

**COUNTY OF SANTA CRUZ  
DEPARTMENT OF PUBLIC WORKS**

**BOOK 2 OF 2**

**SPECIAL PROVISIONS  
AND NOTICE TO BIDDERS**

**FOR CONSTRUCTION OF**

**CASSERLY ROAD PM 2.93, 3.39 STORM  
DAMAGE REPAIR PROJECT,  
FEDERAL PROJECT No. ER-  
32LO(094,104)**

**FOR USE IN CONNECTION WITH STATE OF CALIFORNIA,  
DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS  
DATED 2024 AND STANDARD PLANS DATED 2024**

**BIDS OPEN: June 6, 2025**

**THIS IS A PREVAILING WAGE PROJECT**

# SPECIAL NOTICES

## **DIR Requirement**

See Section 7-1.02K(3) for the requirements for electronic submittal of certified payroll records using LCPtracker Pro.

## **Contractor Licensing Requirements:**

The Contractor shall possess a Class "A" License at the time the contract is awarded.

## **Contractor Responsibilities:**

The contractor is responsible for visiting the site to review the work and access limitation, verify conditions, and understand the project before submitting a bid for the work. There is no pre-bid site meeting for this project.

## **Performance of Work:**

The work herein shall be done in accordance with the Standard Plans & Specifications dated May 2024 of the State of California as they apply to the contract plans and special provisions

All construction shall conform to the County of Santa Cruz Design Criteria and applicable portion of the State Standard Plans and State Standard Specifications.

The Contractor is responsible for the protection and repair of any damage(s) to private property and any utilities on Schulties Road. The exact location of existing underground utilities is not known.

No changes in the approved improvement plans will be approved without prior approval by the Santa Cruz County Department of Public Works.

The alignment information shown on the plans is based on existing topographic survey and the existing centerline of the road. The Contractor will need to verify all controlling field dimensions prior to starting work.

## **Additional Project Information:**

The Contractor is referred to the Geotechnical Report

## **Underground Service Alert:**

Please Call "UNDERGROUND SERVICE ALERT" (U.S.A.) at 811 Or 800-227-2600 before digging.

## PROJECT DIRECTORY/SIGNATURE PAGE

PROJECT: **CASSERLY ROAD PM 2.93, 3.39 STORM DAMAGE REPAIR PROJECT, FEDERAL PROJECT NO. ER-32LO(094,104)**

OWNER: **COUNTY OF SANTA CRUZ, DEPARTMENT OF PUBLIC WORKS  
701 OCEAN STREET, ROOM 410  
SANTA CRUZ, CA 95060**

CONTACT PERSON: **CONTACT NAME AT (831) 454-2698**

CIVIL ENGINEERING STAFF IN RESPONSIBLE CHARGE: **JEFFREY DE LOS SANTOS**

  
\_\_\_\_\_  
Registered Civil Engineer

3/25/2025  
Date



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## STANDARD PLANS LIST

The standard plan sheets applicable to this Contract include those listed below. The applicable revised standard plans (RSPs) listed below are included in the project plans.

### ABBREVIATIONS, LINES, SYMBOLS, AND LEGEND

A3A	Abbreviations (Sheet 1 of 3)
A3B	Abbreviations (Sheet 2 of 3)
A3C	Abbreviations (Sheet 3 of 3)
A10A	Legend - Lines and Symbols (Sheet 1 of 5)
A10B	Legend - Lines and Symbols (Sheet 2 of 5)
A10C	Legend - Lines and Symbols (Sheet 3 of 5)
A10D	Legend - Lines and Symbols (Sheet 4 of 5)
A10E	Legend - Lines and Symbols (Sheet 5 of 5)
A24A	Pavement Markings - Arrows

### TEMPORARY CRASH CUSHIONS, RAILING AND TRAFFIC SCREEN

T1A	Temporary Crash Cushion, Sand Filled (Unidirectional)
T1A1	Temporary Crash Cushion, Sand Filled (Unidirectional)
T1B	Temporary Crash Cushion, Sand Filled (Bidirectional)
T2	Temporary Crash Cushion, Sand Filled (Shoulder Installations)
T3A	Temporary Railing (Type K)
T3B	Temporary Railing (Type K)
T3C	Temporary Barrier System (Cross Bolt)
T3D	Temporary Barrier System (Cross Bolt)
T3E	Temporary Barrier System (Cross Bolt)

### ROADSIDE SIGNS

RS1	Roadside Signs - Typical Installation Details No. 1
RS2	Roadside Signs - Wood Post - Typical Installation Details No. 2
RS4	Roadside Signs - Typical Installation Details No. 4

### MIDWEST GUARDRAIL SYSTEM - STANDARD RAILING SECTIONS

RSP A77N3	Midwest Guardrail System - Typical Line Post Embedment and Hinge Point Offset Details
RSP A77N4	Midwest Guardrail System - Typical Railing Delineation and Dike Positioning Details

### MIDWEST GUARDRAIL SYSTEM - TYPICAL LAYOUTS FOR EMBANKMENTS

A77P2	Midwest Guardrail System - Typical Layouts for Embankments
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### CURBS, DRIVEWAYS, DIKES, CURB RAMPS, AND ACCESSIBLE PARKING

A87B	Hot Mix Asphalt Dikes
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### LANDSCAPE AND EROSION CONTROL

H51	Erosion Control Details - Fiber Roll and Compost Sock
H52	Rolled Erosion Control Product

COUNTY OF SANTA CRUZ DEPARTMENT OF PUBLIC WORKS

## NOTICE TO BIDDERS

The County of Santa Cruz Department of Public Works is accepting electronic Proposal submissions for the

CASSERLY ROAD PM 2.93, 3.39 STORM DAMAGE REPAIR PROJECT

FEDERAL PROJECT No. ER-32LO(094,104)

**Bid opening will occur on June 6, 2025, no later than 2:00 p.m. and soon thereafter, will be publicly opened and read.**

### **GENERAL WORK DESCRIPTION:**

The project location in the County of Santa Cruz is Casserly Road PM 2.93 and 3.39

This project involves the construction of a concrete lagging steel soldier pile retaining walls with tieback anchors, site grading, rock slope protection, metal beam guard railing with terminal end systems, asphalt pavement repair and erosion control & revegetation. The work to be performed under the Contract Documents requires that the Contractor possess a Class "A" license at the time that this contract is awarded. The bidder must be licensed under the provisions of Chapter 9, Division 3, of the Business and Professions Code of the State of California to do the type of work contemplated in the "contract documents" and must be skilled and regularly engaged in the general class or type of work called for under this contract. Contractor and all listed subcontractors must be registered with the Department of Industrial Relations pursuant to Section 1725.5 of the Labor Code.

**THIS PROJECT HAS A GOAL OF 18% FOR DISADVANTAGED BUSINESS ENTERPRISE**

**For the Federal training program, the number of trainees or apprentices is 0**

**Federal-aid project No.: ER-32LO(094,104)**

**Complete the work within 60 working days.**

**Do not include plant establishment working days in your bid.**

**The estimated cost of the project is \$827,500**

Examine the job site and contract documents. Notify the Department of apparent errors and patent ambiguities in the plans, specifications, and bid item list by submitting an electronic inquiry for clarification via the online procurement portal, OpenGov, a minimum of 5 days before bid opening. Failure to do so may result in rejection of a bid or rescission of an award. The correction of the bid documents during the bidding period will be made

by issuing an addendum. Any other interpretation or explanation will not be considered binding.

Prevailing wages are required on this Contract. The Director of the California Department of Industrial Relations determines the general prevailing wage rates. Obtain the wage rates at the DIR Web site, <http://www.dir.ca.gov>, or from the Department's Labor Compliance Office of the district in which the work is located.

The federal minimum wage rates for this Contract as determined by the United States Secretary of Labor are available at the following website, issued on 03/21/2025; <https://sam.gov/wage-determination/CA20250018>.

If the minimum wage rates as determined by the United States Secretary of Labor differs from the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the Contractor and subcontractors must not pay less than the higher wage rate. The County does not accept lower State wage rates not specifically included in the federal minimum wage determinations. This includes helper, or other classifications based on hours of experience, or any other classification not appearing in the federal wage determinations. Where federal wage determinations do not contain the State wage rate determination otherwise available for use by the Contractor and subcontractors, the Contractor and subcontractors must not pay less than the federal minimum wage rate that most closely approximates the duties of the employees in question.

The Department of Public Works hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids and will not be discriminated against on the grounds of race, color, religion, gender, or national origin in consideration for an award.

Award shall be on the basis of the total base bid. Award made to the lowest responsive and responsible bidder. The County of Santa Cruz and its Board of Supervisors reserve the right to waive minor irregularities and/ or reject any or all bids received as the public good may require.

Bid protests must be filed in writing with the Director of Public Works of the County of Santa Cruz, 701 Ocean Street, Rm. 410, Santa Cruz, California, 95060, by certified or registered mail, or by hand delivery during normal working hours not later than three (3) days after the bid opening or, if the protest is based on the selection of the apparent lowest responsible bidder, not later than three (3) days after selection of the apparent lowest responsible bidder. The protest shall specify the reasons and facts upon which the protest is based.



### **CONTRACT DOCUMENTS:**

A digital copy of the Contract documents is available free of charge and can be downloaded via the online procurement portal, OpenGov, <https://procurement.opengov.com/portal/santacruzcounty>

### **PROPOSAL INSTRUCTIONS:**

Bidders shall create a free of charge account via the online procurement portal, ProcureNow by signing up at <https://procurement.opengov.com/signup>.

For additional information on account registration, see <https://opengov.my.site.com/support/s/>

Once account registration is completed, browse back to this page, <https://procurement.opengov.com/portal/santacruzcounty>, click on the "Project Name", "Submit Response", and follow the instructions to submit the electronic bid.

Only electronic Proposals will be accepted.

Proposal forms for this work must be uploaded via the online procurement portal, OpenGov. Copies are included in a separate book entitled:

BOOK 1 of 2

BID BOOK

FOR CONSTRUCTION OF

**CASSERLY ROAD PM 2.93, 3.39 STORM DAMAGE REPAIR PROJECT**

**FEDERAL PROJECT NO. ER-32LO(094,104)**

Cashier's check or certified check, payable to the order of the County of Santa Cruz, of not less ten percent (10%) of the bid submitted, payable to the County of Santa Cruz and signed by the bidder as well as a corporate surety, shall accompany the bid. Bidder's bonds shall be issued by a corporate surety duly admitted and authorized to issue bonds and undertakings by the State of California. Scan and upload a copy of your bid bond/cashier's check via the online procurement portal, OpenGov.

After bid opening, please mail the original Proposal forms and bid bond/cashier's or certified check within 4 business days to the Contract Analyst, Rosa Ortiz-Rocha;

Attn: Rosa Ortiz-Rocha

County of Santa Cruz Department of Public Works

Bid Proposal for CASSERLY ROAD PM 2.93, 3.39 STORM DAMAGE REPAIR  
PROJECT

701 Ocean Street, Room 410

Santa Cruz, CA 95060

Any questions concerning the bid process, required submittals, evaluation criteria, bid schedule, and selection process should be sent through OpenGov.

**BID OPENING:**

The County of Santa Cruz Department of Public Works will conduct bid openings through the videoconferencing platform, Zoom, in lieu of in person attendance.

Bid results will be posted to OpenGov after the bid opening.

To view the live bid opening please go to:

Topic: CASSERLY ROAD PM 2.93, 3.39 STORM DAMAGE  
REPAIR PROJECT

Date and Time: June 6, 2025 at 2:00 p.m. Pacific Time

Zoom Meeting: <https://us02web.zoom.us/j/6307868819?omn=82129350381>


Meeting ID: 630 786 8819

Phone Number: +1 669 900 6833 US (San Jose)

Find your local number: <https://us02web.zoom.us/j/6307868819?omn=82129350381>

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF SANTA CRUZ

Date: 3/25/2025

DocuSigned by:  
  
50EBAC64454C48C...

Matthew Machado  
Deputy CAO/Director of Public Works

# ORGANIZATION

Special provisions are under headings that correspond with the main-section headings of the *Standard Specifications*. A main-section heading is a heading shown in the table of contents of the *Standard Specifications*.

Each special provision begins with a revision clause that describes or introduces a revision to the *Standard Specifications* as revised by any revised standard specification.

Any paragraph added or deleted by a revision clause does not change the paragraph numbering of the *Standard Specifications* for any other reference to a paragraph of the *Standard Specifications*.

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## DIVISION I GENERAL PROVISIONS

### 1 GENERAL

#### **Replace the following definitions in section 1-1.07B:**

**Contract:** Written and executed contract between the Department and the Contractor. The contract includes all contract documents.

**Department:** Department of Public Works of the County of Santa Cruz, California.

**Director:** Director of Public Works of the County of Santa Cruz, California.

**Engineer:** The Director of Public Works of the County of Santa Cruz or the designated representative.

**State:** The County of Santa Cruz, California.

#### **Add to section 1-1.07B:**

**Board of Supervisors:** Board of Supervisors of the County of Santa Cruz, California.

**Construction Change Directive(CCD):** Written directive, signed by County, directing Contractor to perform and/or omit certain work. Promptly comply with the Construction Change Directive and promptly perform and/or omit the work specified

**Contract Documents:** Includes Bid Book (Book 1 of 2), Special Provisions and Notice to Bidders (Book 2 of 2), Standard Specifications, Project Plans, Standard Plans, Revised Standard Plans, supplemental project information, any addenda issued, Change Orders, and any other documentation described as such in the Contract Documents.

**Contract Sum:** Total compensation specified in the contract. The Contract Sum may be adjusted by Change Order

**County:** Santa Cruz, California its trustees, officers, and employees.

**County Clerk:** County Clerk of the County of Santa Cruz, California.

**County Counsel:** County Counsel of the County of Santa Cruz, California.

**Department of Transportation:** Department of Public Works of the County of Santa Cruz, California.

**District:** Department of Public Works of the County of Santa Cruz, California.

**Laboratory or Transportation Laboratory:** Laboratory suitable to the Engineer.

**Office of Administrative Hearings:** Board of Supervisors of the County of Santa Cruz, California.

**Project:** The total of the work and obligations agreed to be performed under the Contract.

**Project Engineer:** Engineer of Record.

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## 2 BIDDING

### Replace the first paragraph of section 2-1.06A with:

The Bid Book (Book 1 of 2) contains bid forms, and certifications.

### Add between the 1st and 2nd paragraphs of section 2-1.06B:

The Department makes the following supplemental project information available:

#### Supplemental Project Information

Means	Description
Included in the <i>Information Handout</i>	Geotechnical Report, Environmental Permits

### Add to section 2-1.06B:

In addition to the plans incorporated in the Contract at the time of signing, the Engineer may furnish working plans and supplemental plans from time to time as may be necessary to make clear, or to define in greater detail, the intent of the Contract Documents and special provisions. In furnishing additional drawings and/or instructions, the Engineer has authority to make minor changes in the work, not involving extra cost, and not inconsistent with the nature of the work. These working drawings and supplemental drawings become a part of the Contract Documents, and the Contractor must make its work conform to them.

The report(s) may contain facts that may materially affect Bidders' bids. In addition, the County has constructed other public works projects throughout the County of Santa Cruz and obtained reports and other information in the course of the design and construction of those other public works construction projects, all of which may contain facts that may materially affect Bidders' bids. Bidders are strongly encouraged to inspect all of County of Santa Cruz Department of Public Works reports, records and documents referred to above. Said reports and documents will be made available upon written request at Santa Cruz County Department of Public Works for inspection and copying at Bidders' sole cost and expense, during normal working hours.

Where investigations of subsurface conditions have been made with respect to foundation or other structural design, and that information is made available to you, said information represents only the statement as to the character of materials which have been actually encountered by the County in its investigation, and is only made available or included for the convenience of bidders.

Investigations of subsurface conditions are made for the purpose of design, and the County assumes no responsibility whatsoever with respect to the sufficiency or accuracy of borings, the log of test borings, or other preliminary investigations, or of the interpretation, and there is no guaranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the work, or any part of it, or that unanticipated conditions may not occur. When a log of test borings is made available to you or included in the Contract Documents, it is expressly understood and agreed that the log of test borings does not constitute a part of the Contract and is made available or included in the Contract Documents only for the convenience of the bidders. Making such information available to bidders is not to be construed in any

way as a waiver of the provisions of section 2-1.07, and bidders must satisfy themselves, through their own investigations, as to conditions to be encountered.

**Replace the first paragraph of section 2-1.07 with:**

Examine the job site and bid documents. Notify the Department of apparent errors and patent ambiguities in the plans, specifications, and Bid Item List by submitting a written request for clarification a minimum of 5 days before bid opening. Failure to do so may result in rejection of a bid or rescission of an award. The correction of the bid documents during the bidding period will be made by issuing an addendum. Any other interpretation or explanation will not be considered binding.

**Replace section 2-1.11 with:**

**2-1.11 IN-USE OFF-ROAD DIESEL-FUELED VEHICLE LIST**

Section 2-1.11 applies to non-informal-bid contracts.

Complete and submit the In-Use Off-Road Diesel-Fueled Vehicle List form under section 2-1.33.

On the In-Use Off-Road Diesel-Fueled Vehicle List form, list each fleet used by you or your subcontractor to perform work and is subject to 13 CCR § 2449 et seq. Submit a copy of a valid Certificate of Reported Compliance (13 CCR § 2449, subdivision (n)) for each fleet listed on the form within 10 days of bid opening. Failure to list a fleet used by you or your subcontractor to perform work on the In-Use Off-Road Diesel-Fueled Vehicle List form may result in a nonresponsive bid. Failure to submit the Certificate of Reported Compliance for a fleet listed on the In-Use Off-Road Diesel-Fueled Vehicle List form may result in a nonresponsive bid.

**Replace section 2-1.12 with:**

**2-1.12 DISADVANTAGED BUSINESS ENTERPRISES**

**2-1.12A General**

Section 2-1.12 applies to a federal-aid contract.

Under 49 CFR 26.13(b):

The contractor, sub recipient, 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.

Include this assurance in each subcontract you sign with a subcontractor.

**2-1.12B Disadvantaged Business Enterprise Goal**

**2-1.12B(1) General**

Section 2-1.12B applies if a DBE goal is shown on the *Notice to Bidders*.

The Department shows a DBE goal to comply with the DBE program objectives provided in 49 CFR 26.1.

Make work available to DBEs and select work parts consistent with the available DBEs, including subcontractors, suppliers, service providers, and truckers.

Meet the DBE goal shown on the *Notice to Bidders* or demonstrate that you made adequate good faith efforts to meet this goal.

You are responsible to verify at bid opening that each DBE firm is certified as a DBE by the California Unified Certification Program (CUCP) and possesses the most specific available North American Industry

Classification System (NAICS) Codes and California Work Codes applicable to the type of work the firm will perform on the Contract. You are responsible for documenting each DBE firm's certification by printing out the California Unified Certification Program (CUCP) profile data for each DBE firm. The CUCP database of certified DBE firms is located on the following website:

<https://caltrans.dbesystem.com/>

Determine that selected DBEs perform a commercially useful function for the type of work the DBE will perform on the Contract as provided in 49 CFR 26.55(c)(1)–(4). Under 49 CFR 26.55(c)(1)–(4), the DBE must be responsible for the execution of a distinct element of work and must carry out its responsibility by actually performing, managing, and supervising the work.

DBE participation will count toward the Caltrans federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs will be evaluated on a contract-by-contract basis and counts toward the goal in the following manner:

1. 100 percent if the materials or supplies are obtained from a DBE manufacturer.
2. 60 percent if the materials or supplies are obtained from a DBE regular dealer.
3. Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies if they are obtained from a DBE that is neither a manufacturer nor a regular dealer. 49 CFR 26.55 defines *manufacturer* and *regular dealer*.

You receive credit toward the goal if you employ a DBE trucking company that is performing a commercially useful function. The Department uses the following factors from 49 CFR 26.55(d) in determining whether a DBE trucking company is performing a commercially useful function:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- 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.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

#### 2-1.12B(2) DBE Commitment Submittal

Submit the DBE Commitment form and the following supporting DBE information no later than 4 p.m. on the 5th day after bid opening:

- Quote from each DBE shown on the DBE Commitment form that describes the type and dollar amount of work
- DBE Confirmation form for each DBE shown on the DBE Commitment form to establish that it will be participating in the Contract in the type and dollar amount of work shown on the form.
- If a DBE is participating as a joint venture partner, submit a copy of the joint venture agreement.

If the last day for submitting the DBE information falls on a Saturday or holiday, it may be submitted on the next business day with the same effect as if it had been submitted on the 5th day.

Failure to submit a completed DBE Confirmation form and a copy of the quote from each DBE will result in disallowance of the DBE's participation.

#### 2-1.12B(3) DBE Good Faith Efforts Submittal

You can meet the DBE requirements by either documenting commitments to DBEs to meet the DBE goal or by documenting adequate good faith efforts to meet the DBE goal. An adequate good faith effort means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal.

If your DBE Commitment form shows that you have not met the DBE goal, complete and submit the DBE Good Faith Efforts Documentation form no later than 4 p.m. on the 5th day after bid opening showing that you made adequate good faith efforts to meet the goal. If the last day for submitting the DBE Good Faith Efforts Documentation form falls on a Saturday or holiday, it may be submitted on the next business day with the same effect as if it had been submitted on the 5th day.

Only good faith efforts directed toward obtaining participation by DBEs are considered.

Even if your DBE Commitment form shows that you have met the DBE goal, submit the DBE Good Faith Efforts Documentation form within the specified time to protect your eligibility for award of the contract in the event the Department finds that the DBE goal has not been met.

Refer to 49 CFR 26 appendix A for guidance regarding evaluation of good faith efforts to meet the DBE goal.

The Department considers DBE commitments of other bidders in determining whether the low bidder made good faith efforts to meet the DBE goal.

#### 2-1.12B(4) Bidder's List Submittal

Submit the Bidder's List form no later than 4 p.m. on the 5th day after bid opening. List yourself and each subcontractor (regardless of DBE status) that provided a quote or bid on this contract in accordance with 49 CFR 26.11.

### **Replace the first paragraph of section 2-1.33A with:**

Complete the forms in the *Bid* book. Submit forms at time of bid unless section 2-1.33D specifies a different deadline.

### **Replace section 2-1.33B with:**

#### 2-1.33B Bid Form Submittal Schedules

##### 2-1.33B(1) General

The Bid book includes forms specific to the Contract. The deadlines for the submittal of the forms vary depending on the requirements of each Contract. Determine the requirements of the Contract and submit the forms based on the applicable schedule specified in section 2-1.33B.

Bid forms and information on the form that are due after the time of bid may be submitted at the time of bid.

##### 2-1.33B(2) Federal-Aid Contracts

###### 2-1.33B(2)(a) General

Section 2-1.33B(2) applies to a federal-aid contract.

###### 2-1.33B(2)(b) Contracts with a DBE Goal

###### 2-1.33B(2)(b)(i) General

Section 2-1.33B(2)(b) applies if a DBE goal is shown on the Notice to Bidders.

###### 2-1.33B(2)(b)(ii) Bid Form Submittal

Submit the bid forms according to the schedule shown in the following table:

Bid Form Submittal Schedule for a Federal-Aid Contract with a DBE Goal

Form	Submittal deadline
Bid to the Department of Transportation	Time of bid except for the public works contractor registration number
Copy of the Bid to the Department of Transportation as submitted at the time of bid with the public works contractor registration number	10 days after bid opening
Subcontractor List (Exhibit 12-B Part 1 and 2)	Time of bid except for the public works contractor registration number
Copy of the Subcontractor List as submitted at the time of bid with the public works contractor registration number (Exhibit 12-B Part 1 and 2)	10 days after bid opening
In-Use Off-Road Diesel-Fueled Vehicle List	10 days after bid opening
Opt Out of Payment Adjustments for Price Index Fluctuations <sup>a</sup>	Time of bid
DBE Commitment (Exhibit 15-G)	No later than 4 p.m. on the 5th day after bid opening <sup>b</sup>
DBE Confirmation (LAPM 9-I)	No later than 4 p.m. on the 5th day after bid opening <sup>b</sup>
DBE Good Faith Efforts Documentation (Exhibit 15-H)	No later than 4 p.m. on the 5th day after bid opening <sup>b</sup>
Non-collusion Affidavit	Time of bid

a. Submit only if you choose the option.

b. If the last day for submitting the bid form falls on a Saturday or holiday, it may be submitted on the next business day with the same effect as if it had been submitted on the day specified.

2-1.33B(2)(b)(iii) Reserved

2-1.33B(2)(c) Contracts without a DBE Goal

2-1.33B(2)(c)(i) General

Section 2-1.33B(2)(c) applies if a DBE goal is not shown on the Notice to Bidders.

2-1.33B(2)(c)(ii) Bid Form Schedule

Submit the bid forms according to the schedule shown in the following table:

Bid Form Submittal Schedule for a Federal-Aid Contract without a DBE Goal

Form	Submittal deadline
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Bid to the Department of Transportation	Time of bid except for the public works contractor registration number
Copy of the Bid to the Department of Transportation as submitted at the time of bid with the public works contractor registration number	10 days after bid opening
Subcontractor List (Exhibit 12-B Part 1 and 2)	Time of bid except for the public works contractor registration number
Copy of the Subcontractor List as submitted at the time of bid with the public works contractor registration numbers (Exhibit 12-B Part 1 and 2)	10 days after bid opening
In-Use Off-Road Diesel-Fueled Vehicle List	10 days after bid opening
Opt Out of Payment Adjustments for Price Index Fluctuations <sup>a</sup>	Time of bid

a. Submit only if you choose the option.

2-1.33B(2)(c)(iii) Reserved

2-1.33B(2)(d)–2-1.33B(2)(h) Reserved

**Replace items 2-4 of the list in the first paragraph of section 2-1.34 with:**

2. Cashier's check made payable to the County of Santa Cruz
3. Certified check made payable to the County of Santa Cruz
4. Bidder's bond signed by a surety insurer who is licensed in California made payable to the County of Santa Cruz

**Add to section 2-1.34:**

The Bidder must pay to the County such sums from said cash, bond, certified check, or cashier's check as necessary to reimburse the County for costs incurred for failure of the successful bidder to complete, sign and return in strict compliance with these Contract Documents, the Contractor's Qualification Questionnaire, or enter into a contract. The amount of said cash, bond, certified check, or cashier's check must not be deemed to constitute a penalty or liquidated damages. The County will not be precluded by such cash, bond, certified check, or cashier's check from recovering from the defaulting bidder damages in excess of the amount of said cash, bond, certified check, or cashier's check incurred as a result of the failure of the successful bidder to complete, sign and return in strict compliance with these Contract Documents, if requested to do so, Contractor's Qualification Questionnaire, or enter into a contract.

**Replace section 2-1.43 with:**

The Department publicly opens and reads bids at the time and place shown on the Notice to Bidders.

**Replace section 2-1.46 with:**

The Department's decision on the bid amount is final.

The Department may reject:

1. Any and all bids
2. A nonresponsive bid

The Department may waive any minor irregularity in a bid.



### 3-1.06 CONTRACTOR LICENSE

**Replace the first paragraph of section 3-1.07 with:**

1. Copy of its commercial general liability policy and its excess policy or binder until such time as a policy is available, including the declarations page, applicable endorsements, riders, and other modifications in effect at the time of contract execution. Standard ISO form no. CG 00 01 or similar exclusions are allowed if not inconsistent with section 7-1.06. The allowance of additional exclusions is at the discretion of the Department.
2. Certificate of insurance showing all other required coverages. Certificates of insurance, as evidence of required insurance for the auto liability and any other required policy, must set forth deductible amounts applicable to each policy and all exclusions that are added by endorsement to each policy. The evidence of insurance must provide that no cancellation, lapse, or reduction of coverage will occur without 30 days prior written notice to the Department.
3. Declaration under the penalty of perjury by a CPA certifying the accountant has applied GAAP guidelines confirming the successful bidder has enough funds and resources to cover any self-insured retentions if the self-insured retention is over \$50,000.

### 3-1.09 FRINGE BENEFIT STATEMENT FORM

**Replace the third and fifth paragraphs in section 3-1.18 with:**

Contractor hereby assigns to County all its first-tier subcontracts now or hereafter entered into by Contractor for performance of any part of the work. The assignment will be effective upon acceptance by County in writing, and only as to those subcontracts, which County designates in writing. Such assignment is part of the consideration to County for entering into the Contract with Contractor and may not be withdrawn.

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## **4 SCOPE OF WORK**

### **Add to section 4-1.02:**

All work and materials must be in accordance with the latest adopted standards and regulations of the State Fire Marshal; the Uniform Building Code; the National Electrical Code; the Uniform Plumbing Code; Americans With Disabilities Act; and all other applicable codes, laws, or regulations. Immediately upon signing of the Contract, diligently review the Contract Documents and determine if any work described or inferred within the Contract Documents is not in conformance with these requirements. If you discover work within the Contract Documents not in conformance with these requirements, immediately notify the Engineer in writing. When the work in the Contract Documents differs from governing codes, Contract Sum is based upon the more costly or expensive standard.

### **Replace section 4-1.06 with:**

#### **4-1.06 CHANGED CONDITIONS (23 CFR 635.109)**

##### **4-1.06A DIFFERING SITE CONDITIONS**

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

##### **4-1.06B SUSPENSIONS OF WORK ORDERED BY THE ENGINEER**

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

##### **4-1.06C SIGNIFICANT CHANGES IN THE CHARACTER OF WORK**

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such

2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:
  - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
  - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

#### 4-1.14 AS-BUILT PLANS

Before Contract acceptance, you and the Engineer will review the 'As Built Plans' and make revisions or changes as necessary and certify them as accurately representing the final project. Deliver a copy of the final 'As Built Plans' to the Engineer before contract acceptance.

## 5 CONTROL OF WORK

If any particular type or piece of equipment has been banned, or if the Engineer has condemned for use on the work, any piece or pieces of equipment, promptly remove such equipment from the site of the work. Failure to do so within a reasonable time may be considered a breach of contract.

Make arrangements for a construction staging area and provide the Engineer with the Construction Staging Area Notification Form in the Contract, for the approval of the Engineer of those arrangements. Staging area must be in conformance with all County land use and zoning regulations.

Incorporate best management practices such as surfacing the ingress and egress to the construction staging area with gravel, compacted base rock material or other measures to prevent tracking or deposition of mud, dirt, dust and debris onto the public right of way or outside of the staging area. Submit details of the proposed ingress/egress improvements to the Engineer prior to use of said construction staging area. During the course of the work and prior to the end of each work day, clean all tracked materials from the public right of way to the satisfaction of the Engineer. Should you fail to adequately clean the public travel way within a four hour written notice by the Engineer or by the end of the work day, you shall forfeit \$100 to the County plus the cost of any County expenditures to clean the travel way per occurrence. Forfeited amounts and County expenditures will be deducted from the next progress payment.

Provide the Engineer with two working days prior written notice of any work to be done on a Saturday, with the location and type of work to be done specified; and any work done without such notice and without the supervision of an inspector may be ordered removed and replaced at your expense.

**Replace the second paragraph of section 5-1.12 with:**

Do not assign the right to receive Contract payments to a third party. The Department does not accept the assignment. This does not pertain to escrow accounts established for the sole purpose of depositing retained earnings in accordance with Section 10263 of the Public Contract Code.

**Add to section 5-1.13A:**

For federal-aid contracts insert form FHWA-1273 in all subcontractor contracts and all lower tier subcontracts.

**Replace section 5-1.13B with:**

**5-1.13B Disadvantaged Business Enterprises**

**5-1.13B(1) General**

Section 5-1.13B applies to a federal-aid contract.

Use each DBE as listed on the DBE Commitment form unless you receive Department prior authorization for termination under section 5-1.13B(2)(c). Ensure that all subcontracts and agreements with DBEs to supply labor or materials are performed under 49 CFR 26.

Maintain records of subcontracts made with DBE subcontractors and records of materials purchased from DBE suppliers. Include in the records:

1. Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
2. Date of payment and total amount paid to each DBE business

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th day of each month for the previous month's work, submit the Monthly DBE Trucking Verification form (LAPM Exhibit 16-Z1)

If a DBE is decertified before completing its work, the business must notify you in writing of the decertification date within 15 days of decertification. Notify the Engineer and submit the DBE's decertification notice within 2 business days of your receipt. Upon work completion, complete a Disadvantage Business Enterprises (DBE) Certification Status Change form, Exhibit 17-O, and submit within 10 days of Contract acceptance.

Upon work completion, complete a Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors form (LAPM Exhibit 17-F) and submit within 10 days of Contract

acceptance. The Department withholds the greater of 10 percent of the DBE commitment or \$10,000 until the form is submitted. The Department releases the withhold upon submission of the completed form. If additional payments are made to a DBE after submittal of the completed form, submit an updated form to reflect such payments.

Failure to carry out requirements of 49 CFR 26 is a material breach of the Contract, which may result in the termination of the Contract or other remedy as the Department deems appropriate, such as:

1. Withholding monthly progress payments
2. Assessing sanctions
3. Applying liquidated damages
4. Disqualification from future bidding as nonresponsive

#### 5-1.13B(2) Disadvantaged Business Enterprises

##### 5-1.13B(2)(a) General

Section 5-1.13(B)(2) applies if a DBE goal is shown on the *Notice to Bidders*.

Certification as a DBE identifies if the business has the means to perform its work under assigned North American Industry Classification System codes and work codes applicable to the type of work the DBE will perform on the Contract. Certification does not ensure the DBE will perform a commercially useful function on the Contract.

You are responsible for ensuring each DBE listed on the DBE Commitment form performs:

1. The description and value of the subcontracted work or material supplied as committed
2. A commercially useful function under 49 CFR 26.55 for committed work or materials

For DBE committed work, the Department only pays for work performed or supplied by the listed DBE and if a commercially useful function was performed by the listed DBE.

You are responsible to remediate noncompliant DBE work to meet your DBE commitment. Submit a DBE commitment remediation plan within 5 business days of the Engineer's request.

Pay your DBEs in conformance with section 5-1.13E.

Failure to promptly pay DBEs may result in a withholds corresponding to the value of the DBE's committed work from future progress payments. In addition, unpaid DBE amounts will not count towards your DBE commitment, which may result in equivalent withholds or deductions and a 2 percent penalty on the unpaid amount for every month payment is not made.

##### 5-1.13B(2)(b) Commercially Useful Function

DBEs must perform a commercially useful function under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBEs value of work will only count toward the DBE commitment if the DBE performs a commercially useful function under 49 CFR 26.55.

Provide written notification to the Engineer at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. Include the DBE's name, contract work to be performed, and the location, date, and time of where their work will take place.

Within 10 days of a DBE initially performing work or supplying materials on the Contract, submit your initial evaluation and validation of their performance of a commercially useful function using DBE Commercially Useful Function Evaluation form (LAPM Exhibit 9-J). Include the following supporting information with your submittal:

1. Subcontract agreement with the DBE
2. Purchase orders
3. Bills of lading
4. Invoices
5. Proof of payment

Monitor your DBEs' performance of commercially useful function with quarterly evaluations and validations throughout their duration of work on the Contract using DBE Commercially Useful Function Evaluation form. Submit your quarterly evaluation and validation DBE Commercially Useful Function Evaluation forms by the 5th of the month for the previous three month's work. Include any additional supplemental supporting information with your submittal. If your DBE's work-start and -end dates for the Contract exceed a three-month period, regardless of time not on the Contract, quarterly evaluations and validations are required.

Notify the Engineer immediately if you believe the DBE may not be performing a commercially useful function.

The Department will verify your DBEs performance of commercially useful functions by reviewing your initial and quarterly DBE Commercially Useful Function Evaluation forms, your submitted supporting information, field observations, and through select Department evaluations. The Department may evaluate DBEs and their commercially useful function performance at any time during the Contract. In such instances, the Department will provide written notice to you and your DBE at least 2 business days prior to the evaluation. You and your DBE must participate in the evaluation. Upon completing the evaluation, the Department will share the evaluation results with you and your DBE. The evaluation results may include items that must be remedied upon your receipt. If the Department determines the DBE is not performing a commercially function you must suspend performance of the noncompliant work.

You and your DBEs must submit any additional commercially useful function related records and documents within 5 business days of Department request such as:

1. Proof of ownership or lease and rental agreements for equipment
2. Tax records
3. Employee rosters
4. Certified payroll records
5. Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and documents will result in withhold of payment for the value of work completed by the DBE.

If you and or the Department determine a listed DBE is not performing a commercially useful function in performance of their DBE committed work, suspend performance of the noncompliant portion of the work. Submit a corrective action plan within 5 days of the noncompliant commercially useful function determination. The plan must identify how you will remediate when feasible or demonstrate commercially useful function compliance for the remaining portion of the DBE's work. Allow 5 days for plan review. The corrective actions must be implemented within 5 days of Engineer's authorization of your plan and prior to resumption of the noncompliant portion of the DBE's committed work.

If corrective actions cannot be accomplished to assure the DBE will perform a commercially useful function on the Contract, you may have good cause to request termination of the DBE under section 5-1.13B(2)(c).

#### 5-1.13B(2)(c) Termination

Termination of a DBE may be allowable for good cause reasons under 49 CFR 26.53(f)(3) with prior written authorization from the Department.

You must provide documentation supporting good cause reasoning with your termination request. If the termination request is authorized by the Department, you must then either replace the DBE with another DBE or demonstrate good faith efforts to do so under 5-1.13B(2)(d).

Use the following procedure to request the termination of a DBE or portion of their work:

1. Provide written notice to the DBE of your intent to use other forces or material sources and include one or more of the good cause reasons under 49 CFR 26.53(f)(3). Simultaneously send a copy of this written notice to the Engineer. Your written notice to the DBE must request they provide any response to both you and the Engineer.



2. Provide the DBE with 5 business days to respond to your written notice by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur. If the DBE does not respond within 5 business days, you may move forward with the request process as if the DBE had agreed to your written notice.
3. Submit your DBE termination request by written letter to the Engineer and include:
  - 3.1. One or more good cause reasons identified under 49 CFR 26.53(f)(3) along with supporting documentation.
  - 3.2. Your written notice to the DBE regarding the request, including proof of transmission and tracking documentation of your written notice.
  - 3.3. The DBE's response to your written notice, if received. If a written response was not provided, provide a statement to that effect.

The Department will respond to your complete DBE termination request as follows:

1. Where the DBE has agreed in writing or fails to timely respond to your written notice, the Department will respond within 2 business days from receipt of your request.
2. Where the DBE has disagreed in writing with your written notice, the Department will meet with you and the DBE within 5 business days from receipt of your request. The Department will respond to your request within 5 business days from this meeting.
3. If you fail to provide a complete request for DBE termination the Department will identify deficiencies within 5 business days from receipt of your request.

If the Department authorizes your DBE termination request it will do so in writing.

Work performed by a firm other than the committed DBE or authorized replacement DBE without first obtaining Department authorization for termination will be a violation of these specifications and DBE federal regulations. Such violations will result in payment deductions for the value of the work associated with the noncompliant DBE commitment. In addition, if the committed DBE is also a listed subcontractor, the Department applies an additional penalty up to 10 percent of the value of the subject work as a permanent deduction.

#### 5-1.13B(2)(d) Replacement

After receiving Department written authorization of your DBE termination request, you must obtain separate Department authorization of your replacement plan.

Your replacement plan must identify DBE replacement firms to perform the work or demonstrate that you have made a good faith effort to use DBE replacement firms. DBE replacement firms must:

1. Perform at least the same dollar amount of work as the terminated DBE to the extent needed to meet the DBE commitment
2. Possess certifications for the most specific available North American Industry Classification System codes and work codes applicable to the work the firm will perform on the Contract
3. Perform a commercially useful function under 49 CFR 26.55

Use the following procedure to request authorization of your replacement plan:

1. Submit a request to replace a DBE with other forces or material sources by written letter to the Department which must include:
  - 1.1. Description of remaining uncommitted item work made available for replacement DBE solicitation and participation.
  - 1.2. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
    - 1.2.1. Quote for bid item work and description of work to be performed
    - 1.2.2. Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
    - 1.2.3. Revised Subcontracting Request form
2. If you have not identified a DBE replacement firm, submit documentation of your good faith efforts to use DBE replacement firms within 7 days of Department's authorization to terminate the DBE. You may request the Department's approval to extend this submittal period to a total of 14 days. The

Department considers your documented actions taken to identify a DBE replacement firm in determining whether a good faith effort was made under 49 CFR 26 app A. Submit documentation of actions taken to find a DBE replacement firm, such as:

- 2.1. Search results of certified DBEs available to perform the original DBE work identified and or other work you had intended to self-perform, to the extent needed to meet your DBE commitment
- 2.2. Solicitations of DBEs for performance of work identified in 2.1
- 2.3. Correspondence with interested DBEs that may have included contract details and requirements
- 2.4. Negotiation efforts with DBEs that reflect why an agreement was not reached
- 2.5. If a DBE's quote was rejected, provide your reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
- 2.6. Copies of each DBE's and non-DBE's price quotes for work identified in 2.1, as the Department may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
- 2.7. Additional documentation that you believe supports your good faith effort

The Department will respond to your complete replacement plan as follows:

1. If a DBE replacement firm has been identified and required documentation has been provided, the Department will respond within 2 business days from receipt of your plan
2. If a DBE replacement firm has not been identified, but good faith effort documents have been provided, the Department will respond within 5 business days from receipt of your plan
3. If you fail to provide a complete replacement plan, the Department will return your request and identify deficiencies within 5 business days from receipt of your plan

If the Department authorizes your replacement plan it will do so in writing.

Submit a revised Subcontracting Request form if your replacement plan is authorized.

DBE committed work performed by a nonauthorized firm, will be a violation of these specifications and DBE federal regulations. Such violations will result in payment deductions for the value of the work associated with the DBE commitment. The Department will take a permanent deduction for the value of the DBE work that was not performed by the authorized DBE. In addition, if the associated work was also to be performed by a listed subcontractor, the Department applies an additional penalty up to 10 percent of the value of the subject work as a permanent deduction.

#### 5-1.13B(3) Use of Joint Checks

You may use a joint check between the Contractor or lower-tier subcontractor and a DBE subcontractor purchasing materials from a material supplier if you obtain prior approval from the Department for your proposed use of joint checks upon submittal of a DLA Disadvantaged Business Enterprises (DBE) Joint Check Agreement Request form (LAPM Exhibit 9-K).

To use a joint check, the following conditions must be met:

1. All parties, including the Contractor, must agree in writing to the use of a joint check
2. Entity issuing the joint check acts solely to guarantee payment
3. DBE must release the check to the material supplier
4. Department must authorize the request before implementation
5. Any party to the agreement must provide requested documentation within 10 days of the Department's request for the documentation
6. Agreement to use a joint check must be short-term, not to exceed 1 year, allowing sufficient time needed to establish or increase a credit line with the material supplier

A request for a joint check agreement may be initiated by any party.

If a joint check is used, the DBE remains responsible for all elements of 49 CFR 26.55(c)(1).

Failure to comply with section 5-1.13B(3) disqualifies DBE participation and results in no credit and no payment to the Contractor for DBE participation.

A joint check may not be used between the Contractor or subcontractor and a DBE regular dealer, bulk material supplier, manufacturer, wholesaler, broker, trucker, packager, manufacturer's representative, or other persons who arrange or expedite transactions.

**Replace section 5-1.13E with:**

**5-1.13E Prompt Payment**

Section 5-1.13E applies to a federal-aid contract.

Pay your subcontractors within 7 days of receipt of each progress payment, unless otherwise agreed to in writing in accordance with Business and Professionals Code section 7108.5

Before the 15th day of each month for the previous month's work, submit the Prompt Payment Certification form (LAPM Exhibit 9-P) regardless of whether you made any payments.

The Department may request additional documentation to verify the information provided on the Prompt Payment Certification form is complete.

If there is a good faith dispute over any portion of the amount due on a progress payment to a subcontractor or other entity, you may withhold no more than 150 percent of the disputed amount. Provide a written withhold notification to the subcontractor or other entity and the Engineer no later than 7 days after receipt of the corresponding progress payment that includes the following:

1. Value of the disputed work
2. Amount of the withhold being taken
3. Bid item numbers or change order numbers associated with the disputed work
4. Explanation of the deficiencies of the disputed work and how the corresponding value was calculated
5. Corrective actions to be taken for release of withheld amount

The Department may request additional documentation from you to evaluate whether you applied the withhold in good faith.

If the Department determines your withhold was not applied in good faith, the Department may withhold the same amount from your future progress pay estimate. The Department may also apply a 2 percent penalty on the withhold amount for every month payment is not made.

**Add to section 5-1.16:**

Your representative must be available to respond to the job site within 1-2 hours at all times, including non-work hours, weekends and holidays.

**Add to section 5-1.23A:**

Each submittal must be dated and appropriately titled with the bid item number and project name.

**Add to section 5-1.31:**

Construct and maintain the necessary sanitary conveniences for the use of the workers on the project, properly obscured from public observance.

If you fail or refuse to fulfill these obligations to the County's satisfaction, County may, at its option, undertake these obligations, and withhold the cost of performing these obligations, plus an additional fee of twenty-five percent (25%) for administrative costs, from payments to you.

**Add between the 2nd and 3rd paragraphs of section 5-1.36C(3):**

The utilities shown in the following table will not be rearranged. The utilities may interfere with pile driving, drilling activities, or substructure construction. If you want any of them rearranged or temporarily deactivated, make arrangements with the utility owner.

<b>Utilities Not Rearranged for Pile Driving, Drilling Activities, or Substructure Construction</b>	
Utility	Location
PG&E	Overhead service line and high voltage line
AT&T	Overhead line
Comcast	Overhead line

**Add to the first paragraph in section 5-1.42:**

You are responsible for all RFI's submitted. If it is determined that the information requested is clearly stated in the contract documents you will be charged for the Engineer's time and expenses associated with reviewing and responding to the RFI. If there is a disagreement regarding the cost, the Engineer decides.

**For projects with a contract price under \$5 million add to section 5-1.43A:**

Claims of \$375,000.00 or less that arises between you and the County will be resolved per the provisions of Article 1.5 entitled "Resolution of Construction Claims" of the Public Contract Code. Contractors bidding on this project must be familiar with the provisions of this article. Article 1.5 outlines the process to be used depending on whether the amount of the claim in controversy exceeds \$50,000.00 or not.

The article identifies the time limits for the Contractor to submit adequate documentation of the claims (Section 20104.2) and establish the procedures for pursuing civil actions filed to resolve claims subject to this article (Section 20104.4). The provisions of this article shall remain in effect in the Contract even if the provision is repealed by the Legislature (Section 20104.8).

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## 6 CONTROL OF MATERIALS

**Add to section 6-1.01:**

Nothing in this Contract must be construed as vesting in you any right of property in the materials used, after they have been installed, attached, or affixed to the work, but all such materials are the property of you and the County jointly, and cannot be removed from the work without the consent of the County.

**Replace section 6-1.03B with:**

6-1.03B Submittals

6-1.03B(1) General

Not Used

6-1.03B(2) Work Plan

For local material, such as rock, gravel, earth, structure backfill, pervious backfill, imported borrow, and culvert bedding, obtained from a (1) noncommercial source, or (2) source not regulated under California

jurisdiction, submit a local material plan for each material at least 60 days before placing the material. The local material plan must include:

1. Certification signed by you and an engineer who is registered as a civil engineer in the State or a professional geologist licensed as a professional geologist by the State stating:

I am aware local material from a noncommercial source or a source not regulated under CA jurisdiction must be sampled and analyzed for pH and lead and may require sampling and analysis under section 6-1.03B(3) for other constituents of concern based on the land use history. I am aware that local material sources must not contain ADL at concentrations greater than 80 mg/kg total lead or equal to or greater than 5 mg/L soluble lead as determined by the Waste Extraction Test (WET) Procedures, 22 CA Code of Regs § 66261.24(a)(2) App II. I am aware that a maximum quantity of material may be excavated at the site based on the minimum number of samples taken before excavating at the site under section 6-1.03B(3).

2. Land use history of the local material location and surrounding property
3. Sampling protocol
4. Number of samples per volume of local material
5. QA and QC requirements and procedures
6. Qualifications of sampling personnel
7. Stockpile history
8. Name and address of the analytical laboratory that will perform the chemical analyses
9. Analyses that will be performed for lead and pH
10. Other analyses that will be performed for possible hazardous constituents based on:
  - 10.1. Source property history
  - 10.2. Land use adjacent to source property
  - 10.3. Constituents of concern in the ground water basin where the job site is located

The plan must be sealed and signed by an engineer who is registered as a civil engineer in the State or a professional geologist licensed as a professional geologist by the State.

If the plan requires revisions, the Engineer provides comments. Submit a revised plan within 7 days of receiving comments. Allow 7 days for the review.

#### 6-1.03B(3) Analytical Test Results

At least 15 days before placing local material, submit analytical test results for each local material obtained from a noncommercial source or a source not regulated under CA jurisdiction. The analytical test results must include:

1. Certification signed by an engineer who is registered as a civil engineer in the State or a professional geologist licensed as a professional geologist by the State stating:

The analytical testing described in the local material plan has been performed. I performed a statistical analysis of the test results using the US EPA's ProUCL software with the applicable 95 percent upper confidence limit. I certify that the material from the local material source is suitable for unrestricted use at the job site, it has a pH above 5.0, does not contain soluble lead in concentrations equal to or greater than 5mg/l as determined by the Waste Extraction Test (WET) Procedures, 22 CA Code of Regs § 66261.24(a)(2) App II, does not contain lead in concentrations above 80 mg/kg total lead, is free from all other contaminants identified in the local material plan, and will comply with the job site's basin plan and water quality objectives of the RWQCB.

2. Chain of custody of samples
3. Analytical results no older than 1 year
4. Statistical analysis of the data using US EPA's ProUCL software with a 95 percent upper confidence limit
5. Comparison of sample results to hazardous waste concentration thresholds and the RWQCB's basin plan requirements and water quality objectives for the job site location

#### 6-1.03B(4) Sample and Analysis

Sample and analyze local material from a (1) noncommercial source or (2) a source not regulated under CA jurisdiction:

1. Before bringing the local material to the job site
2. As described in the local material plan
3. Under US EPA Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)

The sample collection must be designed to generate a data set representative of the entire volume of proposed local material.

Before excavating at the (1) noncommercial material source or (2) a source not regulated under CA jurisdiction, collect the minimum number of samples and perform the minimum number of analytical tests for the corresponding maximum volume of local material as shown in the following table:

**Minimum Number of Samples and Analytical Tests for Local Material**

Maximum volume of imported borrow (cu yd)	Minimum number of samples and analytical tests
< 5,000	8
5,000–10,000	12 for the first 5,000 cu yd plus 1 for each additional 1,000 cu yd or portion thereof
10,000–20,000	17 for the first 10,000 cu yd plus 1 for each additional 2,500 cu yd or portion thereof
20,000–40,000	21 for the first 20,000 cu yd plus 1 for each additional 5,000 cu yd or portion thereof
40,000–80,000	25 for the first 40,000 cu yd plus 1 for each additional 10,000 cu yd or portion thereof
> 80,000	29 for the first 80,000 cu yd plus 1 for each additional 20,000 cu yd or portion thereof

Do not collect composite samples or mix individual samples to form a composite sample.

Analyze the samples using the US EPA's ProUCL software with a 95 percent upper confidence limit. All chemical analysis must be performed by a laboratory certified by the SWRCB's Environmental Laboratory Accreditation Program (ELAP).

The analytical test results must demonstrate that the local material:

1. Is not a hazardous waste
2. Has a pH above 5.0
3. Has an average total lead concentration, based upon the 95 percent upper confidence limit, at or below 80 mg/kg
4. Is free of possible contaminants identified in the local material plan
5. Complies with the RWQCB's basin plan for the job site location
6. Complies with the RWQCB's water quality objectives for the job site location

#### 6-1.03B(4) Sample and Analysis

Sample and analyze local material from a (1) noncommercial source or (2) a source not regulated under CA jurisdiction:

1. Before bringing the local material to the job site
2. As described in the local material plan
3. Under US EPA Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)

The sample collection must be designed to generate a data set representative of the entire volume of proposed local material.

Before excavating at (1) a noncommercial material source or (2) a source not regulated under CA jurisdiction, collect the minimum number of samples, and perform the minimum number of analytical tests for the corresponding maximum volume of local material as shown in the following table:

Minimum Number of Samples and Analytical Tests for Local Material

Maximum volume of imported borrow (cu yd)	Minimum number of samples and analytical tests
< 5,000	8
5,000–10,000	12 for the first 5,000 cu yd plus 1 for each additional 1,000 cu yd or portion thereof
10,000–20,000	17 for the first 10,000 cu yd plus 1 for each additional 2,500 cu yd or portion thereof
20,000–40,000	21 for the first 20,000 cu yd plus 1 for each additional 5,000 cu yd or portion thereof
40,000–80,000	25 for the first 40,000 cu yd plus 1 for each additional 10,000 cu yd or portion thereof
> 80,000	29 for the first 80,000 cu yd plus 1 for each additional 20,000 cu yd or portion thereof

Do not collect composite samples or mix individual samples to form a composite sample.

Statistically analyze the samples' laboratory results using the US EPA's ProUCL software to define 95 percent upper confidence limit for the various contaminants of concern. All chemical analysis must be performed by a laboratory certified by the SWRCB's Environmental Laboratory Accreditation Program (ELAP).

The analytical test results must demonstrate that the local material:

1. Is not a hazardous waste
2. Has a pH above 5.0
3. Has an average total lead concentration, based upon the 95 percent upper confidence limit, at or below 80 mg/kg
4. Is not contaminated with local material plan-identified constituents of concern at average concentrations (95 percent upper confidence limits) in excess of their respective commercial/industrial San Francisco Bay RWQCB environmental screening levels ESLs, except for arsenic.
5. Does not contain any of the following compounds, chemicals, or elements at an estimated average concentration (95 percent upper confidence limit) above the maximum allowed concentration defined in the following table:

Compound/Chemical	Maximum allowed concentration (mg/kg)
Arsenic	11
Barium	1500
Benzene	1
Beryllium	10
Cadmium	10
Chromium (total)	1000
Cobalt	100
Diesel	150
Ethylbenzene	10
Gasoline	500
Mercury	10
Motor oil	500
Nickel	150
Selenium	10
Toluene	10
Trichloroethene	1
Vanadium	200
Xylenes	10
Zinc	600

#### 6-1.03C Local Material Management

Do not place local material until authorized.

If the Engineer determines the appearance, odor, or texture of any delivered local material suggests possible contamination, sample and analyze the material. The sampling and analysis is change order work unless (1) hazardous waste is discovered or (2) the analytical test results indicate the material does not comply with section 6-1.03B(3).

Dispose of noncompliant local material at an appropriately permitted CA Class I, CA Class II or CA Class III facility. You are the generator of noncompliant local materials.

#### **Replace the paragraphs of section 6-1.04C with:**

Buy America Requirements apply to steel and iron, manufactured products, and construction materials permanently incorporated into the project.

#### **6-1.04C(1) Steel and Iron Materials**

All steel and iron materials must be melted and manufactured in the United States except:

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials produced outside the United States does not exceed the greater of 0.1 percent of the total contract amount or \$2,500, materials produced outside the United States may be used if authorized.

Furnish steel and iron materials to be incorporated into the work with certificates of compliance and certified mill test reports. Mill test reports must indicate where the steel and iron were melted and manufactured. All melting and manufacturing processes for these materials, including an application of a coating, must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied.

Certificates of compliance and mill test reports must be provided to the Engineer for approval on all furnished steel and iron materials delivered to the job site. A clear chain of custody record must be provided to the Engineer for approval showing where the steel and iron were melted and manufactured to demonstrate compliance. Corresponding mill tags must be secured and intact upon delivered product and verified by the Engineer upon delivery before use or installation can occur.



Certified mill test reports must indicate. All melting and manufacturing processes for these materials, including an application of a coating, must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied.

#### **6-1.04C(2) Manufactured Products**

Iron and steel used in precast concrete manufactured products must meet the requirements of the above section (Steel and Iron Materials) regardless of the amount used. Iron and steel used in other manufactured products must meet the requirements of the above section (Steel and Iron Materials) if the weight of steel and iron components constitute 90 percent or more of the total weight of the manufactured product.

#### **6-1.04C(3) Construction Materials**

Buy America requirements apply to the following construction materials that are or consist primarily of:

1. Non-ferrous metals
2. Plastic and polymer-based products such as:
  - 2.1 Polyvinylchloride
  - 2.2 Composite Building Materials
3. Glass
4. Fiber optic cable (including drop cable)
5. Optical fiber
6. Lumber
7. Engineered wood
8. Drywall

All manufacturing processes for these materials as defined in 2 CFR 184.6 must occur in the United States.

Where one or more of these construction materials have been combined by a manufacturer with other materials through a manufacturing process, Buy America requirements do not apply unless otherwise specified.

Furnish construction materials to be incorporated into the work with certificates of compliance with each project delivery. Manufacturer's certificate of compliance must identify where the construction material was manufactured and attest specifically to Buy America compliance.

All manufacturing processes for these materials must occur in the United States.

Buy America requirements do not apply to the following:

1. Tools and construction equipment used in performing the work
2. Temporary work that is not incorporated into the finished project

#### **Replace 5th paragraph section 6-2.01A:**

The Department uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract. The Local Agency may examine the records and reports of tests the prime contractor performs if they are available at the job site. Schedule work to allow time for QAP. For a copy of the manual, contact the Department.

**Add to section 6-2.03A:**

The Department may use multiple acceptance methods for a material.

Specifications in sections titled "Department Acceptance" do not include all requirements on which the Department makes its acceptance.

The Department may inspect, sample, and test materials for compliance with the Contract at any time.

Allow the Department to record, including photograph and video, to ensure a material is produced to comply with the Contract.

You may examine the records and reports of tests the Department performs if they are available at the job site.

Schedule work to allow time for the Department's QAP (inspection, sampling, testing, etc.)

The Department deducts testing costs for work that does not comply with the Contract.

The Department may retest material previously tested and authorized for use. If the Department notifies you of a retest, furnish resources for retesting.

Remove from the site all rejected materials brought to, or incorporated in, the work. Do not propose to use the rejected materials again. All work that has been rejected must be remedied, or removed and replaced, in an acceptable manner at your expense. If you fail to comply within 48 hours or to make satisfactory progress in so doing, the County may remove rejected materials, or rejected work and deduct and retain the costs from any payments due or to become due.

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## **7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC**

**Replace section 7-1.02J with:**

### **COUNTY EQUAL OPPORTUNITY EMPLOYMENT CONTRACT COMPLIANCE DEFINITIONS AND PROVISIONS.**

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, pregnancy, gender, sexual orientation, age (over 18), veteran status or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In the event of the Contractor's non-compliance with the non-discrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contractor may be declared ineligible for further contracts with the County.

For all contracts in excess of \$50,000.00 where the Contractor employs at least 15 employees, the Department will require the inclusion of the following equal opportunity clauses as a condition of the Contract:

1. The Contractor shall state that it is an equal opportunity employer in all solicitations or advertisements for employees placed by or on behalf of the Contractor, and ensure that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry,

- physical or mental disability, medical condition (cancer related), pregnancy, marital status, gender, sexual orientation, age (over 18), veteran status or any other non-merit factor unrelated to job duties.
2. All County contracts must comply with the non-discrimination requirements of both the State and Federal governments. Certain specific projects conducted under State and/or Federal oversight may have additional definitions and requirements.
  3. If applicable according to the contract-funding source, the Contractor will comply with all provisions of Executive Order 11246, as amended, and of the rules, regulations and orders of the Secretary of Labor, which include furnishing required information and report.

**Replace the second paragraph of section 7-1.02K(2) with:**

The general prevailing wage rates and any applicable changes to these wage rates are available from the Department of Industrial Relations' website.

**Add to section 7-1.02K(2):**

Pay travel and subsistence payments to each worker needed to execute the work, as such travel and subsistence are defined in the applicable collective bargaining agreements. (Labor Code § 1773.8)

**Add to section 7-1.02K(2):**

**FEDERAL MINIMUM WAGE RATES**

**GENERAL DECISION: CA20250018 03/21/2025**

The Federal Minimum Wage Rates General Decision: CA20250018 03/21/2025 is hereby incorporated by reference into these special provisions and shall be physically incorporated into the appendix of the special provisions prior to execution of the contract.

**Add to section 7-1.02K(3):**

Submit electronic certified payroll records required under California Labor Code Section 1776 to the Labor Commissioner pursuant to California Code of Regulations Chapter 8, Section 16404.

**Replace the fifth paragraph in section 7-1.02K(3) with:**

You must submit certified payroll records electronically to the Resident Engineer by email.

**Replace the 12th paragraph in section 7-1.03 with:**

The Engineer may order or consent to your request to open a completed or partially completed portion of work for public use. You will not be compensated for any delay to your construction activities caused by the public. This does not relieve you from any other contractual responsibility. Opening the work to traffic does not automatically deem it complete and acceptable per the contract documents.

**Add to section 7-1.03:**

Normal working hours are 7:30 AM to 5:00 PM Monday through Friday. All work involving heavy equipment or traffic control must be done between 8:30 AM and 4:30 PM unless otherwise specified.

**Delete the 24th paragraph of section 7-1.04.**

**Add to section 7-1.06B:**

If you utilize one or more subcontractors in the performance of this Contract, obtain and maintain Independent Contractor's Insurance for each subcontractor or provide evidence of insurance coverage for each subcontractor equivalent to that required.

**Replace section 7-1.06D(2):**

The County of Santa Cruz requires Contractors to provide a copy of their insurance certificate with the information and limits outlined below:

1. Include Contractor/vendor name and current address.
2. General Liability (Comprehensive or Commercial Liability) Coverage
  - 2.1. \$2,000,000 combined single limit required
  - 2.2. \$2,000,000 Products – Comp./Op. Agg. required
  - 2.3. Damage to Rented Premises – required coverage
  - 2.4. Medical Expenses (bodily injury) – required coverage
  - 2.5. Personal & Adv. Injury – required coverage
  - 2.6. General Aggregate – required coverage
  - 2.7. The box for ‘Occur’ should be checked
3. Automobile Liability Coverage
  - 3.1. Required unless the Contractor does not drive a vehicle in conjunction with any part of the performance of the contract and certifies to this fact
  - 3.2. \$1,000,000 combined single limit (minimum requirement)
  - 3.3. ‘Any Auto’ selection preferred
4. Workers Compensation (see section 7-1.06C)
5. Professional Liability
  - 5.1. Required for professional services; recommended coverage for other services
  - 5.2. \$1,000,000 combined single limit (minimum requirement when required)
6. Umbrella Liability (optional coverage at the discretion of Contractor)
7. All policies of Comprehensive or Commercial General Liability shall be endorsed to contain the following clause:

“\*County, its officials, employees, agents and volunteers as additional insureds with respect to liability arising out of the work or operations and activities performed by or on behalf of ‘CONTRACTOR’, including materials, parts or equipment furnished in connection with such work or operations.”

Endorsements shall be at least as broad as ISO Form CG 20 10 11 85, or both CG 20 10 10 01 and CG 20 37 10 01, covering both ongoing operations and products and completed operations.
8. All required insurance policies shall be endorsed to contain the following clause:

“This insurance shall not be canceled until after thirty (30) days’ prior written notice (10 days for nonpayment of premium) has been given to \*County.”
9. \*County must be named as certificate holder. Correct address must also be entered, along with room number.

If any insurance policy required of you by these Contract Documents includes language conditioning the insurer’s legal obligation to defend or indemnify the County of Santa Cruz on the performance of any act(s) by the named insured, then the insurance policy, by endorsement, must also name the County of Santa Cruz as a named insured. Notwithstanding the foregoing, both you and your insurers agree that by naming County of Santa Cruz as a named insured, the County of Santa Cruz may at its sole discretion, but is not obligated to, perform any act required by the named insured under said insurance policies.

**Add to section 7-1.06G:**

Pay all deductibles and self-insured retentions (SIR) within 5 working days.

**Replace section 7-1.11B with:**

**FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS**

*Form FHWA-1273 must be physically inserted into the contract without modification, excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS.*

*[The current version of Form FHWA-1273 is accessible at FHWA's website:  
<https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>]*

## 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](mailto: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](mailto: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/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

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

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

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



(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 8](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

#### 4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeymen under this part must be in conformity with



the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

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

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

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

**6. Subcontracts.** The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

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

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

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.** a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

**11. Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or



mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

\* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

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

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901-3907](#).

4. *Subcontracts.* The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. *Anti-retaliation.* It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;



(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and  
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

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

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

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

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

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

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

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

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

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

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

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

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

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

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

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



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

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily



excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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

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

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

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

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

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

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

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

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

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

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

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

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

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

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.



**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

**Replace section 7-1.11C with:**

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

**MINORITY UTILIZATION GOALS**

Economic Area		Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties:	28.9
	7120 Salinas-Seaside-Monterey, CA CA Monterey	25.6
	7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	19.6
	7400 San Jose, CA CA Santa Clara, CA	14.9
	7485 Santa Cruz, CA CA Santa Cruz	9.1
	7500 Santa Rosa CA Sonoma	17.1
	8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano	23.2
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	
177	Sacramento, CA: SMSA Counties:	16.1
	6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo	14.3
	Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	
178	Stockton-Modesto, CA: SMSA Counties:	12.3
	5170 Modesto, CA CA Stanislaus	24.3
	8120 Stockton, CA CA San Joaquin	19.8
	Non-SMSA Counties CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	
179	Fresno-Bakersfield, CA SMSA Counties:	19.1
	0680 Bakersfield, CA CA Kern	26.1
	2840 Fresno, CA	

	CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange 4480 Los Angeles-Long Beach, CA CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA CA Ventura 6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	11.9 28.3 21.5 19.0 19.7 24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego Non-SMSA Counties CA Imperial	16.9 18.2

For the last full week July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

**Replace section 7-1.11D with:**

**7-1.11D FEDERAL TRAINEE PROGRAM**

For the Federal training program, the number of trainees or apprentices is 0.

This section applies if a number of trainees or apprentices is shown on the Notice of Bidders.

As part of the prime contractor's equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

The prime contractor has primary responsibility for meeting this training requirement.

If the prime contractor subcontracts a contract part, they shall determine how many trainees or apprentices are to be trained by the subcontractor. Include these training requirements in each subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of the prime contractor's needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, the prime contractor shall submit to the County:

1. Number of apprentices or trainees to be trained for each classification

2. Training program to be used
3. Training starting date for each classification

The prime contractor shall obtain the County of approval for this submitted information before the prime contractor starts work. The County of credits the prime contractor for each apprentice or trainee the prime contractor employs on the job who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeyman status. The prime contractor shall make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area and show that they have made the efforts. In making these efforts, the prime contractor shall not discriminate against any applicant for training.

The prime contractor shall not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

The prime contractor shall ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. The prime contractor's records must show the employee's answers to the questions.

In the training program, the prime contractor shall establish the minimum length and training type for each classification. The County of and FHWA approves a program if one of the following is met:

1. It is calculated to:
  - Meet the equal employment opportunity responsibilities
  - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

The prime contractor shall obtain the State's approval for their training program before they start work involving the classification covered by the program.

The prime contractor shall provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower-level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The County of reimburses the prime contractor 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and prime contractor does at least one of the following:
  - a) Contribute to the cost of the training
  - b) Provide the instruction to the apprentice or trainee
  - c) Pay the apprentice's or trainee's wages during the off-site training period
3. If the prime contractor complies with this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee a:

1. Copy of the training plan approved by the U.S. Department of Labor or a training plan for trainees approved by both Caltrans and FHWA
2. Certification showing the type and length of training satisfactorily completed

Maintain records and submit reports documenting contractor's performance under this section.

#### **Add Section 7-1.011E**

#### **TITLE VI ASSURANCES:**

The U.S. Department of Transportation Order No.1050.2A requires all federal-aid Department of Transportation contracts between an agency and a contractor to contain Appendix A and E.

#### **APPENDIX A**

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

- a) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b) Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d) Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.
- e) Sanctions for Noncompliance: In the event of CONTRACTOR's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - i. withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
  - ii. cancellation, termination or suspension of the Agreement, in whole or in part.

- f) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

## **APPENDIX E**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

### **Add section 7-1.12:**

**7-1.12 PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT AND SERVICES**



In response to significant national security concerns, the agency shall check the prohibited vendor list before making any telecommunications and video surveillance purchase because recipients and subrecipients of federal funds are prohibited from obligating or expending loan or grant funds to:

- Procure or obtain;
- Extend or renew a contract to procure or obtain; or
- Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

The prohibited vendors (and their subsidiaries or affiliates) are:

- Huawei Technologies Company;
- ZTE Corporation;
- Hytera Communications Corporation;
- Hangzhou Hikvision Digital Technology Company;
- Dahua Technology Company; and
- Subsidiaries or affiliates of the above-mentioned companies.

In implementing the prohibition, the agency administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

The contractors should furnish telecommunications and video surveillance equipment with a certificate of compliance. The certificate must state telecommunications and video surveillance equipment was not procured or obtained from manufacturers identified in the above list.

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## **8 PROSECUTION AND PROGRESS**

### **Add to section 8-1.03:**

In addition be prepared to discuss the scope of work, contract drawings, specifications, existing conditions, materials to be ordered and all essential matters pertaining to the prosecution and satisfactory completion of the project.

### **Replace the first and second paragraph of section 8-1.04B with:**

For a project that does not require a SWPPP, start job site activities within 15 days after receiving notice that the Contract has been approved.

For a project that requires a SWPPP, start job site activities within 30 days after receiving notice that the Contract has been approved.

**Add to section 8-1.04B:**

<b>Submittals Required for Approval Prior to Start of Work</b>
Level 1 Critical Path Method Schedule
Construction Staging Area Notification Form
Traffic Control Plan
Temporary Water Pollution Control Plan (CT submits 7 days after contract approval, see 13-2.01C)

**Add to section 8-1.06:**

During unfavorable weather and other unfavorable conditions, the Contractor shall pursue only such portions of the work as will not be damaged thereby. No portions of the work the satisfactory quality or efficiency of which will be affected by any unfavorable conditions shall be constructed while these conditions remain, unless, by special means or precautions approved by the Engineer, the Contractor shall be able to overcome these conditions.

**Replace section 8-1.10 with:**

The Contractor shall begin work within 15 calendar days after the issuance of the Notice to Proceed.

This work shall be diligently prosecuted to completion before the expiration of working days beginning on the fifteenth calendar day after the date shown on the Notice to Proceed.

The Department specifies liquidated damages (Pub Cont Code § 10226). Liquidated damages, if any, accrue starting on the 1st day after the expiration of the working days through the day of Contract acceptance except as specified in sections 8-1.10B and 8-1.10C.

The Contractor shall pay to the County liquidated damages in the sum of \$4,000 per day, for each and every calendar days' delay in finishing the work in excess of the number of working days prescribed above.

The Department may withhold liquidated damages before the accrual date if the anticipated liquidated damages may exceed the value of the remaining work.

If all work except plant establishment or permanent erosion control establishment is complete and the total number of working days have expired, liquidated damages are \$950 per day.

**Replace the 4th paragraph of section 8-1.13 with:**

The Department gives notice to you and your surety at least 5 business days before terminating control. The notice describes the failures and the time allowed to remedy the failures. If failures are not remedied within the time provided, the Department will take control of the work or require your surety to complete it.

If the Contractor should be adjudged bankrupt, or make an assignment for the benefit of Contractor's creditors, or if a receiver should be appointed on account of Contractor's insolvency, the County may declare the Contractor's control over the work terminated, and so notify the Contractor and Contractor's sureties.

Upon such termination, the County may take possession, and use all or any part, of the Contractor's materials, tools, equipment, and appliances upon the premises to complete the work; the County assuming responsibility for the final relinquishment of such equipment at the conclusion of the work, or sooner, at its option, in as good condition as when it was taken over, reasonable wear and tear excepted;

and the County agrees to pay for such materials and the use of said equipment at a reasonable compensation.

Upon such termination or the County's declaration that the Contractor is in default, the County may direct the Surety to complete, or cause to be completed, the Contract work, or the County may direct that all or any part of the work be completed by day labor, or by employment of other contractors on informal contracts, or both. If the County directs the Surety to complete or cause to be completed, the Contract work, Contractor's performance bond surety agrees to immediately undertake to complete or cause to be completed, all Contract work.

If your control over the work is terminated and the County takes control of the work, you are not entitled to receive any portion of the amount to be paid under the Contract until it is fully completed. After completion, if the unpaid balance exceeds the sum of the amount expended by the County in finishing the work, plus all damages sustained, or to be sustained, by the County, plus any unpaid claims on account of labor, materials, tools, equipment, or supplies contracted for by the Contractor for the work herein contemplated, the excess not otherwise required by these Contract Documents to be retained will be paid you. If the sum so expended exceeds the unpaid balance, you and your surety are liable to the County for the amount of such excess.

If the County directs the Surety to complete or cause to be completed, the Contract work, your performance bond surety agrees to immediately undertake to complete or cause to be completed, all Contract work. The surety will be subrogated to money due under the Contract, and to money which will become due in the course of completion by the surety. However, you and Surety agree that any subrogation rights of surety are subordinate to and inferior to the rights of the County.

**Replace item 3 on the list in the 1st paragraph of section 8-1.14E with:**

3. Allowance for profit not to exceed 4 percent of the cost of the work performed to the date of termination plus demobilization.

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## **9 PAYMENT**

**Add to section 9-1.03:**

If you fail to include a unit price for a particulate item the unit price will be calculated dividing the bid amount by the quantity for that item and rounding to the nearest penny. Rounding may affect the bid item total.

**Replace section 9-1.07 with:**

Reserved

**Add to section 9-1.16A with:**

### **9-1.16A(1) PROMPT PAYMENT**

#### **A. FROM THE AGENCY TO THE CONTRACTORS**

The Local Agency shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from the Contractor on a construction contract. If the Local Agency fails to pay promptly, the Local Agency shall pay interest to the Contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the Local Agency shall act in accordance with both of the following:

1. The Local Agency shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.



## 12 TEMPORARY TRAFFIC CONTROL

**Replace section 12-3.20 with:**

### 12-3.20 TEMPORARY BARRIER SYSTEMS

#### 12-3.20A General

##### 12-3.20A(1) Summary

Section 12-3.20 includes specifications for placing, maintaining, repairing, and removing temporary barrier systems.

Temporary barrier system consists of:

1. New or undamaged used interconnected barrier segments
2. Segment connection hardware
3. Stakes and anchor bolts

##### 12-3.20A(2) Definitions

**clear area width:** Minimum width throughout the length of the barrier system that must be maintained clear of obstructions, objects, and work resources during non-working hours. The width is measured perpendicular from the non-traffic side toe.

**set back distance:** Space measured between the closest toe of temporary barrier and the edge of traveled way for each direction of traffic.

##### 12-3.20A(3) Submittals

Submit as informational submittal for each type of temporary barrier system:

1. Certificate of compliance.
2. Manufacturer's installation instructions except for Type K temporary railing and temporary concrete barrier with cross bolt.
3. Manufacturer's QC test results and daily production log, through the Data Interchange for Materials Engineering (DIME) website. QC test results must include the concrete mix design number, barrier stamped ID, and must be submitted within 3 business days of QC test completion.

Submit test reports for cross bolts that certify compliance with the applicable ASTM requirements. The test reports must be from a laboratory that is accredited to International Standards Organization/International Electrotechnical Commission 17025 by the American Association for Laboratory Accreditation (A2LA) or the ANSI-ASQ National Accreditation Board.

Submit a signed manufacturer's replacement evaluation report within 10 days of damage to a temporary steel barrier system.

##### 12-3.20A(4) Quality Assurance

##### 12-3.20A(4)(a) General

Temporary barrier systems must comply with MASH Test Level 2 except for Type K temporary railing.

Except for Type K temporary railing and temporary concrete barrier with cross bolt, temporary barrier systems must:

1. Be on the Authorized Materials List for highway safety features
2. Comply with the manufacturer's drawings shown on the Department's Division of Safety Programs website and the manufacturer's installation instructions

If a discrepancy exists, governing ranking in descending order is:

1. These specifications
2. Manufacturer's drawings
3. Manufacturer's installation instructions

QC sampling, testing, and inspection personnel must have an ACI Concrete Field-Testing Technician, Grade I certification.

Temporary concrete barrier segments must:

1. Comply with the requirements for tier 3 precast concrete in section 90-4
2. Be fabricated at a plant on the Authorized Facility Audit List

Concrete must be sampled and tested at the minimum frequencies shown in the following table.

<b>Concrete QC Tests</b>		
Quality characteristic	Test method	Minimum testing frequency
Compressive strength	ASTM C172/C172M, ASTM C31/C31M, and ASTM C39/C39M	Once per 300 cu yd of concrete cast, or every day of casting, whichever is more frequent
Slump	ASTM C143/C143M	
Temperature at time of mixing	ASTM C1064/C1064M	
Density	ASTM C138	Once per 600 cu yd of concrete cast or every 7 days of batching, whichever is more frequent
Air content	ASTM C231/C231M or ASTM C173/C173M	If concrete is air entrained, once for each set of cylinders, and when conditions warrant

A daily production log of PC activities must be maintained under section 90-4.01C(4).

#### 12-3.20A(4)(b) Quality Control

Replace damaged temporary concrete barrier segments with exposed reinforcing steel or concrete spalls 1-1/2 inches in depth and 4 inches in width or greater.

Replace damaged temporary steel barrier segments with permanent bends, tearing, or buckling as described in the signed manufacturer's replacement evaluation report.

Realign temporary barrier system within 2 days of impact or displacement when displaced more than 3 inches except when the temporary barrier system is displaced into a traveled lane realign immediately.

#### 12-3.20B Materials

##### 12-3.20B(1) General

Temporary barrier segment must:

1. Be a minimum 31-1/2 inches in height
2. Have at least two lifting holes
3. Be designed to be used with temporary traffic screen when required

Temporary barrier segment may have your name or logo on each barrier segment. The name or logo must be no more than 4 inches in height and must be located no more than 12 inches above the bottom of the barrier segment.

##### 12-3.20B(2) Temporary Concrete Barriers

##### 12-3.20B(2)(a) General

Temporary concrete barrier segment must:

1. Be precast concrete with a minimum 4,000-psi compressive strength.
2. Have reinforcement steel that complies with section 52.
3. Have a finished surface that complies with section 51-1.03F(2).
4. Include the manufacturer's name, lot number, and month and year of manufacture stamped on the top of each barrier segment except for Type K temporary railing. The stamped information must be:
  - 4.1. No more than 6 inches in height.
  - 4.2. No more than 12 inches in length.
  - 4.3. From 3/16 to 1/4 inch in depth.
  - 4.4. Centered on the top width of the barrier segment.

Segment connection hardware must be one of the following:

1. Steel bar loops and connecting pins
2. "J" hook steel plates
3. Cross bolts

Steel bar loops must comply with ASTM A36/A36M.

Connecting pins must comply with ASTM A307. A round bar of the same diameter may be substituted for the connecting pins. The round bar must:

1. Comply with ASTM A36/A36M
2. Have a minimum length of 26 inches
3. Have a 3-inch-diameter, 3/8-inch-thick plate welded on the upper end using a 3/16-inch fillet weld

"J" hook steel plates must be a minimum 18 inches in height.

Cross bolt hardware includes:

1. Cross bolts
2. Nuts complying with ASTM A563
3. Hardened washer complying with ASTM F436, Type 1
4. Plate washer complying with ASTM A36/A36M and galvanized post fabrication under section 75-1.02B

Cross bolts must:

1. Be a 7/8-inch bolt or threaded rod and comply with one of the following:
  - 1.1. HS threaded rod ASTM 193, Grade B7
  - 1.2. HS threaded rod ASTM A449, Type 1
  - 1.3. HS nonheaded anchor bolt ASTM F1554, Grade 105, Class 2A
2. Have a permanent grade symbol and manufacturer's identifier

Epoxy adhesive must have a minimum 1650 psi bond strength, except for temporary barrier with "J" Hooks.

#### 12-3.20B(2)(b) Temporary Concrete Barrier with "J" Hooks

The steel stakes must be 1-1/2 inches in diameter and 48 inches long.

Anchor hardware must include:

1. Anchor bolt insert 1-inch diameter, 6-inch long
2. Hex head bolt 1-inch diameter with a minimum length of 11 inches plus thickness of asphalt overlay
3. Plate washer 3/8-inch by 3-inch by 3-inch
4. Retainer ring

#### 12-3.20B(2)(c) Temporary Concrete Barrier with Cross Bolt

Reinforcement steel must comply with ASTM A615/ASTM A706, Grade 60.

Reinforcement steel must be galvanized under section 52-3, when shown.

Combinations of reinforcing steel and welded wire reinforcement are authorized. Welded wire reinforcement must comply with ASTM A1064.

Temporary barrier segments must comply with the tolerances shown in the following table:

Precast Barrier Tolerance	
Dimension	Tolerance
Length	±1 in
Insert Placement	±1/2 in
Horizontal Alignment	±1/8 in per 10 feet of length
Deviation of Ends	
Horizontal Skew	±1/4 in
Vertical Batter	±1/8 in per foot of depth

Stakes must:

1. Comply with ASTM A36/A36M-14 or ASTM A529-14 Grade 50
2. Be 1-1/2-inch-diameter-by-48-inch-long
3. Have a plate 1/2-by-3-1/2-by-3-1/2-inch welded 2 inches down from the upper end using a 1/4-inch fillet weld under AWS D1.1 or D1.4

Anchor bolts must:

1. Be a threaded rod, 1-1/8-inch-diameter-by-10-1/2-inch-long
2. Comply with ASTM 307
3. Include a nut complying with ASTM A563
4. Include a plate washer:
  - 4.1. 1/2-by-3-1/2-by-3-1/2-inch with a 1-1/4-inch diameter hole in the center
  - 4.2. Complying with ASTM A36/A36M
  - 4.3. Galvanized post fabrication under section 75-1.02B

12-3.20B(2)(d) Type K Temporary Railing

Anchor bolts must:

1. Be a threaded rod, 1-inch-diameter-by-15-1/2-inch-long
2. Comply with ASTM 307
3. Include a nut complying with ASTM A563
4. Include a plate washer:
  - 4.1. 3/8-by-2-1/2-by-3-inch with a 1-1/8-inch diameter hole in the center
  - 4.2. Complying with ASTM A36/A36M
  - 4.3. Galvanized post fabrication under section 75-1.02B

12-3.20B(2)(e)–12-3.20B(2)(g) Reserved

12-3.20B(3) Temporary Steel Barriers

Temporary steel barriers segment must:

1. Be galvanized steel.
2. Have a joint connection.
3. Include permanent identification information with no more than 6 inches in height and 12 inches in length and centered on the top width of the segment. The identification information must include:
  - 3.1. Manufacturer's name.
  - 3.2. Serial number.
  - 3.3. Lot number.
  - 3.4. Month and year of manufacture.



12-3.20B(4)–12-3.20B(9) Reserved

12-3.20B(10) Temporary Terminal Sections

37

Reserved

12-3.20C Construction

12-3.20C(1) General

Clean temporary barrier segments at time of installation and at least every 6 months thereafter.

Install the temporary barrier system based on the requirements shown in the following table:

Minimum Clear Area Width

Barrier	Configuration	Height differentials 3 feet or less (ft)	Height differentials greater than 3 ft up to 8 feet (ft)	Edge of deck or height differentials greater than 8 feet (ft)	Fixed objects, falsework members, or temporary supports <sup>a</sup> (ft)
12'-6" temporary concrete barrier with "J" hooks	Freestanding	3	4	8	7
	3 stakes per segment traffic side	1	1	2	3
	2 anchor bolts per segment traffic side	1	1	2	3
20-foot temporary concrete barrier with "J" hooks	Freestanding	3	4	8	7
	4 stakes per segment traffic side	1	1	2	3
	3 anchor bolts per segment traffic side	1	1	2	3
50-foot temporary steel barrier	Staked or anchored at both ends only	6	7	9	10
	Staked or anchored every 250 feet	5	6	8	9
	Staked or anchored every 33 feet	1	1	3	4
10-foot, 20-foot & 30-foot temporary concrete barrier with cross bolts	Freestanding	1	2	5	5
20-foot Type K temporary railing	Freestanding	2	3	8	7
	2 stakes or 2 anchor bolts per segment traffic side	1	1	3	4
	4 stakes or 4 anchor bolts per segment	N/A	N/A	3	3

<sup>a</sup>The minimum clear area width to a falsework or temporary support footing can be 2 feet less than the clear area width shown. Measure clear area width to the footing edge closest to traffic.

Stake temporary barrier systems when placed on an asphalt concrete surface.

Anchor temporary barrier systems when placed on a concrete surface. For bridge decks, confirm the anchor will not penetrate closer than 1-1/2 inches from the bottom of the deck before placement. When temporary barrier is not shown, request the Engineer to verify the bridge deck thickness.

Stake or anchor a minimum 20 feet of temporary concrete barrier at each end of the temporary barrier system. For:

1. Temporary concrete barrier with "J" hooks, place a minimum of 6 stakes or anchors at each end, 3 on each side.
2. Temporary concrete barrier with cross bolts, place a minimum of 6 stakes or anchors at each end, 3 on each side.
3. Type K temporary railing, place 4 stakes or anchors at each end, 2 on each side.

For installations on concrete surfaces, drill holes and bond threaded rods or dowels under section 51-1.03E(5). Do not drill the top of supporting beams or girders, bridge expansion joints, or drains.

Install stakes and anchor bolts so the heads do not project above the top of the temporary barrier pocket profile.

For the approach zone before the protected area, place a minimum:

1. 60 feet temporary barrier on facilities with a posted speed of 45 mph or less
2. 100 feet temporary barrier on facilities with a posted speed greater than 45 mph

Offset the approach end of a temporary barrier system a minimum of 15 feet from the edge of an open traffic lane, use the offset rate shown in the following table:

**Temporary Barrier System Offset Rate**

Posted speed (mph)	Rate <sup>a</sup>
0 to 45	10:1
46 to 60	15:1
61 to 70	20:1

<sup>a</sup>Rate is longitudinally to transversely with respect to the edge of the traveled way

If a 15-foot minimum offset cannot be achieved, offset the temporary barrier the maximum distance available and install an array of temporary crash cushion modules or an authorized temporary crash cushion system at the barrier approach end.

Install a reflector on the top or face of barrier segments placed within 10 feet of a traffic lane. Space reflectors at approximately 20-foot intervals. Apply adhesive for mounting the reflector under the reflector manufacturer's instructions.

Install a Type P marker panel complying with section 82 at:

1. Each end of a temporary barrier system placed adjacent to a two-lane, two-way highway
2. The end facing traffic for a temporary barrier system installed adjacent to a one-way roadbed
3. The end of the skew nearest the traveled way when a temporary barrier system is placed on a skew

Maintain a minimum height of 31-1/2 inches above surface for temporary barrier. For paving activities adjacent to temporary barrier, do not pave within 2 feet of the barrier segments unless authorized. For paving under the temporary barrier, remove and reset the barrier.

Remove temporary barrier systems when no longer required for the work. Remove stakes and anchor bolts so that minimal damage is done to surface.

After removing the temporary barrier systems:

1. Restore the area to its previous condition or construct it to its planned condition if temporary excavation or embankment was used to accommodate the temporary barrier.
2. Remove all threaded rods or dowels to a depth of at least 1 inch below the top of a concrete surface. Fill the resulting holes with mortar under section 51-1 except cure the mortar by the water method or by the curing compound method using curing compound no. 6.
3. Repair a damaged asphalt surface by providing a clean, smooth edge around the damaged area. Repair any heaving caused by stake removal to provide a uniform surface. Remove loose debris and use compressed air to clean out the stake hole. Comply with manufacturer's requirements except fill the stake hole with grout to existing pavement elevation under section 51-1.

If the Engineer orders a lateral move of a temporary barrier system and repositioning is not shown, the lateral move is change order work except for work area access, clear area width compliance, or because of your means and methods to perform the work.

#### 12-3.20C(2) Temporary Concrete Barriers

##### 12-3.20C(2)(a) General

Before placing temporary concrete barrier on the job site and after each described relocation, paint the exposed surfaces of the segments with white paint complying with specifications for acrylic emulsion paint for exterior masonry.

Place and maintain the abutting ends of segments in alignment without substantial offset from each other.

Install temporary barrier systems with the last segment extending a minimum of 60 feet past the length of the protected area.

##### 12-3.20C(2)(b) Temporary Concrete Barrier with "J" Hooks

Install a minimum 200 feet of temporary concrete barrier with "J" hooks.

Place the temporary barrier system on a concrete or asphalt concrete surface. The asphalt concrete surface must have a minimum 2 inches of asphalt concrete over 6 inches of compacted subbase.

Install two parallel temporary barrier systems, one for each direction of travel, when placed between two-way traffic. Maintain the minimum clear area as shown in the table titled "Minimum Clear Area Width" between the two systems. Maintain a minimum 1-foot set back distance.

##### 12-3.20C(2)(c) Temporary Concrete Barrier with Cross Bolts

Install a minimum 210 feet of temporary concrete barrier with cross bolts.

Place the temporary barrier system on a concrete or asphalt concrete surface.

Do not stake or anchor down temporary barrier system, except for 20 feet at end of the barrier system.

Intermix segments of different lengths within a temporary barrier system when necessary.

For a temporary barrier system placed on a curved layout, maintain the minimum curve radius shown in the following table:

<b>Minimum Curve Radius</b>	
Segment length (ft)	Curve radius (ft)
10	125
20	265
30	400

Maintain a minimum 1-foot set back distance when placed between two-way traffic.

##### 12-3.20C(2)(d) Type K Temporary Railing

Do not install Type K temporary railing on projects advertised after December 31, 2026.

Install a minimum 160 feet of Type K temporary railing.

Excavate and backfill under section 19-3.

Do not compact earth fill placed behind Type K temporary railing in a curved layout.

Place temporary barrier system on a firm, stable surface. Grade the area to provide a uniform bearing surface throughout the entire length of the system.

Anchor or stake down the first and last segment and every other segment with four stakes as shown when placed between two-way traffic. Maintain a minimum 1-foot set back distance.

12-3.20C(2)(e)–12-3.20C(2)(g) Reserved

12-3.20C(3) Temporary Steel Barriers

12-3.20C(3)(a) General

Install temporary barrier system under manufacturer's instructions.

12-3.20C(3)(b) 50-Foot Temporary Steel Barriers

Use 50-foot temporary steel barriers with or without rubber pads.

Install a minimum 250 feet of 50-foot temporary steel barrier. The last segment must extend a minimum 25 feet past the length of the protected area.

Place the temporary barrier system on a concrete or asphalt concrete surface. Do not place the system on a dirt surface.

Anchor or stake down the first and last segment of the temporary barrier system.

Maintain a minimum radius of 800 feet for segments placed on a curved layout. For tighter curves down to a 250-foot radius, contact the manufacturer before installation and provide manufacturer's written recommendation for the installation.

Maintain a minimum 2-foot set back distance on both sides of a temporary barrier system used with traffic on both sides of the barrier.

12-3.20C(3)(c)–12-3.20C(3)(h) Reserved

12-3.20C(4)–12-3.20C(9) Reserved

12-3.20C(10) Temporary Terminal Sections

Reserved

12-3.20D Payment

The payment quantity for types of temporary barrier systems is the length measured along the top of the barrier segments.

**Replace the table in the definition of *designated holidays* in section 12-4.02A(2) with:**

Holiday	Date observed
New Year's Day	January 1st
Martin Luther King Jr. Day	3rd Monday in January
Lincoln's Birthday	2nd Monday in February
George Washington's Birthday	3rd Monday in February
Cezar Chavez Day	March 31st
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Indigenous People's Day	2nd Monday in October
Veterans Day	November 11th
Thanksgiving	4th Thursday and Friday in November
Christmas Day	December 25th

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**Replace section 14-1.03 Reserved with:**

The State has determined that this project has no significant impacts on the environment as defined by NEPA and that there are no unusual circumstances as described in 23CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an EA or EIS under the National Environmental Policy Act.

A copy of the Caltrans NEPA determination (CEQA Exemption/NEPA Categorical Exclusion Determination Form) shall be kept on-site at all times.

**Replace section 14-1.04 Reserved with:**

County of Santa Cruz has determined the project to be categorical exempt from CEQA.

A copy of the County of Santa Cruz CEQA determination (Notice of Exemption) shall be kept on site at all times.

**Add to section 14-8.02:**

Said noise level requirement applies to all equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by you. Avoid The use of loud sound signals in favor of light warnings except those required by safety laws for the protection of personnel.

1. You reasonably believe the substance is asbestos as defined in Labor Code § 6501.7 or a hazardous substance as defined in Health & Safety Code § 25117, § 25316 and § 25317.

## 14-12.04 COUNTY OF SANTA CRUZ AVOIDANCE AND MINIMIZATION MEASURES

Nesting bird avoidance and minimization measures:

- Invasive species avoidance and minimization measures:

- Storage Areas avoidance and minimization measures:

Material and equipment storage is restricted to existing unvegetated pullouts and paved areas in the County right-of-way, and not within the drip-line of oak trees, and outside the riparian corridor.

[illegible]

**Add to section 17-2.01:**

**Add to section 17-2.03A:**

**Replace 3rd paragraph in section 17-2.03A:**

Do not injure standing trees, plants and improvements as directed by the Engineer and as shown to be protected. Only remove trees as directed by the Engineer and as shown to be removed.

**Add to the 4th paragraph list in section 17-2.03A:**

6. All areas within the limits of the slip shown on the plans to be covered with hydroseed and jute mesh

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## **19 EARTHWORK**

**Add to the end of section 19-1.01A:**

Earthwork activities include finishing the roadway. Finishing the roadway must comply with section 22.

**Replace section 19-1.02:**

If borrow material for this project is not disaster-displaced material reclaimed from the immediate area, not obtained from standard commercial borrow source, not obtained from permitted borrow-pit (and a permit number is provided), or not obtained from a Sub-Grantee-owned pre-existing stockpile (and coordinates provided), the Sub-Grantee must notify FEMA and the California Office of Emergency Services (Cal OES) prior to commencing borrow extraction, so that compliance with Section 106 of the National Historic Preservation Act can be accomplished. Non-compliance with this requirement may jeopardize the receipt of federal funding.

**Replace the 2nd, 3rd, and 4th paragraphs of section 19-2.03B with:**

Dispose of surplus material. Ensure enough material is available to complete the embankments before disposing of it.

**Add a 4th item to paragraph 1 in section 19-2.04:**

4. Removal of existing asphalt concrete including asphalt concrete dikes and temporary asphalt concrete berms.

**Add between the 8th and 9th paragraphs of section 19-2.03G:**

Roughen excavation slopes and flat surfaces to receive erosion control materials by scarifying to a depth of 6 inches.

**Add to the end of section 19-3.01A:**

Hand excavation may be required at each end of the soldier pile wall limits. The price paid for Structure Excavation (Soldier Pile Wall) includes the cost associated with preforming the hand excavation.

**Delete the 1st paragraph of section 19-3.03B(2).**



**Replace the 3rd paragraph of section 19-3.03E(3) with:**

Place and compact the backfill behind the lagging to the backfill lift elevation shown on the plans that is associated with each specified row of anchors prior to drilling for the anchors in the row. Grout the anchors in place prior to placing and compacting the backfill behind the lagging to the next backfill lift elevation shown on the plans. Repeat this process until the construction of the wall is complete.

**Add to section 19-3.04:**

The cost to furnish and band the plywood panels needed to support the lean concrete between each pair of soldier piles as shown on the plans is included in the unit price paid for Lean Concrete Backfill.

The cost to furnish and install the filter fabric is included in the unit price paid for Timber Lagging.

**Add to section 19-7.02C:**

Imported borrow placed within 4 feet of the finished road grade must have an R-value of at least 15.

Strip materials that adversely affect the imported borrow properties.

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## 20 LANDSCAPE

**Replace the 1st through 5th paragraphs of section 20-1.02C with:**

Do not use pesticides.

**Replace the 3rd paragraph of section 20-1.02C with:**

Do not use rodenticides.

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## 21 EROSION CONTROL

**Add to section 21-2.02F:**

Seed mix design must comply with the requirements shown in the following table;

Santa Cruz Native Erosion Control Mix (Annual Reseeding)		
Seed Application Rate (lbs/acre)	Scientific Name	Common Name
25 lbs	Bromus carinatus	California Brome
10 lbs	Elymus glaucus	Blue Wildrye
6 lbs	Vulpia microstachys	Three Weeks Fescue
4 lbs	Trifolium wildenovii	Tomcat Clover
25 lbs (Required Nov - Feb)	Hordeum vulgare (sterile)	Barley (sterile)
70 lbs/acre	TOTAL	

**Add to section 21-2.02H:**

Straw must be certified weed free under the Department of Food and Agriculture.

**Replace *biodegradable jute, sisal, or coir fiber* in the 1st paragraph of section 21-2.02P with:**  
photodegradable plastic

**Add to section 21-2.02P:**

Straw for fiber roll must be certified weed free under the Department of Food and Agriculture.

**Replace section 21-3 with:**

**21-3 PERMANENT EROSION CONTROL ESTABLISHMENT WORK**

**21-3.01 GENERAL**

**21-3.01A Summary**

Section 21-3 includes specifications for performing permanent erosion control establishment work.

Permanent erosion control establishment work consists of weekly inspections of the project site for deficiencies in erosion control features.

The permanent erosion control establishment period starts after permanent erosion control work has been completed.

The Engineer notifies you when the permanent erosion control establishment period starts and furnishes weekly statements regarding the number of working days credited to the permanent erosion control establishment period after the notification.

At the start of the permanent erosion control establishment period you may request relief from maintenance and protection for work items that are not associated with water pollution control and permanent erosion control establishment work.

Working days on which no work is required during the permanent erosion control establishment period are credited as permanent erosion control establishment working days, regardless of whether or not you performed permanent erosion control establishment work.

Working days on which you fail to adequately perform permanent erosion control establishment work as required are not credited as permanent erosion control establishment working days.

Working days that occur after you fail to meet a due date for a Permanent Erosion Control Establishment (PECE) Report submittal will not be credited as permanent erosion control establishment working days.

**21-3.01B Definitions**

Not Used

**21-3.01C Submittals**

Submit a Permanent Erosion Control Establishment (PECE) Report form as an informational submittal within 24 hours of completing a weekly inspection and within 24 hours of each qualifying rain event. The WPC manager is responsible for the preparation and submittal of the PECE report. The report must identify any deficiencies that require repair, adjustment, or reapplication of materials, including:

1. Slides
2. Slipouts
3. Surface erosion
4. Damage to:
  - 4.1. Erosion control devices





Pile installation may require the use of full depth temporary casing or the use of drilling slurry. Drilling slurry must comply to section 49-3.02B(6) of the Standard Specifications and these Special Provisions.

**Add to section 49-3.02B(6)(c):**

The synthetic slurry must be one of the materials shown in the following table:

Material	Manufacturer
SlurryPro CDP	KB INTERNATIONAL LLC 735 BOARD ST STE 209 CHATTANOOGA TN 37402 (423) 266-6964
Super Mud	PDS CO INC 105 W SHARP ST EL DORADO AR 71731 (870) 863-5707
Shore Pac GCV	CETCO CONSTRUCTION DRILLING PRODUCTS 2870 FORBS AVE HOFFMAN ESTATES IL 60192 (800) 527-9948
Terragel or Novagel Polymer	GEO-TECH SERVICES LLC 220 N. ZAPATA HWY STE 11A-449A LAREDO TX 78043 (210) 259-6386
BIG FOOT	MATRIX CONSTRUCTION PRODUCTS 50 S MAIN ST STE 200 NAPERVILLE IL 60540 (877) 591-3137
POLY-BORE	BAROID INDUSTRIAL DRILLING PRODUCTS 3000 N SAM HOUSTON PKWY EAST HOUSTON TX 77032 (877) 379-7412

Use synthetic slurries in compliance with the manufacturer's instructions. Synthetic slurries shown in the above table may not be appropriate for a given job site.

Synthetic slurries must comply with the Department's requirements for synthetic slurries to be included in the above table. The requirements are available from the Offices of Structure Design, P.O. Box 168041, MS# 9-4/11G, Sacramento, CA 95816-8041.

SlurryPro CDP synthetic slurry must comply with the requirements shown in the following table:

### SlurryPro CDP

Quality characteristic	Test method	Requirement
Density During drilling (pcf)	Mud weight (density), API RP 13B-1, section 4	$\leq 67.0^a$
Before final cleaning and immediately before placing concrete (pcf)		$\leq 64.0^a$
Viscosity During drilling (sec/qt)	Marsh funnel and cup. API RP 13B-1, section 6.2	50–120
Before final cleaning and immediately before placing concrete (sec/qt)		$\leq 70$
pH	Glass electrode pH meter or pH paper	6.0–11.5
Sand content, percent by volume Before final cleaning and immediately before placing concrete (%)	Sand, API RP 13B-1, section 9	$\leq 1.0$

NOTE: Slurry temperature must be at least 40 °F when tested.

<sup>a</sup>If authorized, you may use slurry in a salt water environment. The allowable density of slurry in a salt water environment may be increased by 2 pcf.

Super Mud synthetic slurry must comply with the requirements shown in the following table:

### Super Mud

Quality characteristic	Test method	Requirement
Density During drilling (pcf)	Mud weight (density), API RP 13B-1, section 4	$\leq 64.0^a$
Before final cleaning and immediately before placing concrete (pcf)		$\leq 64.0^a$
Viscosity During drilling (sec/qt)	Marsh funnel and cup. API RP 13B-1, section 6.2	32–60
Before final cleaning and immediately before placing concrete (sec/qt)		$\leq 60$
pH	Glass electrode pH meter or pH paper	8.0–10.0
Sand content, percent by volume Before final cleaning and immediately before placing concrete (%)	Sand, API RP 13B-1, section 9	$\leq 1.0$

NOTE: Slurry temperature must be at least 40 °F when tested.

<sup>a</sup>If authorized, you may use slurry in a salt water environment. The allowable density of slurry in a salt water environment may be increased by 2 pcf.

Shore Pac GCV synthetic slurry must comply with the requirements shown in the following table:

<b>Shore Pac GCV</b>		
Quality characteristic	Test method	Requirement
Density	Mud weight (density), API RP 13B-1, section 4	
During drilling (pcf)		$\leq 64.0^a$
Before final cleaning and immediately before placing concrete (pcf)		$\leq 64.0^a$
Viscosity	Marsh funnel and cup. API RP 13B-1, section 6.2	
During drilling (sec/qt)		33–74
Before final cleaning and immediately before placing concrete (sec/qt)		$\leq 57$
pH	Glass electrode pH meter or pH paper	8.0–11.0
Sand content, percent by volume	Sand, API RP 13B-1, section 9	
Before final cleaning and immediately before placing concrete (%)		$\leq 1.0$

NOTE: Slurry temperature must be at least 40 °F when tested.

<sup>a</sup>If authorized, you may use slurry in a salt water environment. The allowable density of slurry in a salt water environment may be increased by 2 pcf.

Terragel or Novagel Polymer synthetic slurry must comply with the requirements shown in the following table:

<b>Terragel or Novagel Polymer</b>		
Quality characteristic	Test method	Requirement
Density	Mud weight (density), API RP 13B-1, section 4	
During drilling (pcf)		$\leq 67.0^a$
Before final cleaning and immediately before placing concrete (pcf)		$\leq 64.0^a$
Viscosity	Marsh funnel and cup. API RP 13B-1, section 6.2	
During drilling (sec/qt)		45–104
Before final cleaning and immediately before placing concrete (sec/qt)		$\leq 104$
pH	Glass electrode pH meter or pH paper	6.0–11.5
Sand content, percent by volume	Sand, API RP 13B-1, section 9	
Before final cleaning and immediately before placing concrete (%)		$\leq 1.0$

NOTE: Slurry temperature must be at least 40 °F when tested.

<sup>a</sup>If authorized, you may use slurry in a salt water environment. The allowable density of slurry in a salt water environment may be increased by 2 pcf.

BIG-FOOT synthetic slurry must comply with the requirements shown in the following table:

<b>BIG-FOOT</b>		
Quality characteristic	Test method	Requirement
Density	Mud weight (density), API RP 13B-1, section 4	
During drilling (pcf)		≤ 64.0 <sup>a</sup>
Before final cleaning and immediately before placing concrete (pcf)		≤ 64.0 <sup>a</sup>
Viscosity	Marsh funnel and cup. API RP 13B-1, section 6.2	
During drilling (sec/qt)		30–125
Before final cleaning and immediately before placing concrete (sec/qt)		55–114
pH	Glass electrode pH meter or pH paper	8.5–10.5
Sand content, percent by volume	Sand, API RP 13B-1, section 9	
Before final cleaning and immediately before placing concrete (%)		≤ 1.0

NOTE: Slurry temperature must be at least 40 °F when tested.

<sup>a</sup>If authorized, you may use slurry in a salt water environment. The allowable density of slurry in a salt water environment may be increased by 2 pcf.

POLY-BORE synthetic slurry must comply with the requirements shown in the following table:

<b>POLY-BORE</b>		
Quality characteristic	Test method	Requirement
Density	Mud weight (density), API RP 13B-1, section 4	
During drilling (pcf)		62.8–65.8 <sup>a</sup>
Before final cleaning and immediately before placing concrete (pcf)		62.8–64.0 <sup>a</sup>
Viscosity	Marsh funnel and cup. API RP 13B-1, section 6.2	
During drilling (sec/qt)		50–80
Before final cleaning and immediately before placing concrete (sec/qt)		50–80
pH	Glass electrode pH meter or pH paper	7.0–10.0
Sand content, percent by volume	Sand, API RP 13B-1, section 9	
Before final cleaning and immediately before placing concrete (%)		≤ 1.0

NOTE: Slurry temperature must be at least 40 °F when tested.

<sup>a</sup>If authorized, you may use slurry in a salt water environment. The allowable density of slurry in a salt water environment may be increased by 2 pcf.

**Add to section 49-4.02:**

Steel stay plates must be ASTM A36 and comply with section 55.

**Add to section 49-4.03B:**

Rock subsurface foundation material is anticipated at the soldier pile retaining wall location. Conventional drilling equipment for drilling in soils may not be suitable for drilling holes for the steel soldier piling.



If you substitute piles with a larger diagonal dimension for the piles shown, ream or enlarge the drilled hole to provide a hole diameter at least 4 inches larger than the diagonal dimension of the pile.

**Replace the 1st paragraph in section 49-4.03C with:**

Plumb and align the pile before placing concrete backfill and lean concrete backfill. The pile must be at least 3 inches clear of the sides of the hole for the full length of the hole to be filled with concrete backfill and lean concrete backfill. Ream or enlarge holes that do not provide the clearance around steel piles.

**Replace section 49-4.04 with:**

The unit price paid for Soldier Pile includes the cost to furnish and install the steel stay plates as shown on the plans.

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## 57 WOOD AND PLASTIC LUMBER STRUCTURES

### Add to section 57-2.01B(3):

Timber lagging must be preservative-treated timber.

### Replace paragraph 2 in section 57-2.02B:

The preservative treatment must be a waterborne wood preservative. Use only 1 type of preservative treatment for treating timber at each installation. Chromated copper arsenate must not be used.

### Add to section 57-2.02B:

Spikes and nails must be galvanized.

### Add to section 57-2.02C:

Before placing filter fabric, the surface to receive filter fabric must be free from loose or extraneous material and sharp objects that could damage the filter fabric.

Align and place the filter fabric so that it is wrinkle free.

Overlap adjacent rolls of filter fabric by 12 inches. The preceding roll must overlap the following roll in the direction the material is being placed.

Replace or repair filter fabric damaged during installation. Place a piece of fabric large enough to cover the damaged area and comply with the overlap requirements.

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## 59 STRUCTURAL STEEL COATINGS

### Add to section 59-2.01A(1):

Clean and paint the steel soldier piles shown in the following table with the coating system specified:

Wall	Work description	Coating system
SCHULTIES PM 0.51 Soldier Pile Wall	Clean, blast clean, and paint new steel piles.	Zinc

**Replace *Reserved* in section 59-2.01A(3)(b) with:**

Submit proof of each required SSPC-QP certification as specified in section 8-1.04C. The required certification is AISC-420-10/SSPC-QP 3, enclosed shop.

**Add to section 59-2.02A:**

All paint coat colors must match no. 10080 of FED-STD-595.

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**DIVISION VII DRAINAGE FACILITIES**  
**68 SUBSURFACE DRAINS**

**Replace paragraph 3 of section 68-2.02F(1) with:**

Use Class 2 permeable material for underdrains.

**Replace paragraph 1 of section 68-2.04 with:**

The payment quantity for pipe underdrain is the length measured parallel with the slope line. The payment quantity includes the length measured along the centerline of elbows, outlets and risers and the length of wyes, tees, and other branches to the point of intersection and includes pipe (perforated and non-perforated), wyes, tees, Roadway Excavation, Lean Concrete, Structure Backfill, Nonwoven Filter Fabric and Class 2 Permeable Material.

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**DIVISION IX TRAFFIC CONTROL DEVICES**  
**83 RAILINGS AND BARRIERS**

**Replace item 1 in the list in the 2nd paragraph of section 83-2.02C(1)(a) with:**

1. Steel line posts.

**Replace item 2 in the list in the 2nd paragraph of section 83-2.02C(1)(a) with:**

2. Plastic blocks for line posts.

**Replace section 83-2.04B with:**

**83-2.04B Alternative In-line Terminal Systems**

**83-2.04B(1) General**

**83-2.04B(1)(a) Summary**

Section 83-2.04B includes specifications for constructing alternative in-line terminal systems.

**83-2.04B(1)(b) Definitions**

Not Used



### 83-2.04B(1)(c) Submittals

Submit a certificate of compliance for alternative in-line terminal systems.

### 83-2.04B(1)(d) Quality Assurance

For each model of alternative in-line terminal system being installed, obtain the manufacturer's check list for the assembly and installation of the alternative in-line terminal systems from the manufacturer's representative or distributor. Notify the Engineer of the alternative in-line terminal systems to be installed at each location before starting installation activities. Complete, sign, and date the check list for each installed in-line terminal system and submit a copy of the completed and signed check list for each installed location, and include the following:

1. Contract number
2. Name of installation Contractor
3. Flare offset used in layout
4. Date of installation
5. Location on the project by post mile, and by station if stationing shown on plans
6. Name and signature of individual completing the checklist.

The Engineer signs and dates the completed check lists, verifying the in-line terminal system at each location was assembled and installed under the manufacturer's instructions and as described.

Use personnel trained by the manufacturer to install in-line terminal systems. A record of training provided by the manufacturer may be requested by the Engineer at any time.

### 83-2.04B(2) Materials

Alternative in-line terminal systems must be the following or a Department-authorized equal:

1. Type MAX-Tension TL-2 Tangent Guardrail End Treatment by Lindsay Transportation Systems is a tangent, re-directive gating guardrail terminal. The MAX-Tension has a length of 25'-0", and can be flared for an offset of 0 to 2 feet at the head. The MAX-Tension TL-2 terminal can be obtained from the distributor:

Address	Telephone no.
BARRIER SYSTEMS, INC BY LINDSAY 180 RIVER ROAD RIO VISTA, CA 94571	(888) 800-3691

2. MASH Sequentially Kinking Terminal (MSKT) TL-2 Tangent End Terminal System by Roads Systems, Inc (RSI) is a tangent, re-directive gating guardrail terminal. The MSKT TL-2 System has a length of 25'-0", and can be flared for an offset of 0 to 1.5 feet at the head. The Soft-Stop TL-2 terminal can be obtained from the distributor:

Address	Telephone no.
ROAD SYSTEMS, INC PO BOX 2163 BIG SPRING, TX 79721	(432)263-2435

3. Soft-Stop-In-Line Guardrail Terminal TL-2 Tangent End Terminal System by Trinity Highway is a tangent, re-directive gating guardrail terminal. The Soft-Stop TL-2 System has a length of 38'-3 1/2", and can be flared for an offset of 0 to 1 foot at the head. The Soft-Stop TL-2 terminal can be obtained from the distributor:

Address	Telephone no.
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