERAL: The contractor shall submit two sets of details and specifications for the proposed block units at least two weeks prior to beginning any wall construction including a Manufacturer's certification that the retaining wall system components meet the requirements of this project specification sealed by a Licensed Illinois Structural Engineer.

The certification shall state if any aspect of internal and external stability of the wall design (including sliding, overturning, and bearing pressure) has been delegated to others and to whom. Design computations and shop drawings shall be submitted according to Article 522.05. The design shall be according to AASHTO LRFD Bridge Design Specifications for Prefabricated Modular Walls, except as modified herein. The Contractor shall be responsible for internal and external stability aspects of the wall design (including sliding, overturning, and bearing pressure). The Department will be responsible for the analyses of settlement and overall slope stability.

Wall sections used throughout the project shall be from the same manufacturer and product line.

MATERIALS: The block retaining wall units and associated materials shall meet or exceed the following standards:

Segmental Retaining Wall Units:

All wall units shall be subject to the requirements of ASTM C 140 – Sampling and Testing Concrete Masonry Units.

Wall units shall be 8 inch minimum heights with a minimum 2:1 depth ratio (front face height to depth ratio).

Wall cap units shall be 4 inch minimum heights with a minimum 2:1 depth ratio (front face height to depth ratio).

Color of the units shall be light gray with all units supplied by the same manufacturer, same product line, and of uniform color shade.

Finish of the exposed faces shall be straight irregular split face or hewnstone. All exposed vertical faces shall include finish texture including corner sections.

Sections shall be straight in plan. Corner sections shall be cast wall sections with the same finish on all exposed sides. Mitering of the front side of the sections shall not be allowed.

The wall units shall provide a minimum weight of 100 psf wall face area not including backfill.

The top two courses of the wall height and cap blocks shall be attached with an approved adhesive meeting the manufacturer's specifications.

Units shall be interlocked with connection pins or other means approved by the Engineer, designed with proper setback to provide 8:0.5 vertical to horizontal batter (4 minimum degrees from vertical). Connector pins shall consist of glass reinforced nylon made for the expressed use of the wall units supplied.

Units shall be capable of being erected with a maximum horizontal gap between units not exceeding 1/4 inch.

All precast sections shall be sound and free of cracks or other defects that would interfere with placing or reduce the strength or durability of the structure. Cracking or excessive chipping shall be grounds for rejection. Units showing cracks longer than 1/2" shall not be used within the wall. Units showing chips greater than 1" in any direction on an exposed face shall not be used within the wall.

Concrete used to manufacture the precast units shall have a minimum 28 day compressive strength of 3,000 psi and a maximum adsorption rate, by weight, of 8% as determined in accordance with ASTM C 140.

Footing Leveling Pad:

All Walls A thru F shall have a Wall Footing Levelling Pad of a Reinforced Concrete Footing 1'-0" thick by 3'-0" Width with 3-#6 bars full length.

At other locations, the Wall Footing Levelling Pad shall be reinforced cast-in-place concrete or compacted aggregate meeting the minimums per the following schedule. No precast shall be allowed.

Wall Exposed Retained Height

> or = 3.3 feet

< 3.3 feet

Wall Footing Levelling Pad

Reinforced Concrete Footing 1'-0" thick by 3'-0" Width. 3-#6 bars full length.

Compacted Aggregate Base 6" thick by manufacturer's requirements.

Soil leveling pad materials shall be compacted to a minimum of 95% of Standard Proctor density per ASTM D697 or 92% Modified Proctor density per ASTM D1557

Backfill Material:

Material for the backfill behind the wall shall meet the minimum requirements of Section 209 of the Standard Specifications for Porous Granular Backfill or as required by the wall manufacturer. If the backfill is in landscape areas, the top 6 inches of the backfill shall be a cohesive soil capable of supporting the desired vegetation paid separately.

Drainage Pipe:

All installations shall include a backfill drainage pipe shall be perforated or slotted PVC pipe manufactured in accordance with ASTM D-3034 or corrugated HDPE pipe manufactured in accordance with ASTM D-1248. The pipe shall be wrapped with a geotextile fabric prior to installation. The pipe outlets shall be sloped to drain to and

connected to area drain risers on Walls A thru F. Other walls shall be connected to drainage structures or surface outlet with the restriction that no drains shall outlet onto pavement path surfaces.

EQUIPMENT: Only lightweight hand-operated equipment shall be allowed within 3 feet from the back of the modular concrete units. Tracked construction equipment shall not be operated directly upon any required soil reinforcement. A minimum fill thickness of 6 inches is required prior to operation of tracked vehicles over the soil reinforcement. Tracked vehicle turning should be kept to a minimum to prevent tracks from displacing the fill and wall units.

CONSTRUCTION REQUIREMENTS: Contractor shall excavate to the lines and grades shown on the construction drawings. The Engineer shall inspect the excavation and approve prior to placement of leveling material or fill soils. Over-excavation and replacement of unsuitable foundation soils and replacement with approved compacted fill will be paid for in accordance with the specification for EARTH EXCAVATION.

First course of units shall be placed on the footing at the appropriate line and grade. Outside of Walls A-F, the theoretical top of the leveling pad grade shall be 1.5 feet below the adjacent finished grade. Alignment and level shall be checked by the contractor in all directions and ensure that all units are in full contact with the base and properly seated. Units shall be placed side-by-side without gaps between adjacent units. The layout of corners and curves shall be in accordance with the manufacturer's recommendations and subject to the approval of the Engineer. The installation of shear/connecting devices shall be per the manufacturer's recommendations.

The backfill and drain system shall be placed and compacted within and behind the wall units. Maximum stacked vertical height of wall units, before unit drainage fill and backfill placement and compaction, shall not exceed two courses.

METHOD OF MEASUREMENT: The measured quantities shall be in-place finished square feet of exposed wall above finished adjacent grade, sidewalk or gutters.

BASIS OF PAYMENT: All labor, equipment and materials necessary for completion of this work including all any necessary base preparation, backfill, footing leveling pads, geogrid soil reinforcement, and other items required by the wall manufacturer shall be paid for at the contract unit price per SQUARE FOOT for PRECAST MODULAR RETAINING WALL and shall include those items specified herein.

REMOVAL AND DISPOSAL OF REGULATED SUBSTANCES

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

Contract Specific Work Areas. For stationing, the lateral distance is measured from centerline and the farthest distance is the offset distance or construction limit, whichever is less.

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

Site 4352-3: Dixon Park District and Page Park, 1028 Palmyra Street, Dixon, Lee County

- Station 100+00 to Station 102+50, 100 ft LT to 75 ft RT of Page Drive Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(a)(2). Contaminants of concern sampling parameters: Lead.
- Station 105+30 to Station 107+85, 100 ft LT to 75 ft RT of Page Drive Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters: Iron.
- Station 110+50 to Station 113+65, 130 ft LT to 75 ft RT of Page Drive Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters: Manganese.
- Station 113+65 to Station 119+55, 130 ft LT to 75 ft RT of Page Drive Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters: Iron and Lead.
- Station 119+55 to Station 122+55, 130 ft LT to 75 ft RT of Page Drive Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters: Benzo(a)pyrene, Arsenic, Iron, Lead, and Manganese.
- **Work Zone monitoring will be required at this property at the above location due to the presence of total Lead above its TACO Construction Worker SRO for the ingestion exposure pathway.**
- Station 122+55 to Station 128+60, 130 ft LT to 75 ft RT of Page Drive Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters: Benzo(a)pyrene, Benzo(b)fluoranthene, and Dibenzo(a,h)anthracene, Iron, Lead, and Manganese.
- Station 24+20 to Station 27+50 LT, 100 ft LT to 100 ft RT of Bridge Path Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters: Benzo(a)pyrene, Iron, and Lead.
- Station 29+95 to Station 36+30, 80 ft LT to 100 ft RT of Bridge Path Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(a)(5). Contaminants of concern sampling parameters: Benzo(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, Dibenzo(a,h)anthracene, Indeno(1,2,3-cd)pyrene, Arsenic, and Iron.
- Station 38+00 to Station 42+00, 80 ft LT to 80 ft RT of Bridge Path Centerline The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters: Manganese.
- Station 708+00 to Station 711+40, 100 ft LT to 100 ft RT of Diamond Path Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters: Iron and Manganese.

- Station 902+00 to Station 903+85, 70 ft LT to 40 ft RT of Hills Path Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters: Iron.
- Station 905+10 to Station 907+50, 80 ft LT to 80 ft RT of Hills Path Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(c). Contaminants of concern sampling parameters: Manganese.

Armory Parking Lot – Illinois National Guard, 412 W Everett Street, Dixon, Lee County

- Station 27+50 to Station 29+95, 100 ft LT to 100 ft RT of Bridge Path Centerline. The Engineer has determined this material meets the criteria of and shall be managed in accordance with Article 669.05(a)(1). Contaminants of concern sampling parameters: Benzo(a)pyrene and Iron.

Work Zones

Three distinct OSHA HAZWOPER work zones (exclusion, decontamination, and support) shall apply to projects adjacent to or within sites with documented leaking underground storage tank (LUST) incidents, or sites under management in accordance with the requirements of the Site Remediation Program (SRP), Resource Conservation and Recovery Act (RCRA), or Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or as deemed necessary. For this project, the work zones apply for the following ISGS PESA Sites: **4352-3 (Dixon Park District and Page Park)**

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

ELECTRIC SERVICE INSTALLATION

This work shall be done in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the details provided in the engineering plans. This work shall include the concrete mounting pad, pad anchors, all connections, and all other items as per the detail included in the engineering plans.

This work shall be paid for at the contract unit price per EACH for ELECTRICAL SERVICE INSTALLATION.

BENCHES

This work shall be constructed in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the engineering plans.

This item includes furnishing and installation of a 6' Perforated Estate Bench. Benches shall be dark green and of a style to match existing installations. Contractor is required to submit color samples and shop drawings prior to ordering.

Benches shall have a heat fused poly-vinyl coating, finished on inner-metal structure, to an approximate 3/16" thickness. Framework assemblies shall be finished with powder coating; electrostatically applied and oven cured according to powder manufacturer's specifications. Fasteners shall be stainless steel to resist corrosion.

Benches shall be installed as per the approved manufacturer's specifications. Benches shall be bolted down to PCC sidewalk. All hardware required to bolt benches down shall be included in this pay item.

This work shall be paid for at the contract unit price per EACH location for BENCHES, which price shall include all labor, materials, and equipment necessary to complete the work.

CONCRETE STEPS

This work shall be constructed in accordance with Section 503 of the Standard Specifications for Road and Bridge Construction and the details included in the Plans.

This item includes all materials, concrete, labor, and equipment necessary to construct to the lines and grades shown within the Plans.

Reinforcement bars will be paid for separately per POUND for REINFORCEMENT BARS, EPOXY COATED.

Basis of payment shall be at the contract unit price per CU YD for CONCRETE STEPS.

CONCRETE STEP REMOVAL

This work shall be done in accordance with the applicable portions of Section 501 of the Standard Specifications for Road and Bridge Construction and as specified herein.

This work shall include the removal and disposal of the existing concrete steps. The removed concrete steps will be disposed of off City property.

This work shall be paid for at the contract unit price per EACH location for CONCRETE STEP REMOVAL, which price shall include all labor, materials, and equipment necessary to complete the work.

UNDERWATER CONCRETE REPAIR

Description. This work shall consist of all labor, equipment, and materials required to structurally repair concrete in the splash zone and below water as shown in the plans and as directed by the Engineer. This pay item shall also include all work, equipment, and materials required to provide safe access to the underwater repair location as is necessary to perform the work according to the requirements of this specification and all applicable State and Federal Laws.

Materials. The concrete repair material shall be an underwater hand-applied, pre-packaged cement-based mortar suitable for hand placement underwater requiring only the addition of potable water. The material shall not contain any chlorides or lime other than amounts contained within the hydraulic cement composition. The manufacturer shall have at least ten years of experience in the manufacture of concrete repair materials suitable for underwater applications. The concrete repair material shall meet all the following performance criteria when cured at 73°F (23°C):

1. Compressive Strength, ASTM C 109

3 Hours	3,000 psi (20.7 MPa)
1 Day	4,000 psi (27.6 MPa)
7 Days	5,000 psi (34.5 MPa)
28 Days	5,500 psi (37.9 MPa)

2. Underwater Bond Strength, ASTM C 882

7 Days	1,150 psi (7.9 MPa)
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3. Coefficient of Thermal Expansion, ASTM C 531

1.0 x 10 ⁻⁶ in/in/°F (9.0 x 10 ⁻⁶ mm/mm/°C)

All materials shall be delivered to the jobsite in their original, unopened packages, clearly labeled with the manufacturer's identification, printed instructions, and batch code.

The Contractor shall be responsible for evaluating water flow conditions at the site and providing a material that is suitable for the specific site conditions. The Contractor shall also be responsible for the containment of the repair material while the work is being performed. Any material released into the waterway during repair operations shall be removed at the Contractor's expense.

Storage and handling of the product shall be in accordance with the manufacturer's recommendations and Material Safety Data Sheets.

Concrete Removal. The removal shall be as specified in "Structural Repair of Concrete". All equipment shall be appropriate for underwater use.

Surface Preparation and Repair Procedure. Prior to placing the concrete, the Contractor shall prepare the repair area and exposed reinforcement by blast cleaning. The blast cleaning shall provide a surface that is free of oil, dirt, and loose material. The repair area and perimeter vertical face shall have a rough surface. Care shall be taken to

ensure the sawcut face is roughened. All repair areas shall be inspected and approved by the Engineer prior to the placement of the concrete.

Concrete shall be applied by hand troweling in accordance with the manufacturer's recommendations to create a smooth finished surface. Any additional requirements for surface preparation and application of the material, such as the use of a bonding agent, aggregate extension, and the maximum thickness of each lift, shall be in accordance with the manufacturer's recommendations.

Inspection and Documentation of Completed Work. The Contractor shall provide appropriate equipment for the Engineer to inspect the repaired areas. After curing the repair, it shall be examined for conformance with original dimensions, cracks, voids, and delaminations. Sounding for delaminations will be done with a hammer or by other methods determined by the Engineer.

The acceptable tolerance for conformance of a repaired area shall be within 1/4 in. (6 mm) of the original dimensions. A repaired area not in dimensional conformance or with delaminations shall be removed and replaced.

A repaired area with cracks or voids shall be considered as nonconforming. Exceeding one or more of the following crack and void criteria shall be cause for removal and replacement of a repaired area:

1. The presence of a single surface crack greater than 0.01 in. (0.25 mm) in width and greater than 12 in. (300 mm) in length.
2. The presence of two or more surface cracks greater than 0.01 in. (0.25 mm) in width that total greater than 24 in. (600 mm) in length.
3. The presence of map cracking in one or more regions totaling 15 percent or more of the gross surface area of the repair.
4. The presence of two or more surface voids with least dimension 3/4 in. (19 mm) each.

A repaired area with cracks or voids that do not exceed any of the above criteria may remain in place, as determined by the Engineer. If a nonconforming repair is allowed to remain in place, cracks greater than 0.007 in. (0.2 mm) in width shall be repaired with epoxy according to Section 590 of the Standard Specifications. For cracks less than or equal to 0.007 in. (0.2 mm) in width, the epoxy may be applied to the surface of the crack. Voids shall be repaired according to Article 503.15 of the Standard Specifications.

Once the repair has been accepted by the Engineer the actual location and dimensions of the repair shall be recorded on the as-built plans.

Method of Measurement. This work will be measured for payment per square foot for the location as shown in the plans and as directed by the Engineer.

Basis of Payment. This work shall be paid at the contract unit price per SQUARE FOOT for UNDERWATER CONCRETE REPAIR.

REMOVE AND RE-ERECT EXISTING HANDRAIL

This work shall be done in accordance with the applicable portions of Sections 509 of the Standard Specifications for Road and Bridge Construction and as specified herein.

This work shall include the removal, storage during construction, and reinstallation of sections of existing pipe handrail to be reinstalled to the proposed finish grade.

Necessary hardware or connection items for reinstallation shall be considered incidental to this item.

This work shall be paid for at the contract unit price per FOOT for REMOVE AND RE-ERECT EXISTING HANDRAIL, which price shall include all labor, materials, and equipment necessary to complete the work.

SLOPE WALL SPECIAL

DESCRIPTION

This work shall consist of constructing a concrete slope wall on the north bridge abutment slope, in accordance with Section 511 of the Standard Specifications, as shown on the plans, and hereinafter provided.

MATERIALS

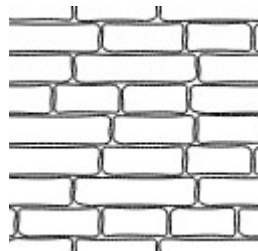
Section 511 of the Standard Specifications is amended as follows:

Wire fabric reinforcement included with the Slope wall on the plans shall be in accordance with the applicable portions of Section 508 of the Standard Specifications. Wire fabric to be 6x6-W4.0 x W4.0 or equivalent 58 lbs./100 sq. ft. area.

CONSTRUCTION

The concrete slab thickness shall be 6 inch minimum.

The top surface of the slope wall shall have a stamped stone relief pattern with course direction across the abutment slope. Stone course heights shall be minimum and stone widths shall be random. The pattern is to generally match the pier Form Liner Textured Surface used on this project with the exception the relief depth.



Pattern Example

Jointing shall be tooled joints according to Section 420.05 and as shown on the plans.

The finished top surface except the side curbs shall receive a surface stain and anti-graffiti coating per the Special Provisions for STAINING CONCRETE STRUCTURES and ANTI-GRAFFITTI COATING.

MEASUREMENT

SLOPE WALL, SPECIAL will be measured in SQUARE YARD units in accordance with Section 511 of the Standard Specifications

PAYMENT

SLOPE WALL, SPECIAL measured as provided above, will be paid in accordance with Section 511 of the Standard Specifications. Aggregate base, reinforcement, thickened edges, and curbs as shown on the plans will not be paid for separately but considered as part of this work. STAINING CONCRETE STRUCTURES and ANTI-GRAFFITTI COATING shall be paid separately.

WOOD FENCE TO BE REMOVED AND RE-ERECTED

CHAIN LINK FENCE TO BE RELOCATED

This work shall be done in accordance with the applicable portions of Sections 664 and 665 of the Standard Specifications for Road and Bridge Construction and as specified herein.

This work shall include the removal, storage during construction, and reinstallation of sections of existing fence along the existing right of way to be reinstalled to the proposed finish grade.

Necessary hardware or connection items for reinstallation shall be considered incidental to this item.

This work shall be paid for at the contract unit price per FOOT for CHAIN LINK FENCE TO BE RELOCATED and WOOD FENCE TO BE REMOVED AND RE-ERECTED, which price shall include all labor, materials, and equipment necessary to complete the work.

WOOD POST AND RAIL FENCE

DESCRIPTION: This work shall include furnishing and installing wood fence throughout the project as detailed on the plans in accordance with the applicable portions of Sections 507 of the Standard Specifications and as specified herein.

MATERIALS: In accordance with Section 507 of the standard specifications. The posts and rails shall comply with the requirements of Section 1007 of the Standard Specifications for No. 1 Dense SR 1550 F for southern pine or No. 1 Dense 1400 F for Douglas fir. All lumber shall be sound and free from excessive splitting or deterioration. Dimensions shown on the plans are for surfaced (S4S) lumber. All wood used for posts and rails shall be treated with ACA or CCA according to Article 1007.12, Miscellaneous Lumber for Human Contact. After erection of the fence, the Contractor shall apply two (2) coats of a commercially available water seal for treated lumber meeting the approval of the Engineer. Hardware shall include all necessary fasteners and appurtenances for construction of the fence and shall be according to Article 1006.17.

SUBMITTALS:

Product Data: Include material descriptions, finishes, field-assembly requirements, installation details prepared by manufacturer.

Shop Drawings: Not required.

CONSTRUCTION REQUIREMENTS: In accordance with Section 507 and 641 of the standard specifications. Post foundations shall be installed in cored holes with the top 12" formed. Disturbed soil surrounding the post shall be thoroughly compacted after curing.

BASIS OF PAYMENT: All labor, equipment, and materials necessary for completion of this work shall be paid for at the contract unit price per FOOT for WOOD POST AND RAIL FENCE and shall include those items specified herein.

SEEDING (SPECIAL)

DESCRIPTION

This work shall consist of Seeding in areas as shown in the plans or a directed by the Engineer. All work, materials, and equipment shall conform to Sections 250 and 1081 of the Standard Specifications except as modified herein. Seeding, Class (Special) seed mixture shall be supplied in separate bags of the three mixture components: Temporary Cover, Permanent Grasses, and Forbs. All native species will be local genotype and verified that original seed collection source will be from a radius of 150 miles from the project site. Fertilizer is not required.

MATERIALS

Section 250 of the Standard Specifications is amended as follows:

Article 250.07 Seeding Mixtures – Delete sentence 4. Add the following to Table 1 – Seeding Mixtures:

<u>SEEDS</u>	<u>PURE LIVE SEED LB/ACRE</u>
<u>Native Grass</u>	22.0
Andropogon gerardii (Big Bluestem)	4.0
Bouteloua curtipendula (Side-Oats Grama)	5.0
Elymus canadensis (Canada Wild Rye)	3.0
Panicum virgatum (Switch Grass)	3.0
Schizachyrium scoparium (Little Bluestem)	5.0
Sorghastrum nutans (Indian Grass)	2.0
<u>Temporary Cover</u>	30.0
Avena sativa (November 1 to May 31) (Annual Oats)	30.0
OR	
Lolium multiflorum (June 1 to October 31) (Annual Rye)	30.0
<u>Native Forbs</u>	2.75
Asclepias syriaca (Common Milkweed)	0.25
Dalea candida (White Prairie Clover)	0.10
Dalea purpurea (Purple Prairie Clover)	0.10
Desmodium illinoensis (Illinois Bundleflower)	0.25

Heliopsis helianthoides (Ox-eye Sunflower)	0.25
Monarda fistulosa (Bergamot)	0.25
Penstemon digitalis (Foxglove Beardtongue)	0.25
Ratibida pinnata (Yellow Coneflower)	0.50
Rudbeckia hirta (Black-Eyed Susan)	0.50
Solidago rigida (Stiff Goldenrod)	0.25
Symphotrichum novae-angliae (New England Aster)	0.25

If specified seed material is unavailable, the Engineer shall approve the substitutes in writing. Adjustments will be made at no cost to the contract.

CONSTRUCTION

Notes:

1. The seeding time for this work shall be October 15 to June 1. Seeding done outside of this time frame will not be measured for payment. No seed shall be sown during high winds or when the ground is not in proper condition for seeding, such as when raining or when the ground is covered with snow.
2. Purity and germination tests no older than twelve months of the date of sowing must be submitted to verify all bulk seed required to achieve LB PLS specified.
3. The seedbed shall be prepared and approved by the Engineer prior to seeding. The Contractor shall delineate the perimeter of the seedbed with wooden lathe. The wooden lathe shall remain in place.
4. Temporary cover seed shall be kept separate from the native seed mixture.
5. The Temporary cover (Cover Crop) shall be thoroughly mixed with native grass seed mix of each class and seeded using a mechanical seeder that applies the seed uniformly at a depth of +/- 1/4 inch. Second, the native forb seed shall be thoroughly mixed with 2 bushels of moistened horticultural grade vermiculite per acre and z. The seedbed shall be immediately mulched per Section 251.
6. Within two hours after the seeding and mulching are complete, water shall be applied at a rate of 5 gal/sq yd.
7. The Contractor shall have on hand enough equipment to completely water all seeded areas in two days at the watering rate specified above
8. All watering described shall be done with a spray application. An open-end hose will not be acceptable.

MEASUREMENT

Article 250.09 – Add

Initial watering will not be measured for payment.

Seeding, native forb mix horticultural grade vermiculite, and mulch will not be measured for payment.

BASIS OF PAYMENT: All labor, equipment, and materials necessary for completion of this work shall be paid for at the contract unit price per ACRE for SEEDING, SPECIAL and shall include those items specified herein.

RELOCATE BENCH

This work shall be constructed in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the engineering plans.

This work shall consist of removing the existing bench and relocating to a location specified by the Engineer.

The Contractor shall take all necessary precautions to ensure the sign will not be damaged during construction operations and shall be stored in a manner to protect against damage. Any damage to the sign due to Contractor negligence will be repaired by the Contractor at no additional cost.

The contractor shall construct a concrete pad and anchor the bench at the new location. Concrete pad shall be paid for separately as PORTLAND CEMENT CONCRETE SIDEWALK 5 INCH.

This work shall be paid for at the contract unit price per EACH location for RELOCATE BENCH, which price shall include all labor, materials, and equipment necessary to complete the work.

TRASH RECEPTACLES

This work shall be constructed in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the engineering plans.

This item includes furnishing and installation of a 32 Gal. perforated receptacle with liner, side door, flare top, and surface mount package. Trash receptacles shall be dark green and of a style to match existing installations. Contractor is required to submit color samples and shop drawings prior to ordering.

Trash receptacles shall have a heat fused poly-vinyl coating, finished on inner-metal structure, to an approximate 3/16" thickness. Framework assemblies shall be finished with powder coating, electrostatically applied, and oven cured according to powder manufacturer's specifications. Fasteners shall be stainless steel to resist corrosion.

Trash receptacles shall be installed as per the approved manufacturer's specifications and be bolted down to PCC sidewalk. All hardware required to bolt trash receptacles down shall be included in this pay item.

This work shall be paid for at the contract unit price per EACH location for TRASH RECEPTACLES, which price shall include all labor, materials, and equipment necessary to complete the work.

ANTI-GRAFFITI COATING

Description. This work shall consist of the surface preparation, furnishing, and application of an anti-graffiti coating to the exposed concrete surfaces of the abutments, piers, slope wall, and retaining walls according to the manufacturer's recommendations. The Contractor shall furnish all materials, equipment, labor, and other essentials necessary to accomplish this work and all other work described herein or as directed by the Engineer.

Materials. Anti-graffiti coating shall be a single-component, non-sacrificial siloxane coating intended to cure with atmospheric moisture and is intended for use over properly prepared and stained concrete surfaces. Coating shall dry as a matte, semi-gloss, or satin finish. A high gloss finish is unacceptable. The application of the coating product shall be clear and not result in yellowing or color change to the surface.

The anti-graffiti coating shall be a low volatile organic content (VOC) material, with a VOC less than 250 grams/liter. It shall have a minimum 10-year unlimited warranty for graffiti removals that can be cleaned an unlimited number of times without requiring reapplication of the anti-graffiti coating.

The coating shall have the capability of having all types of paints and graffiti completely removed with power washing with cold water. After graffiti removal there shall be no damage to the anti-graffiti coating or the surface to which it is applied. Additionally, there shall be no evidence of ghosting, shadowing, staining, streaking, cracking, pin holing, discolorations, or other degradations of the protected surface upon removal of graffiti.

Acceptable products may include but are not limited to:

- Pro-Industrial Anti-Graffiti Coating by Sherwin Williams
- Si-COAT 530 by CSL Silicones Inc.
- VandlGuard Non-Sacrificial Anti-Graffiti Coating by RainguardPro

Submittals. The anti-graffiti coating shall be a product that has been commercially available for a period of at least five (5) years. The Contractor shall submit the following items to the Engineer:

1. Written evidence that the installer for the work has completed at least five (5) projects of similar complexity within the past five (5) years.
2. Product identification including brand name and product number.
3. Batch number for manufactured date which must be within the shelf life of the material.
4. Complete manufacturer's recommendation for usage and confirmation of compatibility with concrete stain.
5. Available product data sheets, Material Safety Data Sheets (MSDS), information verifying compliance to VOC limitations as outlined above, test data, and reports.
6. A one liter (one quart) representative sample.
7. Provide written application instructions from the manufacturer, which shall include recommended application equipment, application methods and rates, surface preparation requirements and other applicable manufacturer's recommendations.

Approval of the coating shall be based upon the following:

1. A technical representative of the manufacturer shall be present to approve surface preparation and application of the anti-graffiti coating. The Contractor shall apply the anti-graffiti coating to a pre-determined test panel/area as decided upon by the Engineer and Owner, following the manufacturer's recommendation to determine acceptable application rate and method. The test panel/area shall have the selected concrete stain applied and properly cured prior to applying the anti-graffiti coating. After the manufacturer's recommended curing period for the anti-graffiti coating, the Engineer will apply various types of graffiti materials to the coating. After seven (7) days, in the presence of the Engineer, the Contractor shall remove the graffiti with a power washer using cold water.
2. If after graffiti removal, the test sample exhibits no signs of graffiti or graffiti staining upon inspection by the Engineer.
3. If after graffiti removal, the anti-graffiti coating is clean and undamaged upon inspection by the Engineer.
4. If after graffiti removal, the coating is intact and exhibits no signs of ghosting, shadowing, staining, streaking, cracking, pin holing, discoloring, or other coating degradations upon inspection upon inspection by the Engineer.
5. If all requirements are met, written approval will be provided by the Engineer prior to starting application.

Preparation. A technical representative of the manufacturer and the Engineer shall be present to approve surface preparation and application of the coating. Concrete shall be cleaned and prepared in accordance with product requirements.

Prior to application of the anti-graffiti coating, all designated surfaces shall be free of graffiti, dirt, dust, chalking paint, mortar spatter, loose rust, loose mill scale, old caulking, grease, oil, release agents, curing compounds, laitance and other foreign matter including frost by a method recommended by the coating manufacturer and approved by the Engineer. All surfaces shall be thoroughly clean, dry, and free of dust.

Surface preparation for all concrete surfaces shall comply with the manufacturer's recommendations and may include the use of the manufacturer's pre-treatment products.

Application. Coatings shall not be applied in the rain, snow, fog, mist, nor shall they be applied if these conditions are expected within twelve (12) hours of application. Coatings shall neither be applied when the surface or air temperatures are less than 40° F nor greater than 100° F or are expected to exceed these temperatures within twelve (12) hours of application or as recommended by the manufacturer. The environmental and substrate temperature should be at least 5°F above the dew point prior to and during application.

When working with the product in high humidity and/or high temperature environments, it is recommended to use a pail lid adapter fitted with an agitator. This will prevent the product from skinning over and curing in the pail during application.

All surfaces should be clean and dry prior to application. The coating should be applied in a manner that prevents runs, sags, drips, spills, etc. and that completely covers surfaces without leaving gaps. Application shall be by means of brush, roller, or sprayer in accordance with the manufacturer's recommendations. The number of coats applied shall also be in accordance with the manufacturer's recommendations. Coating material shall not be diluted in any way.

Apply at a rate that will achieve a minimum of 6 mils DFT and a maximum of 9 mils DFT. Roller and brush application will require multiple coats to achieve desired DFT. A consistent application method shall be used throughout the project.

Work stoppages and restarts are not recommended along a single abutment or pier. If necessary, coordinate product protection with manufacturer to ensure proper storage and reuse.

All information contained in the data sheets and application guides shall be strictly followed. All coatings shall be applied in the presence of the Engineer.

The Contractor shall monitor the surfaces where the coating was applied and remove any graffiti that appears before the curing period.

After the manufacturer's recommended curing period for the anti-graffiti coating, the Engineer will apply various types of graffiti materials to the coating. After three days the removal agent shall be used to remove the graffiti. If after graffiti removal the anti-graffiti coating is clean and undamaged with no evidence of ghosting, shadowing, or staining then the anti-graffiti coating shall be approved and accepted.

The Contractor shall supply the Engineer with an initial quantity of the removal agent and written instructions for its use, as recommended by the manufacturer for graffiti removal. The amount shall be furnished at the rate of 1 quart per 200 square feet of treated surface area.

Method of Measurement. Anti-graffiti coating will be measured in place in square feet.

Basis of Payment. This work will be paid for at the contract unit price per SQUARE FOOT of ANTI-GRAFFITI COATING, which price shall include all materials, equipment, and labor necessary to complete the work as specified.

LIGHT POLE, SPECIAL, 12'

This work shall be done in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the details provided in the engineering plans. Light poles (Green), as identified on the engineering plans, shall be provided as per the approved manufacturer's specifications. Contractor is required to submit shop drawings for poles prior to purchase. Approved alternates will be considered during shop drawing review.

Light poles 12' shall be used for designations Type A, shall be paid for with this pay item. This work shall be paid for at the contract unit price per EACH for LIGHT POLE, SPECIAL 12'.

POTHOLING

Description. This work consists of all labor, equipment, and materials to dig an exploratory hole and backfill it to the ground surface as it existed before any excavation was made at the location specified in the plans.

Construction Requirements. The Contractor shall perform exploratory excavation as described in the plans or as directed by the Engineer. If any unsuitable materials are encountered during the excavation, these materials shall be removed and disposed of in accordance with Article 202.03 of the Standard Specifications.

Backfilling shall consist of placing and compacting the necessary fill within the space excavated below the ground surface as it existed before any excavation was made. Backfill shall be constructed using materials satisfactory to the Engineer. No sod, frozen material, or any material which, by decay or otherwise, might cause settlement, shall be placed or allowed to remain in the backfill at such locations. Whenever the material obtained from the excavation is suitable, it may be used in constructing the backfill. Excavated material that is unsuitable for backfill because it is in excess of 110 percent of the optimum moisture content shall be allowed to dry before being used as backfill. If the amount of suitable excavated material is insufficient, backfill shall be granular embankment in accordance with Article 1004.05 of the Standard Specifications.

Except as specified, the procedures for placing and compacting the backfill shall be according to Articles 205.04, 205.05, and 205.06. All backfill shall be placed in continuous horizontal layers not more than 8 in. (200 mm) in thickness, loose measurement, and each layer shall be compacted with a mechanical tamper of a type approved by the Engineer before the next layer is placed, and the backfill shall be compacted to the density specified in Article 205.06. If the moisture content of the backfill material exceeds 110 percent of the optimum moisture content determined for this material, no additional material shall be placed without the permission of the Engineer.

Method of Measurement. Measurement for payment will be per each pothole excavated as indicated.

Basis of Payment. This work, including all labor, equipment, and materials associated with the exploratory excavation and backfilling to the ground surface as it existed before any excavation was made, will be paid for at the contract unit price per EACH for POTHOLING.

Additional excavation and backfill required to remove and replace unsuitable materials or fill voids beyond the limits of the exploratory excavation, if required, shall be paid separately in accordance with Article 109.04 of the Standard Specifications.

STUMP REMOVAL

This work shall consist of the removal and disposal of the stump and adjacent materials in accordance with Section 201 of the Standard Specifications for Road and Bridge Construction and as specified herein.

The entire tree stump and excess chips and debris shall be removed.

The soil subgrade shall be uniformly compacted in accordance with Article 301.04 of the Standard Specifications for Road and Bridge Construction and as specified herein.

This work shall be paid for at the contract unit price per EACH for STUMP REMOVAL. This price shall include all labor, materials, and equipment necessary to complete the work.

EARTH EXCAVATION (SPECIAL)

This item shall be in accordance with Section 202 of the Standard Specifications for Road and Bridge Construction, this Proposal, or as directed by the Engineer.

Pavement, curb and gutter, sidewalk, and storm sewer will be removed and paid for separately.

The following is a list of estimated major items of removal, for bidding information purposes only, which are included in the item Earth Excavation (Special).

ITEM	UNIT	TOTAL
STRIP 4" EXISTING TOPSOIL	SQ YD	45,000

An estimated quantity for Earth Excavation (Special) is included in this Proposal. It shall be understood and agreed that the quantity listed is approximate and may not constitute all of the work as defined under Section 202 of the Standard Specifications for Road and Bridge Construction. Unless the Engineer is notified prior to the start of Earth Excavation (Special), when the Contractor commences excavation, the Contractor is acknowledging acceptance of the plan quantity shown for Earth Excavation (Special).

In case of a discrepancy regarding the estimate of Earth Excavation (Special), use of the existing and final proposed roadway elevations shall be used to determine the final quantity.

During removal operations, special care shall be taken to prevent damage to adjacent items remaining in place. In particular, at all locations where existing curb and gutter to remain in place is adjacent to curb and gutter to be removed, the existing curb and gutter shall be saw-cut by the Contractor prior to removal. As part of this Project, the Contractor will be required to saw cut existing pavement, curbs and gutters, sidewalks, and driveway approaches prior to reconstruction of these items.

Saw cutting shall consist of sawing existing pavements, curbs and gutters, sidewalks, or driveway approaches to such a depth that when the pavement, sidewalk, curb and gutter or driveway approaches are removed, a clean, neat edge will result with no spalling of the remaining pavement or concrete. Saw cutting shall be performed at all locations where pavement, sidewalk, or curb and gutter is removed and will be replaced. The cost of any saw cutting required prior to removal is incidental and shall be included in their associated removal items or the item Earth Excavation (Special).

Backfilling operations shall start immediately after Earth Excavation (Special). Residents shall have access to the street under construction, all intersecting streets, and all driveways at all times. The Contractor shall insure that ramps constructed of Aggregate Subgrade Improvement have been provided to each intersecting street and resident driveway prior to conclusion of work for the day.

Earth Excavation (Special) shall include all materials encountered except rock, and no other classification of excavated materials will be made. Payment will be made at the contract unit price per CUBIC YARD for EARTH EXCAVATION (SPECIAL), and no additional compensation will be allowed.

SWING GATE REMOVAL

This item consists of the removal, salvage, and storage of existing swing gates, gate stands, and associated hardware. Salvaged gate assemblies shall be stored on site and remain the property of the Dixon Park District.

Post foundations shall be removed to at least 1 foot below the proposed grade elevation of subgrade. All holes left by the removal of the gate posts and post foundations shall be filled with crushed stone.

Any damage done to the existing gate or appurtenances shall be repaired or replaced by the Contractor at his/her expense.

This work shall be paid for at the contract unit price per EACH location for SWING GATE REMOVAL, which price shall include all labor, materials, and equipment necessary to complete the work.

LANDSCAPE EDGING

This work shall be done in accordance with the applicable portions of Sections 212 and 251 of the Standard Specifications for Road and Bridge Construction and as specified herein.

This work shall include the removal, storage during construction, and reinstallation of sections of existing landscaping wall between the proposed path and an existing playground area to be reinstalled to the proposed finish grade.

Necessary hardware or connection items for reinstallation shall be considered incidental to this item.

Existing playground mulch shall be salvaged and respread after the edging has been relocated and shall be considered incidental to this item.

This work shall be paid for at the contract unit price per FOOT for LANDSCAPE EDGING, which price shall include all labor, materials, and equipment necessary to complete the work.

SEEDING, CLASS 1A (SPECIAL)

This item shall be constructed in accordance with Section 250 of the Standard Specifications for Road and Bridge Construction. Spring Seeding shall be done between April 1st and June 15th. Fall Seeding shall be done between August 1st and November 1st. Seed shall be applied with a hydraulic seeder. Fertilizer shall be included in this item.

The area to be seeded and fertilized is estimated to be 5.6 acres. Following are the ratios and estimated quantities.

Seed Mixture	Rate	Estimated Quantity
Kentucky Bluegrass	100 Pounds / Acre	560 Pounds
Perennial Ryegrass	60 Pounds / Acre	336 Pounds
Creeping Red Fescue	40 Pounds / Acre	224 Pounds
Fertilizer		
Nitrogen Fertilizer Nutrient	90 Pounds / Acre	504 Pounds
Phosphorus Fertilizer Nutrient	90 Pounds / Acre	504 Pounds
Potassium Fertilizer Nutrient	90 Pounds / Acre	504 Pounds

Guarantee: The Contractor shall guarantee a 75 percent uniform growth over the entire seeded area(s) after one growing season, with no exception to the timing of the seeding. After one growing season, areas not sustaining 75 percent uniform growth shall be inter-seeded or reseeded, as determined by the Engineer, at no additional cost to the contract.

This work shall be paid for at the contract unit price per ACRE for SEEDING, CLASS 1A (SPECIAL), and shall include all labor and materials to complete the work.

PORTLAND CEMENT CONCRETE SIDEWALK 6 INCH, SPECIAL

DESCRIPTION

This work shall consist of constructing concrete sidewalk, in accordance with Section 424 of the Standard Specifications, as shown on the plans, and hereinafter provided.

MATERIALS

Section 1020 of the Standard Specifications is amended as follows:

Concrete Mix: The concrete shall be mixed per color admixture manufacturer's recommendations for pavement. No calcium chloride shall be used. The slump shall not exceed 4-inches. Supplemental admixtures, such as additional water-reducing admixtures, water-proofing agents, and super plasticizers shall not be used unless written approval is given. No water shall be added to the mix in the field.

Wire fabric reinforcement included with the sidewalk as detailed on the plans shall be in accordance with the applicable portions of Section 508 of the Standard Specifications. Wire fabric to be 6x6-W4.0 x W4.0 or equivalent 58 lbs./100 sq. ft. area.

CONSTRUCTION

Jointing shall be tooled control joints according to Section 420.05 and transverse joints as shown on the plans.

MEASUREMENT

PORTLAND CEMENT CONCRETE SIDEWALK 6 INCH-SPECIAL will be measured in SQUARE FOOT units and in accordance with Section 424 of the Standard Specifications

PAYMENT

PORTLAND CEMENT CONCRETE SIDEWALK 6 INCH-SPECIAL measured as provided above, will be paid in accordance with Section 424 of the Standard Specifications. Aggregate base, reinforcement, thickened edges, and curbs as shown on the plans will not be paid for separately but considered as part of this work.

CONCRETE SLAB REMOVAL

These items shall be in accordance with Section 440 of the Standard Specifications.

This item includes removal of miscellaneous concrete slabs as shown on the plans or directed by the Engineer.

Payment will be made at the contract unit price bid per SQUARE YARD for CONCRETE SLAB REMOVAL, which price shall include all labor, materials, and equipment necessary to complete the work.

STAINING CONCRETE STRUCTURES

Description. Work under this item shall consist of furnishing and applying penetrating stain to the exposed concrete surfaces of the abutments, piers, and slope wall prior to application of the anti-graffiti coating.

Materials. The penetrating stain shall be a color finish designed for exterior applications on concrete with field evidence of resistance to freeze/thaw, moisture alkali, acid and mildew, mold and fungus, discoloration, or degradation. The coloring agent shall be breathable, allowing moisture and vapor transmission. The product shall not alter surface texture and shall conform to ASTM standards. The supplier shall furnish evidence, to the satisfaction of the engineer, that the proposed product has been successfully used in a similar application.

The final color shall be coordinated with and selected by the Owner. Test samples of various stain colors on concrete shall be submitted for acceptance to the Owner and the Engineer before ordering materials and staining on the structure.

The stains shall contain an integral silane or siloxane penetrating concrete sealer.

Preparation. All concrete surfaces that are to be stained shall be, at a minimum, cleaned by water blasting at a water pressure of 3,000 psi min., to ensure that the surface is free of all laitance, dirt, dust, grease, efflorescence, graffiti, existing coatings, and any foreign material to accept the stain according to product requirements. Sand blasting will not be permitted.

The Contractor shall correct, at their own expense, any surface problems resulting from the surface preparation methods.

Method of Measurement. Stained areas will be measured in place in square feet.

Basis of Payment. This work will be paid for at the contract unit price per SQUARE FOOT of STAINING CONCRETE STRUCTURES, which price shall include all materials, equipment, and labor necessary to complete the work as specified.

STORM SEWER CONNECTION

This work shall consist of connecting an existing storm sewer/culvert pipe to a proposed storm sewer/culvert pipe at the locations shown on the plans in accordance with Section 550 and 551 of the Standard Specifications and the details shown in the plans.. Materials shall be according to Section 1024 of the Standard Specifications.

The existing pipe shall be sawcut and removed, or removed to the nearest joint, a new pipe placed, size to match existing, a concrete collar or non-shear coupling constructed as detailed, and grout placed at connections to the proposed pipe.

This work shall be paid for at the contract unit price per EACH for STORM SEWER CONNECTION. This price shall include all labor, materials, and equipment necessary to complete the work including pipe bends, pipe removal, grout, and non-shear coupling or concrete collar.

CONNECTION TO EXISTING MANHOLE

This work shall include connecting proposed storm sewer pipes to an existing manhole. Materials shall be according to Section 1024 of the Standard Specifications.

Openings shall be made in the existing manhole by core drilling new holes or saw cutting to enlarge existing openings. Drilling or cutting shall extend through the wall and angled in the direction of flow. The pipe can be sealed using bricks and hand tooled grout.

This work shall be paid for at the contract unit price per EACH for CONNECTION TO EXISTING MANHOLE, regardless of the pipe or manhole size. This price which price shall include all labor, materials, and equipment necessary to complete the work.

CONCRETE GUTTER, TYPE A (SPECIAL)

CONCRETE GUTTER, TYPE B (SPECIAL)

This work shall consist of constructing concrete gutter at the locations noted on the plans in accordance with Section 606 of the Standard Specifications and the details shown in the plans.

This work will be paid for at the contract unit price per FOOT for CONCRETE GUTTER, TYPE A (SPECIAL) and CONCRETE GUTTER, TYPE B (SPECIAL). This price shall include all labor, equipment and material needed to complete the work as specified above and as shown in the plans.

MANHOLES, TYPE A, WITH SPECIAL FRAME AND GRATE

This work shall be in accordance with Section 602 of the Standard Specifications for Road and Bridge Construction and the Detail included in the Plans.

This item includes furnishing a frame and grate as shown on the Inlets, Special Detail included in the Plans, as well as all materials, labor, and equipment necessary to construct to the lines and grades shown within the Plans.

This work shall be paid for at the contract unit price per EACH for MANHOLES, TYPE A, of the diameter specified, WITH SPECIAL GRAME AND GRATE, which shall include all labor, material, and equipment required to complete the work.

INLETS, SPECIAL

This work shall be in accordance with Section 602 of the Standard Specifications for Road and Bridge Construction and the for Inlets, Special and Inlet Special (Driveway) Details included in the Plans.

This item includes all materials (concrete, reinforcement, frames, lids, etc.), labor and equipment necessary to construct to the lines and grades shown within the Plans.

This work shall be paid for at the contract unit price per EACH for INLETS, SPECIAL which price shall include all labor, materials, and equipment necessary to complete the work.

SANITARY MANHOLES TO BE ADJUSTED

These items shall be constructed in accordance with Section 602 of the Standard Specifications for Road and Bridge Construction, Section 32 of the Standard Specifications for Water and Sewer Main Construction in Illinois, and the Details shown in the plans.

Contractor shall remove and dispose of the existing adjustment rings and furnish and install new concrete adjusting rings and external chimney seal.

All final adjustments shall be made after installing the Hot Mix Asphalt Surface Course.

Adjustment for manholes within paved surfaces shall consist of the removal of the new pavement and base (4' x 4'), and replacement with concrete 10 inches in thickness, as detailed in the Plans. Cost of this work shall be incidental to this item.

The concrete adjustment ring and the manhole castings shall be sealed with a Cretex internal manhole chimney seal conforming to ASTM C-923.

Contractor shall backfill the excavation around the manhole to replace the adjustment rings and casting with CA-6. The cost of the CA-6 shall be incidental to the bid item.

Included in this item is the repair of any damage to manholes caused by the Contractor, removal of all debris pushed into the manhole by the Contractor, sealing the joint between the concrete and asphalt with an approved sealant, and re-adjustment of any frames and grates that are not flush with the final pavement.

It is the Contractor's responsibility to have all manholes located prior to beginning work.

Payment will not be made until all manholes have been inspected by the Engineer and are free of all accumulations of debris.

This work shall be paid for at the contract unit price per EACH for SANITARY MANHOLES TO BE ADJUSTED which price shall include all labor, materials, and equipment necessary to complete the work.

TRAFFIC CONTROL AND PROTECTION, (SPECIAL)

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

Special attention is called to Article 107.09 and 107.14 of the Standard Specifications for Road and Bridge Construction along with the Bureau of Local Roads and Street special provision for the construction and maintenance of signs.

Standards: 701001, 701006, 701301, 701501, 701606, 701701, 701801, 701901, 728001, & 729001.

Details: District 2 Traffic Control for Road Closure Standard 40.1

The road work will be done with Page Drive being closed to through traffic.

Access to the Al Morrison Baseball Complex and the adjacent parking areas shall be maintained at all times.

Construction of the Inner Path, in front of the tennis courts and baseball diamonds, from Sta. 600+00 to Sta. 620+00 shall not begin until July 8, 2025.

All roads shall be open to traffic from June 30, 2025 to July 7, 2025 during the Dixon Petunia Festival. The Contractor shall complete paving operations or be responsible for all temporary measures necessary to allow use of the existing roadways and parking areas within the project limits by June 30, 2025. Any unfinished paths may remain closed using Standard 701801. Temporary measures may be removed and Page Drive may be reclosed to through traffic after July 7, 2025.

Work along Lincoln Statue Drive shall be completed between July 8, 2025 and August 8, 2025.

Traffic control on the eastbound lanes of IL Rte. 2 at 3rd Avenue shall be limited to a duration of less than 72 hours to complete the bridge path connection with existing sidewalk.

The contractor is advised that the Existing Corrugated Metal Plate Arch with Stone Headwalls at Sta. 129+54.6 is to be reused with the project. During construction, the contractor shall complete work on and near the culvert with restrictive measures, including limiting heavy construction equipment loads and prohibiting nearby vibratory equipment to avoid damage to the structure. No construction traffic exceeding a gross vehicle weight (GVW) of 15,000 lbs (7.5 tons) shall be permitted to cross the arch culvert. To alert construction traffic to the requirements, the contractor shall erect temporary signs, minimum size 2'x3' on each side of the culvert stating load restrictions. These restrictions shall remain in effect from the commencement of construction activities until the completion of the project and final inspection by the Engineer. The Contractor shall be responsible for repair costs for any damage caused by non-compliant construction traffic.

This work shall consist of furnishing, installing, and maintaining all signs, signals, temporary pavement markings, other required traffic control markings, barricades, warning lights, and other devices which are to be used to regulate, warn, or guide traffic during construction of this improvement.

Signs:

No bracing shall be allowed on post-mounted signs.

All side roads shall have "ROAD CLOSED TO THRU TRAFFIC" signs mounted on staggered Type III barricades in advance of the intersection.

Post-mounted signs shall be installed using standards 720001, 720006, 720011, 728001, and 729001.

When covering existing Department signs, no tape shall be used on the reflective portion of the sign. Contact the District sign shop for covering techniques.

Devices:

Cones or reflectorized cones shall not be used during hours of darkness.

A minimum of 3 drums spaced at 4 feet shall be placed at each return when the side road is open.

Lights:

Steady burn mono-directional lights are required on Type I devices delineating a widening trench.

Flaggers:

Flaggers shall comply with all requirements and signaling methods contained in the Department's "Traffic Control Field Manual" current at the time of letting. The flagger equipment listed for flaggers employed by the Illinois Department of Transportation shall apply to all flaggers.

In addition to the flaggers shown on applicable standards, on major sideroads, flaggers shall be required on all legs of the intersection. Major sideroads for this project shall be IL Route 2 (Palmyra Street) and Peoria Avenue.

When the mainline flagger is within 200 feet of an intersection, the sideroad flagger shall be required.

When the road is closed to through traffic and it is necessary to provide access for local traffic, all flaggers as shown on the applicable standards will be required. No reduction in the number of flaggers shall be allowed.

Maintenance of Traffic:

On the date that the Contractor begins work, he shall assume responsibility for the normal maintenance of all existing pavements, drives and temporary surfaces within the limits of the improvement. Normal maintenance shall include all repair work deemed necessary by the Engineer but shall not include snow removal operations.

This responsibility shall end upon the completion and acceptance of all the pay items in this contract.

The Contractor shall provide a 24-hour notice (via verbal communication or a flier notice) to any business that will be inconvenienced during construction. This notification should be conducted but not limited to any time a business will lose access to driveways or parking on the street during construction. Approximate times of this inconvenience shall be given to the residents.

All streets and driveway entrances shall be kept in a condition satisfactory to the Engineer to allow continuous access for all commercial businesses and emergency vehicles.

Dust control during construction operations shall be considered a part of the maintenance and shall be done to the satisfaction of the Engineer.

At the pre-construction meeting, the Contractor shall furnish the name of the individual in his direct employ who is to be responsible for the installation and maintenance of the traffic control for this project. If the actual installation and maintenance are to be accomplished by a sub-contractor, consent shall be requested of the Engineer at the time of the pre-construction meeting in accordance with Article 108.01 of the Standard Specifications for Road and Bridge Construction. This shall not relieve the Contractor of the foregoing requirements for a responsible individual in his direct employ. Said individual shall be available 24 hours per day. The Department will provide the Contractor the name of its representative who will be responsible for the administration of the Traffic Control Plan.

The Contractor will be required to remove all traffic control devices which were furnished, installed, or maintained by him under this contract and such devices shall remain the property of the Contractor upon said removal. All traffic control devices must remain in place until specific authorization for removal is received from the Engineer.

This work shall be paid for at the contract unit LUMP SUM price for TRAFFIC CONTROL AND PROTECTION (SPECIAL), which price shall be payment in full for all labor, materials, transportation, handling, and incidental work necessary to furnish, install, maintain, and remove all traffic control devices as indicated on the Plans or in these Specifications and as directed by the Engineer.

REMOVE AND RE-ERECT EXISTING SIGN

This work shall be in accordance with Sections 724 and 730 of the Standard Specifications for Road and Bridge Construction. This item consists of the removal and re-erection of the existing Al Morrison Baseball Complex sign on new concrete footings at the location shown in the Plans

The Contractor shall take all necessary precautions to ensure the sign will not be damaged during construction operations and shall be stored in a manner to protect against damage. Any damage to the sign due to Contractor negligence will be repaired by the Contractor at no additional cost.

Re-erection shall include mounting the existing sign using new posts in new foundations and with new hardware. New wood posts, foundations, and hardware will not be paid for separately.

This work shall be paid for at the contract unit price per EACH for REMOVE AND RE-ERECT EXISTING SIGN which price shall include all labor, materials, and equipment necessary to complete the work.

AREA DRAIN

DESCRIPTION: This work consists of furnishing and installing area drains in concrete sidewalk locations as shown on the Plans. This work includes furnishing and constructing a vertical riser pipe over a tee or elbow in the interconnecting pipe underdrain, furnishing and installing a frame and grate, drain body, backfill, and all incidental construction necessary to construct a complete area drain. This work shall be performed in accordance with Section 550, Section 602, and Section 542 of the Standard Specifications.

MATERIALS: Area drains shall be constructed with a 16" x 7.5" stainless steel bar grate with a cast iron frame with a pipe outlet as detailed on the plans. Bar grate slotted openings shall not allow passage of a sphere more than 1/2 inch. The bars shall run perpendicular to the centerline of the walkway. The grate shall be removable and attached to the drain body with stainless steel fasteners. The bar grate shall be rated for 250 psf. The riser pipe section shall be 8" ID SDR 35 PVC pipe in accordance with Articles 1040 of the Standard Specifications.

SUBMITTALS:

Product Data: For each type of product indicated. Include construction details, material descriptions, dimensions of individual components and profiles, finishes, field-assembly requirements, installation details, and maintenance instructions prepared by the manufacturer.

Shop Drawings: Not Required.

CONSTRUCTION REQUIREMENTS – This work shall be performed in accordance with applicable portions of Section 602 of the Standard Specifications. The Contractor shall furnish and install castings, drain body, riser pipe, and other incidentals necessary for complete installation.

BASIS OF PAYMENT: This work shall be paid for at the contract unit price per EACH for AREA DRAIN which price shall include frame and grate, inline drain body, riser pipe, connection to horizontal pipe runs, and all incidental work required to construct a complete area drain and no additional compensation will be allowed. Horizontal runs of Storm Sewer Pipes or Underdrain will be measured and paid for separately.

LUMINAIRE, TYPE A (SPECIAL)

This work shall be done in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the details provided in the engineering plans. LED Fixtures, as identified on the engineering plans, shall be provided as per the approved manufacturer's specifications. Contractor is required to submit shop drawings for fixtures prior to purchase.

LED fixtures for all designations, TYPE A shall be paid for with this pay item.

This work shall be paid for at the contract unit price per EACH for LUMINAIRE, TYPE A (SPECIAL)

LUMINAIRE, TYPE B (SPECIAL)

This work shall be done in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the details provided in the engineering plans. LED Fixtures, as identified on the engineering plans, shall be provided as per the approved manufacturer's specifications. Contractor is required to submit shop drawings for fixtures prior to purchase.

LED fixtures for all designations, TYPE B shall be paid for with this pay item.

This work shall be paid for at the contract unit price per EACH for LUMINAIRE, TYPE B (SPECIAL)

LUMINAIRE, TYPE C (SPECIAL)

This work shall be done in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the details provided in the engineering plans. LED Fixtures, as identified on the engineering plans, shall be provided as per the approved manufacturer's specifications. Contractor is required to submit shop drawings for fixtures prior to purchase.

LED fixtures for all designations, TYPE C shall be paid for with this pay item.

This work shall be paid for at the contract unit price per EACH for LUMINAIRE, TYPE C (SPECIAL).

LUMINAIRE, TYPE D (SPECIAL)

This work shall be done in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the details provided in the engineering plans. LED Fixtures, as identified on the engineering plans, shall be provided as per the approved manufacturer's specifications. Contractor is required to submit shop drawings for fixtures prior to purchase.

LED fixtures for all designations, TYPE D shall be paid for with this pay item.

This work shall be paid for at the contract unit price per EACH for LUMINAIRE, TYPE D (SPECIAL).

LIGHT POLE FOUNDATION, SPECIAL

This work shall be done in accordance with applicable sections of the Standard Specifications for Road and Bridge Construction and shall conform to the details provided in the engineering plans, and IDOT Standard Detail. Light pole foundations are to include all tie bars, conduits, covers, and anchor bolts as per the detail in the engineering plans. This work will not be paid for separately and shall be included in this pay item.

Light pole foundations special shall be 24" diameter for light pole special 12'.

This work shall be paid for at the contract unit price per EACH for LIGHT POLE FOUNDATION, SPECIAL.

PAVILION STRUCTURE

Description. This work shall consist of the design, shop drawings, labor, equipment, and materials necessary to construct the pavilion structure at the location and to the requirements shown on the plans.

Materials. All materials shall be according to Division 1000 of Standard Specifications. Samples of all non-structural materials and finishes shall be submitted for acceptance to the Engineer and Owner prior to ordering materials.

Design. The Contractor shall retain the services of an Illinois Licensed Architect to develop a complete set of architectural details for the pavilion. The appearance of the pavilion shall match the existing open pavilion at Heritage Crossing between Peoria Avenue and Galena Avenue along the south bank of the Rock River in Dixon, IL except as modified herein and on the plans. The counter and furniture at the existing pavilion shall be omitted.



The Contractor shall also retain the services of an Illinois Licensed Structural Engineer to complete a full set of design calculations and structural details for the pavilion, including the anchorage of the columns to the bridge superstructure. Reactions from the final design shall adhere to the provisions specified on the Contract Plans.

The Contractor to install four (4) light fixtures type "B" as shown dwg. E-05. One additional Cupola light fixture, the one in the center to be installed facing up. Wiring shall be bring down to a junction box as shown on ceiling plan. This lighting shall be circuited with bridge light and controlled with photocell and universal timer.

Submittals. The Contractor shall submit complete architectural and structural drawings prepared and sealed by an Illinois Licensed Architect and Illinois Licensed Structural Engineer. The drawings shall provide full dimensions, details, and types of materials proposed for use.

Basis of Payment. This work will be paid for at the contract LUMP SUM price for PAVILION STRUCTURE, which price shall include all materials, equipment, and labor necessary to complete the work as specified to the satisfaction of the Engineer and Owner.



Route Page Drive	Marked Route	Section Number 22-00183-00-BR
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Project Number 5LY7(916)	County Lee	Contract Number 8662
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This plan has been prepared to comply with the provisions of the National Pollutant Discharge Elimination System (NPDES) Permit No. ILR10 (Permit ILR10), issued by the Illinois Environmental Protection Agency (IEPA) for storm water discharges from construction site activities.

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

Signature 	Date 06/27/2024
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Print Name Matt Heckman	Title Assistant City Manager	Agency City of Dixon
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Note: Guidance on preparing each section of BDE 2342 can be found in Chapter 41 of the IDOT Bureau of Design and Environment (BDE) Manual. Chapter 41 and this form also reference the IDOT Drainage Manual which should be readily available.

I. Site Description:

A. Provide a description of the project location; include latitude and longitude, section, town, and range:

The project is located within the limits of the City of Dixon, Illinois (Owner). This project is located in the Northeast quarter of Section 5, Township 21 North and Southwest quarter of Section 32, Township 22 North, Range 9 East of the 4th Principal Meridian in the City of Dixon, IL.

The roadway improvements are along Page Drive and Lincoln Statue Drive terminating at IL Route 2 and Peoria Avenue within the City of Dixon, IL. The multi-use paths extend along Page Drive, throughout Page Park, and across the Rock River via the proposed pedestrian bridge and terminating north of West 1st Street.

B. Provide a description of the construction activity which is the subject of this plan. Include the number of construction stages, drainage improvements, in-stream work, installation, maintenance, removal of erosion measures, and permanent stabilization:

This project consists of the construction of a pedestrian bridge, shared-use paths, lighting, roadway earthwork, erosion control, seeding, asphalt pavement, sidewalk, aggregate subbase, storm sewer, curb and gutter, modular retaining walls, and pavement markings.

C. Provide the estimated duration of this project:

1 Year

D. The total area of the construction site is estimated to be 42 acres.

The total area of the site estimated to be disturbed by excavation, grading or other activities is 13 acres.

E. The following are weighted averages of the runoff coefficient for this project before and after construction activities are completed; see Section 4-102 of the IDOT Drainage Manual:

N/A

F. List all soils found within project boundaries; include map unit name, slope information, and erosivity:

N/A

G. If wetlands were delineated for this project, provide an extent of wetland acreage at the site; see Phase I report:

3.31 Acres of Non-Impacted Wetlands

H. Provide a description of potentially erosive areas associated with this project:

South and North banks of the Rock River

I. The following is a description of soil disturbing activities by stages, their locations, and their erosive factors (e.g., steepness of slopes, length of slopes, etc.):

Roadway Excavation, Structure Excavation, & Excavation for new paths.

J. See the erosion control plans and/or drainage plans for this contract for information regarding drainage patterns, approximate slopes anticipated before and after major grading activities, locations where vehicles enter or exit the site and controls to prevent offsite sediment tracking (to be added after contractor identifies locations), areas of soil disturbance, the location of major structural and non-structural controls identified in the plan, the location of areas where stabilization practices are expected to occur, surface waters (including wetlands) , and locations where storm water is discharged to surface water including wetlands.

K. Identify who owns the drainage system (municipality or agency) this project will drain into:

City of Dixon

L. The following is a list of General NPDES ILR40 permittees within whose reporting jurisdiction this project is located:

N/A

M. The following is a list of receiving water(s) and the ultimate receiving water(s) for this site. In addition, include receiving waters that are listed as Biologically Significant Streams by the Illinois Department of Natural Resources (IDNR). The location of the receiving waters can be found on the erosion and sediment control plans:

Rock River

N. Describe areas of the site that are to be protected or remain undisturbed. These areas may include steep slopes (i.e., 1:3 or steeper), highly erodible soils, streams, stream buffers, specimen trees, natural vegetation, nature preserves, etc. Include any commitments or requirements to protect adjacent wetlands.

For any storm water discharges from construction activities within 50-feet of Waters of the U.S. (except for activities for water-dependent structures authorized by a Section 404 permit, describe: a) How a 50-foot undisturbed natural buffer will be provided between the construction activity and the Waters of the U.S. or b) How additional erosion and sediment controls will be provided within that area.

Wetlands adjacent to the project will be protected by installing perimeter erosion barrier before excavation activities begin.

O. Per the Phase I document, the following sensitive environmental resources are associated with this project and may have the potential to be impacted by the proposed development. Further guidance on these resources is available in Section 41-4 of the BDE Manual.

None Identified

303(d) Listed receiving waters for suspended solids, turbidity, or siltation.
The name(s) of the listed water body, and identification of all pollutants causing impairment:

Rock River. Fish consumption is being impaired by Aldrin, Dieldrin, Endrin, Heptachlor, Mercury, Mirex, Polychlorinated Biphenyls (Pcbs), and Toxaphene. The Primary Contact Recreation is being impaired by Fecal Coliform.

Provide a description of how erosion and sediment control practices will prevent a discharge of sediment resulting from a storm event equal to or greater than a twenty-five (25) year, twenty-four (24) hour rainfall event:

Erosion and sediment control practices like temporary ditch checks, perimeter erosion barrier, inlet and pipe protection, and rip rap shown on the erosion control plans will be used to prevent discharge of sediment into the Rock River.

Provide a description of the location(s) of direct discharge from the project site to the 303(d) water body:

Roadside ditches and storm drains.

Provide a description of the location(s) of any dewatering discharges to the MS4 and/or water body:

None

Applicable Federal, Tribal, State, or Local Programs

None

Floodplain

Regulatory Floodway Zone AE

Historic Preservation

No Historic Properties Affected

Receiving waters with Total Maximum Daily Load (TMDL) for sediment, total suspended solids, turbidity or siltation

TMDL (fill out this section if checked above)

The name(s) of the listed water body:

Provide a description of the erosion and sediment control strategy that will be incorporated into the site design that is consistent with the assumptions and requirements of the TMDL:

If a specific numeric waste load allocation has been established that would apply to the project's discharges, provide a description of the necessary steps to meet that allocation:

Threatened and Endangered Species/Illinois Natural Areas (INAI)/Nature Preserves

Gravel Chub, River Redhorse, Smooth Softshell Turtle, Indiana bat, Northern long-eared bat, Tricolored bat, Rusty patched bumblebee, and Eastern prairie fringed orchid.

Other

Wetland

Forested Wetlands along north bank of Rock River

P. The following pollutants of concern will be associated with this construction project:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Antifreeze / Coolants | <input checked="" type="checkbox"/> Solid Waste Debris |
| <input checked="" type="checkbox"/> Concrete | <input checked="" type="checkbox"/> Solvents |
| <input checked="" type="checkbox"/> Concrete Curing Compounds | <input checked="" type="checkbox"/> Waste water from cleaning construction equipments |
| <input checked="" type="checkbox"/> Concrete Truck Waste | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Fertilizers / Pesticides | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Paints | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Petroleum (gas, diesel, oil, kerosene, hydraulic oil / fluids) | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Soil Sediment | <input type="checkbox"/> Other (Specify) _____ |

II. Controls:

This section of the plan addresses the controls that will be implemented for each of the major construction activities described in Section I.C above and for all use areas, borrow sites, and waste sites. For each measure discussed, the Contractor will be responsible for its implementation as indicated. The Contractor shall provide to the Resident Engineer a plan for the implementation of the measures indicated. The Contractor, and subcontractors, will notify the Resident Engineer of any proposed changes, maintenance, or modifications to keep construction activities compliant with the Permit ILR10. Each such Contractor has signed the required certification on forms which are attached to, and are a part of, this plan:

A. Erosion and Sediment Controls: At a minimum, controls must be coordinated, installed and maintained to:

1. Minimize the amount of soil exposed during construction activity;
2. Minimize the disturbance of steep slopes;
3. Maintain natural buffers around surface waters, direct storm water to vegetated areas to increase sediment removal and maximize storm water infiltration, unless infeasible;
4. Minimize soil compaction and, unless infeasible, preserve topsoil.

B. Stabilization Practices: Provided below is a description of interim and permanent stabilization practices, including site- specific scheduling of the implementation of the practices. Site plans will ensure that existing vegetation is preserved where attainable and disturbed portions of the site will be stabilized. Stabilization practices may include but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sodding, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Except as provided below in II.B.1 and II.B.2, stabilization measures shall be initiated **immediately** where construction activities have temporarily or permanently ceased, but in no case more than **one (1) day** after the construction activity in that portion of the site has temporarily or permanently ceases on all disturbed portions of the site where construction will not occur for a period of fourteen (14) or more calendar days.

1. Where the initiation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.
2. On areas where construction activity has temporarily ceased and will resume after fourteen (14) days, a temporary stabilization method can be used.

The following stabilization practices will be used for this project:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Erosion Control Blanket / Mulching | <input type="checkbox"/> Temporary Turf (Seeding, Class 7) |
| <input type="checkbox"/> Geotextiles | <input type="checkbox"/> Temporary Mulching |
| <input checked="" type="checkbox"/> Permanent Seeding | <input checked="" type="checkbox"/> Vegetated Buffer Strips |
| <input type="checkbox"/> Preservation of Mature Seeding | <input type="checkbox"/> Other (Specify) _____ |
| <input type="checkbox"/> Protection of Trees | <input type="checkbox"/> Other (Specify) _____ |
| <input type="checkbox"/> Sodding | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Temporary Erosion Control Seeding | <input type="checkbox"/> Other (Specify) _____ |

Describe how the stabilization practices listed above will be utilized during construction:

Preservation of mature vegetation will act as both a soil erosion prevention and a sediment control measure in areas that see runoff from disturbed soil. Temporary erosion control seeding will be used in disturbed areas where no construction is planned for seven days.

Describe how the stabilization practices listed above will be utilized after construction activities have been completed:

Once final grading is complete, all disturbed areas shall be permanently seeded and covered with erosion control blanket as soon as possible to prevent erosion on newly graded soil.

C. Structural Practices: Provided below is a description of structural practices that will be implemented, to the degree attainable, to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Such practices may include but are not limited to: perimeter erosion barrier, earth dikes, drainage swales, sediment traps, ditch checks, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. The installation of these devices may be subject to Section 404 of the Clean Water Act.

- | | |
|--|---|
| <input type="checkbox"/> Aggregate Ditch | <input type="checkbox"/> Stabilized Construction Exits |
| <input type="checkbox"/> Concrete Revetment Mats | <input type="checkbox"/> Stabilized Trench Flow |
| <input type="checkbox"/> Dust Suppression | <input checked="" type="checkbox"/> Slope Mattress |
| <input type="checkbox"/> Dewatering Filtering | <input type="checkbox"/> Slope Walls |
| <input type="checkbox"/> Gabions | <input checked="" type="checkbox"/> Temporary Ditch Check |

- | | |
|--|---|
| <input type="checkbox"/> In-Stream or Wetland Work | <input type="checkbox"/> Temporary Pipe Slope Drain |
| <input type="checkbox"/> Level Spreaders | <input type="checkbox"/> Temporary Sediment Basin |
| <input type="checkbox"/> Paved Ditch | <input type="checkbox"/> Temporary Stream Crossing |
| <input type="checkbox"/> Permanent Check Dams | <input type="checkbox"/> Turf Reinforcement Mats |
| <input checked="" type="checkbox"/> Perimeter Erosion Barrier | <input type="checkbox"/> Other (Specify) _____ |
| <input type="checkbox"/> Permanent Sediment Basin | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Retaining Walls | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Riprap | <input type="checkbox"/> Other (Specify) _____ |
| <input type="checkbox"/> Rock Outlet Protection | <input type="checkbox"/> Other (Specify) _____ |
| <input type="checkbox"/> Sediment Trap | <input type="checkbox"/> Other (Specify) _____ |
| <input checked="" type="checkbox"/> Storm Drain Inlet Protection | <input type="checkbox"/> Other (Specify) _____ |

Describe how the structural practices listed above will be utilized during construction:

Perimeter erosion barrier, temporary ditch checks and inlet protection will be implemented as the project progresses.

Describe how the structural practices listed above will be utilized after construction activities have been completed:

Temporary measures will be removed once they are no longer needed. Retaining Walls will remain in place once the project is completed and riprap will protect the streambanks from erosion along the south bank of the Rock River.

D. Treatment Chemicals

Will polymer flocculants or treatment chemicals be utilized on this project: Yes No

If yes above, identify where and how polymer flocculants or treatment chemicals will be utilized on this project.

E. Permanent (i.e., Post-Construction) Storm Water Management Controls: Provided below is a description of measures that will be installed during the construction process to control volume and pollutants in storm water discharges that will occur after construction operations have been completed. The installation of these devices may be subject to Section 404 of the Clean Water Act.

1. Such practices may include but are not limited to: storm water detention structures (including wet ponds), storm water retention structures, flow attenuation by use of open vegetated swales and natural depressions, infiltration of runoff on site, and sequential systems (which combine several practices).

The practices selected for implementation were determined based on the technical guidance in Chapter 41 (Construction Site Storm Water Pollution Control) of the IDOT BDE Manual. If practices other than those discussed in Chapter 41 are selected for implementation or if practices are applied to situations different from those covered in Chapter 41, the technical basis for such decisions will be explained below.

2. Velocity dissipation devices will be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., maintenance of hydrologic conditions such as the hydroperiod and hydrodynamics present prior to the initiation of construction activities).

Description of permanent storm water management controls:

Permanent seeding and erosion control blanket will be installed to provide permanent vegetation within the construction limits to protect the area from future erosion during storm discharges. In addition, riprap will remain in place around the abutment on the south side of the Rock River.

F. Approved State or Local Laws: The management practices, controls and provisions contained in this plan will be in accordance with IDOT specifications, which are at least as protective as the requirements contained in the IEPA's Illinois Urban Manual. Procedures and requirements specified in applicable sediment and erosion site plans or storm water management plans approved by local officials shall be described or incorporated by reference in the space provided below. Requirements specified in sediment and erosion site plans, site permits, storm water management site plans or site permits approved by local officials that are applicable to protecting

surface water resources are, upon submittal of an NOI, to be authorized to discharge under the Permit ILR10 incorporated by reference and are enforceable under this permit even if they are not specifically included in the plan.

Description of procedures and requirements specified in applicable sediment and erosion site plans or storm water management plans approved by local officials:

City of Dixon

G. Contractor Required Submittals: Prior to conducting any professional services at the site covered by this plan, the Contractor and each subcontractor responsible for compliance with the permit shall submit to the Resident Engineer a Contractor Certification Statement, BDE 2342A.

1. The Contractor shall provide a construction schedule containing an adequate level of detail to show major activities with implementation of pollution prevention BMPs, including the following items:

- Approximate duration of the project, including each stage of the project
- Rainy season, dry season, and winter shutdown dates
- Temporary stabilization measures to be employed by contract phases
- Mobilization time-frame
- Mass clearing and grubbing/roadside clearing dates
- Deployment of Erosion Control Practices
- Deployment of Sediment Control Practices (including stabilized cons

- Deployment of Construction Site Management Practices (including concrete washout facilities, chemical storage, refueling locations, etc.)
- Paving, saw-cutting, and any other pavement related operations
- Major planned stockpiling operation
- Time frame for other significant long-term operations or activities that may plan non-storm water discharges as dewatering, grinding, etc
- Permanent stabilization activities for each area of the project

2. During the pre-construction meeting, the Contractor and each subcontractor shall provide, as an attachment to their signed Contractor Certification Statement, a discussion of how they will comply with the requirements of the permit in regard to the following items and provide a graphical representation showing location and type of BMPs to be used when applicable:

- Temporary Ditch Checks - Identify what type and the source of Temporary Ditch Checks that will be installed as part of the project. The installation details will then be included with the SWPPP.
- Vehicle Entrances and Exits - Identify type and location of stabilized construction entrances and exits to be used and how they will be maintained.
- Material Delivery, Storage and Use - Discuss where and how materials including chemicals, concrete curing compounds, petroleum products, etc. will be stored for this project.
- Stockpile Management - Identify the location of both on-site and off-site stockpiles. Discuss what BMPs will be used to prevent pollution of storm water from stockpiles.
- Waste Disposal - Discuss methods of waste disposal that will be used for this project.
- Spill Prevention and Control - Discuss steps that will be taken in the event of a material spill (chemicals, concrete curing compounds, petroleum, etc.)
- Concrete Residuals and Washout Wastes - Discuss the location and type of concrete washout facilities to be used on this project and how they will be signed and maintained.
- Litter Management - Discuss how litter will be maintained for this project (education of employees, number of dumpsters, frequency of dumpster pick-up, etc.).
- Vehicle and Equipment Fueling - Identify equipment fueling locations for this project and what BMPs will be used to ensure containment and spill prevention.
- Vehicle and Equipment Cleaning and Maintenance - Identify where equipment cleaning and maintenance locations for this project and what BMPs will be used to ensure containment and spill prevention.
- Dewatering Activities - Identify the controls which will be used during dewatering operations to ensure sediments will not leave the construction site.
- Polymer Flocculants and Treatment Chemicals - Identify the use and dosage of treatment chemicals and provide the Resident Engineer with Material Safety Data Sheets. Describe procedures on how the chemicals will be used and identify who will be responsible for the use and application of these chemicals. The selected individual must be trained on the established procedures.
- Additional measures indicated in the plan.

III. Maintenance:

When requested by the Contractor, the Resident Engineer will provide general maintenance guides (e.g., IDOT Erosion and Sediment Control Field Guide) to the Contractor for the practices associated with this project. Describe how all items will be checked for structural integrity, sediment accumulation and functionality. Any damage or undermining shall be repaired immediately. Provide specifics on how repairs will be made. The following additional procedures will be used to maintain, in good and effective operating conditions, the vegetation, erosion and sediment control measures and other protective measures identified in this plan. It will be the Contractor's

responsibility to attain maintenance guidelines for any manufactured BMPs which are to be installed and maintained per manufacture's specifications.

Maintain the perimeter erosion barrier, temporary ditch checks, and inlet protection.

IV. Inspections:

Qualified personnel shall inspect disturbed areas of the construction site including Borrow, Waste, and Use Areas, which have not yet been finally stabilized, structural control measures, and locations where vehicles and equipment enter and exit the site using IDOT Storm Water Pollution Prevention Plan Erosion Control Inspection Report, BC 2259. Such inspections shall be conducted at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm or by the end of the following business or work day that is 0.5 inch or greater or equivalent snowfall.

Inspections may be reduced to once per month when construction activities have ceased due to frozen conditions. Weekly inspections will recommence when construction activities are conducted, or if there is 0.5" or greater rain event, or a discharge due to snowmelt occurs.

If any violation of the provisions of this plan is identified during the conduct of the construction work covered by this plan, the Resident Engineer shall notify the appropriate IEPA Field Operations Section office by email at: epa.swnoncomp@illinois.gov, telephone or fax within twenty-four (24) hours of the incident. The Resident Engineer shall then complete and submit an "Incidence of Non-Compliance" (ION) report for the identified violation within five (5) days of the incident. The Resident Engineer shall use forms provided by IEPA and shall include specific information on the cause of noncompliance, actions which were taken to prevent any further causes of noncompliance, and a statement detailing any environmental impact which may have resulted from the noncompliance. All reports of non-compliance shall be signed by a responsible authority in accordance with Part VI. G of the Permit ILR10.

The Incidence of Non-Compliance shall be mailed to the following address:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Attn: Compliance Assurance Section
1021 North Grand East
Post Office Box 19276
Springfield, Illinois 62794-9276

V. Failure to Comply:

Failure to comply with any provisions of this Storm Water Pollution Prevention Plan will result in the implementation of a National Pollutant Discharge Elimination System/Erosion and Sediment Control Deficiency Deduction against the Contractor and/or penalties under the Permit ILR10 which could be passed on to the Contractor.



Contractor Certification Statement



Prior to conducting any professional services at the site covered by this contract, the Contractor and every subcontractor must complete and return to the Resident Engineer the following certification. A separate certification must be submitted by each firm. Attach to this certification all items required by Section II.G of the Storm Water Pollution Prevention Plan (SWPPP) which will be handled by the Contractor/subcontractor completing this form.

Route Page Drive	Marked Route	Section Number 22-00183-00-BR
Project Number 5LY7(916)	County Lee	Contract Number 85762

This certification statement is a part of SWPPP for the project described above, in accordance with the General NPDES Permit No. ILR10 issued by the Illinois Environmental Protection Agency.

I certify under penalty of law that I understand the terms of the Permit No. ILR 10 that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification.

Additionally, I have read and understand all of the information and requirements stated in SWPPP for the above mentioned project; I have received copies of all appropriate maintenance procedures; and, I have provided all documentation required to be in compliance with the Permit ILR10 and SWPPP and will provide timely updates to these documents as necessary.

- Contractor
- Sub-Contractor

Signature	Date

Print Name	Title

Name of Firm	Phone

Street Address	City	State	Zip Code

Items which this Contractor/subcontractor will be responsible for as required in Section II.G. of SWPPP



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, ROCK ISLAND DISTRICT
PO BOX 2004 CLOCK TOWER BUILDING
ROCK ISLAND, ILLINOIS 61204-2004

February 8, 2024

Regulatory Division

SUBJECT: CEMVR-RD-2023-0650

Matt Heckman
City of Dixon
121 W 2nd Street
Dixon, Illinois 61021

Dear Matt Heckman:

Our office has reviewed your application received January 24, 2024, concerning the proposed construction of a pedestrian bridge superstructure on existing piers over the Rock River, removal of four piers, and construction of path approaches project. This project is located in Section 5, Township 22N, and Range 6W, Lee County, Illinois. Lat/Long: 41.84448, -89.4909

Your project is authorized under Department of the Army, Section 10, Nationwide Permit No. 14 - Linear Transportation Projects, provided you meet the Nationwide Permit terms and conditions. Fact Sheet No. 9 (IL) including the Illinois Regional Conditions and the Section 401 Water Quality Certification issued by the Illinois Environmental Protection Agency (ILEPA) can be found on the Rock Island District Regulatory Webpage at: <https://www.mvr.usace.army.mil/Missions/Regulatory.aspx>. The Corps has made a determination of no effect on federally threatened and endangered species and/or critical habitat under Section 7 of the Endangered Species Act. In accordance with Section 106 of the National Historic Preservation Act, the Corps has made a determination of no potential to affect. The decisions regarding these actions are based on information found in the administrative record, which document the District's decision-making process, the basis for the decision, and the final decision. Special conditions associated with this permit will be listed below and must also be adhered to.

Please contact our office if the project plans change and there are different impacts caused by dredged or fill material into Corps' regulated waters. This may require modification of your Department of the Army Section 10 authorization.

This verification is valid until March 14, 2026, unless the nationwide permit is modified, reissued, or revoked. It is your responsibility to remain informed of changes to the nationwide permit program. We will issue a public notice announcing any changes if

and when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have twelve months from this date to complete your activity under the present terms and conditions of this nationwide permit.

This authorization does not eliminate the requirement that you must still obtain other applicable Federal, state, and local permits. If you have not already coordinated your project with the Illinois Department of Natural Resources (ILDNR), please contact them by telephone at 217/782-6302 or bill.milner@illinois.gov to determine if a floodplain development permit is required for your project. Also contact the ILDNR at 217/785-5500 or <https://dnr2.illinois.gov/EcoPublic/> to consult on potential impacts to state listed species or other state protected natural resources. You may contact the IEPA Facility Evaluation Unit at 217/782-3397 to determine whether additional authorizations are required from the IEPA. Please send any electronic correspondence to EPA.401.bow@illinois.gov.

You are required to complete and return the enclosed "Transfer of Nationwide Permit Verification" and "Completed Work Certification" forms in accordance with General Condition Nos. 29 and 30 of the nationwide permits.

The Rock Island District Regulatory Division is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our web site at <https://regulatory.ops.usace.army.mil/ords/f?p=136:4>. (Be sure to select "Rock Island District" under the area entitled: Which Corps office did you deal with?)

Should you have any questions, please contact our Regulatory Division by letter, email rowen.e.schmidt@usace.army.mil, or telephone Rowen Schmidt at 309/386-3496.

Sincerely,

Abigail A. Steele

Abigail A. Steele
Chief, Western Branch
Regulatory Division

Enclosures

cc:

William Milner, Illinois Department of Natural Resources
Bill.milner@illinois.gov

Darin LeCrone, Illinois Environmental Protection Agency

darin.lecrone@Illinois.gov

Matt Heckman, City of Dixon

Matt.heckman@discoverdixon.org

Michael Leslie, Willett Hofmann & Associates

mleslie@willetthofmann.com

TRANSFER OF NATIONWIDE PERMIT VERIFICATION

Permit Number: CEMVR-RD-2023-0650

Name of Permittee/Project: City of Dixon

County/State: Lee County / Illinois

Date of Issuance: February 8, 2024

When the structure(s) or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s), of the property. To validate the transfer of this nationwide permit and the liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

Transferee

Date

RS

COMPLETED WORK CERTIFICATION

Permit Number: CEMVR-RD-2023-0650

Name of Permittee/Project: City of Dixon

County/State: Lee County / Illinois

Date of Issuance: February 8, 2024

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification, and return it to the following address:

U.S. Army Engineer District, Rock Island
ATTN: Regulatory Division
Clock Tower Building
Post Office Box 2004
Rock Island, Illinois 61204-2004

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above reference permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

RS



US Army Corps
of Engineers
Rock Island District

FACT SHEET NO. 9(IL)

NATIONWIDE PERMITS IN ILLINOIS

EFFECTIVE DATE: February 25, 2022

On January 13, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the Federal Register (86 FR 2744) for the Nationwide Permits Program under the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and the Marine Protection, Research and Sanctuaries Act. This final rule announced the reissuance of 12 existing nationwide permits (NWP) and four new NWPs, as well as the reissuance of NWP general conditions and definitions with some modifications. These 16 Nationwide Permits became effective on **March 15, 2021**, and will expire on **March 14, 2026**:

- NWP 12 - Oil or Natural Gas Pipeline Activities
- NWP 21 - Surface Coal Mining Activities
- NWP 29 - Residential Developments
- NWP 39 - Commercial and Institutional Developments
- NWP 40 - Agricultural Activities
- NWP 42 - Recreational Facilities
- NWP 43 - Stormwater Management Facilities
- NWP 44 - Mining Activities
- NWP 48 - Commercial Shellfish Mariculture Activities
- NWP 50 - Underground Coal Mining Activities
- NWP 51 - Land-Based Renewable Energy Generation Facilities
- NWP 52 - Water-Based Renewable Energy Generation Pilot Projects
- NWP 55 - Seaweed Mariculture Activities
- NWP 56 - Finfish Mariculture Activities
- NWP 57 - Electric Utility Line and Telecommunications Activities
- NWP 58 - Utility Line Activities for Water and Other Substances

On December 27, 2021, the U.S. Army Corps of Engineers (Corps) published a final rule in the Federal Register (86 FR 245) for the Nationwide Permits Program under the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and the Marine Protection, Research and Sanctuaries Act. In this final rule, the Corps is reissuing the remaining 40 existing NWPs and issuing the remaining one new NWP. The NWP general conditions and definitions published in the January 13, 2021, issue of the Federal Register apply to the 41 NWPs reissued or issued in the December 27, 2021 final rule.

The 41 NWPs in this final rule (listed below) go into effect on **February 25, 2022**. The 41 NWPs in this final rule expire on **March 14, 2026**.

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water from Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities

35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
41. Reshaping Existing Drainage Ditches
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
49. Coal Remining Activities
53. Removal of Low-Head Dams
54. Living Shorelines
59. Water Reclamation and Reuse Facilities

The Nationwide Permit Program is an integral part of the Corps' Regulatory Program. The Nationwide Permits are a form of general permits issued by the Chief of Engineers and are intended to apply throughout the entire United States and its territories. A listing of the 16 nationwide permits and general conditions is included herein. We encourage prospective permit applicants to consider the advantages of nationwide permit authorization during the preliminary design of their projects. Assistance and further information regarding all aspects of the Corps of Engineers Regulatory Program may be obtained by contacting the appropriate Corps of Engineers District at the address and/or telephone number listed on page 2 of this Fact Sheet.

Regional Conditions: To ensure that projects authorized by a Nationwide Permit will result in minimal adverse effects to the aquatic environment, the following **Regional Conditions** were developed for projects proposed within the state of Illinois:

- 1) For NWP 12, 57, and 58: pre-construction notification is required in accordance with General Condition 32 for the following activities; (a) activities that involve mechanized land clearing in a forested wetland for the utility line right-of-way; (b) utility lines placed within, and parallel to or along a jurisdictional stream bed.
- 2) For Nationwide Permit 14, all proposed projects that result in the loss of greater than 300 linear feet of streambed located within Waters of the U.S., requires a Pre-Construction Notice in accordance with General Condition No. 32.
- 3) Any bank stabilization activity involving a method that protrudes from the bank contours, such as jetties, stream barbs, and/or weirs, will require a pre-construction notification in accordance with General Condition 32.

State Water Quality Certification: Permits, issued by the Corps of Engineers, under the authority of Section 404 of the Clean Water Act may not be issued until the state (where the discharge will occur) certifies, under Section 401 of the Clean Water Act, that the discharge will comply with the water quality standards of the State. On October 8, 2021, the Illinois Environmental Protection Agency (IEPA) issued their final Section 401 Water Quality Certification decision for the 2021 Nationwide Permits. Of the original 16 NWPs authorized on March 15, 2021, Water Quality Certification was issued with Special Conditions for NWP 12, 29, 39, 40, 42, 43, 51, 52, 57 and 58. Of the additional 40 NWPs authorized on February 25, 2022, Water Quality Certification was issued with Special Conditions for 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 43, 45, 51, 52, 53, 54, 57, and 58.

The full text of the IEPA Water Quality Certification is available on the Rock Island District Regulatory website at:

<https://www.mvr.usace.army.mil/Portals/48/docs/regulatory/Permits/NW-IL/IL%20401%20WQC.pdf?ver=u4N4MpokxjrcVeQ4hGzhw%3d%3d>

Nationwide Permits 21, 34, 44, 46, 48, 49, 50, 59 have been denied Section 401 Water Quality Certification and will require Individual certification from IEPA. New Permits 55 and 56 were not denied nor granted and therefore water quality certification in Illinois will be waived (though the Illinois Corps' Districts cannot foresee their utilization).

The following NWPs require notification to the District Engineer 45-days prior to commencing work in Waters of the U.S.:

- 7, 8, 17, 21, 29, 31, 34, 37, 38, 39, 40, 42, 44, 45, 46, 49, 50, 52, 53, 55, 56, 59

The following NWPs, under certain circumstances, require notification to the District Engineer 45-days prior to commencing work in Waters of the U.S.:

- 3, 12, 13, 14, 18, 22, 23, 27, 33, 36, 43, 48, 51, 54, 57, 58

The following NWPs do not require notification to the District Engineer:

- 1, 2, 4, 5, 6, 9, 10, 11, 15, 16, 19, 20, 24, 25, 28, 30, 32, 35, 41

Specific instructions for these notifications are contained in Nationwide Permit General Condition 32.

COMMENTS

The Nationwide permits provide a simplified, expeditious means of project authorization under the various authorities of the Corps of Engineers. We encourage prospective permit applicants to consider the advantages of nationwide permit authorization during the preliminary design of their projects. Assistance and further information regarding all aspects of the Corps of Engineers Regulatory Program may be obtained by contacting the appropriate Corps of Engineers District in Illinois: The Rock Island District, St. Louis Regulatory District, Chicago Regulatory District, Louisville Regulatory District, and Memphis Regulatory District.

US Army Engineer District, Rock Island
Clock Tower Building - Regulatory Division
Post Office Box 2004
Rock Island, Illinois 61204-2004

US Army Corps of Engineers, St. Louis District
ATTN: Regulatory Branch
1222 Spruce St.
St. Louis, MO 63103-2833

U.S. Army Corps of Engineers, Chicago District
ATTN: Regulatory Branch
111 North Canal, Suite 600
Chicago, IL 60606-7206

**U.S. Army Corps of Engineers,
Louisville District**
ATTN: Regulatory Division
P.O. BOX 59
Louisville, KY 40201-0059

U.S. Army Corps of Engineers, Memphis District
ATTN: Regulatory Branch
167 North Main, B-202
Memphis, TN 38103-1894

Nationwide Permits and Conditions

The following is a list of the nationwide permits, authorized by the Chief of Engineers, and published in the Federal Register (86 FR 2744). Permittees wishing to conduct activities under the nationwide permits must comply with the Nationwide Permit General Conditions found in Section C and contained within this Fact Sheet. The parenthetical references (Section 10, Section 404) following each nationwide permit indicate specific authorities under which that permit is issued.

B. Nationwide Permits

1. Aids to Navigation. The placement of aids to navigation and regulatory markers that are approved by and installed in accordance with the requirements of the U.S. Coast Guard (see 33 CFR, chapter I, subchapter C, part 66). (Authority: Section 10 of the Rivers and Harbors Act of 1899 (Section 10))

2. Structures in Artificial Canals. Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water of the United States has been previously authorized (see 33 CFR 322.5(g)). (Authority: Section 10)

3. Maintenance.

- (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP also authorizes the removal of previously authorized structures or fills. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.
- (b) This NWP also authorizes the removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built but cannot extend farther than 200 feet in any direction from the structure. This 200-foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically

approved by the district engineer under separate authorization.

- (c) This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the maintenance activity, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.
- (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Authorities: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (Sections 10 and 404))

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities. Fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, and clam and oyster digging, fish aggregating devices, and small fish attraction devices such as open water fish concentrators (sea kites, etc.). This NWP does not authorize artificial reefs or impoundments and semi-impoundments of waters of the United States for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks. (Authorities: Sections 10 and 404)

5. Scientific Measurement Devices. Devices, whose purpose is to measure and record scientific data, such as staff gages, tide and current gages, meteorological stations, water recording and biological observation devices, water quality testing and improvement devices, and similar structures. Small weirs and flumes constructed primarily to record water quantity and velocity are also authorized provided the discharge of dredged or fill material is limited to 25 cubic yards. Upon completion of the use of the device to measure and record scientific data, the measuring device and any other structures or fills associated with that device (e.g., foundations, anchors, buoys, lines, etc.) must be removed to the maximum extent practicable and the site restored to pre-construction elevations. (Authorities: Sections 10 and 404)

6. Survey Activities. Survey activities, such as core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory type bore holes, exploratory trenching, soil surveys, sampling, sample plots or transects for wetland delineations, and historic resources surveys. For the purposes of this NWP, the term "exploratory trenching" means mechanical land clearing of the upper soil profile to expose bedrock or substrate, for the purpose of mapping or sampling the exposed material. The area in which the exploratory trench is dug must be restored to its pre-construction elevation upon completion of the work and must not drain a water of the United States. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. This NWP authorizes the construction of temporary pads, provided the discharge of dredged or fill material does not exceed 1/10-acre in waters of the U.S. Discharges of dredged or fill material and structures associated with the recovery of historic resources are not authorized by this NWP. Drilling and the discharge of excavated material from test wells for oil and gas exploration are not authorized by this NWP; the plugging of such wells is authorized. Fill placed for roads and other similar activities is not authorized by this NWP. The NWP does not authorize any permanent structures. The discharge of drilling mud and cuttings may require a permit under Section 402 of the Clean Water Act. (Authorities: Sections 10 and 404)

7. Outfall Structures and Associated Intake Structures. Activities related to the construction or modification of outfall structures and associated intake structures, where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted by, or otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System Program (Section 402 of the Clean Water Act). The construction of intake structures is not authorized by this NWP unless they are directly associated with an authorized outfall structure.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

8. Oil and Gas Structures on the Outer Continental Shelf. Structures for the exploration, production, and transportation of oil, gas, and minerals on the outer continental shelf within areas leased for such purposes by the Department of the Interior, Bureau of Ocean Energy Management. Such structures shall not be placed within the limits of any designated shipping

safety fairway or traffic separation scheme, except temporary anchors that comply with the fairway regulations in 33 CFR 322.5(l). The district engineer will review such proposals to ensure compliance with the provisions of the fairway regulations in 33 CFR 322.5(l). Any Corps review under this NWP will be limited to the effects on navigation and national security in accordance with 33 CFR 322.5(f), as well as 33 CFR 322.5(l) and 33 CFR part 334. Such structures will not be placed in established danger zones or restricted areas as designated in 33 CFR part 334, nor will such structures be permitted in EPA or Corps-designated dredged material disposal areas.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authority: Section 10)

9. Structures in Fleeting and Anchorage Areas. Structures, buoys, floats, and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose. (Authority: Section 10)

10. Mooring Buoys. Non-commercial, single boat, mooring buoys. (Authority: Section 10)

11. Temporary Recreational Structures. Temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as water-skiing competitions and boat races or seasonal use, provided that such structures are removed within 30 days after use has been discontinued. At Corps of Engineers reservoirs, the reservoir managers must approve each buoy or marker individually. (Authority: Section 10)

12. Oil or Natural Gas Pipeline Activities. Activities required for the construction, maintenance, repair, and removal of oil and natural gas pipelines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Oil or natural gas pipelines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of oil and natural gas pipelines. There must be no change in pre-construction contours of waters of the United States. An "oil or natural gas pipeline" is defined as any pipe or pipeline for the transportation of any form of oil or natural gas, including products derived from oil or natural gas, such as gasoline, jet fuel, diesel fuel, heating oil, petrochemical feedstocks, waxes, lubricating oils, and asphalt.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Oil or natural gas pipeline substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities (e.g., oil or natural gas or gaseous fuel custody transfer stations, boosting stations, compression stations, metering stations, pressure regulating stations) associated with an oil or natural gas pipeline in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for above-ground oil or natural gas pipelines: This NWP authorizes the construction or maintenance of foundations for above-ground oil or natural gas pipelines in all waters of the United States, provided the foundations are the minimum size necessary.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of oil or natural gas pipelines, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize oil or natural gas pipelines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (see 33 CFR part 322). Oil or natural gas pipelines routed in, over, or under section 10 waters without a discharge of dredged or fill material may require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing oil or natural gas pipelines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing oil or natural gas pipelines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the oil or natural gas pipeline activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) a section 10 permit is required; (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States; or (3) the proposed oil or natural gas pipeline activity is associated with an overall project that is greater than 250 miles in length and the project purpose is to install new pipeline (vs. conduct repair or maintenance activities) along the majority of the distance of the overall project length. If the proposed oil or gas pipeline is greater than 250 miles in length, the pre-construction notification must include the locations and proposed impacts (in acres or other appropriate unit of measure) for all crossings of waters of the United States that require DA authorization, including those crossings authorized by an NWP would not otherwise require pre-construction notification. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the oil or natural gas pipeline is constructed, installed, or maintained in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the oil or natural gas pipeline to protect navigation.

Note 2: For oil or natural gas pipeline activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Oil or natural gas pipeline activities must comply with 33 CFR 330.6(d).

Note 3: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the oil or natural gas pipeline must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 4: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges and may require a permit from the U.S. Coast Guard pursuant to the General Bridge Act of 1946. However, any discharges of dredged or fill material into waters of the United States associated with such oil or natural gas pipelines will require a section 404 permit (see NWP 15).

Note 5: This NWP authorizes oil or natural gas pipeline maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 6: For NWP 12 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) (4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

13. Bank Stabilization. Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

- (a) No material is placed in excess of the minimum needed for erosion protection.
- (b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the

discharge of dredged or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads - the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

- (c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high-water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;
- (d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;
- (e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;
- (f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas);
- (g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;
- (h) The activity is not a stream channelization activity; and
- (i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require authorization.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges of dredged or fill material into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of dredged or fill material of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: In coastal waters and the Great Lakes, living shorelines may be an appropriate option for bank stabilization, and may be authorized by NWP 54.

14. Linear Transportation Projects. Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, driveways, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer

prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge of dredged or fill material in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges of dredged or fill material for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

15. U.S. Coast Guard Approved Bridges. Discharges of dredged or fill material incidental to the construction of a bridge across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills, provided the construction of the bridge structure has been authorized by the U.S. Coast Guard under Section 9 of the Rivers and Harbors Act of 1899 or other applicable laws. Causeways and approach fills are not included in this NWP and will require a separate Clean Water Act Section 404 permit. (Authority: Section 404 of the Clean Water Act (Section 404))

16. Return Water from Upland Contained Disposal Areas. Return water from an upland contained dredged material disposal area. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d), even though the disposal itself occurs in an area that has no waters of the United States and does not require a section 404 permit. This NWP satisfies the technical requirement for a section 404 permit for the return water where the quality of the return water is controlled by the state through the Clean Water Act Section 401 certification procedures. The dredging activity may require a section 404 permit (33 CFR 323.2(d)) and will require a section 10 permit if located in navigable waters of the United States. (Authority: Section 404)

17. Hydropower Projects. Discharges of dredged or fill material associated with hydropower projects having: (a) Less than 10,000 kW of total generating capacity at existing reservoirs, where the project, including the fill, is licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended; or (b) a licensing exemption granted by the FERC pursuant to Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and Section 30 of the Federal Power Act, as amended.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authority: Section 404)

18. Minor Discharges. Minor discharges of dredged or fill material into all waters of the United States, provided the activity meets all of the following criteria:

- (a) The quantity of discharged dredged or fill material and the volume of area excavated do not exceed 25 cubic yards below the plane of the ordinary high water mark or the high tide line;
- (b) The discharge of dredged or fill material will not cause the loss of more than 1/10-acre of waters of the United States; and
- (c) The discharge of dredged or fill material is not placed for the purpose of a stream diversion.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the discharge of dredged or fill material or the volume of area excavated exceeds 10 cubic yards below the plane of the ordinary high water mark or the high tide line, or (2) the discharge of dredged or fill material is in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404)

19. Minor Dredging. Dredging of no more than 25 cubic yards below the plane of the ordinary high water mark or the mean high water mark from navigable waters of the United States (i.e., section 10 waters). This NWP does not authorize the dredging or degradation through siltation of coral reefs, sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist but may not be present in a given year), anadromous fish spawning areas, or wetlands, or the connection of canals or other artificial waterways to navigable waters of the United States (see 33 CFR 322.5(g)). All dredged material must be deposited and retained in an area

that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. (Authorities: Sections 10 and 404)

20. Response Operations for Oil or Hazardous Substances. Activities conducted in response to a discharge or release of oil or hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300) including containment, cleanup, and mitigation efforts, provided that the activities are done under either: (1) the Spill Control and Countermeasure Plan required by 40 CFR 112.3; (2) the direction or oversight of the federal on-scene coordinator designated by 40 CFR part 300; or (3) any approved existing state, regional or local contingency plan provided that the Regional Response Team (if one exists in the area) concurs with the proposed response efforts. This NWP also authorizes activities required for the cleanup of oil releases in waters of the United States from electrical equipment that are governed by EPA's polychlorinated biphenyl spill response regulations at 40 CFR part 761. This NWP also authorizes the use of temporary structures and fills in waters of the U.S. for spill response training exercises. (Authorities: Sections 10 and 404)

21. Surface Coal Mining Activities. Discharges of dredged or fill material into waters of the United States associated with surface coal mining and reclamation operations, provided the following criteria are met:

- (a) The activities are already authorized, or are currently being processed by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977 or by the Department of the Interior, Office of Surface Mining Reclamation and Enforcement;
- (b) The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into tidal waters or non-tidal wetlands adjacent to tidal waters; and
- (c) The discharge is not associated with the construction of valley fills. A "valley fill" is a fill structure that is typically constructed within valleys associated with steep, mountainous terrain, associated with surface coal mining activities.

Notification: The permittee must submit a pre-construction notification to the district engineer. (See general condition 32.) (Authorities: Sections 10 and 404)

22. Removal of Vessels. Temporary structures or minor discharges of dredged or fill material required for the removal of wrecked, abandoned, or disabled vessels, or the removal of man-made obstructions to navigation. This NWP does not authorize maintenance dredging, shoal removal, or riverbank snagging.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the vessel is listed or eligible for listing in the National Register of Historic Places; or (2) the activity is conducted in a special aquatic site, including coral reefs and wetlands. (See general condition 32.) If the vessel is listed or eligible for listing in the National Register of Historic Places, the permittee cannot commence the activity until informed by the district engineer that compliance with the "Historic Properties" general condition is completed. (Authorities: Sections 10 and 404)

Note 1: Intentional Ocean disposal of vessels at sea requires a permit from the U.S. EPA under the Marine Protection, Research and Sanctuaries Act, which specifies that ocean disposal should only be pursued when land-based alternatives are not available. If a Department of the Army permit is required for vessel disposal in waters of the United States, separate authorization will be required.

Note 2: Compliance with general condition 18, Endangered Species, and general condition 20, Historic Properties, is required for all NWPs. The concern with historic properties is emphasized in the notification requirements for this NWP because of the possibility that shipwrecks may be historic properties

23. Approved Categorical Exclusions. Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where:

- (a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (40 CFR part 1500 et seq.), that the activity is categorically excluded from the requirement to prepare an environmental impact statement or environmental assessment analysis, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment; and
- (b) The Office of the Chief of Engineers (Attn: CECW-CO) has concurred with that agency's or department's determination that the activity is categorically excluded and approved the activity for authorization under NWP 23.

The Office of the Chief of Engineers may require additional conditions, including pre-construction notification, for authorization of an agency's categorical exclusions under this

NWP.

Notification: Certain categorical exclusions approved for authorization under this NWP require the permittee to submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The activities that require pre-construction notification are listed in the appropriate Regulatory Guidance Letter(s). (Authorities: Sections 10 and 404)

Note: The agency or department may submit an application for an activity believed to be categorically excluded to the Office of the Chief of Engineers (Attn: CECW-CO). Prior to approval for authorization under this NWP of any agency's activity, the Office of the Chief of Engineers will solicit public comment. As of the date of issuance of this NWP, agencies with approved categorical exclusions are: the Bureau of Reclamation, Federal Highway Administration, and U.S. Coast Guard. Activities approved for authorization under this NWP as of the date of this notice are found in Corps Regulatory Guidance Letter 05-07. Any future approved categorical exclusions will be announced in Regulatory Guidance Letters and posted on this same web site.

24. Indian Tribe or State Administered Section 404 Programs. Any activity permitted by a state or Indian Tribe administering its own section 404 permit program pursuant to 33 U.S.C. 1344(g)-(1) is permitted pursuant to Section 10 of the Rivers and Harbors Act of 1899. (Authority: Section 10)

Note 1: As of the date of the promulgation of this NWP, only Florida, New Jersey and Michigan administer their own Clean Water Act Section 404 permit programs.

Note 2: Those activities that do not involve an Indian Tribe or State Clean Water Act Section 404 permit are not included in this NWP, but certain structures will be exempted by Section 154 of Pub. L. 94-587, 90 Stat. 2917 (33 U.S.C. 591) (see 33 CFR 322.4(b)).

25. Structural Discharges. Discharges of dredged or fill material such as concrete, sand, rock, etc., into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, transmission line footings, and walkways, or for general navigation, such as mooring cells, including the excavation of bottom material from within the form prior to the discharge of concrete, sand, rock, etc. This NWP does not authorize filled structural members that would support buildings, building pads, homes, house pads, parking areas, storage areas and other such structures. The structure itself may require a separate section 10 permit if located in navigable waters of the United States. (Authority: Section 404)

26. [Reserved]

27. Aquatic Habitat Restoration, Enhancement, and Establishment Activities. Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services.

To be authorized by this NWP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of one or more intact aquatic habitats or riparian areas of the same type that exist in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area.

To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to the removal of accumulated sediments; releases of sediment from reservoirs to maintain sediment transport continuity to restore downstream habitats; the installation, removal, and maintenance of small water control structures, dikes, and berms, as well as discharges of dredged or fill material to restore appropriate stream channel configurations after small water control structures, dikes, and berms are removed; the installation of current deflectors; the enhancement, rehabilitation, or re-establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to enhance, rehabilitate, or re-establish stream meanders; the removal of stream barriers, such as undersized culverts, fords, and grade control structures; the backfilling of artificial channels; the removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology; the installation of structures or fills necessary to restore or enhance wetland or stream hydrology; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; coral restoration or relocation activities; shellfish seeding; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; re-establishment of submerged aquatic vegetation in areas where those plant communities previously existed; re-establishment of tidal wetlands in tidal waters where those wetlands previously existed; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site.

This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams,

on the project site provided there are net increases in aquatic resource functions and services.

Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., the conversion of a stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Compensatory mitigation is not required for activities authorized by this NWP since these activities must result in net increases in aquatic resource functions and services.

Reversion. For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service (USFS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit and is authorized in these circumstances even if the discharge of dredged or fill material occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity, the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity results in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.

Reporting. For those activities that do not require pre-construction notification, the permittee must submit to the district engineer a copy of: (1) the binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement, or a project description, including project plans and location map; (2) the NRCS or USDA Technical Service Provider documentation for the voluntary stream enhancement or restoration action or wetland restoration, enhancement, or establishment action; or (3) the SMCRA permit issued by OSMRE or the applicable state agency. The report must also include information on baseline ecological conditions on the project site, such as a delineation of wetlands, streams, and/or other aquatic habitats. These documents must be submitted to the district engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing any activity (see general condition 32), except for the following activities:

- (1) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies;
- (2) Activities conducted in accordance with the terms and conditions of a binding coral restoration or relocation agreement between the project proponent and the NMFS or any of its designated state cooperating agencies;
- (3) Voluntary stream or wetland restoration or enhancement action, or wetland establishment action, documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or
- (4) The reclamation of surface coal mine lands, in accordance with an SMCRA permit issued by the OSMRE or the applicable state agency.

However, the permittee must submit a copy of the appropriate documentation to the district engineer to fulfill the reporting requirement. (Authorities: Sections 10 and 404)

Note: This NWP can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee projects. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

28. Modifications of Existing Marinas. Reconfiguration of existing docking facilities within an authorized marina area. No dredging, additional slips, dock spaces, or expansion of any kind within waters of the United States is authorized by this NWP. (Authority: Section 10)

29. Residential Developments. Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of a single residence, a multiple unit residential development, or a residential subdivision. This NWP authorizes the construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Subdivisions: For residential subdivisions, the aggregate total loss of waters of United States authorized by this NWP cannot exceed 1/2-acre. This includes any loss of waters of the United States associated with development of individual subdivision lots.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

30. Moist Soil Management for Wildlife. Discharges of dredged or fill material into non-tidal waters of the United States and maintenance activities that are associated with moist soil management for wildlife for the purpose of continuing ongoing, site-specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited to, plowing or discing to impede succession, preparing seed beds, or establishing fire breaks. Sufficient riparian areas must be maintained adjacent to all open water bodies, including streams, to preclude water quality degradation due to erosion and sedimentation. This NWP does not authorize the construction of new dikes, roads, water control structures, or similar features associated with the management areas. The activity must not result in a net loss of aquatic resource functions and services. This NWP does not authorize the conversion of wetlands to uplands, impoundments, or other open water bodies. (Authority: Section 404)

Note: The repair, maintenance, or replacement of existing water control structures or the repair or maintenance of dikes may be authorized by NWP 3. Some such activities may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

31. Maintenance of Existing Flood Control Facilities. Discharges of dredged or fill material resulting from activities associated with the maintenance of existing flood control facilities, including debris basins, retention/detention basins, levees, and channels that: (i) were previously authorized by the Corps by individual permit, general permit, or 33 CFR 330.3, or did not require a permit at the time they were constructed, or (ii) were constructed by the Corps and transferred to a non-Federal sponsor for operation and maintenance. Activities authorized by this NWP are limited to those resulting from maintenance activities that are conducted within the "maintenance baseline," as described in the definition below. Discharges of dredged or fill materials associated with maintenance activities in flood control facilities in any watercourse that have previously been determined to be within the maintenance baseline are authorized under this NWP. To the extent that a Corps permit is required, this NWP authorizes the removal of vegetation from levees associated with the flood control project. This NWP does not authorize the removal of sediment and associated vegetation from natural water courses except when these activities have been included in the maintenance baseline. All dredged and excavated material must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. Proper sediment controls must be used.

Maintenance Baseline: The maintenance baseline is a description of the physical characteristics (e.g., depth, width, length, location, configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are normally authorized by NWP 31, subject to any case-specific conditions required by the district engineer. The district engineer will approve the maintenance baseline based on the approved or constructed capacity of the flood control facility, whichever is smaller, including any areas where there are no constructed channels but which are part of the facility. The prospective permittee will provide documentation of the physical characteristics of the flood control facility (which will normally consist of as-built or approved drawings) and documentation of the approved and constructed design capacities of the flood control facility. If no evidence of the constructed capacity exists, the approved capacity will be used. The documentation will also include best management practices to ensure that the adverse

environmental impacts caused by the maintenance activities are no more than minimal, especially in maintenance areas where there are no constructed channels. (The Corps may request maintenance records in areas where there has not been recent maintenance.) Revocation or modification of the final determination of the maintenance baseline can only be done in accordance with 33 CFR 330.5. Except in emergencies as described below, this NWP cannot be used until the district engineer approves the maintenance baseline and determines the need for mitigation and any regional or activity-specific conditions. Once determined, the maintenance baseline will remain valid for any subsequent reissuance of this NWP. This NWP does not authorize maintenance of a flood control facility that has been abandoned. A flood control facility will be considered abandoned if it has operated at a significantly reduced capacity without needed maintenance being accomplished in a timely manner. A flood control facility will not be considered abandoned if the prospective permittee is in the process of obtaining other authorizations or approvals required for maintenance activities and is experiencing delays in obtaining those authorizations or approvals.

Mitigation: The district engineer will determine any required mitigation one-time only for impacts associated with maintenance work at the same time that the maintenance baseline is approved. Such one-time mitigation will be required when necessary to ensure that adverse environmental effects are no more than minimal, both individually and cumulatively. Such mitigation will only be required once for any specific reach of a flood control project. However, if one-time mitigation is required for impacts associated with maintenance activities, the district engineer will not delay needed maintenance, provided the district engineer and the permittee establish a schedule for identification, approval, development, construction and completion of any such required mitigation. Once the one-time mitigation described above has been completed, or a determination made that mitigation is not required, no further mitigation will be required for maintenance activities within the maintenance baseline (see Note, below). In determining appropriate mitigation, the district engineer will give special consideration to natural water courses that have been included in the maintenance baseline and require mitigation and/or best management practices as appropriate.

Emergency Situations: In emergency situations, this NWP may be used to authorize maintenance activities in flood control facilities for which no maintenance baseline has been approved. Emergency situations are those which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if action is not taken before a maintenance baseline can be approved. In such situations, the determination of mitigation requirements, if any, may be deferred until the emergency has been resolved. Once the emergency has ended, a maintenance baseline must be established expeditiously, and mitigation, including mitigation for maintenance conducted during the emergency, must be required as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer before any maintenance work is conducted (see general condition 32). The pre-construction notification may be for activity-specific maintenance or for maintenance of the entire flood control facility by submitting a five-year (or less) maintenance plan. The pre-construction notification must include a description of the maintenance baseline and the disposal site for dredged or excavated material. (Authorities: Sections 10 and 404)

Note: If the maintenance baseline was approved by the district engineer under a prior version of NWP 31, and the district engineer imposed the one-time compensatory mitigation requirement on maintenance for a specific reach of a flood control project authorized by that prior version of NWP 31, during the period this version of NWP 31 is in effect, the district engineer will not require additional compensatory mitigation for maintenance activities authorized by this NWP in that specific reach of the flood control project.

32. Completed Enforcement Actions. Any structure, work, or discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with either:

(i) The terms of a final written Corps non-judicial settlement agreement resolving a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or the terms of an EPA 309(a) order on consent resolving a violation of Section 404 of the Clean Water Act, provided that:

- (a) The activities authorized by this NWP cannot adversely affect more than 5 acres of non-tidal waters or 1 acre of tidal waters;
- (b) The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity that is authorized by this NWP; and
- (c) The district engineer issues a verification letter authorizing the activity subject to the terms and conditions of this NWP and the settlement agreement, including a specified completion date; or

(ii) The terms of a final Federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the United States under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899; or

(iii) The terms of a final court decision, consent decree, settlement agreement, or non-judicial

settlement agreement resulting from a natural resource damage claim brought by a trustee or trustees for natural resources (as defined by the National Contingency Plan at 40 CFR subpart G) under Section 311 of the Clean Water Act, Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, Section 312 of the National Marine Sanctuaries Act, Section 1002 of the Oil Pollution Act of 1990, or the Park System Resource Protection Act at 16 U.S.C. 19jj, to the extent that a Corps permit is required.

Compliance is a condition of the NWP itself; non-compliance of the terms and conditions of an NWP 32 authorization may result in an additional enforcement action (e.g., a Class I civil administrative penalty). Any authorization under this NWP is automatically revoked if the permittee does not comply with the terms of this NWP or the terms of the court decision, consent decree, or judicial/non-judicial settlement agreement. This NWP does not apply to any activities occurring after the date of the decision, decree, or agreement that are not for the purpose of mitigation, restoration, or environmental benefit. Before reaching any settlement agreement, the Corps will ensure compliance with the provisions of 33 CFR part 326 and 33 CFR 330.6(d) (2) and (e). (Authorities: Sections 10 and 404)

33. Temporary Construction, Access, and Dewatering. Temporary structures, work, and discharges of dredged or fill material, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard. This NWP also authorizes temporary structures, work, and discharges of dredged or fill material, including cofferdams, necessary for construction activities not otherwise subject to the Corps or U.S. Coast Guard permit requirements. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if the district engineer determines that it will not cause more than minimal adverse environmental effects. Following completion of construction, temporary fill must be entirely removed to an area that has no waters of the United States, dredged material must be returned to its original location, and the affected areas must be restored to pre-construction elevations. The affected areas must also be revegetated, as appropriate. This permit does not authorize the use of cofferdams to dewater wetlands or other aquatic areas to change their use. Structures left in place after construction is completed require a separate section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322.)

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the activity is conducted in navigable waters of the United States (i.e., section 10 waters) (see general condition 32). The pre-construction notification must include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions. (Authorities: Sections 10 and 404)

34. Cranberry Production Activities. Discharges of dredged or fill material for dikes, berms, pumps, water control structures or leveling of cranberry beds associated with expansion, enhancement, or modification activities at existing cranberry production operations. The cumulative total acreage of disturbance per cranberry production operation, including but not limited to, filling, flooding, ditching, or clearing, must not exceed 10 acres of waters of the United States, including wetlands. The activity must not result in a net loss of wetland acreage. This NWP does not authorize any discharge of dredged or fill material related to other cranberry production activities such as warehouses, processing facilities, or parking areas. For the purposes of this NWP, the cumulative total of 10 acres will be measured over the period that this NWP is valid.

Notification: The permittee must submit a pre-construction notification to the district engineer once during the period that this NWP is valid, and the NWP will then authorize discharges of dredge or fill material at an existing operation for the permit term, provided the 10-acre limit is not exceeded. (See general condition 32.) (Authority: Section 404)

35. Maintenance Dredging of Existing Basins. The removal of accumulated sediment for maintenance of existing marina basins, access channels to marinas or boat slips, and boat slips to previously authorized depths or controlling depths for ingress/egress, whichever is less. All dredged material must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. Proper sediment controls must be used for the disposal site. (Authority: Section 10)

36. Boat Ramps. Activities required for the construction, repair, or replacement of boat ramps, provided the activity meets all of the following criteria:

- (a) The discharge of dredged or fill material into waters of the United States does not exceed 50 cubic yards of concrete, rock, crushed stone or gravel into forms, or in the form of pre-cast concrete planks or slabs, unless the district engineer waives the 50 cubic yard limit by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;
- (b) The boat ramp does not exceed 20 feet in width, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;
- (c) The base material is crushed stone, gravel or other suitable material;

- (d) The excavation is limited to the area necessary for site preparation and all excavated material is removed to an area that has no waters of the United States; and,
- (e) No material is placed in special aquatic sites, including wetlands.

The use of unsuitable material that is structurally unstable is not authorized. If dredging in navigable waters of the United States is necessary to provide access to the boat ramp, the dredging must be authorized by another NWP, a regional general permit, or an individual permit.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The discharge of dredged or fill material into waters of the United States exceeds 50 cubic yards, or (2) the boat ramp exceeds 20 feet in width. (See general condition 32.) (Authorities: Sections 10 and 404)

37. Emergency Watershed Protection and Rehabilitation. Work done by or funded by:

- (a) The Natural Resources Conservation Service for a situation requiring immediate action under its emergency Watershed Protection Program (7 CFR part 624);
- (b) The U.S. Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 2509.13);
- (c) The Department of the Interior for wildland fire management burned area emergency stabilization and rehabilitation (DOI Manual part 620, Ch. 3);
- (d) The Office of Surface Mining, or states with approved programs, for abandoned mine land reclamation activities under Title IV of the Surface Mining Control and Reclamation Act (30 CFR subchapter R), where the activity does not involve coal extraction; or
- (e) The Farm Service Agency under its Emergency Conservation Program (7 CFR part 701).

In general, the permittee should wait until the district engineer issues an NWP verification or 45 calendar days have passed before proceeding with the watershed protection and rehabilitation activity. However, in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the emergency watershed protection and rehabilitation activity may proceed immediately and the district engineer will consider the information in the pre-construction notification and any comments received as a result of agency coordination to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

Notification: Except in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). (Authorities: Sections 10 and 404)

38. Cleanup of Hazardous and Toxic Waste. Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Court ordered remedial action plans or related settlements are also authorized by this NWP. This NWP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

39. Commercial and Institutional Developments. Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. The construction of new golf courses and new ski areas is not authorized by this NWP.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the PCN and NWP verification will be provided by the Corps to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

40. Agricultural Activities. Discharges of dredged or fill material into non-tidal waters of the United States for agricultural activities, including the construction of building pads for farm buildings. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in waters of the United States; and similar activities.

This NWP also authorizes the construction of farm ponds in non-tidal waters of the United States, excluding perennial streams, provided the farm pond is used solely for agricultural purposes. This NWP does not authorize the construction of aquaculture ponds.

This NWP also authorizes discharges of dredged or fill material into non-tidal jurisdictional waters of the United States to relocate existing serviceable drainage ditches constructed in non-tidal streams.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authority: Section 404)

Note: Some discharges of dredged or fill material into waters of the United States for agricultural activities may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4). This NWP authorizes the construction of farm ponds that do not qualify for the Clean Water Act section 404(f) (1) (C) exemption because of the recapture provision at section 404(f) (2).

41. Reshaping Existing Drainage and Irrigation Ditches. Discharges of dredged or fill material into non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters, to modify the cross-sectional configuration of currently serviceable drainage and irrigation ditches constructed in waters of the United States, for the purpose of improving water quality by regrading the drainage or irrigation ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation. The reshaping of the drainage ditch cannot increase drainage capacity beyond the original as-built capacity nor can it expand the area drained by the drainage ditch as originally constructed (i.e., the capacity of the drainage ditch must be the same as originally constructed and it cannot drain additional wetlands or other waters of the United States). Compensatory mitigation is not required because the work is designed to improve water quality.

This NWP does not authorize the relocation of drainage or irrigation ditches constructed in waters of the United States; the location of the centerline of the reshaped drainage or irrigation ditch must be approximately the same as the location of the centerline of the original drainage or irrigation ditch. This NWP does not authorize stream channelization or stream relocation projects. (Authority: Section 404)

42. Recreational Facilities. Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of recreational facilities. Examples of recreational facilities that may be authorized by this NWP include playing fields (e.g., football fields, baseball fields), basketball courts, tennis courts, hiking trails, bike paths, golf courses, ski areas, horse paths, nature centers, and campgrounds (excluding recreational vehicle parks). This NWP also authorizes the construction or expansion of small support facilities, such as maintenance and storage buildings and stables that are directly related to the recreational activity, but it does not authorize the construction of hotels, restaurants, racetracks, stadiums, arenas, or similar facilities.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authority: Section 404)

43. Stormwater Management Facilities. Discharges of dredged or fill material into non-tidal waters of the United States for the construction of stormwater management facilities, including stormwater detention basins and retention basins and other stormwater management facilities; the construction of water control structures, outfall structures and emergency spillways; the construction of low impact development integrated management features such as bioretention facilities (e.g., rain gardens), vegetated filter strips, grassed swales, and infiltration

trenches; and the construction of pollutant reduction green infrastructure features designed to reduce inputs of sediments, nutrients, and other pollutants into waters, such as features needed to meet reduction targets established under Total Maximum Daily Loads set under the Clean Water Act.

This NWP authorizes, to the extent that a section 404 permit is required, discharges of dredged or fill material into non-tidal waters of the United States for the maintenance of stormwater management facilities, low impact development integrated management features, and pollutant reduction green infrastructure features. The maintenance of stormwater management facilities, low impact development integrated management features, and pollutant reduction green infrastructure features that are not waters of the United States does not require a section 404 permit.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters. This NWP does not authorize discharges of dredged or fill material for the construction of new stormwater management facilities in perennial streams.

Notification: For discharges of dredged or fill material into non-tidal waters of the United States for the construction of new stormwater management facilities or pollutant reduction green infrastructure features, or the expansion of existing stormwater management facilities or pollutant reduction green infrastructure features, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) Maintenance activities do not require pre-construction notification if they are limited to restoring the original design capacities of the stormwater management facility or pollutant reduction green infrastructure feature. (Authority: Section 404)

44. **Mining Activities.** Discharges of dredged or fill material into non-tidal waters of the United States for mining activities, except for coal mining activities, provided the activity meets all of the following criteria:

- (a) For mining activities involving discharges of dredged or fill material into non-tidal jurisdictional wetlands, the discharge must not cause the loss of greater than 1/2-acre of non-tidal jurisdictional wetlands;
- (b) For mining activities involving discharges of dredged or fill material in non-tidal jurisdictional open waters (e.g., rivers, streams, lakes, and ponds) or work in non-tidal navigable waters of the United States (i.e., section 10 waters), the mined area, including permanent and temporary impacts due to discharges of dredged or fill material into jurisdictional waters, must not exceed 1/2-acre; and
- (c) The acreage loss under paragraph (a) plus the acreage impact under paragraph (b) does not exceed 1/2-acre.

This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) If reclamation is required by other statutes, then a copy of the final reclamation plan must be submitted with the pre-construction notification. (Authorities: Sections 10 and 404)

45. **Repair of Uplands Damaged by Discrete Events.** This NWP authorizes discharges of dredged or fill material, including dredging or excavation, into all waters of the United States for activities associated with the restoration of upland areas damaged by storms, floods, or other discrete events. This NWP authorizes bank stabilization to protect the restored uplands. The restoration of the damaged areas, including any bank stabilization, must not exceed the contours, or ordinary high water mark, that existed before the damage occurred. The district engineer retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this NWP. The work must commence, or be under contract to commence, within two years of the date of damage, unless this condition is waived in writing by the district engineer. This NWP cannot be used to reclaim lands lost to normal erosion processes over an extended period.

This NWP does not authorize beach restoration or nourishment.

Minor dredging is limited to the amount necessary to restore the damaged upland area and should not significantly alter the pre-existing bottom contours of the waterbody.

Notification: The permittee must submit a pre-construction notification to the district engineer (see general condition 32) within 12 months of the date of the damage; for major storms, floods, or other discrete events, the district engineer may waive the 12-month limit for submitting a pre-construction notification if the permittee can demonstrate funding, contract, or other similar delays. The pre-construction notification must include documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration. (Authorities: Sections 10 and 404)

Note: The uplands themselves that are lost as a result of a storm, flood, or other discrete

event can be replaced without a Clean Water Act Section 404 permit, if the uplands are restored to the ordinary high water mark (in non-tidal waters) or high tide line (in tidal waters). (See also 33 CFR 328.5.) This NWP authorizes discharges of dredged or fill material into waters of the United States associated with the restoration of uplands.

46. Discharges in Ditches. Discharges of dredged or fill material into non-tidal ditches that are (1) constructed in uplands, (2) receive water from an area determined to be a water of the United States prior to the construction of the ditch, (3) divert water to an area determined to be a water of the United States prior to the construction of the ditch, and (4) determined to be waters of the United States. The discharge of dredged or fill material must not cause the loss of greater than one acre of waters of the United States.

This NWP does not authorize discharges of dredged or fill material into ditches constructed in streams or other waters of the United States, or in streams that have been relocated in uplands. This NWP does not authorize discharges of dredged or fill material that increase the capacity of the ditch and drain those areas determined to be waters of the United States prior to construction of the ditch.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authority: Section 404)

47. [Reserved]

48. Commercial Shellfish Mariculture Activities. Structures or work in navigable waters of the United States and discharges of dredged or fill material into waters of the United States necessary for new and continuing commercial shellfish mariculture operations (i.e., the cultivation of bivalve mollusks such as oysters, mussels, clams, and scallops) in authorized project areas. For the purposes of this NWP, the project area is the area in which the operator is authorized to conduct commercial shellfish mariculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally binding agreement that establishes an enforceable property interest for the operator.

This NWP authorizes the installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the United States. This NWP also authorizes discharges of dredged or fill material into waters of the United States necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities. Rafts and other floating structures must be securely anchored and clearly marked.

This NWP does not authorize:

- (a) The cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody;
- (b) The cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990; or
- (c) Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the United States as waste.

Notification: The permittee must submit a pre-construction notification to the district engineer if the activity directly affects more than 1/2-acre of submerged aquatic vegetation. If the operator will be conducting commercial shellfish mariculture activities in multiple contiguous project areas, he or she can either submit one PCN for those contiguous project areas or submit a separate PCN for each project area. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: The permittee should notify the applicable U.S. Coast Guard office regarding the project.

Note 2: To prevent introduction of aquatic nuisance species, no material that has been taken from a different waterbody may be reused in the current project area, unless it has been treated in accordance with the applicable regional aquatic nuisance species management plan.

Note 3: The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines "aquatic nuisance species" as "a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters."

An individual water quality certification from the Iowa Department of Natural Resources will be required for this nationwide permit.

49. Coal Remining Activities. Discharges of dredged or fill material into non-tidal waters of the United States associated with the remining and reclamation of lands that were previously mined for coal. The activities must already be authorized, or they must currently be in process by the Department of the Interior Office of Surface Mining Reclamation and Enforcement, or by states with approved programs under Title IV or Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Areas previously mined include reclaimed mine sites, abandoned mine land areas, or lands under bond forfeiture contracts.

As part of the project, the permittee may conduct new coal mining activities in conjunction with the remining activities when he or she clearly demonstrates to the district engineer that the overall mining plan will result in a net increase in aquatic resource functions. The Corps will consider the SMCRA agency's decision regarding the amount of currently undisturbed adjacent lands needed to facilitate the remining and reclamation of the previously mined area. The total area disturbed by new mining must not exceed 40 percent of the total acreage covered by both the remined area and the additional area necessary to carry out the reclamation of the previously mined area.

Notification: The permittee must submit a pre-construction notification and a document describing how the overall mining plan will result in a net increase in aquatic resource functions to the district engineer and receive written authorization prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

50. Underground Coal Mining Activities. Discharges of dredged or fill material into non-tidal waters of the United States associated with underground coal mining and reclamation operations provided the activities are authorized, or are currently being processed by the Department of the Interior, Office of Surface Mining Reclamation and Enforcement, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters. This NWP does not authorize coal preparation and processing activities outside of the mine site.

Notification: The permittee must submit a pre-construction notification to the district engineer. (See general condition 32.) If reclamation is required by other statutes, then a copy of the reclamation plan must be submitted with the pre-construction notification. (Authorities: Sections 10 and 404)

51. Land-Based Renewable Energy Generation Facilities. Discharges of dredged or fill material into non-tidal waters of the United States for the construction, expansion, or modification of land-based renewable energy production facilities, including attendant features. Such facilities include infrastructure to collect solar (concentrating solar power and photovoltaic), wind, biomass, or geothermal energy. Attendant features may include, but are not limited to roads, parking lots, and stormwater management facilities within the land-based renewable energy generation facility.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the discharge results in the loss of greater than 1/10-acre of waters of the United States. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Electric utility lines constructed to transfer the energy from the land-based renewable energy generation facility to a distribution system, regional grid, or other facility are generally considered to be linear projects and each separate and distant crossing of a waterbody is eligible for treatment as a separate single and complete linear project. Those electric utility lines may be authorized by NWP 57 or another Department of the Army authorization.

Note 2: If the only activities associated with the construction, expansion, or modification of a land-based renewable energy generation facility that require Department of the Army authorization are discharges of dredged or fill material into waters of the United States to construct, maintain, repair, and/or remove electric utility lines and/or road crossings, then NWP 57 and/or NWP 14 shall be used if those activities meet the terms and conditions of NWPs 57 and 14, including any applicable regional conditions and any case-specific conditions imposed by the district engineer.

Note 3: For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the PCN and NWP verification will be provided by the Corps to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

An individual water quality certification from the Iowa Department of Natural Resources will be required for this nationwide permit.

52. Water-Based Renewable Energy Generation Pilot Projects. Structures and work in navigable waters of the United States and discharges of dredged or fill material into waters of the United States for the construction, expansion, modification, or removal of water-based wind, water-based solar, wave energy, or hydrokinetic renewable energy generation pilot projects and their attendant features. Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, roads, parking lots, and stormwater management facilities.

For the purposes of this NWP, the term "pilot project" means an experimental project where the water-based renewable energy generation units will be monitored to collect information on their performance and environmental effects at the project site.

The placement of a transmission line on the bed of a navigable water of the United States from the renewable energy generation unit(s) to a land-based collection and distribution facility is considered a structure under Section 10 of the Rivers and Harbors Act of 1899 (see 33 CFR 322.2(b)), and the placement of the transmission line on the bed of a navigable water of the United States is not a loss of waters of the United States for the purposes of applying the 1/2-acre limit.

For each single and complete project, no more than 10 generation units (e.g., wind turbines, wave energy devices, or hydrokinetic devices) are authorized. For floating solar panels in navigable waters of the United States, each single and complete project cannot exceed 1/2-acre in water surface area covered by the floating solar panels.

This NWP does not authorize activities in coral reefs. Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(1)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(1)(1)), or EPA or Corps designated open water dredged material disposal areas.

Upon completion of the pilot project, the generation units, transmission lines, and other structures or fills associated with the pilot project must be removed to the maximum extent practicable unless they are authorized by a separate Department of the Army authorization, such as another NWP, an individual permit, or a regional general permit. Completion of the pilot project will be identified as the date of expiration of the Federal Energy Regulatory Commission (FERC) license, or the expiration date of the NWP authorization if no FERC license is required.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Electric utility lines constructed to transfer the energy from the land-based collection facility to a distribution system, regional grid, or other facility are generally considered to be linear projects and each separate and distant crossing of a waterbody is eligible for treatment as a separate single and complete linear project. Those electric utility lines may be authorized by NWP 57 or another Department of the Army authorization.

Note 2: An activity that is located on an existing locally or federally maintained U.S. Army Corps of Engineers project requires separate review and/or approval from the Corps under 33 U.S.C. 408.

Note 3: If the pilot project generation units, including any transmission lines, are placed in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, copies of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration, National Ocean Service, for charting the generation units and associated transmission line(s) to protect navigation.

Note 4: Hydrokinetic renewable energy generation projects that require authorization by the Federal Energy Regulatory Commission under the Federal Power Act of 1920 do not require separate authorization from the Corps under section 10 of the Rivers and Harbors Act of 1899.

Note 5: For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the PCN and NWP verification will be provided by the Corps to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

An individual water quality certification from the Iowa Department of Natural Resources will be required for this nationwide permit.

53. Removal of Low-Head Dams. Structures and work in navigable waters of the United States and discharges of dredged or fill material into waters of the United States associated with the removal of low-head dams.

For the purposes of this NWP, the term "low-head dam" is generally defined as a dam or weir built across a stream to pass flows from upstream over all, or nearly all, of the width of the dam crest and does not have a separate spillway or spillway gates, but it may have an uncontrolled spillway. The dam crest is the top of the dam from left abutment to right abutment. A low-head dam may have been built for a range of purposes (e.g., check dam, mill dam, irrigation, water supply, recreation, hydroelectric, or cooling pond), but in all cases, it provides little or no storage function.

The removed low-head dam structure must be deposited and retained in an area that has no waters of

the United States unless otherwise specifically approved by the district engineer under separate authorization.

Because the removal of the low-head dam will result in a net increase in ecological functions and services provided by the stream, as a general rule compensatory mitigation is not required for activities authorized by this NWP. However, the district engineer may determine for a particular low-head dam removal activity that compensatory mitigation is necessary to ensure that the authorized activity results in no more than minimal adverse environmental effects.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: This NWP does not authorize discharges of dredged or fill material into waters of the United States or structures or work in navigable waters to restore the stream in the vicinity of the low-head dam, including the former impoundment area. Nationwide permit 27 or other Department of the Army permits may authorize such activities. This NWP does not authorize discharges of dredged or fill material into waters of the United States or structures or work in navigable waters to stabilize stream banks. Bank stabilization activities may be authorized by NWP 13 or other Department of the Army permits.

54. Living Shorelines. Structures and work in navigable waters of the United States and discharges of dredged or fill material into waters of the United States for the construction and maintenance of living shorelines to stabilize banks and shores in coastal waters, which includes the Great Lakes, along shores with small fetch and gentle slopes that are subject to low- to mid-energy waves. A living shoreline has a footprint that is made up mostly of native material. It incorporates vegetation or other living, natural "soft" elements alone or in combination with some type of harder shoreline structure (e.g., oyster or mussel reefs or rock sills) for added protection and stability. Living shorelines should maintain the natural continuity of the land-water interface, and retain or enhance shoreline ecological processes. Living shorelines must have a substantial biological component, either tidal or lacustrine fringe wetlands or oyster or mussel reef structures. The following conditions must be met:

- (a) The structures and fill area, including sand fills, sills, breakwaters, or reefs, cannot extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes, unless the district engineer waives this criterion by making a written determination concluding that the activity will result in no more than minimal adverse environmental effects;
- (b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the activity will result in no more than minimal adverse environmental effects;
- (c) Coir logs, coir mats, stone, native oyster shell, native wood debris, and other structural materials must be adequately anchored, of sufficient weight, or installed in a manner that prevents relocation in most wave action or water flow conditions, except for extremely severe storms;
- (d) For living shorelines consisting of tidal or lacustrine fringe wetlands, native plants appropriate for current site conditions, including salinity and elevation, must be used if the site is planted by the permittee;
- (e) Discharges of dredged or fill material into waters of the United States, and oyster or mussel reef structures in navigable waters, must be the minimum necessary for the establishment and maintenance of the living shoreline;
- (f) If sills, breakwaters, or other structures must be constructed to protect fringe wetlands for the living shoreline, those structures must be the minimum size necessary to protect those fringe wetlands;
- (g) The activity must be designed, constructed, and maintained so that it has no more than minimal adverse effects on water movement between the waterbody and the shore and the movement of aquatic organisms between the waterbody and the shore; and
- (h) The living shoreline must be properly maintained, which may require periodic repair of sills, breakwaters, or reefs, or replacing sand fills after severe storms or erosion events. Vegetation may be replanted to maintain the living shoreline. This NWP authorizes those maintenance and repair activities, including any minor deviations necessary to address changing environmental conditions.

This NWP does not authorize beach nourishment or land reclamation activities.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the construction of the living shoreline. (See general condition 32.) The pre-construction notification must include a delineation of special aquatic sites (see paragraph (b) (4) of general condition 32). Pre-construction notification is not required for maintenance and repair activities for living shorelines unless required by applicable NWP general conditions or regional

conditions. (Authorities: Sections 10 and 404)

Note: In waters outside of coastal waters, nature-based bank stabilization techniques, such as bioengineering and vegetative stabilization, may be authorized by NWP 13.

55. Seaweed Mariculture Activities. Structures in marine and estuarine waters, including structures anchored to the seabed in waters overlying the outer continental shelf, for seaweed mariculture activities. This NWP also authorizes structures for bivalve shellfish mariculture if shellfish production is a component of an integrated multi-trophic mariculture system (e.g., the production of seaweed and bivalve shellfish on the same structure or a nearby mariculture structure that is part of the single and complete project).

This NWP authorizes the installation of buoys, long-lines, floats, anchors, rafts, racks, and other similar structures into navigable waters of the United States. Rafts, racks and other floating structures must be securely anchored and clearly marked. To the maximum extent practicable, the permittee must remove these structures from navigable waters of the United States if they will no longer be used for seaweed mariculture activities or multi-trophic mariculture activities.

Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(1)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(1)(1)), or EPA or Corps designated open water dredged material disposal areas.

This NWP does not authorize:

- (a) The cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 or the cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody; or
- (b) Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas.

Notification: The permittee must submit a pre-construction notification to the district engineer. (See general condition 32.)

In addition to the information required by paragraph (b) of general condition 32, the preconstruction notification must also include the following information: (1) a map showing the locations and dimensions of the structure(s); (2) the name(s) of the species that will be cultivated during the period this NWP is in effect; and (3) general water depths in the project area(s) (a detailed survey is not required). No more than one pre-construction notification per structure or group of structures should be submitted for the seaweed mariculture operation during the effective period of this NWP. The pre-construction notification should describe all species and culture activities the operator expects to undertake during the effective period of this NWP. (Authority: Section 10)

Note 1: The permittee should notify the applicable U.S. Coast Guard office regarding the project.

Note 2: To prevent introduction of aquatic nuisance species, no material that has been taken from a different waterbody may be reused in the current project area, unless it has been treated in accordance with the applicable regional aquatic nuisance species management plan.

Note 3: The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines "aquatic nuisance species" as "a nonindigenous species that threatens the diversity or abundance of nativespecies or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters."

56. Finfish Mariculture Activities. Structures in marine and estuarine waters, including structures anchored to the seabed in waters overlying the outer continental shelf, for finfish mariculture activities. This NWP also authorizes structures for bivalve shellfish mariculture and/or seaweed mariculture if the structures for bivalve shellfish and/or seaweed production are a component of an integrated multi-trophic mariculture structure (e.g., the production of bivalve shellfish or seaweed on the structure used for finfish mariculture, or a nearby mariculture structure that is part of the single and complete project).

This NWP authorizes the installation of cages, net pens, anchors, floats, buoys, and other similar structures into navigable waters of the United States. Net pens, cages, and other floating structures must be securely anchored and clearly marked. To the maximum extent practicable, the permittee must remove these structures from navigable waters of the United States if they will no longer be used for finfish mariculture activities or multi-trophic mariculture activities.

This NWP does not authorize the construction of land-based fish hatcheries or other attendant features.

Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(1)(2). Structures may not be placed in established danger zones or

restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(l)(1)), or EPA or Corps designated open water dredged material disposal areas.

This NWP does not authorize:

- (a) The cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 or the cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody; or
- (b) Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas.

Notification: The permittee must submit a pre-construction notification to the district engineer. (See general condition 32.)

In addition to the information required by paragraph (b) of general condition 32, the pre-construction notification must also include the following information: (1) a map showing the locations and dimensions of the structure(s); (2) the name(s) of the species that will be cultivated during the period this NWP is in effect; and (3) general water depths in the project area(s) (a detailed survey is not required). No more than one pre-construction notification per structure or group of structures should be submitted for the finfish mariculture operation during the effective period of this NWP. The pre-construction notification should describe all species and culture activities the operator expects to undertake during the effective period of this NWP. (Authority: Section 10)

Note 1: The permittee should notify the applicable U.S. Coast Guard office regarding the finfish mariculture activity.

Note 2: To prevent introduction of aquatic nuisance species, no material that has been taken from a different waterbody may be reused in the current project area, unless it has been treated in accordance with the applicable regional aquatic nuisance species management plan.

Note 3: The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines "aquatic nuisance species" as "a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters."

57. Electric Utility Line and Telecommunications Activities. Activities required for the construction, maintenance, repair, and removal of electric utility lines, telecommunication lines, and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Electric utility lines and telecommunication lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of electric utility lines and telecommunication lines. There must be no change in pre-construction contours of waters of the United States. An "electric utility line and telecommunication line" is defined as any cable, line, fiber optic line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and internet, radio, and television communication.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the electric utility line or telecommunication line crossing of each waterbody.

Electric utility line and telecommunications substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with an electric utility line or telecommunication line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead electric utility line or telecommunication line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead electric utility line or telecommunication line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of electric utility lines or telecommunication lines, including overhead lines and

substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize electric utility lines or telecommunication lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (see 33 CFR part 322). Electric utility lines or telecommunication lines constructed over section 10 waters and electric utility lines or telecommunication lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing electric utility lines or telecommunication lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing electric utility lines or telecommunication lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the electric utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) a section 10 permit is required; or (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the electric utility line is constructed, installed, or maintained in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the electric utility line to protect navigation.

Note 2: For electric utility line or telecommunications activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Electric utility line and telecommunications activities must comply with 33 CFR 330.6(d).

Note 3: Electric utility lines or telecommunication lines consisting of aerial electric power transmission lines crossing navigable waters of the United States (which are defined at 33 CFR part 329) must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

Note 4: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the electric utility line or telecommunication line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 5: This NWP authorizes electric utility line and telecommunication line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 6: For overhead electric utility lines and telecommunication lines authorized by this NWP, a copy of the PCN and NWP verification will be provided by the Corps to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

Note 7: For activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b)(4) of general condition 32). The district engineer

will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

58. Utility Line Activities for Water and Other Substances. Activities required for the construction, maintenance, repair, and removal of utility lines for water and other substances, excluding oil, natural gas, products derived from oil or natural gas, and electricity. Oil or natural gas pipeline activities or electric utility line and telecommunications activities may be authorized by NWP 12 or 57, respectively. This NWP also authorizes associated utility line facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Utility lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines for water and other substances, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose that is not oil, natural gas, or petrochemicals. Examples of activities authorized by this NWP include utility lines that convey water, sewage, stormwater, wastewater, brine, irrigation water, and industrial products that are not petrochemicals. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for above-ground utility lines: This NWP authorizes the construction or maintenance of foundations for above-ground utility lines in all waters of the United States, provided the foundations are the minimum size necessary.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including utility line substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (see 33 CFR part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are

necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) a section 10 permit is required; or (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the utility line is constructed, installed, or maintained in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

Note 2: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d)

Note 3: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 4: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to the General Bridge Act of 1946. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

Note 5: This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 6: For activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) (4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

59. Water reclamation and reuse facilities. Discharges of dredged or fill material into non-tidal waters of the United States for the construction, expansion, and maintenance of water reclamation and reuse facilities, including vegetated areas enhanced to improve water infiltration and constructed wetlands to improve water quality.

The discharge of dredged or fill material must not cause the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

This NWP also authorizes temporary fills, including the use of temporary mats, necessary to construct the water reuse project and attendant features. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management

Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation.

- (a) No activity may cause more than a minimal adverse effect on navigation.
- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre- construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed

in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

- (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
- (b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.
- (c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at:
<http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species.

- (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."
- (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.
- (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities

where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

- (d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP's.
- (e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
- (f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.
- (g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

- (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
- (b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.
- (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance

regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

- (d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
- (e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

- (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.
- (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be

no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

- (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
- (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
- (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.
- (d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).
- (e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.
- (f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.
 - (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.
 - (2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)
 - (3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.
 - (4) If permittee-responsible mitigation is the proposed option, the prospective

permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality.

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state

coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

- (a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
- (b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; Or
- (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This

information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
 - (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
 - (7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
 - (8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;
 - (9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and
 - (10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.
- (c) Form of Pre-Construction Notification: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.
- (d) Agency Coordination:
- (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.
 - (2) Agency coordination is required for:
 - (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States;
 - (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and

(iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high-water mark in the GreatLakes.

- (3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or waterquality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed.

If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

E. Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

F. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or

riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high-water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a

typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification (PCN): A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high-water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high-water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channel ward of the high.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWP, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

State of Illinois
Department of Transportation
Bureau of Local Roads and Streets

SPECIAL PROVISION
FOR
INSURANCE

Effective: February 1, 2007
Revised: August 1, 2007

All references to Sections or Articles in this specification shall be construed to mean specific Section or Article of the Standard Specifications for Road and Bridge Construction, adopted by the Department of Transportation.

The Contractor shall name the following entities as additional insured under the Contractor's general liability insurance policy in accordance with Article 107.27:

City of Dixon

Dixon Park District

The entities listed above and their officers, employees, and agents shall be indemnified and held harmless in accordance with Article 107.26.

State of Illinois
Department of Transportation
Bureau of Local Roads and Streets
SPECIAL PROVISION
FOR
CONSTRUCTION AND MAINTENANCE SIGNS

Effective: January 1, 2004
Revised: June 1, 2007

All references to Sections or Articles in this specification shall be construed to mean a specific Section or Article of the Standard Specifications for Road and Bridge Construction, adopted by the Department of Transportation.

701.14. Signs. Add the following paragraph to Article 701.14:

All warning signs shall have minimum dimensions of 1200 mm x 1200 mm (48" x 48") and have a black legend on a fluorescent orange reflectorized background, meeting, as a minimum, Type AP reflectivity requirements of Table 1091-2 in Article 1091.02.

State of Illinois
DEPARTMENT OF TRANSPORTATION
Bureau of Local Roads & Streets
SPECIAL PROVISION
FOR
LOCAL QUALITY ASSURANCE/ QUALITY MANAGEMENT QC/QA
Effective: January 1, 2022

Replace the first five paragraphs of Article 1030.06 of the Standard Specifications with the following:

“1030.06 Quality Management Program. The Quality Management Program (QMP) will be Quality Control / Quality Assurance (QC/QA) according to the following.”

Delete Article 1030.06(d)(1) of the Standard Specifications.

Revise Article 1030.09(g)(3) of the Standard Specifications to read:

“(3) If core testing is the density verification method, the Contractor shall provide personnel and equipment to collect density verification cores for the Engineer. Core locations will be determined by the Engineer following the document “Hot-Mix Asphalt QC/QA Procedure for Determining Random Density Locations” at density verification intervals defined in Article 1030.09(b). After the Engineer identifies a density verification location and prior to opening to traffic, the Contractor shall cut a 4 in. (100 mm) diameter core. With the approval of the Engineer, the cores may be cut at a later time.”

Revise Article 1030.09(h)(2) of the Standard Specifications to read:

“(2) After final rolling and prior to paving subsequent lifts, the Engineer will identify the random density verification test locations. Cores or nuclear density gauge testing will be used for density verification. The method used for density verification will be as selected below.

Density Verification Method	
<input type="checkbox"/>	Cores
<input checked="" type="checkbox"/>	Nuclear Density Gauge (Correlated when paving \geq 3,000 tons per mixture)

Density verification test locations will be determined according to the document “Hot-Mix Asphalt QC/QA Procedure for Determining Random Density Locations”. The density testing interval for paving wider than or equal to 3 ft (1 m) will be 0.5 miles (800 m) for lift thicknesses of 3 in. (75 mm) or less and 0.2 miles (320 m) for lift thicknesses greater than 3 in. (75 mm). The density testing interval for paving less than 3 ft (1 m) wide will be 1 mile (1,600 m). If a day’s paving will be less than the prescribed density testing interval, the length of the day’s paving will be the interval for that day. The density testing interval for mixtures used for patching will be 50 patches with a minimum of one test per mixture per project.

If core testing is the density verification method, the Engineer will witness the Contractor coring, and secure and take possession of all density samples at the

density verification locations. The Engineer will test the cores collected by the Contractor for density according to Illinois Modified AASHTO T 166 or AASHTO T 275.

If nuclear density gauge testing is the density verification method, the Engineer will conduct nuclear density gauge tests. The Engineer will follow the density testing procedure detailed in the document "Illinois Modified ASTM D 2950, Standard Test Method for Density of Bituminous Concrete In-Place by Nuclear Method".

A density verification test will be the result of a single core or the average of the nuclear density tests at one location. The results of each density test must be within acceptable limits. The Engineer will promptly notify the Contractor of observed deficiencies."

Revise the seventh paragraph and all subsequent paragraphs in Section D. of the document "Hot-Mix Asphalt QC/QA Initial Daily Plant and Random Samples" to read:

"Mixtures shall be sampled from the truck at the plant by the Contractor following the same procedure used to collect QC mixture samples (Section A). This process will be witnessed by the Engineer who will take custody of the verification sample. Each sample bag with a verification mixture sample will be secured by the Engineer using a locking ID tag. Sample boxes containing the verification mixture sample will be sealed/taped by the Engineer using a security ID label."

IDOT TRAINING PROGRAM GRADUATE ON-THE-JOB TRAINING SPECIAL PROVISION

Effective: August 1, 2012 Revised: February 2, 2017

In addition to the Contractor's equal employment opportunity (EEO) affirmative action efforts undertaken as required by this Contract, the Contractor is encouraged to participate in the incentive program described below to provide additional on-the-job training to certified graduates of the IDOT pre-apprenticeship training program, as outlined in this Special Provision.

IDOT funds, and various Illinois community colleges operate, pre-apprenticeship training programs throughout the State to provide training and skill-improvement opportunities to promote the increased employment of minority groups, disadvantaged persons and women in all aspects of the highway construction industry. The intent of this IDOT Pre-Apprenticeship Training Program Graduate (TPG) special provision (Special Provision) is to place these certified program graduates on the project site for this Contract in order to provide the graduates with meaningful on-the-job training. Pursuant to this Special Provision, the Contractor must make every reasonable effort to recruit and employ certified TPG trainees to the extent such individuals are available within a practicable distance of the project site.

Specifically, participation of the Contractor or its subcontractor in the Program entitles the participant to reimbursement for graduates' hourly wages at \$15.00 per hour per utilized TPG trainee, subject to the terms of this Special Provision. Reimbursement payment will be made even though the Contractor or subcontractor may also receive additional training program funds from other non-IDOT sources for other non-TPG trainees on the Contract, provided such other source does not specifically prohibit the Contractor or subcontractor from receiving reimbursement from another entity through another program, such as IDOT through the TPG program. With regard to any IDOT funded construction training program other than TPG, however, additional reimbursement for other IDOT programs will not be made beyond the TPG Program described in this Special Provision when the TPG Program is utilized.

No payment will be made to the Contractor if the Contractor or subcontractor fails to provide the required on-site training to TPG trainees, as solely determined by IDOT. A TPG trainee must begin training on the project as soon as the start of work that utilizes the relevant trade skill and the TPG trainee must remain on the project site through completion of the Contract, so long as training opportunities continue to exist in the relevant work classification. Should a TPG trainee's employment end in advance of the completion of the Contract, the Contractor must promptly notify the IDOT District EEO Officer for the Contract that the TPG's involvement in the Contract has ended. The Contractor must supply a written report for the reason the TPG trainee involvement terminated, the hours completed by the TPG trainee on the Contract, and the number of hours for which the incentive payment provided under this Special Provision will be, or has been claimed for the separated TPG trainee.

Finally, the Contractor must maintain all records it creates as a result of participation in the Program on the Contract, and furnish periodic written reports to the IDOT District EEO Officer that document its contractual performance under and compliance with this Special Provision. Finally, through participation in the Program and reimbursement of wages, the Contractor is not relieved of, and IDOT has not waived, the requirements of any federal or state labor or employment law applicable to TPG workers, including compliance with the Illinois Prevailing Wage Act.

METHOD OF MEASUREMENT: The unit of measurement is in hours.

BASIS OF PAYMENT: This work will be paid for at the contract unit price of \$15.00 per hour for each utilized certified TPG Program trainee (TRAINEES TRAINING PROGRAM GRADUATE). The estimated total number of hours, unit price, and total price must be included in the schedule of prices for the Contract submitted by Contractor prior to beginning work. The initial number of TPG trainees for which the incentive is available for this contract is 4.

The Department has contracted with several educational institutions to provide screening, tutoring and pre-training to individuals interested in working as a TPG trainee in various areas of common construction trade work. Only individuals who have successfully completed a Pre-Apprenticeship Training Program at these IDOT approved institutions are eligible to be TPG trainees. To obtain a list of institutions that can connect the Contractor with eligible TPG trainees, the Contractor may contact: HCCTP TPG Program Coordinator, Office of Business and Workforce Diversity (IDOT OBWD), Room 319, Illinois Department of Transportation, 2300 S. Dirksen Parkway, Springfield, Illinois 62764. Prior to commencing construction with the utilization of a TPG trainee, the Contractor must submit documentation to the IDOT District EEO Officer for the Contract that provides the names and contact information of the TPG trainee(s) to be trained in each selected work classification, proof that that the TPG trainee(s) has successfully completed a Pre-Apprenticeship Training Program, proof that the TPG is in an Apprenticeship Training Program approved by the U.S. Department of Labor Bureau of Apprenticeship Training, and the start date for training in each of the applicable work classifications.

To receive payment, the Contractor must provide training opportunities aimed at developing a full journeyworker in the type of trade or job classification involved. During the course of performance of the Contract, the Contractor may seek approval from the IDOT District EEO Officer to employ additional eligible TPG trainees. In the event the Contractor subcontracts a portion of the contracted work, it must determine how many, if any, of the TPGs will be trained by the subcontractor. Though a subcontractor may conduct training, the Contractor retains the responsibility for meeting all requirements imposed by this Special Provision. The Contractor must also include this Special Provision in any subcontract where payment for contracted work performed by a TPG trainee will be passed on to a subcontractor.

Training through the Program is intended to move TPGs toward journeyman status, which is the primary objective of this Special Provision. Accordingly, the Contractor must make every effort to enroll TPG trainees by recruitment through the Program participant educational institutions to the extent eligible TPGs are available within a reasonable geographic area of the project. The Contractor is responsible for demonstrating, through documentation, the recruitment efforts it has undertaken prior to the determination by IDOT whether the Contractor is in compliance with this Special Provision, and therefore, entitled to the Training Program Graduate reimbursement of \$15.00 per hour.

Notwithstanding the on-the-job training requirement of this TPG Special Provision, some minimal off-site training is permissible as long as the offsite training is an integral part of the work of the contract, and does not compromise or conflict with the required on-site training that is central to the purpose of the Program. No individual may be employed as a TPG trainee in any work classification in which he/she has previously successfully completed a training program leading to journeyman status in any trade, or in which he/she has worked at a journeyman level or higher.

AGGREGATE SUBGRADE IMPROVEMENT (BDE)

Effective: April 1, 2012

Revised: April 1, 2022

Add the following Section to the Standard Specifications:

“SECTION 303. AGGREGATE SUBGRADE IMPROVEMENT

303.01 Description. This work shall consist of constructing an aggregate subgrade improvement (ASI).

303.02 Materials. Materials shall be according to the following.

Item	Article/Section
(a) Coarse Aggregate	1004.07
(b) Reclaimed Asphalt Pavement (RAP)	1031.09

303.03 Equipment. The vibratory roller shall be according to Article 1101.01, or as approved by the Engineer. Vibratory machines, such as tampers, shall be used in areas where rollers do not fit.

303.04 Soil Preparation. The minimum immediate bearing value (IBV) of the soil below the improved subgrade shall be according to the Department’s “Subgrade Stability Manual” for the aggregate thickness specified.

303.05 Placing and Compacting. The maximum nominal lift thickness of aggregate gradations CA 2, CA 6, and CA 10 when compacted shall be 9 in. (225 mm). The maximum nominal lift thickness of aggregate gradations CS 1, CS 2, and RR 1 when compacted shall be 24 in. (600 mm).

The top surface of the aggregate subgrade improvement shall consist of a layer of capping aggregate gradations CA 6 or CA 10 that is 3 in. (75 mm) thick after compaction. Capping aggregate will not be required when aggregate subgrade improvement is used as a cubic yard pay item for undercut applications.

Each lift of aggregate shall be compacted to the satisfaction of the Engineer. If the moisture content of the material is such that compaction cannot be obtained, sufficient water shall be added so that satisfactory compaction can be obtained.

303.06 Finishing and Maintenance. The aggregate subgrade improvement shall be finished to the lines, grades, and cross sections shown on the plans, or as directed by the Engineer. The aggregate subgrade improvement shall be maintained in a smooth and compacted condition.

303.07 Method of Measurement. This work will be measured for payment according to Article 311.08.

303.08 Basis of Payment. This work will be paid for at the contract unit price per cubic yard (cubic meter) or ton (metric ton) for AGGREGATE SUBGRADE IMPROVEMENT or at the contract unit price per square yard (square meter) for AGGREGATE SUBGRADE IMPROVEMENT, of the thickness specified.”

Add the following to Section 1004 of the Standard Specifications:

“**1004.07 Coarse Aggregate for Aggregate Subgrade Improvement (ASI).** The aggregate shall be according to Article 1004.01 and the following.

(a) Description. The coarse aggregate shall be crushed gravel, crushed stone, or crushed concrete. In applications where greater than 24 in. (600 mm) of ASI material is required, gravel may be used below the top 12 in (300 mm) of ASI.

(b) Quality. The coarse aggregate shall consist of sound durable particles reasonably free of deleterious materials.

(c) Gradation.

(1) The coarse aggregate gradation for total ASI thickness less than or equal to 12 in. (300 mm) shall be CA 2, CA 6, CA 10, or CS 1.

The coarse aggregate gradation for total ASI thickness greater than 12 in. (300 mm) shall be CS 1 or CS 2 as shown below or RR 1 according to Article 1005.01(c).

COARSE AGGREGATE SUBGRADE GRADATIONS					
Grad No.	Sieve Size and Percent Passing				
	8”	6”	4”	2”	#4
CS 1	100	97 ± 3	90 ± 10	45 ± 25	20 ± 20
CS 2		100	80 ± 10	25 ± 15	

COARSE AGGREGATE SUBGRADE GRADATIONS (Metric)					
Grad No.	Sieve Size and Percent Passing				
	200 mm	150 mm	100 mm	50 mm	4.75 mm
CS 1	100	97 ± 3	90 ± 10	45 ± 25	20 ± 20
CS 2		100	80 ± 10	25 ± 15	

(2) Capping aggregate shall be gradation CA 6 or CA 10.”

Add the following to Article 1031.09 of the Standard Specifications:

“(b) RAP in Aggregate Subgrade Improvement (ASI). RAP in ASI shall be according to Articles 1031.01(a), 1031.02(a), 1031.06(a)(1), and 1031.06(a)(2), and the following.

- (1) The testing requirements of Article 1031.03 shall not apply.
- (2) Crushed RAP used for the lower lift may be mechanically blended with aggregate gradations CS 1, CS 2, and RR 1 but it shall be no greater than 40 percent of the total product volume. RAP agglomerations shall be no greater than 4 in. (100 mm).
- (3) For capping aggregate, well graded RAP having 100 percent passing the 1 1/2 in. (38 mm) sieve may be used when aggregate gradations CS 1, CS 2, CA 2, or RR 1 are used in the lower lift. FRAP will not be permitted as capping material.

Blending shall be through calibrated interlocked feeders or a calibrated blending plant such that the prescribed blending percentage is maintained throughout the blending process. The calibration shall have an accuracy of ± 2.0 percent of the actual quantity of material delivered.”

80274

CEMENT, TYPE IL (BDE)

Effective: August 1, 2023

Add the following to Article 302.02 of the Standard Specifications:

“(k) Type IL Portland-Limestone Cement1001”

Revise Note 2 of Article 352.02 of the Standard Specifications to read:

“Note 2. Either Type I or Type IA portland cement or Type IL portland-limestone cement shall be used.”

Revise Note 1 of Article 404.02 of the Standard Specifications to read:

“Note 1. The cement shall be Type I portland cement or Type IL portland-limestone cement.”

Revise Article 1019.02(a) of the Standard Specifications to read:

“(a) Cement, Type I or IL1001”

80449

COMPENSABLE DELAY COSTS (BDE)

Effective: June 2, 2017

Revised: April 1, 2019

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

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

- (1) Minor Delay. A minor delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two hours, but not to exceed two weeks.
- (2) Major Delay. A major delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two weeks.
- (3) Reduced Rate of Production Delay. A reduced rate of production delay occurs when the rate of production on the work in conflict with the utility in an unanticipated location decreases by more than 25 percent and lasts longer than seven calendar days.”

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

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

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

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

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

Equipment will be the same as for a minor delay, except Contractor-owned equipment will be limited to two weeks plus the cost of move-out to either the

Contractor's yard or another job and the cost to re-mobilize, whichever is less. Rental equipment may be paid for longer than two weeks provided the Contractor presents adequate support to the Department (including lease agreement) to show retaining equipment on the job is the most economical course to follow and in the public interest.

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

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

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

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

- (1) When adverse weather prevents work on the controlling item.
- (2) When job conditions due to recent weather prevent work on the controlling item.
- (3) When conduct or lack of conduct by the Department or its consultants, representatives, officers, agents, or employees; delay by the Department in making the site available; or delay in furnishing any items required to be furnished to the Contractor by the Department prevents work on the controlling item.
- (4) When delays caused by utility or railroad adjustments prevent work on the controlling item.
- (5) When strikes, lock-outs, extraordinary delays in transportation, or inability to procure critical materials prevent work on the controlling item, as long as these delays are not due to any fault of the Contractor.
- (6) When any condition over which the Contractor has no control prevents work on the controlling item.”

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

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

other than as allowed by Article 109.13, lost opportunity, preparation of claim expenses and other consequential indirect costs regardless of method of calculation.

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

Add the following to Section 109 of the Standard Specifications.

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

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

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

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

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

	One Clerk
Over \$50,000,000	One Project Manager, Two Project Superintendents, One Engineer, and One Clerk

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

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

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

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

80384

DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION (BDE)

Effective: September 1, 2000

Revised: March 2, 2019

FEDERAL OBLIGATION. The Department of Transportation, as a recipient of federal financial assistance, is required to take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts. Consequently, the federal regulatory provisions of 49 CFR Part 26 apply to this contract concerning the utilization of disadvantaged business enterprises. For the purposes of this Special Provision, a disadvantaged business enterprise (DBE) means a business certified by the Department in accordance with the requirements of 49 CFR Part 26 and listed in the Illinois Unified Certification Program (IL UCP) DBE Directory.

STATE OBLIGATION. This Special Provision will also be used by the Department to satisfy the requirements of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, 30 ILCS 575. When this Special Provision is used to satisfy state law requirements on 100 percent state-funded contracts, the federal government has no involvement in such contracts (not a federal-aid contract) and no responsibility to oversee the implementation of this Special Provision by the Department on those contracts. DBE participation on 100 percent state-funded contracts will not be credited toward fulfilling the Department's annual overall DBE goal required by the US Department of Transportation to comply with the federal DBE program requirements.

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

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

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

OVERALL GOAL SET FOR THE DEPARTMENT. As a requirement of compliance with 49 CFR Part 26, the Department has set an overall goal for DBE participation in its federally assisted contracts. That goal applies to all federal-aid funds the Department will expend in its federally assisted contracts for the subject reporting fiscal year. The Department is required to make a

good faith effort to achieve the overall goal. The dollar amount paid to all approved DBE companies performing work called for in this contract is eligible to be credited toward fulfillment of the Department's overall goal.

CONTRACT GOAL TO BE ACHIEVED BY THE CONTRACTOR. This contract includes a specific DBE utilization goal established by the Department. The goal has been included because the Department has determined the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. The determination is based on an assessment of the type of work, the location of the work, and the availability of DBE companies to do a part of the work. The assessment indicates, in the absence of unlawful discrimination and in an arena of fair and open competition, DBE companies can be expected to perform 3 % of the work. This percentage is set as the DBE participation goal for this contract. Consequently, in addition to the other award criteria established for this contract, the Department will only award this contract to a bidder who makes a good faith effort to meet this goal of DBE participation in the performance of the work. A bidder makes a good faith effort for award consideration if either of the following is done in accordance with the procedures set for in this Special Provision:

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

DBE LOCATOR REFERENCES. Bidders shall consult the IL UCP DBE Directory as a reference source for DBE-certified companies. In addition, the Department maintains a letting and item specific DBE locator information system whereby DBE companies can register their interest in providing quotes on particular bid items advertised for letting. Information concerning DBE companies willing to quote work for particular contracts may be obtained by contacting the Department's Bureau of Small Business Enterprises at telephone number (217) 785-4611, or by visiting the Department's website at:

<http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>.

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

The bidder shall submit a DBE Utilization Plan (form SBE 2026), and a DBE Participation Statement (form SBE 2025) for each DBE company proposed for the performance of work to achieve the contract goal, with the bid. If the Utilization Plan indicates the contract goal will not be met, documentation of good faith efforts shall also be submitted. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor is selected over a DBE for work on the contract. The required forms and documentation must be submitted as a single .pdf file using the "Integrated Contractor Exchange (iCX)" application within the Department's "EBids System".

The Department will not accept a Utilization Plan if it does not meet the bidding procedures set forth herein and the bid will be declared not responsive. In the event the bid is declared not responsive, the Department may elect to cause the forfeiture of the penal sum of the bidder's proposal guaranty and may deny authorization to bid the project if re-advertised for bids.

GOOD FAITH EFFORT PROCEDURES. The contract will not be awarded until the Utilization Plan is approved. All information submitted by the bidder must be complete, accurate and adequately document enough DBE participation has been obtained or document the good faith efforts of the bidder, in the event enough DBE participation has not been obtained, before the Department will commit to the performance of the contract by the bidder. The Utilization Plan will be approved by the Department if the Utilization Plan documents sufficient commercially useful DBE work to meet the contract goal or the bidder submits sufficient documentation of a good faith effort to meet the contract goal pursuant to 49 CFR Part 26, Appendix A. This means the bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not successful. The Department will consider the quality, quantity, and intensity of the kinds of efforts the bidder has made. Mere *pro forma* efforts, in other words efforts done as a matter of form, are not good faith efforts; rather, the bidder is expected to have taken genuine efforts that would be reasonably expected of a bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.

- (a) The following is a list of types of action that the Department will consider as part of the evaluation of the bidder's good faith efforts to obtain participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts brought to the attention of the Department may be relevant in appropriate cases and will be considered by the Department.
 - (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE companies that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE companies to respond to the solicitation. The bidder must determine with certainty if the DBE companies are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by DBE companies in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to perform these work items with its own forces.
 - (3) Providing interested DBE companies with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

- (4) a. Negotiating in good faith with interested DBE companies. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE companies that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE companies to perform the work.
 - b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE companies is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBE companies if the price difference is excessive or unreasonable. In accordance with the above Bidding Procedures, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
- (5) Not rejecting DBE companies as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
 - (6) Making efforts to assist interested DBE companies in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
 - (7) Making efforts to assist interested DBE companies in obtaining necessary equipment, supplies, materials, or related assistance or services.
 - (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE companies.
- (b) If the Department determines the bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the Department will award the contract provided it is otherwise eligible for award. If the Department determines the

bidder has failed to meet the requirements of this Special Provision or that a good faith effort has not been made, the Department will notify the responsible company official designated in the Utilization Plan that the bid is not responsive. The notification will also include a statement of reasons for the adverse determination. If the Utilization Plan is not approved because it is deficient as a technical matter, unless waived by the Department, the bidder will be notified and will be allowed no more than a five calendar day period to cure the deficiency.

- (c) The bidder may request administrative reconsideration of an adverse determination by emailing the Department at "DOT.DBE.UP@illinois.gov" within the five calendar days after the receipt of the notification of the determination. The determination shall become final if a request is not made on or before the fifth calendar day. A request may provide additional written documentation or argument concerning the issues raised in the determination statement of reasons, provided the documentation and arguments address efforts made prior to submitting the bid. The request will be reviewed by the Department's Reconsideration Officer. The Reconsideration Officer will extend an opportunity to the bidder to meet in person to consider all issues of documentation and whether the bidder made a good faith effort to meet the goal. After the review by the Reconsideration Officer, the bidder will be sent a written decision within ten working days after receipt of the request for reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. A final decision by the Reconsideration Officer that a good faith effort was made shall approve the Utilization Plan submitted by the bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid not responsive.

CALCULATING DBE PARTICIPATION. The Utilization Plan values represent work anticipated to be performed and paid for upon satisfactory completion. The Department is only able to count toward the achievement of the overall goal and the contract goal the value of payments made for the work actually performed by DBE companies. In addition, a DBE must perform a commercially useful function on the contract to be counted. A commercially useful function is generally performed when the DBE is responsible for the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The Department and Contractor are governed by the provisions of 49 CFR Part 26.55(c) on questions of commercially useful functions as it affects the work. Specific counting guidelines are provided in 49 CFR Part 26.55, the provisions of which govern over the summary contained herein.

- (a) DBE as the Contractor: 100 percent goal credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE subcontracts to a non-DBE does not count toward the DBE goals.
- (b) DBE as a joint venture Contractor: 100 percent goal credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.

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

CONTRACT COMPLIANCE. Compliance with this Special Provision is an essential part of the contract. The Department is prohibited by federal regulations from crediting the participation of a DBE included in the Utilization Plan toward either the contract goal or the Department's overall goal until the amount to be applied toward the goals has been paid to the DBE. The following administrative procedures and remedies govern the compliance by the Contractor with the contractual obligations established by the Utilization Plan. After approval of the Utilization Plan and award of the contract, the Utilization Plan and individual DBE Participation Statements become part of the contract. If the Contractor did not succeed in obtaining enough DBE participation to achieve the advertised contract goal, and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of DBE work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the amended contract goal. All work indicated for performance by an approved DBE shall be performed, managed, and supervised by the DBE executing the DBE Participation Commitment Statement.

- (a) NO AMENDMENT. No amendment to the Utilization Plan may be made without prior written approval from the Department's Bureau of Small Business Enterprises. All requests for amendment to the Utilization Plan shall be emailed to the Department at DOT.DBE.UP@illinois.gov.
- (b) CHANGES TO WORK. Any deviation from the DBE condition-of-award or contract plans, specifications, or special provisions must be approved, in writing, by the Department as provided elsewhere in the Contract. The Contractor shall notify affected DBEs in writing of any changes in the scope of work which result in a reduction in the dollar amount condition-of-award to the contract. Where the revision includes work committed to a new DBE subcontractor, not previously involved in the project, then a Request for Approval of Subcontractor, Department form BC 260A or AER 260A, must be signed and submitted. If the commitment of work is in the form of additional tasks assigned to an existing subcontract, a new Request for Approval of Subcontractor will not be required. However, the Contractor must document efforts to assure the existing DBE subcontractor is capable of performing the additional work and has agreed in writing to the change.
- (c) SUBCONTRACT. The Contractor must provide copies of DBE subcontracts to the Department upon request. Subcontractors shall ensure that all lower tier subcontracts or agreements with DBEs to supply labor or materials be performed in accordance with this Special Provision.
- (d) ALTERNATIVE WORK METHODS. In addition to the above requirements for reductions in the condition of award, additional requirements apply to the two cases of Contractor-initiated work substitution proposals. Where the contract allows alternate work methods which serve to delete or create underruns in condition of award DBE work, and the Contractor selects that alternate method or, where the Contractor proposes a substitute work method or material that serves to diminish or delete work committed to a DBE and replace it with other work, then the Contractor must demonstrate one of the following:
- (1) The replacement work will be performed by the same DBE (as long as the DBE is certified in the respective item of work) in a modification of the condition of award; or
 - (2) The DBE is aware its work will be deleted or will experience underruns and has agreed in writing to the change. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so; or
 - (3) The DBE is not capable of performing the replacement work or has declined to perform the work at a reasonable competitive price. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so.

- (e) TERMINATION AND REPLACEMENT PROCEDURES. The Contractor shall not terminate or replace a DBE listed on the approved Utilization Plan, or perform with other forces work designated for a listed DBE except as provided in this Special Provision. The Contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Contractor obtains the Department's written consent as provided in subsection (a) of this part. Unless Department consent is provided for termination of a DBE subcontractor, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBE in the Utilization Plan.

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

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

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements;
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.

- (6) The Contractor has determined the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the projects and provides written notice to the Contractor of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the contract;
- (10) Other documented good cause that compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the Contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Contractor can self-perform the work for which the DBE contractor was engaged or so that the Contractor can substitute another DBE or non-DBE contractor after contract award.

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

- (f) FINAL PAYMENT. After the performance of the final item of work or delivery of material by a DBE and final payment therefore to the DBE by the Contractor, but not later than 30 calendar days after payment has been made by the Department to the Contractor for such work or material, the Contractor shall submit a DBE Payment Agreement on Department form SBE 2115 to the Resident Engineer. If full and final payment has not been made to the DBE, the DBE Payment Agreement shall indicate whether a disagreement as to the payment required exists between the Contractor and the DBE or if the Contractor believes the work has not been satisfactorily completed. If the Contractor does not have the full amount of work indicated in the Utilization Plan performed by the DBE companies indicated in the Utilization Plan and after good faith efforts are reviewed, the Department may deduct from contract payments to the Contractor the amount of the goal not achieved as liquidated and ascertained damages. The Contractor may request an administrative reconsideration of any amount deducted as damages pursuant to subsection (h) of this part.
- (g) ENFORCEMENT. The Department reserves the right to withhold payment to the Contractor to enforce the provisions of this Special Provision. Final payment shall not be

made on the contract until such time as the Contractor submits sufficient documentation demonstrating achievement of the goal in accordance with this Special Provision or after liquidated damages have been determined and collected.

- (h) RECONSIDERATION. Notwithstanding any other provision of the contract, including but not limited to Article 109.09 of the Standard Specifications, the Contractor may request administrative reconsideration of a decision to deduct the amount of the goal not achieved as liquidated damages. A request to reconsider shall be delivered to the Contract Compliance Section and shall be handled and considered in the same manner as set forth in paragraph (c) of "Good Faith Effort Procedures" of this Special Provision, except a final decision that a good faith effort was not made during contract performance to achieve the goal agreed to in the Utilization Plan shall be the final administrative decision of the Department. The result of the reconsideration process is not administratively appealable to the U.S. Department of Transportation.

80029

HOT-MIX ASPHALT (BDE)

Effective: January 1, 2024

Revise the second paragraph of Articles 1030.07(a)(11) and 1030.08(a)(9) of the Standard Specifications to read:

“When establishing the target density, the HMA maximum theoretical specific gravity (G_{mm}) will be based on the running average of four available Department test results for that project. If less than four G_{mm} test results are available, an average of all available Department test results for that project will be used. The initial G_{mm} will be the last available Department test result from a QMP project. If there is no available Department test result from a QMP project, the Department mix design verification test result will be used as the initial G_{mm} .”

In the Supplemental Specifications, replace the revision for the end of the third paragraph of Article 1030.09(h)(2) with the following:

“When establishing the target density, the HMA maximum theoretical specific gravity (G_{mm}) will be the Department mix design verification test result.”

Revise the tenth paragraph of Article 1030.10 of the Standard Specifications to read:

“Production is not required to stop after a test strip has been constructed.”

80456

HOT-MIX ASPHALT – LONGITUDINAL JOINT SEALANT (BDE)

Effective: November 1, 2022

Revised: August 1, 2023

Add the following after the second sentence in the eighth paragraph of Article 406.06(h)(2) of the Standard Specifications:

“If rain is forecasted and traffic is to be on the LJS or if pickup/tracking of the LJS material is likely, the LJS shall be covered immediately following its application with FA 20 fine aggregate mechanically spread uniformly at a rate of 1.5 ± 0.5 lb/sq yd (0.75 ± 0.25 kg/sq m). Fine aggregate landing outside of the LJS shall be removed prior to application of tack coat.”

Add the following after the first sentence in the ninth paragraph of Article 406.06(h)(2) of the Standard Specifications:

“LJS half-width shall be applied at a width of 9 ± 1 in. (225 ± 25 mm) in the immediate lane to be placed with the outside edge flush with the joint of the next HMA lift. The vertical face of any longitudinal joint remaining in place shall also be coated.”

Add the following after the eleventh paragraph of Article 406.06(h)(2) of the Standard Specifications:

“LJS Half-Width Application Rate, lb/ft (kg/m) ^{1/}			
Lift Thickness, in. (mm)	Coarse Graded Mixture (IL-19.0, IL-19.0L, IL-9.5, IL-9.5L, IL-4.75)	Fine Graded Mixture (IL-9.5FG)	SMA Mixture (SMA-9.5, SMA-12.5)
¾ (19)	0.44 (0.66)		
1 (25)	0.58 (0.86)		
1 ¼ (32)	0.66 (0.98)	0.44 (0.66)	
1 ½ (38)	0.74 (1.10)	0.48 (0.71)	0.63 (0.94)
1 ¾ (44)	0.82 (1.22)	0.52 (0.77)	0.69 (1.03)
2 (50)	0.90 (1.34)	0.56 (0.83)	0.76 (1.13)
≥ 2 ¼ (60)	0.98 (1.46)		

1/ The application rate includes a surface demand for liquid. The thickness of the LJS may taper from the center of the application to a lesser thickness on the edge of the application, provided the correct width and application rate are maintained.”

Revise the second paragraph of Article 406.13(b) of the Standard Specifications to read:

“Aggregate for covering tack, LJS, or FLS will not be measured for payment.”

Add the following to the end of the second paragraph of Article 406.14 of the Standard Specifications:

“Longitudinal joint sealant (LJS) half-width will be paid for at the contract unit price per foot (meter) for LONGITUDINAL JOINT SEALANT, HALF-WIDTH.”

80446

PERFORMANCE GRADED ASPHALT BINDER (BDE)

Effective: January 1, 2023

Revise Article 1032.05 of the Standard Specifications to read:

“1032.05 Performance Graded Asphalt Binder. These materials will be accepted according to the Bureau of Materials Policy Memorandum, “Performance Graded Asphalt Binder Qualification Procedure.” The Department will maintain a qualified producer list. These materials shall be free from water and shall not foam when heated to any temperature below the actual flash point. Air blown asphalt, recycle engine oil bottoms (ReOB), and polyphosphoric acid (PPA) modification shall not be used.

When requested, producers shall provide the Engineer with viscosity/temperature relationships for the performance graded asphalt binders delivered and incorporated in the work.

- (a) Performance Graded (PG) Asphalt Binder. The asphalt binder shall meet the requirements of AASHTO M 320, Table 1 “Standard Specification for Performance Graded Asphalt Binder” for the grade shown on the plans and the following.

Test	Parameter
Small Strain Parameter (AASHTO PP 113) BBR, ΔT_c , 40 hrs PAV (40 hrs continuous or 2 PAV at 20 hrs)	-5 °C min.

- (b) Modified Performance Graded (PG) Asphalt Binder. The asphalt binder shall meet the requirements of AASHTO M 320, Table 1 “Standard Specification for Performance Graded Asphalt Binder” for the grade shown on the plans.

Asphalt binder modification shall be performed at the source, as defined in the Bureau of Materials Policy Memorandum, “Performance Graded Asphalt Binder Qualification Procedure.”

Modified asphalt binder shall be safe to handle at asphalt binder production and storage temperatures or HMA construction temperatures. Safety Data Sheets (SDS) shall be provided for all asphalt modifiers.

- (1) Polymer Modification (SB/SBS or SBR). Elastomers shall be added to the base asphalt binder to achieve the specified performance grade and shall be either a styrene-butadiene diblock, triblock copolymer without oil extension, or a styrene-butadiene rubber. The polymer modified asphalt binder shall be smooth, homogeneous, and be according to the requirements shown in Table 1 or 2 for the grade shown on the plans.

Table 1 - Requirements for Styrene-Butadiene Copolymer (SB/SBS) Modified Asphalt Binders		
Test	Asphalt Grade SB/SBS PG 64-28 SB/SBS PG 70-22	Asphalt Grade SB/SBS PG 64-34 SB/SBS PG 70-28 SB/SBS PG 76-22 SB/SBS PG 76-28
Separation of Polymer ITP, "Separation of Polymer from Asphalt Binder" Difference in °F (°C) of the softening point between top and bottom portions	4 (2) max.	4 (2) max.
TESTS ON RESIDUE FROM ROLLING THIN FILM OVEN TEST (AASHTO T 240)		
Elastic Recovery ASTM D 6084, Procedure A, 77 °F (25 °C), 100 mm elongation, %	60 min.	70 min.

Table 2 - Requirements for Styrene-Butadiene Rubber (SBR) Modified Asphalt Binders		
Test	Asphalt Grade SBR PG 64-28 SBR PG 70-22	Asphalt Grade SB/SBS PG 64-34 SB/SBS PG 70-28 SBR PG 76-22 SBR PG 76-28
Separation of Polymer ITP, "Separation of Polymer from Asphalt Binder" Difference in °F (°C) of the softening point between top and bottom portions	4 (2) max.	4 (2) max.
Toughness ASTM D 5801, 77 °F (25 °C), 20 in./min. (500 mm/min.), in.-lbs (N-m)	110 (12.5) min.	110 (12.5) min.
Tenacity ASTM D 5801, 77 °F (25 °C), 20 in./min. (500 mm/min.), in.-lbs (N-m)	75 (8.5) min.	75 (8.5) min.
TESTS ON RESIDUE FROM ROLLING THIN FILM OVEN TEST (AASHTO T 240)		
Elastic Recovery ASTM D 6084, Procedure A, 77 °F (25 °C), 100 mm elongation, %	40 min.	50 min.

- (2) Ground Tire Rubber (GTR) Modification. GTR modification is the addition of recycled ground tire rubber to liquid asphalt binder to achieve the specified performance grade. GTR shall be produced from processing automobile and/or truck tires by the ambient

grinding method or micronizing through a cryogenic process. GTR shall not exceed 1/16 in. (2 mm) in any dimension and shall not contain free metal particles, moisture that would cause foaming of the asphalt, or other foreign materials. A mineral powder (such as talc) meeting the requirements of AASHTO M 17 may be added, up to a maximum of four percent by weight of GTR to reduce sticking and caking of the GTR particles. When tested in accordance with Illinois Modified AASHTO T 27 “Standard Method of Test for Sieve Analysis of Fine and Coarse Aggregates” or AASHTO PP 74 “Standard Practice for Determination of Size and Shape of Glass Beads Used in Traffic Markings by Means of Computerized Optical Method”, a 50 g sample of the GTR shall conform to the following gradation requirements.

Sieve Size	Percent Passing
No. 16 (1.18 mm)	100
No. 30 (600 µm)	95 ± 5
No. 50 (300 µm)	> 20

GTR modified asphalt binder shall be tested for rotational viscosity according to AASHTO T 316 using spindle S27. GTR modified asphalt binder shall be tested for original dynamic shear and RTFO dynamic shear according to AASHTO T 315 using a gap of 2 mm.

The GTR modified asphalt binder shall meet the requirements of Table 3.

Table 3 - Requirements for Ground Tire Rubber (GTR) Modified Asphalt Binders		
Test	Asphalt Grade GTR PG 64-28 GTR PG 70-22	Asphalt Grade GTR PG 76-22 GTR PG 76-28 GTR PG 70-28
TESTS ON RESIDUE FROM ROLLING THIN FILM OVEN TEST (AASHTO T 240)		
Elastic Recovery ASTM D 6084, Procedure A, 77 °F (25 °C), 100 mm elongation, %	60 min.	70 min.

- (3) Softener Modification (SM). Softener modification is the addition of organic compounds, such as engineered flux, bio-oil blends, modified vegetable oils, glycol amines, and fatty acid derivatives, to the base asphalt binder to achieve the specified performance grade. Softeners shall be dissolved, dispersed, or reacted in the asphalt binder to enhance its performance and shall remain compatible with the asphalt binder with no separation. Softeners shall not be added to modified PG asphalt binder as defined in Articles 1032.05(b)(1) or 1032.05(b)(2).

An Attenuated Total Reflectance-Fourier Transform Infrared spectrum (ATR-FTIR) shall be collected for both the softening compound as well as the softener modified

asphalt binder at the dose intended for qualification. The ATR-FTIR spectra shall be collected on unaged softener modified binder, 20-hour Pressurized Aging Vessel (PAV) aged softener modified binder, and 40-hour PAV aged softener modified binder. The ATR-FTIR shall be collected in accordance with Illinois Test Procedure 601. The electronic files spectral files (in one of the following extensions or equivalent: *.SPA, *.SPG, *.IRD, *.IFG, *.CSV, *.SP, *.IRS, *.GAML, *. [0-9], *.IGM, *.ABS, *.DRT, *.SBM, *.RAS) shall be submitted to the Central Bureau of Materials.

Softener modified asphalt binders shall meet the requirements in Table 4.

Test	Asphalt Grade	
	SM PG 46-28	SM PG 46-34
	SM PG 52-28	SM PG 52-34
	SM PG 58-22	SM PG 58-28
	SM PG 64-22	
Small Strain Parameter (AASHTO PP 113) BBR, ΔT_c , 40 hrs PAV (40 hrs continuous or 2 PAV at 20 hrs)	-5°C min.	
Large Strain Parameter (Illinois Modified AASHTO T 391) DSR/LAS Fatigue Property, $\Delta G^* _{peak}$, 40 hrs PAV (40 hrs continuous or 2 PAV at 20 hrs)	≥ 54 %	

The following grades may be specified as tack coats.

Asphalt Grade	Use
PG 58-22, PG 58-28, PG 64-22	Tack Coat

Revise Article 1031.06(c)(1) and 1031.06(c)(2) of the Standard Specifications to read:

“(1) RAP/RAS. When RAP is used alone or RAP is used in conjunction with RAS, the percentage of virgin ABR shall not exceed the amounts listed in the following table.

Ndesign	Binder	Surface	Polymer Modified Binder or Surface ^{3/}
30	30	30	10
50	25	15	10
70	15	10	10
90	10	10	10

1/ For Low ESAL HMA shoulder and stabilized subbase, the RAP/RAS ABR shall not exceed 50 percent of the mixture.

- 2/ When RAP/RAS ABR exceeds 20 percent, the high and low virgin asphalt binder grades shall each be reduced by one grade (i.e. 25 percent ABR would require a virgin asphalt binder grade of PG 64-22 to be reduced to a PG 58-28).
 - 3/ The maximum ABR percentages for ground tire rubber (GTR) modified mixes shall be equivalent to the percentages specified for SBS/SBR polymer modified mixes.
- (2) FRAP/RAS. When FRAP is used alone or FRAP is used in conjunction with RAS, the percentage of virgin asphalt binder replacement shall not exceed the amounts listed in the following table.

HMA Mixtures - FRAP/RAS Maximum ABR % ^{1/2/}			
Ndesign	Binder	Surface	Polymer Modified Binder or Surface ^{3/}
30	55	45	15
50	45	40	15
70	45	35	15
90	45	35	15
SMA	--	--	25
IL-4.75	--	--	35

- 1/ For Low ESAL HMA shoulder and stabilized subbase, the FRAP/RAS ABR shall not exceed 50 percent of the mixture.
- 2/ When FRAP/RAS ABR exceeds 20 percent for all mixes, the high and low virgin asphalt binder grades shall each be reduced by one grade (i.e. 25 percent ABR would require a virgin asphalt binder grade of PG 64-22 to be reduced to a PG 58-28).
- 3/ The maximum ABR percentages for GTR modified mixes shall be equivalent to the percentages specified for SBS/SBR polymer modified mixes.”

Add the following to the end of Note 2 of Article 1030.03 of the Standard Specifications.

“A dedicated storage tank for the ground tire rubber (GTR) modified asphalt binder shall be provided. This tank shall be capable of providing continuous mechanical mixing throughout and/or recirculation of the asphalt binder to provide a uniform mixture. The tank shall be heated and capable of maintaining the temperature of the asphalt binder at 300 °F to 350 °F (149 °C to 177 °C). The asphalt binder metering systems of dryer drum plants shall be calibrated with the actual GTR modified asphalt binder material with an accuracy of ±0.40 percent.”

PORTLAND CEMENT CONCRETE (BDE)

Effective: August 1, 2023

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

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

80451

REMOVAL AND DISPOSAL OF REGULATED SUBSTANCES (BDE)

Effective: January 1, 2024

Revised: April 1, 2024

Revise the first paragraph of Article 669.04 of the Standard Specifications to read:

“669.04 Regulated Substances Monitoring. Regulated substances monitoring includes environmental observation and field screening during regulated substances management activities. The excavated soil and groundwater within the work areas shall be managed as either uncontaminated soil, hazardous waste, special waste, or non-special waste.

As part of the regulated substances monitoring, the monitoring personnel shall perform and document the applicable duties listed on form BDE 2732 “Regulated Substances Monitoring Daily Record (RSM DR)”.

Revise the first two sentences of the nineteenth paragraph of Article 669.05 of the Standard Specifications to read:

“The Contractor shall coordinate waste disposal approvals with the disposal facility and provide the specific analytical testing requirements of that facility. The Contractor shall make all arrangements for collection, transportation, and analysis of landfill acceptance testing.”

Revise the last paragraph of Article 669.05 of the Standard Specifications to read:

“The Contractor shall select a permitted landfill facility or CCDD/USFO facility meeting the requirements of 35 Ill. Admin. Code Parts 810-814 or Part 1100, respectively. The Department will review and approve or reject the facility proposed by the Contractor based upon information provided in BDE 2730. The Contractor shall verify whether the selected facility is compliant with those applicable standards as mandated by their permit and whether the facility is presently, has previously been, or has never been, on the United States Environmental Protection Agency (U.S. EPA) National Priorities List or the Resource Conservation and Recovery Act (RCRA) List of Violating Facilities. The use of a Contractor selected facility shall in no manner delay the construction schedule or alter the Contractor's responsibilities as set forth.”

Revise the first paragraph of Article 669.07 of the Standard Specifications to read:

“669.07 Temporary Staging. Soil classified according to Articles 669.05(a)(2), (b)(1), or (c) may be temporarily staged at the Contractor's option. All other soil classified according to Articles 669.05(a)(1), (a)(3), (a)(4), (a)(5), (a)(6), or (b)(2) shall be managed and disposed of without temporary staging to the greatest extent practicable. If circumstances beyond the Contractor's control require temporary staging of these latter materials, the Contractor shall request approval from the Engineer in writing.

Topsoil for re-use as final cover which has been field screened and found not to exhibit PID readings over daily background readings as documented on the BDE 2732, visual staining or

odors, and is classified according to Articles 669.05(a)(2), (a)(3), (a)(4), (b)(1), or (c) may be temporarily staged at the Contractor's option."

Add the following paragraph after the sixth paragraph of Article 669.11 of the Standard Specifications.

"The sampling and testing of effluent water derived from dewatering discharges for priority pollutants volatile organic compounds (VOCs), priority pollutants semi-volatile organic compounds (SVOCs), or priority pollutants metals, will be paid for at the contract unit price per each for VOCS GROUNDWATER ANALYSIS using EPA Method 8260B, SVOCS GROUNDWATER ANALYSIS using EPA Method 8270C, or RCRA METALS GROUNDWATER ANALYSIS using EPA Methods 6010B and 7471A. This price shall include transporting the sample from the job site to the laboratory."

Revise the first sentence of the eight paragraph of Article 669.11 of the Standard Specifications to read:

"Payment for temporary staging of soil classified according to Articles 669.05(a)(1), (a)(3), (a)(4), (a)(5), (a)(6), or (b)(2) to be managed and disposed of, if required and approved by the Engineer, will be paid according to Article 109.04."

80455

SEEDING (BDE)

Effective: November 1, 2022

Revise Article 250.07 of the Standard Specifications to read:

“250.07 Seeding Mixtures. The classes of seeding mixtures and combinations of mixtures will be designated in the plans.

When an area is to be seeded with two or more seeding classes, those mixtures shall be applied separately on the designated area within a seven day period. Seeding shall occur prior to placement of mulch cover. A Class 7 mixture can be applied at any time prior to applying any seeding class or added to them and applied at the same time.

TABLE 1 - SEEDING MIXTURES		
Class - Type	Seeds	lb/acre (kg/hectare)
1 Lawn Mixture 1/	Kentucky Bluegrass	100 (110)
	Perennial Ryegrass	60 (70)
	<i>Festuca rubra</i> ssp. <i>rubra</i> (Creeping Red Fescue)	40 (50)
1A Salt Tolerant Lawn Mixture 1/	Kentucky Bluegrass	60 (70)
	Perennial Ryegrass	20 (20)
	<i>Festuca rubra</i> ssp. <i>rubra</i> (Creeping Red Fescue)	20 (20)
	<i>Festuca brevipilla</i> (Hard Fescue)	20 (20)
	<i>Puccinellia distans</i> (Fults Saltgrass or Salty Alkaligrass)	60 (70)
1B Low Maintenance Lawn Mixture 1/	Turf-Type Fine Fescue 3/	150 (170)
	Perennial Ryegrass	20 (20)
	Red Top	10 (10)
	<i>Festuca rubra</i> ssp. <i>rubra</i> (Creeping Red Fescue)	20 (20)
2 Roadside Mixture 1/	<i>Lolium arundinaceum</i> (Tall Fescue)	100 (110)
	Perennial Ryegrass	50 (55)
	<i>Festuca rubra</i> ssp. <i>rubra</i> (Creeping Red Fescue)	40 (50)
	Red Top	10 (10)
2A Salt Tolerant Roadside Mixture 1/	<i>Lolium arundinaceum</i> (Tall Fescue)	60 (70)
	Perennial Ryegrass	20 (20)
	<i>Festuca rubra</i> ssp. <i>rubra</i> (Creeping Red Fescue)	30 (20)
	<i>Festuca brevipila</i> (Hard Fescue)	30 (20)
	<i>Puccinellia distans</i> (Fults Saltgrass or Salty Alkaligrass)	60 (70)
3 Northern Illinois Slope Mixture 1/	<i>Elymus canadensis</i> (Canada Wild Rye) 5/	5 (5)
	Perennial Ryegrass	20 (20)
	Alsike Clover 4/	5 (5)
	<i>Desmanthus illinoensis</i> (Illinois Bundleflower) 4/ 5/	2 (2)
	<i>Schizachyrium scoparium</i> (Little Bluestem) 5/	12 (12)
	<i>Bouteloua curtipendula</i> (Side-Oats Grama) 5/	10 (10)
	<i>Puccinellia distans</i> (Fults Saltgrass or Salty Alkaligrass)	30 (35)
	Oats, Spring	50 (55)
	Slender Wheat Grass 5/	15 (15)
	Buffalo Grass 5/ 7/	5 (5)
	3A Southern Illinois Slope Mixture 1/	Perennial Ryegrass
<i>Elymus canadensis</i> (Canada Wild Rye) 5/		20 (20)
<i>Panicum virgatum</i> (Switchgrass) 5/		10 (10)
<i>Schizachyrium scoparium</i> (Little Blue Stem) 5/		12 (12)
<i>Bouteloua curtipendula</i> (Side-Oats Grama) 5/		10 (10)
<i>Dalea candida</i> (White Prairie Clover) 4/ 5/		5 (5)
<i>Rudbeckia hirta</i> (Black-Eyed Susan) 5/		5 (5)
Oats, Spring		50 (55)

Class – Type	Seeds	lb/acre (kg/hectare)
4 Native Grass 2/ 6/	<i>Andropogon gerardi</i> (Big Blue Stem) 5/	4 (4)
	<i>Schizachyrium scoparium</i> (Little Blue Stem) 5/	5 (5)
	<i>Bouteloua curtipendula</i> (Side-Oats Grama) 5/	5 (5)
	<i>Elymus canadensis</i> (Canada Wild Rye) 5/	1 (1)
	<i>Panicum virgatum</i> (Switch Grass) 5/	1 (1)
	<i>Sorghastrum nutans</i> (Indian Grass) 5/	2 (2)
	Annual Ryegrass	25 (25)
	Oats, Spring	25 (25)
	Perennial Ryegrass	15 (15)
	4A Low Profile Native Grass 2/ 6/	<i>Schizachyrium scoparium</i> (Little Blue Stem) 5/
<i>Bouteloua curtipendula</i> (Side-Oats Grama) 5/		5 (5)
<i>Elymus canadensis</i> (Canada Wild Rye) 5/		1 (1)
<i>Sporobolus heterolepis</i> (Prairie Dropseed) 5/		0.5 (0.5)
Annual Ryegrass		25 (25)
Oats, Spring		25 (25)
Perennial Ryegrass		15 (15)
4B Wetland Grass and Sedge Mixture 2/ 6/	Annual Ryegrass	25 (25)
	Oats, Spring	25 (25)
	Wetland Grasses (species below) 5/	6 (6)
<u>Species:</u>		<u>% By Weight</u>
<i>Calamagrostis canadensis</i> (Blue Joint Grass)		12
<i>Carex lacustris</i> (Lake-Bank Sedge)		6
<i>Carex slipata</i> (Awl-Fruited Sedge)		6
<i>Carex stricta</i> (Tussock Sedge)		6
<i>Carex vulpinoidea</i> (Fox Sedge)		6
<i>Eleocharis acicularis</i> (Needle Spike Rush)		3
<i>Eleocharis obtusa</i> (Blunt Spike Rush)		3
<i>Glyceria striata</i> (Fowl Manna Grass)		14
<i>Juncus effusus</i> (Common Rush)		6
<i>Juncus tenuis</i> (Slender Rush)		6
<i>Juncus torreyi</i> (Torrey's Rush)		6
<i>Leersia oryzoides</i> (Rice Cut Grass)		10
<i>Scirpus acutus</i> (Hard-Stemmed Bulrush)		3
<i>Scirpus atrovirens</i> (Dark Green Rush)		3
<i>Bolboschoenus fluviatilis</i> (River Bulrush)		3
<i>Schoenoplectus tabernaemontani</i> (Softstem Bulrush)		3
<i>Spartina pectinata</i> (Cord Grass)		4

Class – Type	Seeds	lb/acre (kg/hectare)
5	Forb with Annuals Mixture 2/ 5/ 6/	Annuals Mixture (Below) Forb Mixture (Below)
		1 (1) 10 (10)
	Annuals Mixture - Mixture not exceeding 25 % by weight of any one species, of the following:	
	<i>Coreopsis lanceolata</i> (Sand Coreopsis) <i>Leucanthemum maximum</i> (Shasta Daisy) <i>Gaillardia pulchella</i> (Blanket Flower) <i>Ratibida columnifera</i> (Prairie Coneflower) <i>Rudbeckia hirta</i> (Black-Eyed Susan)	
	Forb Mixture - Mixture not exceeding 5 % by weight PLS of any one species, of the following:	
	<i>Amorpha canescens</i> (Lead Plant) 4/ <i>Anemone cylindrica</i> (Thimble Weed) <i>Asclepias tuberosa</i> (Butterfly Weed) <i>Aster azureus</i> (Sky Blue Aster) <i>Symphotrichum leave</i> (Smooth Aster) <i>Aster novae-angliae</i> (New England Aster) <i>Baptisia leucantha</i> (White Wild Indigo) 4/ <i>Coreopsis palmata</i> (Prairie Coreopsis) <i>Echinacea pallida</i> (Pale Purple Coneflower) <i>Eryngium yuccifolium</i> (Rattlesnake Master) <i>Helianthus mollis</i> (Downy Sunflower) <i>Heliopsis helianthoides</i> (Ox-Eye) <i>Liatris aspera</i> (Rough Blazing Star) <i>Liatris pycnostachya</i> (Prairie Blazing Star) <i>Monarda fistulosa</i> (Prairie Bergamot) <i>Parthenium integrifolium</i> (Wild Quinine) <i>Dalea candida</i> (White Prairie Clover) 4/ <i>Dalea purpurea</i> (Purple Prairie Clover) 4/ <i>Physostegia virginiana</i> (False Dragonhead) <i>Potentilla arguta</i> (Prairie Cinquefoil) <i>Ratibida pinnata</i> (Yellow Coneflower) <i>Rudbeckia subtomentosa</i> (Fragrant Coneflower) <i>Silphium laciniatum</i> (Compass Plant) <i>Silphium terebinthinaceum</i> (Prairie Dock) <i>Oligoneuron rigidum</i> (Rigid Goldenrod) <i>Tradescantia ohiensis</i> (Spiderwort) <i>Veronicastrum virginicum</i> (Culver's Root)	

Class – Type	Seeds	lb/acre (kg/hectare)
5A Large Flower Native Forb Mixture 2/ 5/ 6/	Forb Mixture (see below)	5 (5)
	<u>Species:</u>	<u>% By Weight</u>
	<i>Aster novae-angliae</i> (New England Aster)	5
	<i>Echinacea pallida</i> (Pale Purple Coneflower)	10
	<i>Helianthus mollis</i> (Downy Sunflower)	10
	<i>Heliopsis helianthoides</i> (Ox-Eye)	10
	<i>Liatris pycnostachya</i> (Prairie Blazing Star)	10
	<i>Ratibida pinnata</i> (Yellow Coneflower)	5
	<i>Rudbeckia hirta</i> (Black-Eyed Susan)	10
	<i>Silphium laciniatum</i> (Compass Plant)	10
	<i>Silphium terebinthinaceum</i> (Prairie Dock)	20
	<i>Oligoneuron rigidum</i> (Rigid Goldenrod)	10
5B Wetland Forb 2/ 5/ 6/	Forb Mixture (see below)	2 (2)
	<u>Species:</u>	<u>% By Weight</u>
	<i>Acorus calamus</i> (Sweet Flag)	3
	<i>Angelica atropurpurea</i> (Angelica)	6
	<i>Asclepias incarnata</i> (Swamp Milkweed)	2
	<i>Aster puniceus</i> (Purple Stemmed Aster)	10
	<i>Bidens cernua</i> (Beggarticks)	7
	<i>Eutrochium maculatum</i> (Spotted Joe Pye Weed)	7
	<i>Eupatorium perfoliatum</i> (Boneset)	7
	<i>Helenium autumnale</i> (Autumn Sneezeweed)	2
	<i>Iris virginica shrevei</i> (Blue Flag Iris)	2
	<i>Lobelia cardinalis</i> (Cardinal Flower)	5
	<i>Lobelia siphilitica</i> (Great Blue Lobelia)	5
	<i>Lythrum alatum</i> (Winged Loosestrife)	2
	<i>Physostegia virginiana</i> (False Dragonhead)	5
	<i>Persicaria pensylvanica</i> (Pennsylvania Smartweed)	10
	<i>Persicaria lapathifolia</i> (Curlytop Knotweed)	10
	<i>Pycnanthemum virginianum</i> (Mountain Mint)	5
	<i>Rudbeckia laciniata</i> (Cut-leaf Coneflower)	5
	<i>Oligoneuron riddellii</i> (Riddell Goldenrod)	2
	<i>Sparganium eurycarpum</i> (Giant Burreed)	5
6 Conservation Mixture 2/ 6/	<i>Schizachyrium scoparium</i> (Little Blue Stem) 5/ <i>Elymus canadensis</i> (Canada Wild Rye) 5/ Buffalo Grass 5/ 7/ Vernal Alfalfa 4/ Oats, Spring	5 (5) 2 (2) 5 (5) 15 (15) 48 (55)
6A Salt Tolerant Conservation Mixture 2/ 6/	<i>Schizachyrium scoparium</i> (Little Blue Stem) 5/ <i>Elymus canadensis</i> (Canada Wild Rye) 5/ Buffalo Grass 5/ 7/ Vernal Alfalfa 4/ Oats, Spring <i>Puccinellia distans</i> (Fulfs Saltgrass or Salty Alkaligrass)	5 (5) 2 (2) 5 (5) 15 (15) 48 (55) 20 (20)
7 Temporary Turf Cover Mixture	Perennial Ryegrass Oats, Spring	50 (55) 64 (70)

Notes:

- 1/ Seeding shall be performed when the ambient temperature has been between 45 °F (7 °C) and 80 °F (27 °C) for a minimum of seven (7) consecutive days and is forecasted to be the same for the next five (5) days according to the National Weather Service.
- 2/ Seeding shall be performed in late fall through spring beginning when the ambient temperature has been below 45 °F (7 °C) for a minimum of seven (7) consecutive days and ending when the ambient temperature exceeds 80 °F (27 °C) according to the National Weather Service.
- 3/ Specific variety as shown in the plans or approved by the Engineer.
- 4/ Inoculation required.
- 5/ Pure Live Seed (PLS) shall be used.
- 6/ Fertilizer shall not be used.
- 7/ Seed shall be primed with KNO_3 to break dormancy and dyed to indicate such.

Seeding will be inspected after a period of establishment. The period of establishment shall be six (6) months minimum, but not to exceed nine (9) months. After the period of establishment, areas not exhibiting 75 percent uniform growth shall be interseeded or reseeded, as determined by the Engineer, at no additional cost to the Department.”

80445

SOURCE OF SUPPLY AND QUALITY REQUIREMENTS (BDE)

Effective: January 2, 2023

Add the following to Article 106.01 of the Standard Specifications:

“The final manufacturing process for construction materials and the immediately preceding manufacturing stage for construction materials shall occur within the United States. Construction materials shall include an article, material, or supply that is or consists primarily of the following.

- (a) Non-ferrous metals;
- (b) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (c) Glass (including optic glass);
- (d) Lumber;
- (e) Drywall.

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

80448

SUBCONTRACTOR AND DBE PAYMENT REPORTING (BDE)

Effective: April 2, 2018

Add the following to Section 109 of the Standard Specifications.

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

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

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

80397

SUBCONTRACTOR MOBILIZATION PAYMENTS (BDE)

Effective: November 2, 2017

Revised: April 1, 2019

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

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

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

80391

SUBMISSION OF PAYROLL RECORDS (BDE)

Effective: April 1, 2021

Revised: November 2, 2023

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

“STATEMENTS AND PAYROLLS

The payroll records shall include the worker’s name, social security number, last known address, telephone number, email address, 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), daily and weekly number of hours actually worked in total, deductions made, and actual wages paid.

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

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

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

In addition to filing certified payroll(s) with the IDOL, the Contractor and each subcontractor shall certify and submit payroll records to the Department each week from the start to the completion of their respective work, except that full social security numbers shall not be included on weekly submittals. Instead, the payrolls shall include an identification number for each employee (e.g., the last four digits of the employee’s social security number). In addition, starting and ending times of work each day may be omitted from the payroll records submitted. The submittals shall be made using LCPTracker Pro software. The software is web-based and can be accessed at <https://lcptracker.com/>.

When there has been no activity during a work week, a payroll record shall still be submitted with the appropriate option (“No Work”, “Suspended”, or “Complete”) selected.”

80437

TRAINING SPECIAL PROVISIONS (BDE)

Effective: October 15, 1975

Revised: September 2, 2021

This Training Special Provision supersedes Section 7b of the Special Provision entitled "Specific Equal Employment Opportunity Responsibilities," and is in implementation of 23 U.S.C. 140(a).

As part of the Contractor's equal employment opportunity affirmative action program, training shall be provided as follows:

The Contractor shall provide on-the-job training aimed at developing full journeyman in the type of trade or job classification involved. The number of trainees to be trained under this contract will be 4 . In the event the Contractor subcontracts a portion of the contract work, it shall determine how many, if any, of the trainees are to be trained by the subcontractor, provided however, that the Contractor shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The Contractor shall also ensure that this Training Special Provision is made applicable to such subcontract. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

The number of trainees shall be distributed among the work classifications on the basis of the Contractor's needs and the availability of journeymen in the various classifications within the reasonable area of recruitment. Prior to commencing construction, the Contractor shall submit to the Illinois Department of Transportation for approval the number of trainees to be trained in each selected classification and training program to be used. Furthermore, the Contractor shall specify the starting time for training in each of the classifications. The Contractor will be credited for each trainee it employs on the contract work who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

Training and upgrading of minorities and women toward journeyman status is a primary objective of this Training Special Provision. Accordingly, the Contractor shall make every effort to enroll minority trainees and women (e.g. by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent such persons are available within a reasonable area of recruitment. The Contractor will be responsible for demonstrating the steps it has taken in pursuance thereof, prior to a determination as to whether the Contractor is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

No employee shall be employed as a trainee in any classification in which he or she has successfully completed a training course leading to journeyman status or in which he or she has been employed as a journeyman. The Contractor should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the Contractor's records should document the findings in each case.

The minimum length and type of training for each classification will be as established in the training program selected by the Contractor and approved by the Illinois Department of Transportation and the Federal Highway Administration. The Illinois Department of Transportation and the Federal Highway Administration shall approve a program, if it is reasonably calculated to meet the equal employment opportunity obligations of the Contractor and to qualify the average trainee for journeyman status in the classification concerned by the end of the training period. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau and training programs approved by not necessarily sponsored by the U.S. Department of Labor Employment Training Administration shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligations of Federal-aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. It is the intention of these provisions that training is to be provided in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower level management positions such as office engineers, estimators, timekeepers, etc., where the training is oriented toward construction applications. Training in the laborer classification may be permitted provided that significant and meaningful training is provided and approved by the Illinois Department of Transportation and the Federal Highway Administration. Some offsite training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

Except as otherwise noted below, the Contractor will be reimbursed 80 cents per hour of training given an employee on this contract in accordance with an approved training program. As approved by the Engineer, reimbursement will be made for training of persons in excess of the number specified herein. This reimbursement will be made even though the Contractor receives additional training program funds from other sources, provided such other source does not specifically prohibit the Contractor from receiving other reimbursement. Reimbursement for offsite training indicated above may only be made to the Contractor where he does one or more of the following and the trainees are concurrently employed on a Federal-aid project; contributes to the cost of the training, provides the instruction to the trainee or pays the trainee's wages during the offsite training period.

No payment shall be made to the Contractor if either the failure to provide the required training, or the failure to hire the trainee as a journeyman, is caused by the Contractor and evidences a lack of good faith on the part of the Contractor in meeting the requirement of this Training Special Provision. It is normally expected that a trainee will begin his training on the project as soon as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his work classification or until he has completed his training program.

It is not required that all trainees be on board for the entire length of the contract. A Contractor will have fulfilled his responsibilities under this Training Special Provision if he has provided acceptable training to the number of trainees specified. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.

Trainees will be paid at least 60 percent of the appropriate minimum journeyman's rate specified in the contract for the first half of the training period, 75 percent for the third quarter of the training period, and 90 percent for the last quarter of the training period, unless apprentices or trainees in an approved existing program are enrolled as trainees on this project. In that case, the appropriate rates approved by the Departments of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by this Training Special Provision.

The Contractor shall furnish the trainee a copy of the program he will follow in providing the training. The Contractor shall provide each trainee with a certification showing the type and length of training satisfactorily complete.

The Contractor shall provide for the maintenance of records and furnish periodic reports documenting its performance under this Training Special Provision.

For contracts with an awarded contract value of \$500,000 or more, the Contractor is required to comply with the Illinois Works Apprenticeship Initiative (30 ILCS 559/20-20 to 20-25) and all applicable administrative rules to the extent permitted by Section 20-20(g). For federally funded projects, the number of trainees to be trained under this contract, as stated in the Training Special Provisions, will be the established goal for the Illinois Works Apprenticeship Initiative 30 ILCS 559/20-20(g). The Contractor shall make a good faith effort to meet this goal. For federally funded projects, the Illinois Works Apprenticeship Initiative will be implemented using the FHWA approved OJT procedures. The Contractor must comply with the recordkeeping and reporting obligations of the Illinois Works Apprenticeship Initiative for the life of the project, including the certification as to whether the trainee/apprentice labor hour goals were met.

Method of Measurement. The unit of measurement is in hours.

Basis of Payment. This work will be paid for at the contract unit price of 80 cents per hour for TRAINEES. The estimated total number of hours, unit price, and total price have been included in the schedule of prices.

20338

VEHICLE AND EQUIPMENT WARNING LIGHTS (BDE)

Effective: November 1, 2021

Revised: November 1, 2022

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

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

80439

WEEKLY DBE TRUCKING REPORTS (BDE)

Effective: June 2, 2012

Revised: November 1, 2021

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

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

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

80302

WORK ZONE TRAFFIC CONTROL DEVICES (BDE)

Effective: March 2, 2020

Add the following to Article 701.03 of the Standard Specifications:

“(q) Temporary Sign Supports 1106.02”

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

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

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

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

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

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

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

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

Category 3 includes devices that are expected to cause significant velocity changes or other potentially harmful reactions to impacting vehicles. These include crash cushions (impact

attenuators), truck mounted attenuators, and other devices not meeting the definitions of Category 1 or 2. Category 3 devices manufactured after December 31, 2019 shall be MASH-16 compliant. Category 3 devices manufactured on or before December 31, 2019, and compliant with NCHRP 350 or MASH 2009, may be used on contracts let before December 31, 2029. Category 3 devices shall be crash tested for Test Level 3 or the test level specified.

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

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

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

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

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

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

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

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

80427

STRUCTURAL REPAIR OF CONCRETE

Effective: March 15, 2006

Revised: August 9, 2019

Description. This work shall consist of structurally repairing concrete.

Materials. Materials shall be according to the following.

Item	Article/Section
(a) Portland Cement Concrete (Note 1)	1020
(b) R1, R2, or R3 Concrete (Note 2)	
(c) Normal Weight Concrete (Notes 3 and 4)	
(d) Shotcrete (High Performance) (Notes 5 and 6)	
(e) Reinforcement Bars	1006.10
(f) Anchor Bolts	1006.09
(g) Water	1002
(h) Curing Compound	1022.01
(i) Cotton Mats	1022.02
(j) Protective Coat	1023.01
(k) Epoxy (Note 7)	1025
(l) Mechanical Bar Splicers	508.06(c)

Note 1. The concrete shall be Class SI, except the cement factor shall be a minimum 6.65 cwt/cu yd (395 kg/cu m), the coarse aggregate shall be a CA 16, and the strength shall be a minimum 4000 psi (27,500 kPa) compressive or 675 psi (4650 kPa) flexural at 14 days. A high range water-reducing admixture shall be used to obtain a 5-7 in. (125-175 mm) slump, but a cement factor reduction according to Article 1020.05(b)(8) is prohibited. A self-consolidating concrete mixture is also acceptable per Article 1020.04, except the mix design requirements of this note regarding the cement factor, coarse aggregate, strength, and cement factor reduction shall apply.

Note 2. The R1, R2, or R3 concrete shall be from the Department's qualified product list of Packaged, Dry, Rapid Hardening, Cementitious Materials for Concrete Repairs. The R1, R2, or R3 concrete shall comply with the air content and strength requirements for Class SI concrete as indicated in Note 1. Mixing shall be per the manufacturer's recommendations, except the water/cement ratio shall not exceed the value specified for Class SI concrete as indicated in Note 1. A high range water-reducing admixture shall be used to obtain a 5-7 in. (125-175 mm) slump, and a retarder may be required to allow time to perform the required field tests. The admixtures shall be per the manufacturer's recommendation, and the Department's qualified product list of Concrete Admixtures shall not apply.

Note 3. The "high slump" packaged concrete mixture shall be from the Department's qualified product list of Packaged, Dry, Formed, Concrete Repair Mixtures. The materials and preparation of aggregate shall be according to ASTM C 387. The

cement factor shall be 6.65 cwt/cu yd (395 kg/cu m) minimum to 7.05 cwt/cu yd (418 kg/cu m) maximum. Cement replacement with fly ash or ground granulated blast-furnace slag shall be according to Section 1020. The “high slump” packaged concrete mixture shall have a water soluble chloride ion content of less than 0.40 lb/cu yd (0.24 kg/cu m). The test shall be performed according to ASTM C 1218, and the “high slump” packaged concrete mixture shall have an age of 28 to 42 days at the time of test. The ASTM C 1218 test shall be performed by an independent lab a minimum of once every two years, and the test results shall be provided to the Department. The coarse aggregate shall be a maximum size of 1/2 in. (12.5 mm). The packaged concrete mixture shall comply with the air content and strength requirements for Class SI concrete as indicated in Note 1. Mixing shall be per the manufacturer’s recommendations, except the water/cement ratio shall not exceed the value specified for Class SI concrete as indicated in Note 1. A high range water-reducing admixture shall be used to obtain a 5-7 in. (125-175 mm) slump. The admixture shall be per the manufacturer’s recommendation, and the Department’s qualified product list of Concrete Admixtures shall not apply. A maximum slump of 10 in. (250 mm) may be permitted if no segregation is observed by the Engineer in a laboratory or field evaluation.

Note 4 The “self-consolidating concrete” packaged concrete mixture shall be from the Department’s qualified product list of Packaged, Dry, Formed, Concrete Repair Mixtures. The materials and preparation of aggregate shall be according to ASTM C 387. The cement factor shall be 6.65 cwt/cu yd (395 kg/cu m) minimum to 7.05 cwt/cu yd (418 kg/cu m) maximum. Cement replacement with fly ash or ground granulated blast-furnace slag shall be according to Section 1020. The “self-consolidating concrete” packaged concrete mixture shall have a water soluble chloride ion content of less than 0.40 lb/cu yd (0.24 kg/cu m). The test shall be performed according to ASTM C 1218, and the “self-consolidating concrete” packaged concrete mixture shall have an age of 28 to 42 days at the time of test. The ASTM C 1218 test shall be performed by an independent lab a minimum of once every two years, and the test results shall be provided to the Department. The concrete mixture should be uniformly graded, and the coarse aggregate shall be a maximum size of 1/2 in. (12.5 mm). The fine aggregate proportion shall be a maximum 50 percent by weight (mass) of the total aggregate used. The packaged concrete mixture shall comply with the air content and strength requirements for Class SI concrete as indicated in Note 1. Mixing shall be per the manufacturer’s recommendations, except the water/cement ratio shall not exceed the value specified for Class SI concrete as indicated in Note 1. The admixtures used to produce self-consolidating concrete shall be per the manufacturer’s recommendation, and the Department’s qualified product list of Concrete Admixtures shall not apply. The packaged concrete mixture shall meet the self-consolidating requirements of Article 1020.04.

Note 5. Packaged shotcrete that includes aggregate shall be from the Department’s qualified product list of Packaged High Performance Shotcrete, and independent

laboratory test results showing the product meets Department specifications will be required. The product shall be a packaged, pre-blended, and dry combination of materials, for the wet-mix shotcrete method according to ASTM C 1480. A non-chloride accelerator may be used according to the shotcrete manufacturer's recommendations. The shotcrete shall be Type FA or CA, Grade FR, and Class I. The fibers shall be Type III synthetic according to ASTM C 1116.

The packaged shotcrete shall have a water soluble chloride ion content of less than 0.40 lb/cu yd (0.24 kg/cu m). The test shall be performed according to ASTM C 1218, and the hardened shotcrete shall have an age of 28 to 42 days at the time of test. The ASTM C 1218 test shall be performed by an independent lab a minimum of once every two years, and the test results shall be provided to the Department.

Each individual aggregate used in the packaged shotcrete shall have either a maximum ASTM C 1260 expansion of 0.16 percent or a maximum ASTM C 1293 expansion of 0.040 percent. However, the ASTM C 1260 value may be increased to 0.27 percent for each individual aggregate if the cement total equivalent alkali content ($\text{Na}_2\text{O} + 0.658\text{K}_2\text{O}$) does not exceed 0.60 percent. As an alternative to these requirements, ASTM C 1567 testing which shows the packaged shotcrete has a maximum expansion of 0.16 percent may be submitted. The ASTM C 1260, C 1293, or C 1567 test shall be performed a minimum of once every two years.

The 7 and 28 day compressive strength requirements in ASTM C 1480 shall not apply. Instead the shotcrete shall obtain a minimum compressive strength of 4000 psi (27,500 kPa) at 14 days.

The packaged shotcrete shall be limited to the following proportions:

The portland cement and finely divided minerals shall be 6.05 cwt/cu yd (360 kg/cu m) to 8.50 cwt/cu yd (505 kg/cu m) for Type FA and 6.05 cwt/cu yd (360 kg/cu. m) to 7.50 cwt/cu yd (445 kg/cu m) for Type CA. The portland cement shall not be below 4.70 cwt/cu yd (279 kg/cu m) for Type FA or CA.

The finely divided mineral(s) shall constitute a maximum of 35 percent of the total cement plus finely divided mineral(s).

Class F fly ash is optional and the maximum shall be 20 percent by weight (mass) of cement.

Class C fly ash is optional and the maximum shall be 25 percent by weight (mass) of cement.

Ground granulated blast-furnace slag is optional and the maximum shall be 30 percent by weight (mass) of cement.

Microsilica is required and shall be a minimum of 5 percent by weight (mass) of cement, and a maximum of 10 percent. As an alternative to microsilica, high-reactivity metakaolin may be used at a minimum of 5 percent by weight (mass) of cement, and a maximum of 10 percent.

Fly ash shall not be used in combination with ground granulated blast-furnace slag. Class F fly ash shall not be used in combination with Class C fly ash. Microsilica shall not be used in combination with high-reactivity metakaolin. A finely divided mineral shall not be used in combination with a blended hydraulic cement, except for microsilica or high-reactivity metakaolin.

The water/cement ratio as defined in Article 1020.06 shall be a maximum of 0.42.

The air content as shot shall be 4.0 – 8.0 percent.

Note 6 Packaged shotcrete that does not include pre-bled aggregate shall be from the Department's qualified product list of Packaged High Performance Shotcrete, and independent laboratory test results showing the product meets Department specifications will be required. The shotcrete shall be according to Note 5, except the added aggregate shall be according to Articles 1003.02 and 1004.02 in addition to each individual aggregate meeting the maximum expansion requirements of Note 5. The aggregate gradation shall be according to the manufacturer. The shotcrete shall be batched and mixed with added aggregate according to the manufacturer.

Note 7. In addition ASTM C 881, Type IV, Grade 2 or 3, Class A, B, or C may be used.

Equipment. Equipment shall be according to Article 503.03 and the following.

Chipping Hammer – The chipping hammer for removing concrete shall be a light-duty pneumatic or electric tool with a 15 lb. (7 kg) maximum class or less.

Blast Cleaning Equipment – Blast cleaning equipment for concrete surface preparation shall be the abrasive type, and the equipment shall have oil traps.

Hydrodemolition Equipment – Hydrodemolition equipment for removing concrete shall be calibrated, and shall use water according to Section 1002.

High Performance Shotcrete Equipment – The batching, mixing, pumping, hose, nozzle, and auxiliary equipment shall be for the wet-mix shotcrete method, and shall meet the requirements of ACI 506R.

Construction Requirements

General. The repair methods shall be either formed concrete repair or shotcrete. The repair method shall be selected by the Contractor with the following rules.

- (a) Rule 1. For formed concrete repair, a subsequent patch to repair the placement point after initial concrete placement will not be allowed. As an example, this may occur in a vertical location located at the top of the repair.
- (b) Rule 2. Formed concrete repair shall not be used for overhead applications.
- (c) Rule 3. If formed concrete repair is used for locations that have reinforcement with less than 0.75 in. (19 mm) of concrete cover, the concrete mixture shall contain fly ash or ground granulated blast-furnace slag at the maximum cement replacement allowed.
- (d) Rule 4. Shotcrete shall not be used for any repair greater than 6 in. (150 mm) in depth, except in horizontal applications, where the shotcrete may be placed from above in one lift.
- (e) Rule 5. Shotcrete shall not be used for column repairs greater than 4 in. (100 mm) in depth, unless the shotcrete mixture contains 3/8 in. (9.5 mm) aggregate.

Temporary Shoring or Cribbing. When a temporary shoring or cribbing support system is required, the Contractor shall provide details and computations, prepared and sealed by an Illinois licensed Structural Engineer, to the Department for review and approval. When ever possible the support system shall be installed prior to starting the associated concrete removal. If no system is specified, but during the course of removal the need for temporary shoring or cribbing becomes apparent or is directed by the Engineer due to a structural concern, the Contractor shall not proceed with any further removal work until an appropriate and approved support system is installed.

Concrete Removal. The Contractor shall provide ladders or other appropriate equipment for the Engineer to mark the removal areas. Repair configurations will be kept simple, and squared corners will be preferred. The repair perimeter shall be sawed a depth of 1/2 in. (13 mm) or less, as required to avoid cutting the reinforcement. Any cut reinforcement shall be repaired or replaced at the expense of the Contractor. If the concrete is broken or removed beyond the limits of the initial saw cut, the new repair perimeter shall be recut. The areas to be repaired shall have all loose, unsound concrete removed completely by the use of chipping hammers, hydrodemolition equipment, or other methods approved by the Engineer. The concrete removal shall extend along the reinforcement bar until the reinforcement is free of bond inhibiting corrosion. Reinforcement bar with 50 percent or more exposed shall be undercut to a depth of 3/4 in. (19 mm) or the diameter of the reinforcement bar, whichever is greater.

If sound concrete is encountered before existing reinforcement bars are exposed, further removal of concrete shall not be performed unless the minimum repair depth is not met.

The repair depth shall be a minimum of 1 in. (25 mm). The substrate profile shall be $\pm 1/16$ in. (± 1.5 mm). The perimeter of the repair area shall have a vertical face.

If a repair is located at the ground line, any excavation required below the ground line to complete the repair shall be included in this work.

The Contractor shall have a maximum of 14 calendar days to complete each repair location with concrete or shotcrete, once concrete removal has started for the repair.

The Engineer shall be notified of concrete removal that exceeds 6 in. (150 mm) in depth, one fourth the cross section of a structural member, more than half the vertical column reinforcement is exposed in a cross section, more than 6 consecutive reinforcement bars are exposed in any direction, within 1.5 in. (38 mm) of a bearing area, or other structural concern. Excessive deterioration or removal may require further evaluation of the structure or installation of temporary shoring and cribbing support system.

Surface Preparation. Prior to placing the concrete or shotcrete, the Contractor shall prepare the repair area and exposed reinforcement by blast cleaning. The blast cleaning shall provide a surface that is free of oil, dirt, and loose material.

If a succeeding layer of shotcrete is to be applied, the initial shotcrete surface and remaining exposed reinforcement shall be free of curing compound, oil, dirt, loose material, rebound (i.e. shotcrete material leaner than the original mixture which ricochets off the receiving surface), and overspray. Preparation may be by lightly brushing or blast cleaning if the previous shotcrete surface is less than 36 hours old. If more than 36 hours old, the surface shall be prepared by blast cleaning.

The repair area and perimeter vertical face shall have a rough surface. Care shall be taken to ensure the sawcut face is roughened by blast cleaning. Just prior to concrete or shotcrete placement, saturate the repair area with water to a saturated surface-dry condition. Any standing water shall be removed.

Concrete or shotcrete placement shall be done within 3 calendar days of the surface preparation or the repair area shall be prepared again.

Reinforcement. Exposed reinforcement bars shall be cleaned of concrete and corrosion by blast cleaning. After cleaning, all exposed reinforcement shall be carefully evaluated to determine if replacement or additional reinforcement bars are required.

Reinforcing bars that have been cut or have lost 25 percent or more of their original cross sectional area shall be supplemented by new in kind reinforcement bars. New bars shall be lapped a minimum of 32 bar diameters to existing bars. A mechanical bar splicer shall be used when it is not feasible to provide the minimum bar lap. No welding of bars shall be performed.

Intersecting reinforcement bars shall be tightly secured to each other using 0.006 in. (1.6 mm) or heavier gauge tie wire, and shall be adequately supported to minimize movement during concrete placement or application of shotcrete.

For reinforcement bar locations with less than 0.75 in. (19 mm) of cover, protective coat shall be applied to the completed repair. The application of the protective coat shall be according to Article 503.19, 2nd paragraph, except blast cleaning shall be performed to remove curing compound.

The Contractor shall anchor the new concrete to the existing concrete with 3/4 in. (19 mm) diameter hook bolts for all repair areas where the depth of concrete removal is greater than 8 in. (205 mm) and there is no existing reinforcement extending into the repair area. The hook bolts shall be spaced at 15 in. (380 mm) maximum centers both vertically and horizontally, and shall be a minimum of 12 in. (305 mm) away from the perimeter of the repair. The hook bolts shall be installed according to Section 584.

Repair Methods. All repair areas shall be inspected and approved by the Engineer prior to placement of the concrete or application of the shotcrete.

- (a) Formed Concrete Repair. Falsework shall be according to Article 503.05. Forms shall be according to Article 503.06. Formwork shall provide a smooth and uniform concrete finish, and shall approximately match the existing concrete structure. Formwork shall be mortar tight and closely fitted where they adjoin the existing concrete surface to prevent leakage. Air vents may be provided to reduce voids and improve surface appearance. The Contractor may use exterior mechanical vibration, as approved by the Engineer, to release air pockets that may be entrapped.

The concrete for formed concrete repair shall be a Class SI Concrete, or a packaged R1, R2, or R3 Concrete,, or a packaged Normal Weight Concrete at the Contractor's option. The concrete shall be placed and consolidated according to Article 503.07. The concrete shall not be placed when frost is present on the surface of the repair area, or the surface temperature of the repair area is less than 40 °F (4 °C). All repaired members shall be restored as close as practicable to their original dimensions.

Curing shall be done according to Article 1020.13.

If temperatures below 45°F (7°C) are forecast during the curing period, protection methods shall be used. Protection Method I according to Article 1020.13(d)(1), or

Protection Method II according to Article 1020.13(d)(2) shall be used during the curing period.

The surfaces of the completed repair shall be finished according to Article 503.15.

- (b) Shotcrete. Shotcrete shall be tested by the Engineer for air content according to Illinois Modified AASHTO T 152. The sample shall be obtained from the discharge end of the nozzle by shooting a pile large enough to scoop a representative amount for filling the air meter measuring bowl. Shotcrete shall not be shot directly into the measuring bowl for testing.

For compressive strength of shotcrete, a 18 x 18 x 3.5 in. (457 x 457 x 89 mm) test panel shall be shot by the Contractor for testing by the Engineer. A steel form test panel shall have a minimum thickness of 3/16 in. (5 mm) for the bottom and sides. A wood form test panel shall have a minimum 3/4 in. (19 mm) thick bottom, and a minimum 1.5 in. (38 mm) thickness for the sides. The test panel shall be cured according to Article 1020.13 (a) (3) or (5) while stored at the jobsite and during delivery to the laboratory. After delivery to the laboratory for testing, curing and testing shall be according to ASTM C 1140.

The method of alignment control (i.e. ground wires, guide strips, depth gages, depth probes, and formwork) to ensure the specified shotcrete thickness and reinforcing bar cover is obtained shall be according to ACI 506R. Ground wires shall be removed after completion of cutting operations. Guide strips and formwork shall be of dimensions and a configuration that do not prevent proper application of shotcrete. Metal depth gauges shall be cut 1/4 in. (6 mm) below the finished surface. All repaired members shall be restored as close as practicable to their original dimensions.

For air temperature limits when applying shotcrete in cold weather, the first paragraph of Article 1020.14(b) shall apply. For hot weather, shotcrete shall not be applied when the air temperature is greater than 90°F (32°C). The applied shotcrete shall have a minimum temperature of 50°F (10°C) and a maximum temperature of 90°F (32°C). The shotcrete shall not be applied during periods of rain unless protective covers or enclosures are installed. The shotcrete shall not be applied when frost is present on the surface of the repair area, or the surface temperature of the repair area is less than 40°F (4°C). If necessary, lighting shall be provided to provide a clear view of the shooting area.

The shotcrete shall be applied according to ACI 506R, and shall be done in a manner that does not result in cold joints, laminations, sandy areas, voids, sags, or separations. In addition, the shotcrete shall be applied in a manner that results in maximum densification of the shotcrete. Shotcrete which is identified as being unacceptable while still plastic shall be removed and re-applied.

The nozzle shall normally be at a distance of 2 to 5 ft. (0.6 to 1.5 m) from the receiving surface, and shall be oriented at right angles to the receiving surface. Exceptions to this

requirement will be permitted to fill corners, encase large diameter reinforcing bars, or as approved by the Engineer. For any exception, the nozzle shall never be oriented more than 45 degrees from the surface. Care shall be taken to keep the front face of the reinforcement bar clean during shooting operations. Shotcrete shall be built up from behind the reinforcement bar. Accumulations of rebound and overspray shall be continuously removed prior to application of new shotcrete. Rebound material shall not be incorporated in the work.

Whenever possible, shotcrete shall be applied to the full thickness in a single layer. The maximum thickness shall be according to Rules 4 and 5 under Construction Requirements, General. When two or more layers are required, the minimum number shall be used and shall be done in a manner without sagging or separation. A flash coat (i.e. a thin layer of up to 1/4 in. (6 mm) applied shotcrete) may be used as the final lift for overhead applications.

Prior to application of a succeeding layer of shotcrete, the initial layer of shotcrete shall be prepared according to the surface preparation and reinforcement bar cleaning requirements. Upon completion of the surface preparation and reinforcement bar treatment, water shall be applied according to the surface preparation requirements unless the surface is moist. The second layer of shotcrete shall then be applied within 30 minutes.

Shotcrete shall be cut back to line and grade using trowels, cutting rods, screeds or other suitable devices. The shotcrete shall be allowed to stiffen sufficiently before cutting. Cutting shall not cause cracks or delaminations in the shotcrete. For depressions, cut material may be used for small areas. Rebound material shall not be incorporated in the work. For the final finish, a wood float shall be used to approximately match the existing concrete texture. A manufacturer approved finishing aid may be used. Water shall not be used as a finishing aid. All repaired members shall be restored as close as practicable to their original dimensions.

Contractor operations for curing shall be continuous with shotcrete placement and finishing operations. Curing shall be accomplished using wetted cotton mats, membrane curing, or a combination of both. Cotton mats shall be applied according to Article 1020.13(a)(5) except the exposed layer of shotcrete shall be covered within 10 minutes after finishing, and wet curing shall begin immediately. Curing compound shall be applied according to Article 1020.13(a)(4), except the curing compound shall be applied as soon as the shotcrete has hardened sufficiently to prevent marring the surface, and each of the two separate applications shall be applied in opposite directions to ensure coverage. The curing compound shall be according to Article 1022.01. Note 5 of the Index Table in Article 1020.13 shall apply to the membrane curing method.

When a shotcrete layer is to be covered by a succeeding shotcrete layer within 36 hours, the repair area shall be protected with intermittent hand fogging, or wet curing with either burlap or cotton mats shall begin within 10 minutes. Intermittent hand fogging may be used only for the first hour. Thereafter, wet curing with burlap or cotton mats shall be

used until the succeeding shotcrete layer is applied. Intermittent hand fogging may be extended to the first hour and a half if the succeeding shotcrete layer is applied by the end of this time.

The curing period shall be for 7 days, except when there is a succeeding layer of shotcrete. In this instance, the initial shotcrete layer shall be cured until the surface preparation and reinforcement bar treatment is started.

If temperatures below 45°F (7°C) are forecast during the curing period, protection methods shall be used. Protection Method I according to Article 1020.13(d)(1), or Protection Method II according to Article 1020.13(d)(2) shall be used during the curing period

Inspection of Completed Work. The Contractor shall provide ladders or other appropriate equipment for the Engineer to inspect the repaired areas. After curing but no sooner than 28 days after placement of concrete or shooting of shotcrete, the repair shall be examined for conformance with original dimensions, cracks, voids, and delaminations. Sounding for delaminations will be done with a hammer or by other methods determined by the Engineer.

The acceptable tolerance for conformance of a repaired area shall be within 1/4 in. (6 mm) of the original dimensions. A repaired area not in dimensional conformance or with delaminations shall be removed and replaced.

A repaired area with cracks or voids shall be considered as nonconforming. Exceeding one or more of the following crack and void criteria shall be cause for removal and replacement of a repaired area.

1. The presence of a single surface crack greater than 0.01 in. (0.25 mm) in width and greater than 12 in. (300 mm) in length.
2. The presence of two or more surface cracks greater than 0.01 in. (0.25 mm) in width that total greater than 24 in. (600 mm) in length.
3. The presence of map cracking in one or more regions totaling 15 percent or more of the gross surface area of the repair.
4. The presence of two or more surface voids with least dimension 3/4 in. (19 mm) each.

A repaired area with cracks or voids that do not exceed any of the above criteria may remain in place, as determined by the Engineer.

If a nonconforming repair is allowed to remain in place, cracks greater than 0.007 in. (0.2 mm) in width shall be repaired with epoxy according to Section 590. For cracks less than or equal to 0.007 in. (0.2 mm) in width, the epoxy may be applied to the surface of the crack. Voids shall be repaired according to Article 503.15.

Publications and Personnel Requirements. The Contractor shall provide a current copy of ACI 506R to the Engineer a minimum of one week prior to start of construction.

The shotcrete personnel who perform the work shall have current American Concrete Institute (ACI) nozzle men certification for vertical wet and overhead wet applications, except one individual may be in training. This individual shall be adequately supervised by a certified ACI nozzle men as determined by the Engineer. A copy of the nozzle men certificate(s) shall be given to the Engineer.

Method of Measurement. This work will be measured for payment in place and the area computed in square feet (square meters). For a repair at a corner, both sides will be measured.

Basis of Payment. This work will be paid for at the contract unit price per square foot (square meter) for STRUCTURAL REPAIR OF CONCRETE (DEPTH GREATER THAN 5 IN. (125 MM)), STRUCTURAL REPAIR OF CONCRETE (DEPTH EQUAL TO OR LESS THAN 5 IN. (125 MM)).

When not specified to be paid for elsewhere, the work to design, install, and remove the temporary shoring and cribbing will be paid for according to Article 109.04.

With the exception of reinforcement damaged by the Contractor during removal, the furnishing and installation of supplemental reinforcement bars, mechanical bar splicers, hook bolts, and protective coat will be paid according to Article 109.04.

BRIDGE DECK CONSTRUCTION

Effective: October 22, 2013

Revised: December 21, 2016

When Diamond Grinding of Bridge Sections is specified, hand finishing of the deck surface shall be limited to areas not finished by the finishing machine and to address surface corrections according to Article 503.16(a)(2). Hand finishing shall be limited as previously stated solely for the purpose of facilitating a more timely application of the curing protection. In addition the requirements of 503.16(a)(3)a. and 503.16(a)(4) will be waived.

Revise the Second Paragraph of Article 503.06(b) to read as follows.

“When the Contractor uses cantilever forming brackets on exterior beams or girders, additional requirements shall be as follows.”

Revise Article 503.06(b)(1) to read as follows.

- “(1) Bracket Placement. The spacing of brackets shall be per the manufacturer’s published design specifications for the size of the overhang and the construction loads anticipated. The resulting force of the leg brace of the cantilever bracket shall bear on the web within 6 inches (150 mm) of the bottom flange of the beam or girder.”

Revise Article 503.06(b)(2) to read as follows.

- “(2) Beam Ties. The top flange of exterior steel beams or girders supporting the cantilever forming brackets shall be tied to the bottom flange of the next interior beam. The top flange of exterior concrete beams supporting the cantilever forming brackets shall be tied to the top flange of the next interior beam. The ties shall be spaced at 4 ft (1.2 m) centers. Permanent cross frames on steel girders may be considered a tie. Ties shall be a minimum of 1/2 inch (13 mm) diameter threaded rod with an adjusting mechanism for drawing the tie taut. The ties shall utilize hanger brackets or clips which hook onto the flange of steel beams. No welding will be permitted to the structural steel or stud shear connectors, or to reinforcement bars of concrete beams, for the installation of the tie bar system. After installation of the ties and blocking, the tie shall be drawn taut until the tie does not vary from a straight line from beam to beam. The tie system shall be approved by the Engineer.”

Revise Article 503.06(b)(3) to read as follows.

- “(3) Beam Blocks. Suitable beam blocks of 4 in x 4 in (100 x 100 mm) timbers or metal structural shapes of equivalent strength or better, acceptable to the Engineer, shall be wedged between the webs of the two beams tied together, within 6 inches (150 mm) of the bottom flange at each location where they are tied. When it is not feasible to have

the resulting force from the leg brace of the cantilever brackets transmitted to the web within 6 inches (150 mm) of the bottom flange, then additional blocking shall be placed at each bracket to transmit the resulting force to within 6 inches (150 mm) of the bottom flange of the next interior beam or girder.”

Delete the last paragraph of Article 503.06(b).

BAR SPLICERS, HEADED REINFORCEMENT

Effective: September 2, 2022

Revised: October 27, 2023

Add the following to Article 508.08(b):

When bar splicers are epoxy-coated, all damaged or uncoated areas near the threaded ends shall be coated with a two-part epoxy according to ASTM D 3963 (D 3963M). All threaded ends of Stage II construction threaded splicer bars shall be coated according to ASTM D 3963 or dipped in an epoxy-mastic primer prior to joining the Stage II construction threaded splicer bar to the threaded coupler.

Add the following Article 508.02 (d)

Bar Terminators1006.10(a)(1)h

Add the following paragraph after Article 508.08 (c):

Bar terminators are threaded, headed attachments to reinforcement to form headed reinforcement. When specified on the plans, a bar terminator shall be attached to the designated reinforcement for development.

Add the following 4th paragraph to Article 508.11:

Bar Terminators will be paid for at the contract unit price per each for BAR TERMINATORS.

Add the following to Article 1006.10(a)(1)g:

For bar splicers with welded connections between the threaded coupler and threaded rod, the Stage I construction threaded splicer bar shall be welded to the threaded coupler using an all-around fillet weld.

Add the following Article 1006.10(a)(1)h:

Bar Terminators. Designated bars shall use a bar terminator to form headed reinforcement. Headed reinforcement shall conform to ASTM A970 with threaded attachment; Class HA; and reinforcement bars conforming to ASTM A706, except the connection strength of the bar terminator to the reinforcement bar shall meet, in tension, at least 125 percent of the specified yield strength of the reinforcement bar. The bar terminator shall be on the Department’s qualified product list.

When the reinforcement bar to receive the bar terminator is epoxy coated, the bar terminator shall also be epoxy coated according to ASTM A 775 (A 775M)

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 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](#).

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 journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates*. Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity*. The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

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

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

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

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

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

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

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its 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.

* * * * *

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.

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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.

* * * * *

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.