

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION  
**REQUEST FOR PROPOSAL**

**URBAN FEDERAL AID PROJECT NO. NHU-SU-1-981(118) (PCN-22435)**

1.590 Miles

GRADING, AGGREGATE BASE COURSE, HOT MIX ASPHALT, CULVERTS, WATER MAIN, LIGHTING, MARKINGS  
AND SIGNING

43RD AVE NE, BISMARCK - FROM 26TH ST E TO ROOSEVELT DR

BURLEIGH COUNTY

DBE Race Conscious Goal - 10.00%

**BID OPENING:** The bidder's proposal will be accepted via the Bid Express on-line bidding exchange at [www.bidx.com](http://www.bidx.com) until **09:30AM Central Time on March 12, 2021.**

Prior to submitting a Proposal, the Bidder shall complete all applicable sections and properly execute the Proposal Form in accordance with the specifications.

**Proposal Form of:**

\_\_\_\_\_  
(Firm Name)

\_\_\_\_\_  
(Address, City, State, Zipcode)

(For official use only)

PAGE INTENTIONALLY LEFT BLANK

**Project:** NHU-SU-1-981(118) (PCN-22435)

---

The company, firm, corporation, or individual hereby acknowledges that it has designated a responsible person or persons as having the authority to obligate the company, firm, or individual, through electronic or paper submittal, to the terms and conditions described herein and in the contract documents. The designated responsible person submitting this proposal shall be hereafter known as the bidder. By submitting this proposal, the bidder fully accepts and agrees to all the provisions of the proposal. The bidder also certifies that the information given in this proposal is true and the certifications made in this proposal are correct.

The bidder acknowledges that they have thoroughly examined the plans, proposal form, specifications, supplemental specifications, special provisions and agrees that they constitute essential parts of this proposal.

The bidder acknowledges that all line items which contain a quantity shall have a unit price bid. Any line item which is bid lump sum shall contain a lump sum bid price.

The bidder acknowledges that they understand that the quantities of work required by the plans and specifications are approximate only and are subject to increases and decreases; the bidder understands that all quantities of work actually required must be performed and that payment therefore shall be at the prices stipulated herein; that the bidder proposes to timely furnish the specified materials in the quantities required and to furnish the machinery, equipment, labor and expertise necessary to competently complete the proposed work in the time specified.

#### **NON-COLLUSION AND DEBARMENT CERTIFICATION**

The bidder certifies that neither he/she, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid.

By submitting this proposal, the bidder certifies to the best of his/her knowledge and belief that he/she and his/her principles:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or perform 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

**Project:** NHU-SU-1-981(118) (PCN-22435)

- 
- c. 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 b. of the certification; and
  - d. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or Local) terminated for cause or default

Where the prospective bidder is unable to certify to any of the statements in this certification, the bidder shall submit an explanation in the blanks provided herein. The explanation will not necessarily result in denial of participation in a contract:

Explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the prequalified bidder's status changes, he/she shall immediately submit a new fully executed non-collusion affidavit and debarment certification with an explanation of the change to the Contract Office prior to submitting the bid.

Failure to furnish a certification or an explanation will be grounds for rejection of a bid.

**BID LIMITATION (Optional)**

The bidder who desires to bid on more than one project on which bids are to be opened on the same date, and who also desires to avoid receiving an award of more projects than the bidder is equipped to handle, may bid on multiple projects and limit the total amount of work awarded to the bidder on selected projects by completing the "Bid Limitation".

The Bid Limitation must be filled in on each proposal form for which the Bidder desires protection. Each such proposal must be covered by a proposal guaranty.

The bid limitation can be made by declaring the total dollar value of work OR total number of projects a bidder is willing to perform.

The Bidder desires to disqualify all of his/her bids on this bid opening that exceed a total dollar value of \$ \_\_\_\_\_

OR

that exceed a total number of \_\_\_\_\_ projects.

The Bidder hereby authorizes the Department to determine which bids shall be disqualified.

**Project:** NHU-SU-1-981(118) (PCN-22435)

---

**PERMISSIBLE DISCOUNT (optional)**

Only when invited to do so in the Request for Proposal by Special Provision, Bidders are permitted to offer a discount on a specific project (discount project) if they are awarded the contract on one or more additional projects bid at the same bid opening time and date. The bidder must present the proposal so that it can be considered with or without the discount. The bid or discount offered on the "discount project" will not affect the determination of the low bid of any other project.

When discounts are offered, they must be presented as a reduction in the unit price for one or more items of work in the specified proposal (discount project).

Space for Offering Discounts:

---

---

---

Item No: \_\_\_\_\_

Description: \_\_\_\_\_

Unit: \_\_\_\_\_

Proposal Quantity: \_\_\_\_\_ Unit Price Reduction: \$ \_\_\_\_\_ Discount: \$ \_\_\_\_\_

Item No: \_\_\_\_\_

Description: \_\_\_\_\_

Unit: \_\_\_\_\_

Proposal Quantity: \_\_\_\_\_ Unit Price Reduction: \$ \_\_\_\_\_ Discount: \$ \_\_\_\_\_

Item No: \_\_\_\_\_

Description: \_\_\_\_\_

Unit: \_\_\_\_\_

Proposal Quantity: \_\_\_\_\_ Unit Price Reduction: \$ \_\_\_\_\_ Discount: \$ \_\_\_\_\_

TOTAL DISCOUNT \_\_\_\_\_

It is understood that the discount will only apply if awarded under the conditions as listed above and signed by the bidder.

**Project:** NHU-SU-1-981(118) (PCN-22435)

---

**RECEIPT OF ADDENDA ACKNOWLEDGEMENT**

We hereby acknowledge receipt of the following addenda:

Addendum # \_\_\_\_\_ Dated \_\_\_\_\_

**PROPOSAL GUARANTY**

A proposal guaranty is required. The proposal guaranty must comply with Section 102.09, "Proposal Guarantee" of the Standard Specifications.

TYPE OF PROPOSAL GUARANTY APPLIED TO THIS PROJECT (Check one):

\_\_\_\_\_ Annual Bid Bond\*

\_\_\_\_\_ Single Project Bid Bond

\_\_\_\_\_ Certified or Cashier's Check

\*Annual Bid Bond is required when submitting proposals electronically

BID ITEMS

Project: NHU-SU-1-981(118) (PCN-22435)

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
001	103	0100	CONTRACT BOND	L SUM	1.				
002	201	0300	CLEARING & GRUBBING	ACRE	16.690				
003	201	0352	REMOVAL OF TREES & BRUSH	L SUM	1.				
004	202	0113	REMOVAL OF CONCRETE	CY	30.				
005	202	0132	REMOVAL OF BITUMINOUS SURFACING	SY	126.				
006	202	0170	REMOVAL OF CULVERTS-ALL TYPES & SIZES	LF	980.				
007	202	0312	REMOVE EXISTING FENCE	LF	832.				
008	203	0101	COMMON EXCAVATION-TYPE A	CY	21,771.				
009	203	0109	TOPSOIL	CY	13,445.				
010	203	0140	BORROW-EXCAVATION	CY	21,009.				
011	216	0100	WATER	M GAL	1,940.				
012	230	0300	SUBGRADE PREPARATION-TYPE A	STA	40.950				
013	251	0200	SEEDING CLASS II	ACRE	11.860				
014	251	2000	TEMPORARY COVER CROP	ACRE	11.710				
015	253	0101	STRAW MULCH	ACRE	23.570				
016	256	0200	RIPRAP GRADE II	CY	63.				

BID ITEMS

Project: NHU-SU-1-981(118) (PCN-22435)

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
017	256	0300	RIPRAP GRADE III	CY	143.				
018	261	0112	FIBER ROLLS 12IN	LF	9,260.				
019	261	0113	REMOVE FIBER ROLLS 12IN	LF	4,630.				
020	261	0120	FIBER ROLLS 20IN	LF	13,112.				
021	261	0121	REMOVE FIBER ROLLS 20IN	LF	6,556.				
022	302	0050	TRAFFIC SERVICE AGGREGATE	TON	450.				
023	302	0120	AGGREGATE BASE COURSE CL 5	TON	50,189.				
024	401	0050	TACK COAT	GAL	5,081.				
025	401	0070	FOG SEAL	GAL	5,695.				
026	411	0105	MILLING PAVEMENT SURFACE	SY	28,101.				
027	420	0111	CRS2P EMULSIFIED ASPHALT	GAL	18,062.				
028	420	0125	COVER COAT MATERIAL CL 41	TON	595.				
029	430	0045	SUPERPAVE FAA 45	TON	19,918.				
030	430	1000	CORED SAMPLE	EA	80.				
031	430	5803	PG 58S-28 ASPHALT CEMENT	TON	1,196.				
032	702	0100	MOBILIZATION	L SUM	1.				

BID ITEMS

Project: NHU-SU-1-981(118) (PCN-22435)

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$	000	\$\$\$\$	00
033	704	0100	FLAGGING	MHR	1,720.				
034	704	1000	TRAFFIC CONTROL SIGNS	UNIT	2,713.				
035	704	1052	TYPE III BARRICADE	EA	12.				
036	704	1060	DELINEATOR DRUMS	EA	20.				
037	704	1067	TUBULAR MARKERS	EA	50.				
038	704	1185	PILOT CAR	HR	50.				
039	709	0155	GEOSYNTHETIC MATERIAL TYPE RR	SY	305.				
040	714	0310	PIPE CONC REINF 18IN CL III	LF	130.				
041	714	0615	PIPE CONC REINF 24IN CL III	LF	111.				
042	714	0820	PIPE CONC REINF 30IN CL III	LF	87.				
043	714	0905	PIPE CONC REINF 36IN CL III	LF	14.				
044	714	2130	PIPE CONC REINF ARCH 44IN X 27IN CL III	LF	112.				
045	714	2180	PIPE CONC REINF ARCH 88IN X 54IN CL III	LF	358.				
046	714	3010	END SECT-CONC REINF 18IN	EA	1.				
047	714	3020	END SECT-CONC REINF 24IN	EA	4.				
048	714	3030	END SECT-CONC REINF 30IN	EA	2.				

BID ITEMS

Project: NHU-SU-1-981(118) (PCN-22435)

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
049	714	3095	END SECT-CONC REINF ARCH 44IN X 27IN	EA	2.				
050	714	3120	END SECT-CONC REINF ARCH 88IN X 54IN	EA	4.				
051	714	5015	PIPE CORR STEEL .064IN 18IN	LF	289.				
052	714	5035	PIPE CORR STEEL .064IN 24IN	LF	146.				
053	714	5040	PIPE CORR STEEL .064IN 30IN	LF	85.				
054	714	5133	PIPE CORR STEEL .064IN ARCH 42IN X 29IN	LF	43.				
055	714	5810	END SECT CORR STEEL .064IN 18IN	EA	14.				
056	714	5820	END SECT CORR STEEL .064IN 24IN	EA	8.				
057	714	5825	END SECT CORR STEEL .079IN 30IN	EA	4.				
058	714	5880	END SECT CORR STEEL .079IN ARCH 42IN X 29IN	EA	2.				
059	714	9660	REMOVE & RELAY END SECTION-ALL TYPE & SIZES	EA	2.				
060	722	4005	INLET CATCH BASIN	EA	1.				
061	722	6140	ADJUST GATE VALVE BOX	EA	3.				
062	722	6200	ADJUST MANHOLE	EA	3.				
063	722	6201	ADJUST MANHOLE SPECIAL	EA	1.				
064	722	6695	AIR RELIEF VALVE & MANHOLE	EA	1.				

BID ITEMS

Project: NHU-SU-1-981(118) (PCN-22435)

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
065	724	0314	GATE VALVE & BOX 12IN	EA	2.				
066	724	0324	GATE VALVE & BOX 24IN	EA	2.				
067	724	0412	8IN HYDRANT	EA	1.				
068	724	0420	HYDRANT-RELOCATE	EA	1.				
069	724	0425	RESET HYDRANT	EA	2.				
070	724	0426	HYDRANT EXTENSION	LF	3.				
071	724	0430	REMOVE HYDRANT	EA	2.				
072	724	0800	WATERMAIN 6IN	LF	3.				
073	724	0820	WATERMAIN 8IN	LF	19.				
074	724	0855	12IN WATERMAIN	LF	2,483.				
075	724	0858	WATERMAIN 16IN	LF	60.				
076	724	0870	24IN WATERMAIN	LF	2,640.				
077	744	0100	POLYSTYRENE INSULATION BOARD	BD FT	960.				
078	748	0140	CURB & GUTTER-TYPE I	LF	20.				
079	750	0115	SIDEWALK CONCRETE 4IN	SY	262.				
080	750	1000	DRIVEWAY CONCRETE	SY	31.				

BID ITEMS

Project: NHU-SU-1-981(118) (PCN-22435)

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
081	750	2115	DETECTABLE WARNING PANELS	SF	160.				
082	752	0320	FENCE BARBED WIRE 4 STRAND-STEEL POST	LF	832.				
083	752	2100	VEHICLE GATE	EA	1.				
084	752	3150	CORNER ASSEMBLY BARBED WIRE-WOOD POST	EA	2.				
085	754	0110	FLAT SHEET FOR SIGNS-TYPE XI REFL SHEETING	SF	73.				
086	754	0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	LF	173.				
087	754	0805	OBJECT MARKERS - CULVERTS	EA	42.				
088	762	0103	PVMT MK PAINTED-MESSAGE	SF	720.				
089	762	0112	EPOXY PVMT MK MESSAGE	SF	720.				
090	762	0113	EPOXY PVMT MK 4IN LINE	LF	37,248.				
091	762	0115	EPOXY PVMT MK 8IN LINE	LF	457.				
092	762	0117	EPOXY PVMT MK 24IN LINE	LF	166.				
093	762	1104	PVMT MK PAINTED 4IN LINE	LF	37,248.				
094	762	1108	PVMT MK PAINTED 8IN LINE	LF	457.				
095	762	1124	PVMT MK PAINTED 24IN LINE	LF	166.				
096	766	0100	MAILBOX-ALL TYPES	EA	5.				

**BID ITEMS**

**Project: NHU-SU-1-981(118) (PCN-22435)**

**Bidder must type or neatly print unit prices in numerals, make extensions for each item, and total. Do not carry unit prices further than three (3) decimal places.**

Item No.	Spec No.	Code No.	Description	Unit	Approx. Quantity	Unit Price		Amount	
						\$\$\$\$\$	000	\$\$\$\$\$	00
097	770	0001	LIGHTING SYSTEM	EA	1.				
098	770	4540	RELOCATE LIGHT STANDARD	EA	1.				
			<b>TOTAL SUM BID</b>						

**Project:** NHU-SU-1-981(118) (PCN-22435)

**Type of Work:** GRADING, AGGREGATE BASE COURSE, HOT MIX ASPHALT, CULVERTS, WATER MAIN, LIGHTING, MARKINGS AND SIGNING

**County:** BURLEIGH

**Length:** 1.5900 Miles

---

**TIME FOR COMPLETION:**

The undersigned Bidder agrees, if awarded the contract, to prosecute the work with sufficient forces and equipment to complete the contract work within the allowable time specified as follows:

**WORKING DAY CONTRACT:** NA working days are provided. The Department will begin charging working days beginning NA or the date work begins on the project site, whichever is earlier.

**CALENDAR DAY CONTRACT:** NA calendar days are provided. The completion date will be determined by adding NA calendar days to NA or the date work begins on the project site, whichever is earlier.

**COMPLETION DATE CONTRACT** The project completion date is 07/15/2022 \*. The Department provides a minimum of NA working days. The Department will begin charging working days beginning NA or the date work begins on the project site, whichever is earlier.

**\*THERE IS AN INTERIM COMPLETION DATE OF NOVEMBER 5, 2021 FOR GRADING, CULVERTS, WATERMAIN, AGGREGATE BASE COURSE, HOT MIX ASPHALT, CONCRETE ITEMS, LIGHTING, EROSION CONTROL, RIP RAP, TEMPORARY COVER CROP, MARKINGS THROUGH WINTER, FENCING, AND SIGNING. LIQUIDATED DAMAGES FOR FAILURE TO COMPLETE THESE ITEMS BY NOVEMBER 5, 2021 WILL BE CHARGED ACCORDING TO SECTION 108.07.**

**FAILURE TO COMPLETE FINAL SEEDING, CHIP SEAL, FOG SEAL, AND PERMANENT MARKING BY JULY 15, 2022 WILL BE CHARGED ACCORDING TO SECTION 108.07.**

**Project:** NHU-SU-1-981(118) (PCN-22435)

**Type of Work:** GRADING, AGGREGATE BASE COURSE, HOT MIX ASPHALT, CULVERTS, WATER MAIN, LIGHTING, MARKINGS AND SIGNING

**County:** BURLEIGH

**Length:** 1.5900 Miles

**UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISE (M/WBE):**

The undersigned Bidder certifies that the information given on behalf of the Bidder in Special Provision, "Utilization of Disadvantaged Business Enterprise" (M/WBE), is true and correct and that the bidder has met the assigned goals or has met the good faith effort requirements of the Special Provision.

**CONTRACT EXECUTION:**

The undersigned Bidder agrees, if awarded the contract, to execute the contract form and furnish a contract bond within fifteen calendar days, as determined by NDCC Section 1-02-15, after date of notice of award, in accordance with the provisions of Sections 103.05 and 103.06 of the Standard Specifications.

**AFFIDAVIT:**

**STATE OF** \_\_\_\_\_ )  
 ) **ss.**  
**COUNTY OF** \_\_\_\_\_ )

The undersigned bidder, being duly sworn, does depose and say that they are an authorized representative of \_\_\_\_\_  
CONTRACTOR NAME  
of \_\_\_\_\_, a  
MAILING ADDRESS

- Individual       Partnership       Joint Venture       Corporation

and that they have read, understand, acknowledge, and accept the entire proposal form; and that all statements made by said bidder are true and correct.

\_\_\_\_\_, TITLE \_\_\_\_\_  
BIDDER MUST SIGN ON THIS LINE

\_\_\_\_\_  
TYPE OR PRINT SIGNATURE ON THIS LINE

Subscribed and sworn to before me this day.

\_\_\_\_\_  
COUNTY

(Seal)

\_\_\_\_\_  
STATE      DATE

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires \_\_\_\_\_

# **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**

Job # 07, NHU-SU-1-981(118)

Grading, Aggregate Base Course, Hot Mix Asphalt, Culverts  
Water Main, Lighting, Markings and Signing

## **INDEX OF PROVISIONS**

Road Restriction Permits

Hot Line Notice

Price Schedule for Miscellaneous Items dated October 1, 2014 (PS-1)

SP DBE Program - Race Conscious dated February 1, 2018

E.E.O. Affirmative Action Requirements dated March 15, 2014

Appendix A of the Title VI Assurances dated September 8, 2020

Appendix E of the Title VI Assurances dated September 8, 2020

SP Cargo Preference Act

Required Contract Provisions Federal Aid Construction Contracts  
(Form FHWA 1273 Rev. May 1, 2012)

SP Certified Payrolls, dated 9-6-17

SP DBE Project Payment Reporting, dated 10-3-17

NOTICE - Electrician

Labor Rates from U.S. Department of Labor dated January 1, 2021

On-The-Job Training Program dated October 1, 2016

SSP 1 Temporary Erosion and Sediment Best Management Practices

SSP 3 Local Agency Contracts

SSP 4 Longitudinal Joint Density

SSP 5 Limitations of Operations

## **INDEX OF PROVISIONS**

Page 2 of 2

SSP 7 Bitumen Testing Price Adjustments

SSP 8 Federal Prohibition on Certain Technological Hardware

SSP 9 HMA Acceptance

SP 215(20) Utility Coordination

PSP 56(20) Permits and Environmental Considerations

SP Fuel Cost Adjustment Clause dated September 8, 2006

# NOTICE

**TO: All prospective bidders on all North Dakota Department of Transportation Highway Construction Projects.**

Contractors moving construction equipment to NDDOT highway construction projects are subject to the Road Restriction Policy with the following modifications:

- A. The contractor may purchase up to 10 single trip permits for each NDDOT highway construction project at a cost ranging from \$20 to \$70 each. These permits must be purchased from the Motor Carrier Division of the Highway Patrol at the central office of the NDDOT in Bismarck, North Dakota.
- B. The \$1 per mile fee will not be charged for Gross Vehicle Weights (GVW) exceeding 105,500 pounds, 105,500 pounds, and 105,000 pounds for highways Restricted by Legal Weights, 8 Ton, and 7 Ton highways respectively.
- C. The \$5 per ton per mile fee will be charged only for loads exceeding a GVW of 130,000 pounds, 120,000 pounds, 110,000 pounds and 80,000 pounds for highways Restricted by Legal Weights, 8 Ton, 7 Ton, and 6 Ton highways respectively.
- D. The maximum weights per axle for each of the class restrictions still apply. If it is shown that more axles cannot be added, movement may be authorized; however, a \$1 per ton per mile fee will be charged for all weight in excess of the restricted axle limits.
- E. These construction equipment single trip permits apply to State and US Highways only.
- F. The District Engineers and Highway Patrol will select the route of travel.
- G. Contractors moving equipment to other than NDDOT highway construction projects are subject to all fees as shown in the Road Restriction Permit Policy.
- H. Contractors must call the Highway Patrol prior to movement of all overweight loads on all State and US Highways.

ROAD RESTRICTION PERMITS

Permits shall be issued for the movement of non-divisible vehicles and loads on state highways which exceed the weight limits during spring road restrictions. The issuance of permits may be stopped or posted weights changed at any time based on the varying conditions of the roadways. Permits can be obtained from the Highway Patrol.

RESTRICTION CLASSIFICATIONS WITH ALLOWABLE AXLE WEIGHTS AND GROSS VEHICLE WEIGHTS	PERMIT AND TON/MILE FEES
<p>Highways Restricted by Legal Weight</p> <p>Single Axle -- 20,000 lbs.                      Tandem Axle -- 34,000 lbs.                      Triple Axle -- 48,000 lbs.                      4 Axles or more -- 15,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 105,500 lbs.</p> <p>Note: The above weights apply to state highways restricted by legal weights, other than interstate highways, in areas where road restrictions are in force. When the gross weight of an axle grouping exceeds 48,000 pounds, the \$1 per ton per mile shall apply to all weight in excess of 15,000 pounds per axle.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>105,501 lbs. to 130,000 lbs. GVW -- \$1 per mile</p> <p>Over 130,000 lbs. GVW -- \$1 per mile <b>plus</b> \$5 per ton per mile for that weight exceeding 130,000 lbs. GVW</p> <p>Exceeding axle limits -- \$1 per ton per mile</p>
<p>8-Ton:</p> <p>Single Axle -- 16,000 lbs.                      Tandem Axle -- 32,000 lbs.                      3 Axles or more -- 14,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 105,500 lbs.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>105,501 lbs. to 120,000 lbs. GVW -- \$1 per mile</p> <p>Over 120,000 lbs. GVW -- \$1 per mile <b>plus</b> \$5 per ton per mile for that weight exceeding 120,000 lbs. GVW</p> <p>Exceeding restricted axle limits -- \$1 per ton per mile</p>
<p>7-Ton:</p> <p>Single Axle -- 14,000 lbs.                      Tandem Axle -- 28,000 lbs.                      3 Axles or more -- 12,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 105,500 lbs.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>105,500 lbs. to 110,000 lbs. GVW -- \$1 per mile</p> <p>Over 110,000 lbs. GVW -- \$1 per mile <b>plus</b> \$5 per ton per mile for that weight exceeding 110,000 lbs. GVW</p> <p>Exceeding restricted axle limits -- \$1 per ton per mile</p>
<p>6-Ton:</p> <p>Single Axle -- 12,000 lbs.                      Tandem Axle -- 24,000 lbs.                      3 Axles or more -- 10,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 80,000 lbs.</p>	<p>Permit Fee: \$20-\$70 per trip</p> <p>Ton Mile Fee:</p> <p>\$5 per ton per mile for all weight exceeding 80,000 lbs. GVW</p> <p>Exceeding restricted axle limits -- \$1 per ton per mile</p>
<p>5-Ton:</p> <p>Single Axle -- 10,000 lbs.                      Tandem Axle -- 20,000 lbs.                      3 Axles or more -- 10,000 lbs. per axle</p> <p>Gross Vehicle Weight -- 80,000 lbs.</p>	<p>No overweight movement allowed</p>

## **SINGLE UNIT FIXED LOAD VEHICLES SUCH AS TRUCK CRANES AND WORKOVER RIGS**

- A. Permit Fee and Ton Mile Fee for Self-Propelled Fixed Load Vehicles .
1. Permit Fee: \$25 per trip
  2. \$1 per ton per mile for all weight in excess of restricted axle limits or in excess of legal limits on state highways in areas where road restrictions are in force. When the gross weight of an axle grouping exceeds 48,000 pounds, the \$1 per ton per mile shall apply to all weight in excess of 15,000 pounds per axle (see weight classification chart in section C.)
  3. **\$5 per ton per mile** for all movements exceeding the following gross vehicle weight limits:
    - a. 105,500 lbs. GVW on unrestricted state highways, other than interstate highways, in areas where road restrictions are in force.
    - b. 105,500 lbs. GVW on 8-ton highways.
    - c. 105,500 lbs. GVW on 7-ton highways.
    - d. 80,000 lbs. GVW on 6-ton highways.
    - e. No overweight movement allowed on 5-ton highways
- B. Permit Fees for Work-Over Rigs and Special Mobile Equipment Exceeding 650 but not 670 Pounds Per Inch Width of Tire.
1. Permit Fee:
    - a. \$50 per trip on work-over rigs up to 650 pounds per inch width.
    - b. \$75 per trip on work -over rigs that exceed 650 but not 670 pounds per inch width of tire.
  2. The work-over rig shall be stripped to the most minimum weights.
  3. A minimal number of state highway miles shall be used.
  4. District engineer approval shall be obtained prior to movement when vehicle exceeds restricted axle weights by more than 5,000 pounds.
  5. A validation number ending in TM must be obtained from the Highway Patrol prior to using a self-issue single trip movement approval form.
  6. The ton mile shall be waived .

# NOTICE

## U.S. DEPARTMENT OF TRANSPORTATION

### "HOT LINE"

As part of its continuing investigation into Highway Construction Contract Bid Rigging and abuses in the Disadvantaged Business Enterprise Program, the Inspector General for the Department of Transportation (DOT) has established a "HOT LINE" to receive information from contractors, suppliers, or anyone with knowledge of such activities.

The toll-free "HOT LINE" telephone number is 1-800-424-9071 and will be manned during normal working hours (8 a.m. to 5 p.m. EST). This operation is under the direction of DOT's Inspector General. All information will be treated confidentially and anonymity will be respected.

#### CALL

Inspector General's 'HOT LINE'  
Toll Free 1-800-424-9071  
Washington, DC Area:  
202-366-1461  
Fax: 202-366-7749

#### WRITE

Inspector General  
Post Office Box 23178  
Washington, DC 20026-0178  
  
Email: [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov)

The field office address and telephone number for NORTH DAKOTA is:

#### CHICAGO REGIONAL OFFICE

Special Agent-in-Charge  
Commercial: 312-353-0106  
111 N. Canal St., Suite 677  
Chicago, Illinois 60606

10/1/2014

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
PRICE SCHEDULE FOR MISCELLANEOUS ITEMS (PS-1)**

The Contractor agrees to accept the following unit prices for each listed item of work and or material when no project contract unit price exists for that item. Each price listed will be full compensation for the cost of labor, material and equipment necessary to provide the item of work and/or material, complete in place, including (but not limited to) royalty, disposal of unsuitable material, equipment rental, sales tax, use tax, overhead, profit, and incidentals.

Each listed item is referenced to the Standard Specifications by Section number and Section name.

SECTION NO.	SECTION NAME	ITEM NAME	PRICE PER ITEM
107.08	Haul Roads	Water	\$27 per M Gal
107.08	Haul Roads	Bitumen for Mix	Invoice Price <sup>1</sup> + 10%
107.08	Haul Roads	Bituminous Mix	\$42 per Ton <sup>2</sup>
107.08	Haul Roads	Aggregate Base	\$17 per Ton <sup>2</sup>
203.01 B	Rock Excavation	Rock Excavation	\$11 per CY
203.01 C	Shale Excavation	Shale Excavation	Common Excavation Price + \$1.00 per CY
203.01 D	Muck Excavation	Muck Excavation	\$9 per CY
203.05 H.3	Embankment	Overhaul	\$1.40 per CY - Mile
260	Silt Fence	Mucking Silt Fence	\$3.90 per LF
260	Silt Fence	Removal of Silt Fence <sup>3</sup>	\$4.25 per LF
261	Fiber Rolls	Mucking of Fiber Rolls	\$3.90 per LF
261	Fiber Rolls	Removal of Fiber Rolls <sup>3</sup>	\$4.25 per LF
420.04 E	Bituminous Seal Coat	Blotter Sand	\$27 per Ton <sup>2</sup>
430.04 G	Hot Mix Asphalt (Exc. Material Hauled to Disposal Area)	Bituminous Mixture	Machine Placed: Bid or Invoice Price + \$31 per ton Hand Placed: Bid or Invoice Price + \$48 per Ton
704	Temporary Traffic Control	Flagging	\$32 per MHR

<sup>1</sup>Price paid for bituminous material will be invoice price plus freight costs.

<sup>2</sup>Price Includes haul up to 10 miles. Payment for haul exceeding 10 miles will be according to Section 109.03 E, "Force Account." The haul distance for aggregate base and bituminous mix will be based on the average haul. The haul distance for blotter sand will be from the point where the haul begins to the point where it enters the project.

<sup>3</sup>This is only for pre-existing items that were not installed under the Contract.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION SPECIAL PROVISION:  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

**PROJECT NHU-SU-1-981(118) (PCN-22435)**

**RACE/GENDER CONSCIOUS GOAL** The DBE goal for this project is: **10.00%**

<b>NDDOT Contact Information</b>	
Contractor Sign In & Submit Advertisements at: <a href="https://apps.nd.gov/dot/cr/csi/login.htm">https://apps.nd.gov/dot/cr/csi/login.htm</a>	Amy Conklin, DBE Program Administrator 701-328-3116 - or - <a href="mailto:aconklin@nd.gov">aconklin@nd.gov</a>
Submit quotes and post bid documentation to: <a href="mailto:subquotes@nd.gov">subquotes@nd.gov</a> or Fax: 701-328-0343	Ramona Bernard, Civil Rights Division Director 701-328-2576 - or - <a href="mailto:rbernard@nd.gov">rbernard@nd.gov</a>
Search DBE Directory <a href="https://dotnd.diversitycompliance.com/">https://dotnd.diversitycompliance.com/</a>	All times are stated in Central Time. <b>The day of the bid opening is not counted as one of the business days.</b>

**PURPOSE**

These provisions:

1. Provide an explanation of the federal law and outline the obligations to comply with the Federal DBE requirements applicable to this contract,
2. Explain the process NDDOT will follow to evaluate bidders' efforts to obtain DBE participation
3. Provide the standards NDDOT will use to measure compliance with the requirements
4. Identify sanctions for failing to comply with DBE program requirements.

**This Special Provision is written per 49 CFR Part 26 and Appendix A – Guidance Concerning Good Faith Efforts.**

Contract award will be made to the lowest responsive bidder whose proposal substantially complies with the requirements prescribed herein, has submitted all required documentation and who has met the goal for DBE participation, or has demonstrated, to the satisfaction of the Department, adequate good faith efforts to do so.

**QUOTES:**

All bidders and all subcontractors over \$500,000 (regardless of whether they are apparent low bidder or their quote was used on a project in this bid opening) should submit a completed [SFN 52013-List of Businesses Submitting Quotes](#) (Form B), or a spreadsheet containing all the information on Form B by 4:00 pm CST within 5 business days after the bid opening. **(Copies of quotes are no longer accepted)** This process is necessary in identifying “ready, willing, and able” contractors upon which to base the NDDOT Triennial DBE Goal. The number of contractors and the types of work they have bid/quoted will be used in the calculation of the DBE goal for each goal setting period.

**All subcontractors, suppliers, manufacturers, regular dealers, vendors, and brokers should fax or email quotes to the Department no later than 9 PM the day before each bid opening.**

**All DBEs quoting on this project MUST submit all quotes and a list of contractors they quoted to NDDOT no later than 9 PM the day before each bid opening.**

Prime contractors preparing to bid on NDDOT highway projects have requested that quotes be sent to them the day before the bid opening by:

- 2 PM Central - Suppliers (brokers/regular dealers), vendors, & manufacturers
- 5 PM Central - Subcontractors under \$500,000
- 8 PM Central - Subcontractors over \$500,000

## **REQUIREMENTS FOR ALL BIDDERS:**

- ALL BIDDERS are strongly encouraged to submit all documentation at the time of bid opening.
- Must submit Form A with bid package at the time of bid opening.
- Completed [Form B](#), or a spreadsheet containing all the information on Form B, should be submitted by 4:00 pm CST within 5 business days after the bid opening.
- Prime contractors are strongly encouraged to submit their bid documentation in one electronic file. Forms incorrectly submitted could result in a technicality, forcing the Department to award to the next responsive bidder.

## **REQUIREMENTS FOR ALB WHEN THE PROJECT DBE GOAL IS MET AT THE TIME OF BID OPENING:**

- Follow REQUIREMENTS FOR ALL BIDDERS above, and in addition, include:
- Must submit [SFN 52160 Notification of Intent to use \(Form C\)](#) for DBE's used in all tiers of subcontracting by 4:00 pm CST 2 business days after the bid opening.

## **REQUIREMENTS FOR ALB WHEN THE PROJECT DBE GOAL IS NOT MET AT THE TIME OF BID OPENING:**

- Follow REQUIREMENTS FOR ALL BIDDERS above, and in addition, include:
- A cover letter, submitted with SFN 60829 explaining actions taken attempting to meet the project goal. See Page 3, questions # 1-8 to help explain your actions in the cover letter. Cover letter must be submitted by 4:00 pm CST 2 business days of the bid opening.
- SFN 60829, [Contractor Good Faith Efforts Documentation](#), (GFE) **and** supporting documentation must be submitted by 4:00 pm CST 2 business days of the bid opening. Failure to demonstrate GFE may cause the Department to "Not Award".
- If a non-DBE is used over a DBE, or a prime wants to self-perform, a bid differential table in [SFN 60829](#) should be completed, showing a comparison of like items, (apples to apples) along with the reason for not using the DBE. (Primes may need to supplement the DBE or Non-DBE quote to get an apples to apples comparison). Any Bid Differential (BD) that does not clearly address all items quoted by the DBE, the non-DBE, prime or combination of quotes, will not be considered.
- Must submit [Form C](#) for DBE's used in all tiers of subcontracting & non-DBE's used in a bid differential by 4:00 pm CST 2 business days after the bid opening.

## **GOOD FAITH EFFORTS**

The bidder is responsible for taking actions toward achieving the project goal as required by 49 CFR Appendix A to Part 26 – Guidance Concerning Good Faith Efforts. Therefore, it is a bidder's responsibility to either achieve the project goal at the time of bid opening, or to follow a course of actions that would, by their scope, intensity, and appropriateness, reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

NDDOT will measure the bidder's efforts by actions demonstrated/taken prior to submitting their bid. The description and documentation of these efforts must adequately show NDDOT that the bidder took all necessary and reasonable steps to achieve the DBE goal.

The efforts employed by the bidder should be those that one could reasonably expect if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal.

The following questions are not intended to be a checklist or an exhaustive list of what is considered in evaluating GFE, but will help organize your explanation of your efforts to obtain DBE participation in your cover letter.

- 1) Did you use the DBE Directory to solicit DBEs who are certified to perform the work on the project?
- 2) Did you send timely written (fax, e-mail, etc.) solicitation notices to certified DBE's?
- 3) Did you maintain a follow-up log to track responses to your initial solicitations?
- 4) Did you provide DBEs with information about the plans, specifications, and requirements of the contract so they are able to respond to your solicitation in a timely manner?
- 5) Did you solicit DBE participation for work you could have self-performed?
  - a. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable.
- 6) Did you ask your firm's subcontractors to solicit DBE work for the subcontractors' portion of the project?
- 7) Did you receive and evaluate all quotes given? If not, what are your reasons?
  - a. The quotes **must be** converted to an acceptable format, whether the quotes are calculated by ton-mile, hour, acre or square mile.
- 8) **Did you advertise** using one or both of the following options? Submit a copy with your Good Faith Efforts documentation.

**OPTION 1:** Place an advertisement soliciting DBE participation using the electronic DBE Advertisement System.

- o Submit the required information online at <https://apps.nd.gov/dot/cr/csi/login.htm> no later than noon, 15 calendar days before the bid opening.

**OPTION 2:** Directly contact by email or fax, all DBEs certified in the specific work type (NAICS) required for the job.

- o Make contact with DBEs no later than 5 pm 7 calendar days before the bid opening.
- o Use the DBE Directory to determine the DBE firms certified in the work to be subcontracted.

Either method of advertisement must:

- o Provide the name, email address, telephone, and fax number of the company contact who will be available to discuss and/or receive quotes.
- o Offer assistance to DBEs in interpreting plans; quantities; expected overtime; project scheduling; pit and batch plan locations, length of haul, type of road; method of measurement (seeding by the mile or acre, hauling by hour or by ton-mile) or other issues that may affect a price quote.

**Indicate your intention to bid** and/or receive quotes on specific jobs by using the Department's Bid Opening Sign in System

- o The **Bid Opening Sign-In** web application located at <https://apps.nd.gov/dot/cr/csi/login.htm>.

Sign-In opens at 8 am 7 calendar days prior to the bid opening and closes at 11 AM the day before the bid opening.

- o Fill in the online form fields as required.
- o Log in to download the "Bid Opening Contact Report" at <https://apps.nd.gov/dot/cr/csi/public/listBidOpenings.htm>

## **EVALUATION OF GOOD FAITH EFFORTS**

Proposals may be considered irregular and may be rejected by the Department if there is non-compliance with the DBE requirements, or submitted documentation is incorrect or received after 4:00 pm CST 2 business days after the bid opening. The Department reserves the right to waive minor irregularities and/or certain elements of this special provision.

Federal regulations require the Department to scrutinize a bidder's documented good faith efforts (see appropriate actions on pages 3-4).

If the Committee determines the ALB has adequately demonstrated GFE, the committee will recommend "Award".

If the Committee determines the ALB has not adequately demonstrated GFE, the committee may recommend "Not Award". Some of the factors considered are:

1. Whether the ALB fails to meet the contract goal, but others meet it
2. If the ALB fails to meet or exceed the average DBE participation of other bidders
3. If the ALB fails to submit adequate GFE documentation by 4:00 pm CST 2 business days after the bid opening
4. If the ALB submits no documentation of its good faith efforts (GFE)
5. If the ALB submits incorrect forms

Upon notification of a recommendation for a Not Award determination, the Director's designee(s) will consider the Committee's recommendation. If the Designee(s) agrees with the Committee's recommendation, the Designee(s) will contact the ALB to inform them of the determination, the reasons for it, and that administrative reconsideration is available.

### **Administrative Reconsideration 49 CFR § 26.53 (d)**

- An in-person reconsideration meeting is available at the ALB's request.
- The Director's designee(s) will consider any information submitted prior to or presented at the hearing as to whether the ALB met the goal or made adequate efforts to do so.
- The NDDOT reconsideration decision will be made by the Director's designee(s), who will not have taken part in the original determination.
  - If the Director's designee(s) determines the ALB made adequate good faith efforts to meet the goal, the job will be recommended for award.
  - If the Director's designee(s) determines that the ALB has failed to sway the decision from "Not Award", the ALB will receive written notice of the decision.
- Director will make the final decision and may exercise such discretion as deemed appropriate.
- The decision is not subject to administrative appeal to the U.S. Department of Transportation (49 CFR § 26.53(d)(5)).

## **POST-AWARD REQUIREMENTS**

### **FEDERAL AUTHORITY**

The following paragraph must be included in all subcontracts of all tiers in accordance with 49 CFR § 26.13(b):

The contractor or all tiers of subcontractors 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 § 26.13 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 NDDOT 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

It is the prime contractors' responsibility to ensure all tiers of subcontractors, brokers, manufacturers, suppliers, vendors, and regular dealers comply with the requirements of this special provision. In addition, the prime contractor has the responsibility to monitor DBE performance on the project, and to ensure that the DBE performs a commercially useful function (CUF).

## **PRIME CONTRACTOR’S MONITORING, RESPONSIBILITIES, REPORTING**

For the life of the project, the prime contractor is responsible for the DBEs listed on [Form C](#) and for the specific spec/code items or products that the prime committed to during the award process.

The prime is responsible to:

- Report payments to DBEs used to meet the project goal. **Payments on the contract must be entered and stored in the CCS. Use of CCS on the project eliminates the requirement to submit SFN 60638 and SFN 14268.**
- Invite and encourage all subcontractors and all DBEs listed on [Form C](#) to the pre-construction conference.
- Provide minutes to any DBE not in attendance at the pre-construction conference.
- Ensure their firm as well as any subcontractors, manufacturers, and regular dealers/suppliers comply with the requirements of this special provision.
- Provide all subcontractors with Proposed Project Schedules and any necessary updates.
- Monitor DBE performance on the project.
  - [Submit SFN 60597, DBE Performance – Commercially Useful Function](#) (CUF) Certification to the project engineer with [SFN 5682- Prime Contractor’s Request to Sublet](#). Project engineers will not approve Requests to Sublet without the CUF Certification.
- Maintain project records and documentation of payments to DBEs for three years following acceptance of the final payment from NDDOT (per FHWA-1273, Section II Nondiscrimination #11).
  - This reporting requirement also applies to any certified DBE.
  - NDDOT may perform interim audits of contract payments to DBEs to ensure that the actual amount paid to DBEs equals or exceeds the dollar amount stated on [Form C](#).
  - Make these records available for inspection, upon request, by an authorized representative of the NDDOT or USDOT.

**If SFN 60597, and reports of payment are not received in a timely manner, progress payments will be withheld from the prime until submitted.**

If award of the contract is made based on the contractor’s good faith efforts, the goal will not be waived; the contractor must make good faith efforts throughout the duration of the project.

The prime contractor shall not terminate or replace a DBE subcontractor without the Department’s prior written consent. 49 CFR 26.53(f) (1) i.

The Department’s contract includes a provision stating:

- (A) That the contractor shall utilize the specific DBEs listed to perform the work and/or supply the materials unless the contractor obtains written consent; and
- (B) That, unless the Department’s consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

SFN 60595 - Replacement Approval Request must be submitted and approved prior to replacement of each DBE firm(s), or Non-DBE/BD(s), or any work the prime originally intended to self-perform prior to the commencement of any replacement work. No payment will be made if work commences without written approval. The form may be accessed at the Department’s website: <http://www.dot.nd.gov/forms/sfn60595.pdf>

If the prime has not achieved the goal and additional work becomes available, the prime must follow the replacement approval request process using [SFN 60595](#).

## **EXCEPTION FOR REPLACEMENTS DUE TO PUBLIC NECESSITY**

When replacement work is required as a matter of public necessity, (e.g., safety, storm water issues), the contractor must immediately notify the project engineer and the DBE or Non-DBE/BD intended at the time of award. If the DBE or Non-DBE/BD is unable to perform the work within the time specified by permit or administrative rule, the DBE or Non-DBE/BD must notify the prime immediately; and, within one business day, a written explanation must be submitted to the prime with a copy to the project engineer. The project engineer refers all replacement approval requests to the Assistant District Engineer (ADE). In a case of public necessity, the ADE has the authority to allow the contractor to self-perform the replacement work or to find another contractor to complete it.

## TERMINATION FOR CAUSE

A DBE or Non-DBE/BD may not be terminated without the Department's prior written consent. (49 CFR 26.53(f)(1)(I))

The Department will provide such written consent if the Department agrees that the contractor or subcontractor has good cause to terminate the DBE firm or Non-DBE/BD.

Circumstances which may be considered good cause for termination include when the listed DBE or Non-DBE/BD:

- Fails or refuses to execute a written contract
- Fails or refuses to perform the work of its subcontract in a way consistent with the contract and/or with normal industry standards, provided, that good cause does not exist if the failure or refusal of the listed DBE or Non-DBE/BD to perform its work on the subcontract results from the bad faith or discriminatory action of the prime or subcontractor
- Fails or refuses to meet the prime contractor's reasonable nondiscriminatory bond requirements
- Becomes bankrupt, insolvent, or exhibits credit unworthiness
- Is ineligible to work on public works projects because of Federal Highway Administration suspension and debarment proceedings.
- Is ineligible to receive DBE credit for the type of work required
- Dies or becomes disabled with the result that the listed DBE or Non-DBE/BD is unable to complete its work on the contract
- Other documented good cause that the Department determines compels the termination of the listed DBE or Non-DBE/BD

Good cause does not exist if the prime contractor or subcontractor seeks to terminate a DBE or Non-DBE/BD which was relied upon to obtain the contract so that the contractor can self-perform the work for which the DBE or Non-DBE/BD was engaged or so that the contractor can substitute another DBE or Non-DBE contractor after contract award.

The contractor must immediately give written termination notice to DBE or the Non-DBE/BD. At the same time, SFN 60595 and its supporting documentation must be provided to the project engineer for review and analysis of the reasons for the intended termination.

The contractor must give the DBE or Non-DBE/BD 5 business days to respond to the termination notice. Within that time, the DBE or Non-DBE/BD should respond with a written explanation of their reasons and/or objections to the proposed termination and specifically address why the Department should deny the contractor's request. This explanation should be submitted in reply to the contractor with a copy to the project engineer.

The project engineer will send the contractor's SFN 60595, the DBE or Non-DBE/BD's written response(s) and any other accompanying documentation to the Civil Rights Division (CRD). If the CRD concurs that a termination is warranted, the contractor must seek a DBE to perform the work.

All DBEs currently certified in the specific area of work to be performed, must be contacted in writing or by phone, and quotes solicited. If available, a DBE will be selected to perform a dollar value of work, equal to the value of the commitment not achieved, unless the contractor can demonstrate the DBE quote is unreasonable, using the same comparison in section "Good Faith Efforts Documentation."

Upon receipt of appropriate written GFE documentation, and prior to commencement of any replacement work, CRD will consider the contractor's efforts and provide a final written decision to the project engineer.

In instances where trucking replacements are sought, DBEs and/or Non-DBEs as allowed by regulation must be selected to cover all the trucking required until sufficient participation is met.

## **UNFULFILLED OBLIGATIONS**

The Department requires [SFN 60595](#) and its supporting documentation when a contractor, DBE, or Non-DBE/BD does not fulfill her or his obligations in any of the following situations:

- The prime contractor is unable to perform the full amount of work committed to be completed, by the prime's workforce and equipment, at the time of award, or
- The DBE or Non-DBE/BD to which the prime contractor committed using at the time of award, is unable to perform the full amount of work, or
- The DBE or Non-DBE/BD withdraws voluntarily from the project and provides to the prime written notice of its withdrawal.

[SFN 60595](#) and its supporting documentation must be provided to the project engineer for review and analysis. If the DBE or Non-DBE/BD is not able to perform, the prime contractor must provide written documentation from the DBE or Non-DBE/BD as to the reasons. The project engineer refers all replacement approval requests to the ADE. The Civil Rights Division will provide a written final determination to the project engineer.

If the Department concurs that a substitution is warranted, the prime contractor will seek a DBE to perform the work. All DBEs currently certified in the specific area of work to be performed, must be contacted in writing or by phone, and quotes solicited. If available, a DBE will be selected to perform a dollar value of work, equal to the value of the commitment not achieved, unless the contractor can demonstrate the DBE quote is unreasonable, using the same bid differential comparison in section "Good Faith Efforts Documentation."

In instances where trucking replacements are sought, DBEs and/or Non-DBEs as allowed by regulation must be selected to cover all the trucking required until sufficient participation is met.

The prime contractor is responsible for any additional costs incurred as a result of the prime contractor's failure or the subcontractor quoting over \$500,000 to fulfill the original commitment or the DBE or Non-DBE/BD's failure to perform.

## **NON-COMPLIANCE, FAILURE TO PERFORM, AND SANCTIONS**

If the Department determines that a contractor should be sanctioned, the Department will provide written notice to the contractor informing them of the sanction for the following:

- Not submitting required documentation in a timely manner
- Not paying a DBE or non-DBE subcontractor in a timely manner
- Not having a DBE perform the specified dollar amount of work (subject to plan quantity changes) tasks or bid items
- For otherwise not fulfilling the requirements of this DBE special provision
- Repeated instances of failure to perform the contract requirements
- Repeated instances of late contract-related payments
- documented fraudulent practices

If the Department determines that a DBE should be sanctioned, the Department will provide written notice to the DBE informing them of the sanction for the following:

- Failure to perform work as specified in the contract
- Failure to pay contract-related bills in a timely manner
- Failure to perform a commercially useful function
- Failure to notify the prime contractor orally and in writing if they are unable to perform a commercially useful function
- Otherwise not fulfilling the requirements of this DBE special provision

If sanctions are applied, the contractor or the DBE may make a written request to the Department for reconsideration. The contractor or the DBE must provide a written statement defending their actions within 3 business days.

If the Department does not receive a written request for reconsideration, or if the contractor or DBE does not provide sufficient evidence that the provisions have been met, the Department may suspend the contractor or the DBE

bidding or quoting privileges and not allow the contractor or the DBE to participate in one or more scheduled bid openings after the date the sanction is imposed.

Further sanctions which may be imposed by the Department for failure on the part of the contractor may include, but are not limited to:

- Withhold the contractor's progress payment until the contractor complies with all DBE contract provisions
- Deduct, from the contractor's progress payments, the dollar amount of DBE participation committed to but not achieved by the contractor
- Find the contractor in default
- Liquidated damages
- Disqualifying the contractor from future bidding
- Take other corrective action determined by the Department to be appropriate
- Any combination of the above.

## **NDDOT MONITORING AND ENFORCEMENT MECHANISMS**

The Department will bring any false, fraudulent, or dishonest conduct in connection with the DBE program to the attention of USDOT. USDOT may pursue action as provided in 49 CFR § 26.107. Actions include referral to the Department of Justice for criminal prosecution or referral to the USDOT Office of Inspector General for action under suspension and debarment, or Program Fraud and Civil Remedies rules. The Department will also consider similar action under its own legal authority, including responsibility determination in future contracts.

## **COMMERCIALLY USEFUL FUNCTION**

DBEs are required to perform a commercially useful function (CUF). CUF refers to those services the DBE is certified to perform. Certified services for each DBE are listed in the online DBE Directory. It is a DBE's responsibility to immediately notify the prime contractor in writing if the DBE is unable to perform a CUF or the services indicated on [Form C](#).

The contractor must certify that DBEs working on the prime's contract are performing a commercially useful function. Submit [SFN 60597, DBE Performance – Commercially Useful Function](#) Certification to the project engineer with [SFN 5682 - Contractor's Request to Sublet](#). Project engineers will not approve the Requests to Sublet without the CUF Certification. A review of the certification must be performed by the project engineer to determine whether the contract dollar value of the DBE's work may be counted toward the project goal.

The Department counts participation to a DBE contractor toward DBE goals only if the DBE is performing a CUF on that contract.

- A. A DBE performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installation and paying for the material itself. 49 CFR § 26.55(c)(1)
- B. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. 49 CFR § 26.55(c)(2)
- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, the Department must presume that it is not performing a CUF. 49 CFR § 26.55(c)(3)
- D. When a DBE is presumed not to be performing a CUF as provided in paragraph C (above), the DBE may present evidence to rebut this presumption. 49 CFR § 26.55(c)(4)
- E. The Department's decisions on CUF matters are subject to review by Federal Highway Administration, but are not administratively appealable to USDOT. 49 CFR § 26.55(c)(5)

## **COUNTING RACE/GENDER CONSCIOUS DBE PARTICIPATION - 49 CFR § 26.55**

The Department does not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE. 49 CFR § 26.55 (h)

The Department will count DBE participation toward our overall annual goal as provided in 49 CFR § 26.55 as noted below.

1. The Department will use the following factors in counting DBE trucking participation.
  - A. For purposes of this section, 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. 49 CFR § 26.55(d)(7)
  - B. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract. 49 CFR § 26.55(d)(1)
  - C. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract and 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. 49 CFR § 26.55(d)(2-3)
  - D. The DBE may lease trucks and drivers from another DBE firm and receives credit for the total value of the transportation services the lessee DBE provides. 49 CFR § 26.55(d)(4)
  - E. The DBE may also lease trucks with drivers and is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the services under items 1C and 1D. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. 49 CFR § 26.55(d)(5)  

Example to 1D: DBE Firm X uses two of its own trucks on a contract. It leases two trucks with drivers from DBE Firm Y and six trucks **with drivers** from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.
  - F. The DBE may lease trucks without drivers from a non-DBE truck leasing company and if the DBE uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.  

Example to paragraph 1F: DBE Firm X uses two of its own trucks and drivers on a contract. It leases two additional trucks and drivers from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks. 49 CFR § 26.55(d)(6)
2. Only the value of the work actually performed by the DBE counts toward the project goal when a DBE participates in a contract provided the DBE is certified in this work.
  - A. The Department counts the entire amount of that portion of a construction contract, or other contract not covered by item 2. B, that is performed by the DBE's own forces. Included are the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate). 49 CFR § 26.55 (a)(1)
  - B. The Department counts the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service for which they are certified, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, if the Department determines the fee to be reasonable and not excessive. 49 CFR § 26.55 (a)(2)
  - C. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is also a DBE. 49 CFR § 26.55 (a)(3)

3. The Department counts expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:
  - A. If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies toward DBE goals. 49 CFR § 26.55 (e)(1)(i)
  - B. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals. 49 CFR § 26.55 (e)(2)(i)
  - C. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of 3B (above) 49 CFR § 26.55 (e) (2) (ii) (C)
  - D. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, if the Department determines the fees to be reasonable and not excessive. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals. 49 CFR § 26.55 (e) (3)
  - E. The Department determines the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expediter) on a contract-by-contract basis. 49 CFR § 26.55 (e)(4)
4. If a firm is not currently certified in ND at the time of the execution of the contract, the Department does not count the firm's participation toward any DBE goal. 49 CFR § 26.55 (f)
5. The Department does not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward the Department's overall annual goal. 49 CFR § 26.55 (g)

## **DEFINITIONS**

The definitions specified below apply only to this Special Provision and may contain differences from NDDOT Standard Specifications.

**Achievement** means any DBE certified service dollar amount committed to at the time of award. Any achievement must be supported by a request to sublet and Monthly DBE Payment Records for each DBE.

**Aggregate providers** are considered subcontractors rather than regular dealers/suppliers, regardless of the amount of their quote.

**Apparent low bidder (ALB)** means the bidder whose bid is read as low bid at the bid opening.

**Bid differential (BD)** means written documentation provided by the low bidder comparing a Non-DBE quote to a DBE quote.

**Bid Opening Sign-In System** means the Department's online system to which all prime contractors and subcontractors must register to indicate their interest in quoting or bidding prior to each bid opening.

**Bidder/prime contractor** means bidders who are submitting proposals on this project, regardless of the size of the highway construction projects; a contractor intending to serve as the prime contractor.

**Blanket quote** means when a business provides the same quote, for all projects, at a bid opening, using the same price, at one rate, not project specific. Blanket quotes for the construction season are not allowed, i.e. trucking, striping, signing, construction supplies, etc.

**Commercially Useful Function** describes a DBE's responsibilities and involvement in a project, see section Commercially Useful Function of this SP.

**Commitment** means the dollar amount of work the DBE will complete according to the bidder's submitted proposal.

**Contractor** means all DBE and Non-DBE firms, including prime contractors, subcontractors (under/over \$500,000), brokers, vendors, regular dealers/suppliers, and manufacturers at any tier.

**DBE Goal** means a percentage of the total contract targeted for the hiring of DBE subcontractors to do specific bid items for which the DBE has been certified to perform. Project goals are set by assessing the project's bid items, location, whether DBEs are available to do the work.

**DBE Participation** means the percentage achieved when the dollar amount committed to the DBE is divided by the dollar amount of all contract items.

**DBE Participation Review** summarizes the prime's participation at the time of award. A replacement approval request must be submitted to substitute a firm for any DBEs reported as being used at the time of award.

**Department** means the project owner regardless of whether the owner is NDDOT, a city or a county project.

**Disadvantaged business enterprise or DBE** means a for-profit small business concern that is certified by the Department and listed in the DBE Directory available on the Department's web site. DBEs must first be certified in the work intended before any DBE achievement may be counted toward the project goal.

**Equipment supplier** is a firm which provides equipment for sale or lease, without operators, and whose primary business function is equipment sales or leasing.

**Good Faith Efforts (GFE)** means efforts made by the prime contractor to achieve a DBE goal. This includes but is not limited to providing assistance to DBEs in preparing their quotes, advertise, sign in, etc.

**Manufacturer** means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications. 49 CFR § 26.55 (e) (1) (ii)

**Materials** means aggregate, steel, petroleum products, concrete, asphalt, and other construction supplies.

**NAICS Codes** means industry codes assigned by North American Industry Classification System. When certified, DBE businesses are assigned NAICS codes which are identified in the DBE Directory.

**NDDOT Certification & Compliance System (CCS)** refers to the online compliance reporting system whereby contractors report/submit job related payments, commitments, and Utilization Plan documentation.

**Non-DBE** means a contractor, subcontractor, supplier (broker or regular dealer), vendor, or manufacturer that has not been certified as a DBE by the NDDOT Uniform Certification Program.

**Non-DBE used in bid differential (Non-DBE/BD)** means a Non-DBE which, at the time of award, was approved for use due to a price comparison with a DBE. A [Form C](#) with the Non-DBE/BD must be included in the DBE Good Faith Efforts Review documentation. A replacement approval request must be submitted when the Non-DBE/BD is unable to complete the work.

**Positive Contact** means active and documented solicitation of DBE and other subcontractors. Advertising the prime's intention to bid or contacting individual DBEs is deemed a positive contact.

**Project owner** means any political subdivision such as a city or county which provides match to federal highway funds and uses NDDOT's electronic bidding system to let their projects to bid. The Department "owns" state projects.

**Quoter** means a DBE or a Non-DBE subcontractor (under/over \$500,000), brokers, vendors, regular dealers/suppliers, and manufacturers at any tier who submits quotes to another contractor.

**Race/Gender Conscious (RGC)** goals are those focused specifically on assisting DBEs.

**Responsible Bid Proposal** means a bidder's proposal in which the project goal has been achieved, or the bidder demonstrates Good Faith Efforts (GFE) as outlined in this Special Provision.

**Subcontractor** means any firm intending to perform work, or intending to perform work and supply the materials, which were intended for their work on the project. All subcontractors must attach a list of DBE subcontractors intended for use to their quote when submitting it to the prime contractor.

**Subcontractor quoting over \$500,000** means a subcontractor whose quote is over \$500,000 on any project and who is not a supplier, broker, vendor, regular dealer, or manufacturer. All aggregate providers are considered subcontractors, regardless of the amount of their quote.

**Supplier** means a party providing goods, services, and supplies on the project.

**Broker** means an agent who, without having custody of the property, a) negotiates contracts of purchase, work, lease, or sale; b) buys and sells goods; or c) negotiates between buyers and sellers. See Counting DBE Participation section.

**Regular Dealer** means a DBE firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. See Counting DBE Participation section.

**Tier** means various levels of contractors on the job. For example a prime contractor's subcontractor (B) is referred to as the second tier. When B subcontracts with C, C becomes the third tier, etc.

**Tied quote** means the quote will be considered only if all of the bid items are included.

**Untied quote** means that any item or group of items quoted may be used for price noted on the quote whether one or all are used.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
EEO AFFIRMATIVE ACTION REQUIREMENTS**

**March 15, 2014**

Bidders shall become familiar with the following requirements and be prepared to comply in good faith with all of them:

**APPENDIX A**

Notice or Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246).

1. The Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:
  - a. Goals for Female Participation in Each Trade – Statewide . . . . .6.9%
  - b. Goals for Minority Participation in Each Trade by County:  
Barnes, Cass, Dickey, Eddy, Foster, Griggs, LaMoure, Logan,  
McIntosh, Ransom, Richland, Sargent, Steele, Stutsman, Traill . . . . .0.7%  
  
Grand Forks . . . . .1.2%  
  
Benson, Cavalier, Nelson, Pembina, Ramsey, Towner, Walsh . . . . .2.0%  
  
Burleigh, Morton . . . . .0.4%  
  
Adams, Billings, Bowman, Dunn, Emmons, Golden Valley, Grant,  
Hettinger, Kidder, Mercer, Oliver, Sheridan, Sioux, Slope, Stark, Wells . . .1.3%  
  
Bottineau, Burke, Divide, McHenry, McKenzie, McLean, Mountrail,  
Pierce, Renville, Rolette, Ward, Williams . . . . .4.4%

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a),

and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall notify the Office of Federal Contract Compliance Programs, in writing, within ten working days of award of any subcontract in excess of \$10,000. The notification shall include the name, address, and telephone number of the subcontractor and their employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

Notification should be sent to:

U.S. Department of Labor/ESA  
OFCCP  
Denver District Office  
1244 Speer Boulevard  
Denver, Colorado 80202  
Phone: 720-264-3200  
Fax: 720-264-3211

4. As used in this "Notice" and in the contract for this project, the "covered area" is the State of North Dakota.

## **APPENDIX B**

Standard Federal Equal Employment Opportunity Construction Contract Specifications  
(Executive Order 11246)

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the proposal from which this contract resulted.
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:

- (1) Black (all persons having origins in any of the Black African racial groups, not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin, regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation of community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the proposal from which this contract resulted.
  3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
  4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft.
  5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
  6. In order for the nonworking training hours of apprentices and trainees to be counted

in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor. (Training programs approved by the North Dakota Department of Transportation are recognized by the U.S. Department of Labor.)

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all Foremen, Superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources; provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its union have employment opportunities available, and maintain a record of the organization's responses.
  - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
  - d. Provide immediate written notification to the Director when the union with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to

the sources compiled under 7b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the Company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the Company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the Company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing it with the Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minorities and women, and where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring

all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

- n. Ensure that all facilities and Company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Contractors and Suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all Supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligation.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Contractor association, joint Contractor- union, Contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. Goals for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minorities, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termina-

tion, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the Company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form, however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX E OF THE TITLE VI ASSURANCES**

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 CFR 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 USC § 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 at 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 non-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.*).

## **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**

### **SPECIAL PROVISION**

### **CARGO PREFERENCE ACT (CPA)**

#### **DESCRIPTION**

The Federal Highway Administration (FHWA) in partnership with the Federal Maritime Administration (MARAD) has mandated the implementation of 46 CFR 381 making the cargo preference requirements applicable to the Federal Aid Highway Program.

The requirements of this Special Provision apply to items transported by ocean vessel.

#### **CONTRACT REQUIREMENTS**

##### **A. General**

Utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage 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. Gross tonnage is computed separately for dry bulk carriers, dry cargo liners, and tankers.

Furnish a legible, English language copy of a rated 'on-board' commercial ocean bill-of-lading for each shipment of cargo described in the previous paragraph. Furnish the bill-of-lading within 20 days following the date of loading for shipments originating in the United States and within 30 working days following the date of loading from shipments originating outside the United States.

Furnish bills-of-lading to the Engineer and to the following:

Division of National Cargo  
Office of Market Development  
Maritime Administration  
Washington, DC 20590

##### **B. Subcontracts**

Include the language in Section "A, General" of this Special Provision in all subcontracts issued pursuant to this contract.

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

- I. General
- II. Nondiscrimination
- III. Nonsegregated 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. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

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. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

**ATTACHMENTS**

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

**II. NONDISCRIMINATION**

The provisions of this section related to 23 CFR Part 230 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.

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (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).

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

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.

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.

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). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

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 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal 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).

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

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.

**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 (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 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 35 and 29 CFR 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.

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, 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 who 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.

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, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure 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. 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, 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, 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 there under. 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, 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 and 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. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor 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 contracting agency deems appropriate.

**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 \$10,000 or more.

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, 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). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

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

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

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

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

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

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

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

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

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

will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

## 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

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

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

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

#### 4. Apprentices and trainees

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

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

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

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

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

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 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.

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

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

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

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

**10. Certification of eligibility.**

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

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

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

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

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

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

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

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

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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" 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:

(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.

2. 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. 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.

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

## 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 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.

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 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).

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 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 1, 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**

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

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

#### **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.

##### **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.

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.

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.

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 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee 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 grantee or subgrantee 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.

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.

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. 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 Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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. 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) 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;

(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; 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.

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

### **2. 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)

a. By signing and submitting this proposal, the prospective lower tier 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.

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

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

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.

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 Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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.

\* \* \* \* \*

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

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

\* \* \* \* \*

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

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

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.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS**

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.

**CONTRACT SPECIAL PROVISION  
MANDATORY USE OF  
AUTOMATED CERTIFIED  
PAYROLL**

**All contractors** on NDDOT federal-aid projects, including city/county projects, must file weekly Certified Payrolls, as required under Davis-Bacon and Related Acts (DBRA). **The NDDOT requires the use of LCPtracker, a paperless online system for entering and filing these certified payrolls. Certified payrolls in paper form will no longer be accepted, and all contractors must file their payroll electronically.**

After award, the Prime Contractor (Prime) must:

1. Designate an individual as Prime Approver for the project. The Prime Approver will oversee DBRA payroll for all subcontractors of all tiers on the project. A contractor may inform the NDDOT Civil Rights Division (CRD) that the same individual will be Prime Approver on all projects. CRD will set up the Prime Approver Account for the project. Thereafter, the Prime Approver will have the responsibility to use the Account to approve all payroll on the project. Until payroll is approved by the Prime Approver, it cannot be viewed by the NDDOT and it is not deemed submitted to the NDDOT.
2. The prime contractor has the responsibility to assign subcontractors within the LCPtracker system to the project and to ensure that all subcontractors are aware of the necessity to file payrolls electronically and are set up within the system. Any subcontractor not on Approved Subcontractor List or the Qualified Contractor List must register and be placed one of these lists before entry of the subcontractor into LCPtracker. These lists may be found at <https://www.dot.nd.gov/pacer/qualified.htm> and <https://www.dot.nd.gov/pacer/registered.htm>. Only Prime Approvers or the CRD may enter subcontractors into LCPtracker.
3. The prime contractor has the responsibility to see that all required payrolls are filed by subcontractors of all tiers. If payroll is rejected or project staff otherwise requests a correction of payroll by any subcontractor on the project, the prime contractor has a responsibility to see that corrected payroll is submitted.
4. For further information on certified payroll, go to the NDDOT Labor Compliance/LCPtracker page at <https://www.dot.nd.gov/divisions/civilrights/laborcompliance.htm>. On this page, contractors will find a Getting Started on LCPtracker Guide and a Prime Approver Guide. Recorded trainings are also available on this page for both contractors and prime approvers. Contractors can obtain an LCPtracker user name and password by calling the NDDOT Civil Rights Division at (701) 328-2605 or (701) 328-2576.

09/06/2017

**CONTRACT SPECIAL PROVISION  
MANDATORY USE OF ONLINE  
DBE PROJECT PAYMENT REPORTING**

Payments made to all tiers of subcontractors must be reported electronically using the B2GNow system. Paper forms (Monthly Record of DBE Project Payments – SFN 60638) will no longer be accepted.

After award, the Prime Contractor (Prime) must:

1. Create a new account if not already in the system. Create a user for each employee who will use the system. If there is no account already set up, you can email Customer Support directly from the Account Lookup page. Your email address will be your user ID. Customer Support will email you with the information you need to log in.
2. Once the project has been awarded and the Utilization Plan (UP) has been created in the system and assigned to the contractor it must be filled out and submitted. An automated email message will be sent to a designated individual within the company alerting them that a UP is pending. Log into the system using the link provided in the email. For each contract the Prime must add all DBE and non-DBE subs being used on the project. When all information has been provided submit the UP. Civil Rights will review the UP and if everything is in order it will be approved. If changes need to be made the UP will be returned to the contractor and they will have 7 days to make the necessary adjustments and resubmit. If DBE or non-DBE subcontractors are added after the initial UP is set up the Prime can submit a request for them to be added.
3. Once the UP is submitted the project is “locked in” after Financial Management has processed the project in their system. After a UP is locked in payments from NDDOT to the Prime are reported through the system. The Prime must start reporting DBE and non-DBE subcontractor payments through the system in accordance with prompt pay guidelines outlined in the contract.
4. A user manual for UP’s and recording project payments is available to the contractors within the system. After login they can go to View>>My Utilization Plans and they will find the guide on the top of the Utilization Plan screen. They do not have to have a current UP assigned to them to see this guide. The guide is also on the actual UP page when a UP is assigned to them.
5. For further information on the Certification and Compliance System, go to the NDDOT Civil Rights page at <https://www.dot.nd.gov/divisions/civilrights/civilrights.htm>. There is various training available on a regular basis, to sign up for training go to the main Certification and Compliance System page and click the “Training and Events” box. Contractors that need to obtain an account or need subcontractors set up within the system should call the NDDOT Civil Rights Division at (701) 328-3116 or email [civilrights@nd.gov](mailto:civilrights@nd.gov)

10/3/2017

## NOTICE:

Electrical work done outdoors on highway construction projects is covered by the Line Construction rates rather than Electrician rates. When electrical work is performed on or within a commercial building only, such as a rest area, the job classification Electrician is to be used. Any other electrical work on a federal-aid highway construction project in North Dakota is covered by the line construction rates. The minimum wage and fringe amount stated in the attached wage determination within this proposal is required for such classification.

Apprentices in Line Construction: Apprentices in Line Construction must be classified and paid as Apprentice Linemen with a percentage of journeyman's pay that reflects the apprentice's progress level of training. Additionally, they must be enrolled in a bona fide lineman Apprentice Program regardless if they are also enrolled in an indoor Electrical Apprentice Program.

Electrical work may not be done by any Laborer classification under the ND Century Code. The Group 2 Laborer, Conduit Layer may only handle low voltage data or telephone lines and may not install or handle electrical conduit.

For assistance or questions concerning Davis-Bacon Wages and Requirements, go to:

<https://www.dot.nd.gov/manuals/civilrights/davisbacon.pdf>

Or contact:

Civil Rights Division  
North Dakota Department of Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700  
Phone: 701-328-2605      Email: [civilrights.nd.gov](mailto:civilrights.nd.gov)

NDDOT's *Davis-Bacon Wage and Payroll Requirements Handbook* is available at:  
[www.dot.nd.gov/manuals/civilrights/davisbacon.pdf](http://www.dot.nd.gov/manuals/civilrights/davisbacon.pdf)

U.S. DEPARTMENT OF LABOR

<small>STATE</small> NORTH DAKOTA	<small>COUNTY</small> STATEWIDE	20210054 Page 1 <small>DATE OF DECISION</small> 01-01-21
--------------------------------------	------------------------------------	--

	Basic Hourly Rates	Fringe Benefits Payments
		H & W/Pensions
<b>CARPENTERS</b>	\$30.60	\$ 7.60
<b>CEMENT MASONS/FINISHERS</b>	30.60	7.60
<b>LINE CONSTRUCTION:</b>		
Lineman	43.50	5.75 + 29%
Cable Splicer	43.50	5.75 + 29%
Line Equipment Operator	36.93	5.75 + 29%
Groundman	24.62	5.75 + 29%
<b>ELECTRICIANS:</b>		
Electrician	34.92	11.40 + 11.5%
Cable Splicer (Adams, Billings, Bottineau, Bowman, Burke, Divide, Dunn, Emmons, Golden Valley, Grant, Hettinger, McHenry, McKenzie, Mclean, Mercer, Mountrail, Oliver, Pierce, Renville Rolette, Sheridan, Sioux, Slope, Ward and Williams Counties)	36.67	11.40 + 11.5%
Electrician	32.35	11.35 + 11.5%
Cable Splicer (Barnes, Benson, Cavalier, Dickey, Eddy, Foster, Grand Forks, Griggs, Kidder, La-Moure, Logan, McIntosh, Nelson, Pembina, Ramsey, Ransom, Richland, Sargent, Steele, Stutsman, Towner, Traill, Walsh, and Wells Counties)	33.97	11.35 + 11.5%
Electrician	34.70	11.40 + 11.5%
Cable Splicer (Burleigh, Morton and Stark Counties)	34.64	11.40 + 11.5%
Electrician (Cass County)	14.72	3.40
<b>WELDERS:</b>		
Receive rate prescribed for craft performing operation to which welding is incidental		

**LABOR RATES**

Page 2 of 4

01-01-2021

ND20210054

Page 2

**LABORERS:**

**Group 1**

General Construction Laborers: Sack Shaker (cement and mineral filler), pipe handler, drill runner tender, salamander heater and blower tender, light truck, pickup driver, flaggers and pilot car drivers

**Group 2**

Semi Skilled Laborer: bulk cement handler, conduit layer, telephone or electrical, form setter (pavement), gas electric or pneumatic tool operator, chipping hammer, grinders and paving breakers (tamper-dirt), concrete vibrator operator, chain saw operator, concrete curing man (not water), bituminous worker (shoveler, dumper, raker and floated), kettleman,(bituminous or lead), concrete bucket signalman, power buggy operator, brick and mason tender, muti-plate pipelayer, culvert pipe layers, carpenters tenders

**Group 3**

Caisson Worker: Bottom Man (Sanitary sewer, storm sewer, water and gas liners): Concrete Mixer Operator (one bag capacity); Mortar Mixer

**Group 4**

Drill Runner (includes Wagon Chum or Air Track); Pipe Layers (sanitary sewer, storm sewer, water, and gas lines); Powderman, gunite and sandblast; Nozzleman; Rein forcing Steel Sellers/Tiers: Concrete Finisher Tender

**POWER EQUIPMENT OPERATORS:**

**Group 1**

All Cranes, 60 tons and over; Cranes doing piling, sheeting, dragline/clam work; Derrick (Guy and Stiff), Gentry Crane Operator; Helicopter Operator; Mole Operator or Tunne Mucking Machine; Power Shovel;3-1/2 CY. and over; Traveling Tower Crane)

**Group 2**

All Cranes 40 tons and up to 59 tons; Backhoe Operator 3 CY. and over; Creter Crane; Dredge Operator 12" and over; Equipment Dispatcher; Equipment Dispatcher, Finish Motor Grader; Front End Loader Operator 8 CY. and over;; Master Mechanic (when supervising 5 or more Mechanics), Mon-O-Rail Hoist Operator, Power Shovel up to and including 3 CY. and Tugboat

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$22.65	\$ 3.15
22.90	3.15
23.05	3.15
23.80	3.15
31.05	18.00
29.65	18.00

**LABOR RATES**

Page 3 of 4

01-01-2021

ND20210054

Page 3

**POWER EQUIP. OPERATORS: (CONT.)**

**Group 3**

All Cranes 39 tons and under; Asphalt Paving Machine Operator; Asphalt Plant Operator; Automated Grade Trimmer; Backhoe Operator, 1 CY. up to and including 2-1/2 CY.; Boom Truck Hydraulic 8 tons and over; Cableway Operator; Concrete Batch Plant Operator (electronic or manual); Concrete Mixer Paving Machine Operator; Concrete Paver Bridge Decks; Concrete Pump; Concrete Spreader Operator and Belt Placer; Crushing Plant Operator; Dozer Operator; Dredge Operator or Engineer 11" and under; Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 3-1/2 CY up to and including 7-1/2 CY; Gravel Washing and Screening Plant Operator; Locomotive, all types; Mechanic or Welder(Heavy Duty); Motor Grader Operator; Pavement Breaker (Non-Hydro Hammer Type, Pipeline Wrapping, Cleaning and Bending Machine Operator; Power Actuated Auger and Horizontal Boring Machine Operator, 6" and over; Refrigeration Plant Engineer; Rota Milling Machine (Surface Planer), 43" and over; Scraper Operator; Slip Form Concrete Paving Operator; Tandem Pushed Quad 9 or similar; Tractor with Boom Attachment; Trenching Machine Operator, 100 H.P. and over).

**Group 4**

Articulated/Off Road Hauler; Asphalt Dump Person; Asphalt Paving Screen Operator; Backhoe, up to and including 1/2 CY; Boring Machine Locator; Console Board Operator Curb Machine Operator; Distributor Operator (Bituminous), Forklift Operator; Front End Loader, 1-1/2 CY up to and including 3 CY; Grade Person; Gravel Screening Plant Operator (not Crushing or Washing); Greaser; Lazar Screed Operator; longitudinal Float and Spray Operator; Micro Surfacer Machine; Motor Grader Operator (Haul Roads); Paving Breaker Hydro Hammer Type; Pugmill Operator; Push Tractor; Roller, Steel and Rubber on Hot Mix Asphalt Paving; Rotomilling Machine (Surface Planer), up to and including 42"; Rumble Strip Machine; Sand and Chip Spreader, Self-Propelled Sheepsfoot Packer with or without Blade Attachment; Self Propelled Traveling Soil Stabilizer; Sheepsfoot Packer with Dozer Attachment 100 H.P. and over; Shouldering Machine; Slip Form, Curb and Gutter Operator, Slurry Seal Machine; Tamping Machine Operator; Tie Tamper and Ballast Machine; Trenching Machine Operator, 46 H.P. up to and including 99 H.P.; Truck Mechanic; Tub Grinder; Well Points; Fuel/ Lube Operator

**Group 5**

Boom Truck, A-Frame or Hydraulic 2 tons up to and including 7 tons; Broom Self-Propelled; Concrete Saw (power operated); Cure Bridge Operator; Front End Loader Operator, less than 1-1/2 CY; Mobile Cement Mixer; Power Actuated Auger and Horizontal Boring Machine Operator, up to and including 5"; Roller (on other than hot mix asphalt

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$29.40	\$18.00
29.25	18.00

**LABOR RATES**

Page 4 of 4

01-01-2021

ND20210054

Page 4

**POWER EQUIP. OPERATORS: (CONT.)**

**Group 5 (CONT.)**

paving); Oilers; Vibrating Packer Operator (Pad Type) (Self Propelled); Water Spraying Equipment, Self Propelled; Skidsteer Operator with attachments

**Group 6**

Assistant/Apprentice Operator; Brakeman or Switchman; Dredge or Tugboat Deckhand; Drill Truck Gravel/Testing Operator; Form Trench Digger (Power); Guniting Operator Gunall; Paint Machine Striping Operator; Pickup Sweeper, 1 CY and over Hopper Capacity; Scissor Jack {Self -Propelled) Platform Lift; Straw Mulcher, Blower and straw press; Stump Chipper Operator; Tillage Equipment Operator; Tractor Pulling Compaction or Aerating Equipment and no till drills; Trenching Machine Operator, up to and including 45 H.P.

**TRUCK DRIVERS:**

Single-Axle Truck

Tandem- and Tri-Axle Truck

Tandem- and Tri-Axle Semi Lowboy

Off Road Heavy Duty End Dumps, 20 Yards and Under

Euclid, Over 20 Yards

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$28.40	\$18.00
27.10	18.00
29.12	14.95
29.24	14.95
29.55	14.95
29.55	14.95
31.07	14.95

Unlisted classifications needed for work not included within the scope of the classifications listed may be added alter award only as provided in the labor standards contract clauses [29 CFR, 5.5 (a) (1) (ii)].

# NORTH DAKOTA DEPARTMENT OF TRANSPORTATION (NDDOT)

## 2017 ON-THE-JOB TRAINING PROGRAM SPECIAL PROVISION

The bidder's signature on the proposal sheet indicates the bidder agrees to take part in the On-the-Job Training (OJT) Program and to follow the OJT Program Manual and Special Provision. Contractors that fail to do so will be subject to suspension of progress payments or sanctions up to and including revocation of bidding privileges.

OJT is training conducted in a highway construction work environment designed to enable minority, female, and economically disadvantaged individuals to learn a bona fide skill and qualify for a specific occupation through demonstration and practice.

After a training program and trainee candidate have been approved, the contractor begins training its regular employee according to the approved program. The goal of this training is to retain the trainee as a permanent employee. OJT involves individuals at the entry level. Training is designed to help participants reach their fullest potential and become self-sufficient in the job.

### I. POLICY STATEMENT

The purpose of the OJT Program is to provide training in the highway construction industry for minority, female, and economically disadvantaged individuals, from this time known as the targeted group. Pursuant to 23 Code of Federal Regulations Part 230, Subpart A, Appendix B - Training Special Provisions, this program provides for on-the-job training aimed at developing journey-level workers in skilled trades.

The Contractor shall take all necessary and reasonable steps to ensure that minorities and women have the opportunity to compete for and participate as trainees or apprentices and to develop as journey-level workers employed in the skilled trades.

Contractors should select a training program(s) based on their company's employment/staffing needs as stated in the OJT Program Manual.

### II. INTRODUCTION/PROGRAM BACKGROUND

The OJT Program was originally prepared through the cooperative efforts of the Associated General Contractors of North Dakota (AGC); the Federal Highway Administration (FHWA); the North Dakota Department of Transportation (Department); and, other program stakeholders.

Successful operation of the OJT Program requires contractors to follow uniform and basic training procedures, keep records of trainee progress, and report each trainee's completion or termination.

### III. ASSIGNED OJT POSITIONS

A. Trainee positions are assigned contractors based only on federal highway dollars awarded from October 1 to September 30. Trainee assignments are not project specific; that means the contractor may train program participants on any project where training opportunities exist.

The number of trainee positions assigned will be determined by formula based on calculations involving particular project specification numbers on applicable projects. The types of projects NOT applicable in the calculation to assign trainee positions are:

- County-only or state-only funded projects
- Emergency relief, concrete pavement repair (CPR), electrical, rest area, signing, striping projects
- Projects subject to Tribal Employment Rights Ordinances (TERO)
- Projects not let through NDDOT bid openings

- B. Contractors will receive the number of positions assigned and links to resources necessary for completion of program requirements via email.
- C. The number of trainee positions assigned to each contractor will increase proportionately, as shown below, for any applicable federally funded projects awarded to them.

For all federal highway dollars awarded from October 1 to September 30:

6,000,000 to 15,000,000	1	trainee
15,000,001 to 23,000,000	2	trainees
22,000,001 to 31,000,000	3	trainees
31,000,001 and above	4	trainees

A maximum of four (4) trainee positions in a federal fiscal year will be assigned to any prime contractor regardless of dollar amount. Carryover positions from a prior construction season are not included in the four trainee maximum, e.g., a contractor with one carryover and four assigned positions may have a total five trainees.

Failure to follow this OJT Special Provision and the accompanying OJT Program Manual may result in suspension of progress payments or sanctions up to and including revocation of bidding privileges.

#### IV. FUNDING

The Department will establish an OJT fund annually from which contractors may bill the Department directly for eligible trainee hours. The funds for payment of trainee hours on federal-aid projects will be made available based on 23 USC 504(e) to a maximum of \$100,000. The funds for payment of trainee hours on state-aid only projects will be allocated to a maximum of \$10,000.

#### V. ONLINE RESOURCES

*OJT Program Manual:* Includes program requirements, wage rates, and curriculum:  
<https://www.dot.nd.gov/divisions/civilrights/docs/ojtprogram.pdf>

*SFN 60226 Request for On-the-Job Training Program and Trainee Approval:*  
<http://www.dot.nd.gov/forms/sfn60226.pdf>

*SFN 51023 Voucher for On-the-Job Training Program Hourly Reimbursement:*  
<http://www.dot.nd.gov/forms/sfn51023.pdf>

Davis-Bacon and Related Acts (DBRA) Handbook: <https://www.dot.nd.gov/manuals/civilrights/davisbacon.pdf>

#### VI. APPROVALS REQUIRED

- A. Requests for Training Programs and Trainee Approvals must be submitted to Civil Rights Division (CRD). Contractors must request and receive program and trainee candidate approval in order to pay trainees less than the established Davis-Bacon wage for the job classification concerned. No training program hours will count toward the fulfillment of an assigned trainee position or be eligible for reimbursement without prior approval. No retroactive approval will be granted.
  - 1. Submit SFN 60226 *Request for On-the-Job Training Program and Trainee Approval* with each trainee's employment application. <http://www.dot.nd.gov/forms/sfn60226.pdf> and the pre-approved training curriculum for each trainee position assigned by April 1 or within fifteen (15) calendar days of notification of any additional position assignments.
  - 2. Submit SFN 7857 *Application for Eligibility, Job Service North Dakota (JSND)* approval of an economically disadvantaged individual for participation in the OJT Program.

- B. Pre-approved curriculum: NDDOT's OJT Program Manual contains pre-approved training curriculum for a number of skilled trade positions. Contractors should select a training program(s) based on their company's employment/staffing needs.
- C. Customized curriculum: To request a training curriculum not included in the pre-approved curriculum, submit a written request for approval by NDDOT and FHWA.

The request must include:

- A training curriculum, including the classification requested, minimum number of hours required, and type of training the individual will receive to achieve journey-level worker status.
- A minimum wage scale.

If approved, each new classification must comply with the provisions specified in the OJT Program Manual. No hours worked prior to approval will be credited toward completion of the customized training program. Training programs for classifications not covered by the Davis-Bacon and Related Acts (DBRA) will be considered on a limited basis.

The contractor may commence its "customized" training as of the date of the written approval.

- D. Union apprenticeship and on-the-job training programs registered with the Bureau of Apprenticeship and Training (BAT), U.S. Department of Labor, may be used for trainee positions assigned under the OJT Program, provided the trainees or apprentices are minority, female, or economically disadvantaged. Nonminority males not certified as economically disadvantaged may only be used when the contractor has requested and received approval, from the Department, for additional trainee positions. The apprenticeship indenture agreements serve as the trainee's job application and must be provided prior to any hours being credited toward OJT Program completion.
- E. Power Equipment Operators:

The contractor may train an individual on a combination of equipment if each piece of equipment falls within the same groups of power equipment operators identified in the training curricula (groups 1-3 and groups 4-6). These power equipment operator groups are referenced to the federal DBRA wage rates contained in the contract proposal. As an example, a "utility operator" may receive training on a broom, a front-end loader less than 1½ cubic yards, or other piece of equipment that is used around a paver if each piece falls within either groups 1-3 or groups 4-6. When multiple wage rates apply, the trainee's wage will be based on the equipment being operated at the time or on the highest of the applicable wage rates.

Use of the classification "pickup machine operator (asphalt dump-person)" as a group 4 power equipment operator is considered standard industry practice. The classification is defined as: "Operates the controls on the pickup machine that runs in front of the paver, trips the levers on the dump trucks, and balances the loads for the paver. The pickup machine operates on similar principles as a shouldering machine."

- F. Contractors not qualifying for the OJT Program, or contractors desiring to train more than the allotted number of trainees, may apply to the Department for additional trainee positions. Approval of additional positions will be at the sole discretion of the Department. The Department will take into consideration whether there is enough work for the trainee to successfully complete the curriculum and whether the contractor will be exceeding the allowable ratio of trainees to journey-workers (generally considered to be one trainee or apprentice to every three to five journey-workers).

The additional positions may be filled by individuals outside of the targeted groups. The contractor may pay the reduced training rates to additional trainees outside of the targeted groups, but will not receive hourly reimbursement for any individuals who are outside the targeted groups.

## VII. NDDOT'S RESPONSIBILITIES

- A. The NDDOT OJT supportive services (OJTSS) consultant will monitor excerpts from the weekly certified payrolls submitted with the monthly vouchers for reimbursement. This includes weekly payrolls from

contractors working on state funded only projects. On contracts where certified payrolls are not required and not available for supporting documentation, contractors may enter trainee wages, hours in training, and the project control number(s) (PCN) in a spreadsheet to support their reimbursement vouchers. In this case, contractors should work with OJTSS to assure that all information required for payment is provided. The OJTSS consultant will assess when the trainees have completed the specified number of hours and their wages are increased accordingly. The OJTSS consultant will also assure that applicable fringe benefits are paid either directly to the trainees or for the trainee into approved plans, funds, or programs.

- B. The OJTSS consultant is charged with visiting trainees and monitoring their progress under the OJT Program. To facilitate the on-site visits, the OJTSS consultant will contact contractors for the location of the trainees weekly.

## VIII. CONTRACTOR'S RESPONSIBILITIES

- A. Consistently demonstrate efforts to recruit, hire, and train candidates for the OJT Program.
- B. Assign each trainee to a particular person—either a supervisor or an employee proficient in the skills to be trained—who shall see that the trainee is given timely, instructional experience. This person must be familiar with the OJT Program, keep proper records, and ensure completion of the required training hours in accordance with the training curriculum.
- C. Appoint a company employee who will be available and responsive to weekly contacts by the OJTSS consultant. OJTSS monitors the status of assigned trainee positions (e.g., program and trainee approvals, trainees' progress, etc.). The OJTSS consultant will contact the individual listed on the company's approved SFN 60226 Request for OJT Trainee Approval. This person must reply to communications from the Department and the OJTSS consultant in a timely manner.
- D. Make trainees available to the OJTSS consultant for at least two on-site visits during the construction season.
- E. Make the trainer and project superintendent available to the OJTSS consultant for at least two on-site visits each construction season.
- F. Make trainees aware they are formally enrolled in the OJT program.
- G. Identify trainees on the payroll excerpts, for example: "grp. 4 roller operator trainee." This includes trainees in job classifications not covered by DBRA. Handwritten notes are appropriate for identification.
- H. Notify the Department when a trainee completes the number of hours required to graduate from the OJT Program. The Department will issue the trainee a certificate of completion and a wallet-sized card as proof of the graduate's successful training program completion.
- I. Notify the Department to "propose graduation" or discontinue the training period of a trainee who has completed 90% or more of their hours and thereafter advance the trainee to journey-worker status.
- J. Elect to upgrade proficient trainees from one power equipment operator group or truck driver group to another, with the approval of CRD. Fewer hours are required to complete the upgraded position.

Minimum number of hours required:

Power Equipment Operator Groups 4-6 to Groups 1-3 = 400 hrs.

Class C Truck Driver to Class B = 200 hrs.

Class B Truck Driver to Class A = 200 hrs.

Depending on the variety of experience the trainee has gained under the previous curriculum, the difference in the hours may be deducted from the actual operation of the piece of equipment or truck. The contractor will need to review the trainee's past performance in order to make this determination.

- K. May hire commercial driver's license (CDL) holders as truck driver trainees. Those having over-the-road driving experience, with little or no highway construction experience, may be considered to have completed

the Class C truck driver training curriculum and, therefore, are eligible to be upgraded to a Class B truck driver trainee, with the approval CRD.

- L. May transfer trainees from one project to another in order to complete the OJT Program. If transfers are made, CRD must be notified and provided with the name of the trainer. The training hours will count toward overall OJT Program completion.
- M. May train trainees on municipal, private, out-of-state projects or other non-highway work. These training hours must be paid at the OJT minimum wage scale to count toward their OJT Program completion; however, no program reimbursement will be made for those hours.
- N. May delegate or reassign trainee positions to subcontractors, with the acceptance of the subcontractors and the approval of CRD. The prime contractor must verify that the trainee will be able to accumulate enough hours to complete his or her training program. If approved, the subcontractor must obtain training program and trainee approval from CRD before the trainee begins work under the OJT program. Program reimbursement will be made directly to the prime contractor. The trainee position will remain the responsibility of the prime contractor.
- O. May use trainees on projects subject to TERO requirements as part of the core crew or as part of the skilled labor supplied by the contractor. The training hours will count toward overall OJT Program completion; however, no program reimbursement will be made for those hours unless it is a NDDOT let project.
- P. May not use one trainee to simultaneously fill multiple trainee positions
- Q. May use a trainee on a piece of equipment in groups 1-3 or groups 4-6 for one assigned trainee position, then once that trainee has completed the program, the trainee may be trained on a different piece of equipment in groups 1-3 or groups 4-6 to fulfill a second assigned trainee position. When a trainee is used for a second time within a group, the contractor must pay that trainee at the higher wage rate as described in paragraph B under Wage Rates (page 8).

#### IX. CLASSROOM TRAINING

- A. Classroom training may be used to train employees. Each classroom training curriculum must be pre-approved by CRD if the contractor wishes to count the classroom hours as training hours and be reimbursed.  
  
Submit a proposed classroom training curriculum to CRD for approval. Define the type of training the individual will receive, classroom training curriculum, and the minimum number of hours required. The Department will determine the number of hours of credit each trainee will receive toward their training. No retroactive approval will be granted.
- B. Contractors will be reimbursed for classroom training hours after the trainee has completed 80 hours of work on highway construction projects.
- C. Reimbursement for classroom training will be limited to 60 hours per trainee per construction season. Reimbursement for classroom training required under the NDDOT Transportation Technician Qualification Program will be at the NDDOT discretion.
- D. The minimum wage scale to be used for classroom training will be that of the first federal-aid highway construction project on which the trainee will be employed. If the trainee is already employed on a federal-aid highway construction project, the trainee will be paid in accordance with the minimum wage scale applicable to that project. However, if the first project on which the trainee will be employed is a state funded only contract, the minimum wage scale to be used for the classroom training will be that of the appropriate DBRA wage in effect at the time of award of the state funded contract.

#### X. WAGE RATES

- A. When the contractor is submitting the trainee's hours toward training program, wages paid shall in no case

be less than that of those stated in the approved curriculum. A trainee working on a state funded only project, must be paid the DBRA wage rate in effect at the time of award for the type of work the trainee is performing as a trainee.

- B. The minimum wage rates shall not be less than 80% of the journey-worker rate for the first two quarters of training, 85% of the journey-worker rate for the third quarter, and 90% of the journey-worker rate for the fourth quarter.
- Under the power equipment operator training curricula only, once a trainee has completed a training curriculum in either groups 1-3 or groups 4-6, the contractor may enroll the trainee in another training curriculum on a different piece of equipment in either groups 1-3 or groups 4-6.
  - The minimum wage rate under the trainee's second program shall not be less than 85% of the journey-worker rate for the first two quarters of training, 90% of the journey-worker rate for the third quarter, and 95% of the journey-worker rate for the fourth quarter.
  - For the purpose of the OJT Program, a quarter is 25% of the hours the trainee works toward completion of their approved program. The first two quarters of a 550-hour training curriculum would end after 275 hours, the third quarter after 138 hours, and the fourth after 137 hours.
- C. At any time hours are being attributed toward the completion of the approved training program, trainees shall be paid full fringe benefit amounts, where applicable, in accordance to DBRA requirements.
- D. At the completion of the OJT Program, the trainee shall receive the wages of a skilled journey-worker.

## XI. RECRUITMENT AND SELECTION

- A. Prerequisites:  
Trainees must possess basic physical fitness for the work to be performed, dependability, willingness to learn, ability to follow instructions, and an aptitude to maintain a safe work environment.
- B. Licenses:  
Truck driver trainees must possess appropriate driver permits or licenses for the operation of Class A, B, and C trucks. When an instructional permit is used in lieu of a license, the trainee must be accompanied by an operator who:
1. Holds a license corresponding to the vehicle being operated;
  2. Has had at least one year of driving experience; and
  3. Is occupying the seat next to the driver.
- C. Recruitment:
1. Place notices and posters setting forth the contractor's Equal Employment Opportunity (EEO) Policy and the availability of the OJT Program in areas readily accessible to employees, applicants for employment, and potential employees.
  2. Employ members of the targeted group (minority, female, or economically disadvantaged individuals) for all trainee positions assigned in accordance with the OJT Program. Additional positions requested by the contractor may be filled by individuals outside of the targeted groups.
  3. Conduct systematic and direct recruitment through public and private employee referral sources.
  4. Screen present employees for upgrading to higher skilled crafts. A present employee may qualify as a trainee; however, no work hours will be reimbursed or counted toward program completion prior to training program and trainee approval by CRD.
- D. Selection:
1. Hire and enroll OJT trainee candidates who qualify as an individual in the targeted group.

2. Select a training program(s) based on their company's employment/staffing needs.
3. Individuals in the targeted group having experience in the selected curriculum may be eligible to participate in the OJT Program providing they:
  - Are not or have not been journey-workers in the selected curriculum, and/or
  - Have not been previously trained in the selected curriculum.
4. Non-minority males who are economically disadvantaged must obtain written certification from Job Service North Dakota (JSND) to qualify for the OJT Program. Contractors wishing to hire and enroll economically disadvantaged candidates must provide JSND's certification along with SFN 60226 and the employment application when requesting trainee approval.
  - JSND is the only agency that may certify an individual as economically disadvantaged. If JSND refers the candidate to the contractor, written certification under this category will be provided to the contractor at the time of the interview.
  - Any person wishing to obtain this certification must apply to JSND and complete the Workforce Investment Act Program's Application for Eligibility (SFN 7857). A contractor recruiting a candidate who may qualify must contact the Workforce Investment Act Program Manager at JSND. JSND contacts are also online:  
<http://www.dot.nd.gov/divisions/civilrights/docs/jobservice-workforce-invest-contacts.pdf>

## XII. BASIS OF PAYMENT

- A. Contractors will be paid \$4.00 for each hour of training in accordance with the OJT Program Manual.
- B. Reimbursement will be made directly to the contractor. Complete SFN 51023 Voucher for On-the-Job Training Program Hourly Reimbursement for each trainee. Attach excerpts from the weekly certified payrolls showing the trainee's hours, rate of pay, and how applicable fringe benefits were paid. Excerpts from weekly payrolls are also required for state funded only projects. Vouchers without excerpts from payrolls will not be paid until the excerpts are provided. If the excerpts from the payrolls are not provided within one week, the voucher will not be paid and the trainee's hours will not be credited toward completion.  
<http://www.dot.nd.gov/forms/sfn51023.pdf>
- C. On contracts where certified payrolls are not required and not available for supporting documentation, contractors may enter trainee wages, hours in training, and the project control number(s) (PCN) in a spreadsheet to support their reimbursement vouchers. In this case, contractors should work with OJTSS to assure that all information required for payment is provided.
- D. Submit completed vouchers to CRD for approval and processing by the fifteenth (15<sup>th</sup>) calendar day of every following month the trainee is employed under the OJT Program.

Regardless, all vouchers for trainee hours worked on state funded only projects from July 1 to June 30 must be received by CRD no later than July 15 in order to be reimbursed. All vouchers for trainee hours worked on federally funded projects from October 1 to September 30 must be received by CRD no later than October 15 in order to be reimbursed. This is due to state and federal end-of-the-year budget fiduciary requirements.

## XIII. FAILURE TO PROVIDE THE TRAINING OR HIRE THE TRAINEE AS A JOURNEY-WORKER

- A. The contractor is required to consistently demonstrate efforts to recruit, hire, and train candidates for the OJT Program.
- B. If the contractor does not show in a timely manner good faith efforts to recruit, hire, and train candidates in the targeted group, the Department may withhold progress payments
- C. If payments have been made, the Department will deduct the amount paid from the contractor's progress

payment.

- D. No payment shall be made to a contractor for failure to provide the required training or failure to hire the trainee as a journey-worker when such failure is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this OJT Program Special Provision.
- E. Hiring a trainee to begin training as soon as feasible after start of work is evidence of a contractor's good faith efforts to comply with the OJT Program requirements. Additional evidence supporting a contractor's good faith efforts would be to keep the trainee employed as long as training opportunities exist in the approved work classification or until the trainee has completed his or her training program.
- F. It is not required that all trainees be employed for the entire length of the construction season. A contractor will have fulfilled its responsibilities under this OJT Special Provision if it has provided acceptable training to the number of trainees assigned.

#### XIV. UNFILLED OR INCOMPLETE TRAINEE POSITIONS

- A. By October 1, provide written explanation of the firm's good faith efforts for unfilled or incomplete trainee assignments to CRD. CRD will decide, on a case-by-case basis, whether to carry the assigned positions over to the next construction season.
- B. Positions carried over from the previous construction season must be among the first positions filled at season startup. To notify CRD of the trainee's rehiring, submit *SFN 60226 Request for On-the-Job Trainee Approval*, marking 'Check if Carryover Trainee' in the Approved Training Program section of the form. There is no need for the training position or a returning trainee to be re-approved.
- C. Sanctions, up to and including revocation of bidding privileges, may be imposed on the contractor for failure to provide sufficient explanation and documentation for reasons assigned trainee positions when unfilled or incomplete.

#### XV. DEFINITIONS

Carryover Position: Incomplete trainee position carried forward from a prior program year.

Carryover Trainee: Trainee scheduled to continue training hours under prior year's approved program.

CRD: NDDOT's Civil Rights Division administers the NDDOT On-the-Job Training Program.

Good Faith Efforts: Documentation supporting a contractor's efforts to fulfill the program requirements, e.g., new hires list, advertising examples/locations, current employees reviewed for upgrades, etc.

Journey-worker: A worker employed in a trade or craft who has attained a level of skill, abilities, and competencies recognized within the industry.

OJT Supportive Services (OJTSS): Department contractor providing in-person oversight, support, and guidance to contractors and trainees to increase the effectiveness of approved training programs.

Trainee: A person who receives training through an apprenticeship program or other FHWA approved program.

Trainer/Supervisor: Contractor's employee assigned to train, supervise, and support a trainee.

## NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

### SPECIAL PROVISION

#### TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES

##### 1. GENERAL

Install, maintain and remove appropriate Temporary Erosion and Sediment Control Measures (ESCMs).

##### Definitions:

**A. Temporary Erosion and Sediment Control Measures** are to be installed and maintained before and during the term of the land disturbance activity. These items are removed when permanent erosion and sediment ESCMs are installed.

**B. Permanent Erosion and Sediment Control Measures** are to be installed and maintained once the project is completed so that the applicable permits can be terminated.

In some instances, individual temporary and permanent erosion and sediment ESCMs for a site may consist of identical ESCMs. In these cases, the temporary erosion and sediment ESCMs may be used as the permanent erosion and sediment ESCMs if they meet the following criteria:

1. The ESCM was installed correctly,
2. Is in a functional condition,
3. Has had all accumulated sediment removed.

**C. The Stormwater Pollution Prevention Plan (SWPPP)** is the document that identifies potential sources of sediment or other pollution from construction activity and ensures practices are used to reduce the contribution of pollutants from construction site runoff.

**D. Contractor Controlled Areas** are project areas not included in the contract, but are obtained and solely controlled by the Contractor (e.g., concrete or asphalt batch plants, concrete washout areas, equipment staging yards, material storage areas, excavated material disposal areas, Contractor furnished borrow areas, etc.).

**E. Maintenance** is any action taken to keep an ESCM in working condition. These actions may consist of repairing failures of the ESCM itself.

**F. Noncompliance** is any action or inaction that violates the regulations imposed by the applicable permits or the requirements of this special provision and other contract documents. Failure of an ESCM does not necessarily constitute noncompliance as long as the ESCM is repaired, replaced or supplemented within the timelines established in the applicable permits and no sediment is discharged from the site or into a water of the state.

## 2. CONSTRUCTION REQUIREMENTS

Develop a SWPPP specific to the project. The creation of the SWPPP is a cooperative effort between the NDDOT who creates the project plan sheets and the Contractor who creates a complete SWPPP which incorporates the plan sheets and the Contractor's means and methods. The project plan sheets by themselves do not meet the requirements of a complete SWPPP and should not be considered as such. The Contractor has the flexibility to modify the design and implementation of the temporary erosion and sediment controls to match the Contractor's means and methods and/or field conditions. These changes must be documented in the SWPPP and meet all regulatory requirements.

Obtain appropriate permit coverage for the activities conducted in Contractor Controlled Areas. A permit will be required for these areas regardless of their size. The NDDOT will have no responsibility for these areas. Provide copies of the completed and signed Notice of Intent submitted for permit coverage to the Engineer before activities in these areas commence. Do not commence activities in these areas until after permit coverage has begun. Provide copies of Permit Coverage Letters for these areas to the Engineer within 7 days of receiving them from the regulating agency.

Install perimeter erosion and sediment ESCMs according to the plans/SWPPP prior to site disturbance.

Change the location of temporary erosion and sediment ESCMs to fit the field conditions.

Update the SWPPP as work progresses, or as directed by the Engineer. Update the SWPPP to show changes due to revisions in work schedules or sequence of construction. Update the site map to reflect erosion and sediment ESCMs that have been installed, changed, or removed.

Do not rely on perimeter ESCMs as the sole method of controlling erosion. As the project progresses, install temporary erosion and sediment ESCMs within the perimeter ESCMs to control erosion resulting from the construction of the project.

Use temporary erosion and sediment ESCMs to prevent contamination of adjacent streams or other watercourses, lakes, ponds or other areas of water impoundment.

Coordinate temporary erosion and sediment ESCMs with the construction of permanent erosion and sediment ESCMs to provide continuous erosion control. Do not install temporary erosion and sediment ESCMs when permanent erosion and sediment ESCMs are able to be installed. Once the permit is terminated or transferred to the Department, the maintenance of the permanent erosion and sediment ESCMs becomes the responsibility of the NDDOT.

Install stabilization ESCMs (mulch, seeding and mulch, etc.) in areas that have been disturbed where work has temporarily or permanently ceased following the timelines established in the applicable permits. If implementation of stabilization is precluded by snow cover, undertake such measures as soon as conditions allow.

Maintain the effectiveness of the temporary erosion and sediment ESCMs as long as required to contain sediment runoff. Inspect the temporary erosion and sediment ESCMs and complete the inspection and maintenance reports every 14 days and within 24 hours of a rainfall event of 0.25 inch or more. During prolonged rainfall (more than 1 day), conduct an inspection within 24 hours of the first day of the event and within 24 hours after the end of the event. Inspections are required only during normal business hours. Install a rain gauge to monitor rainfall amounts as required by the appropriate permit.

Correct any deficiencies in the ESCMs within the timelines established in the applicable permits. If conditions do not permit access to the ESCM, corrective actions can be taken by installing additional ESCMs. Correct the original deficiencies as soon as conditions allow access to their location without causing additional damage to the slopes. In the inspection logs, document the conditions that prohibit access.

Provide copies of all inspections, documentation, record keeping, maintenance, remedial actions, and repairs required by the applicable permits to the Engineer. Provide inspection and maintenance reports within 3 working days after an inspection has been conducted.

Provide, at the preconstruction conference, documentation of any Subcontractor hired for erosion control showing that the Subcontractor's on site supervisor is certified through the NDDOT Erosion & Sediment Control Construction Certification Training. This certification must be maintained by the Subcontractor's onsite supervisor through the term of the contract. The Engineer will provide a verification of their certification through the NDDOT Erosion & Sediment Control Construction Certification Training at the preconstruction conference and will maintain that certification through the term of the contract.

Provide immediate written notification to the Engineer of proposed changes to the erosion control plan or SWPPP. The Engineer will review the proposed changes and determine if they are adequate. Documentation of maintenance and inspections that does not affect the erosion control plan or SWPPP does not require approval by the Engineer.

Remove the temporary devices when directed by the Engineer or when permanent erosion and sediment controls are installed.

### **3. Erosion and Sediment Control Supervisor.**

**A. General.** Designate an erosion and sediment control supervisor. Provide the name and contact information for the supervisor at the preconstruction meeting. If this erosion and sediment control supervisor becomes unavailable on the project, designate a replacement supervisor. Notify the Engineer if this supervisor changes and provide the contact information for the new supervisor.

**B. Qualifications.** The supervisor shall be:

1. An employee of the Prime Contractor;
2. Familiar with installation, maintenance and removal of ESCMs and the requirements of the erosion and sediment control plans, applicable permit requirements, specifications, plans and this provision; and
3. Competent to supervise personnel in erosion and sediment control operations.
4. Certified through the NDDOT Erosion & Sediment Control Construction Certification Training and maintain that training throughout the term of the contract.

**C. Duties.** The supervisor shall:

1. Provide erosion and sediment control as required by the SWPPP, Plans, and Specifications.
2. Be on the site to supervise the installation, operation, inspection, maintenance, and removal of the erosion and sediment ESCMs.
3. Update the SWPPP as work progresses to show changes due to revisions in work schedules or sequence of construction, or as directed by the Engineer. Update the site map to reflect erosion and sediment ESCMs that have been installed, changed, or removed.
4. Propose changes to improve erosion and sediment control.
5. Be accessible to the job site within 24-hours.
6. Provide the Engineer with documentation of all erosion and sediment control activities and inspections as required above.

#### 4. PERFORMANCE

Correct all areas of noncompliance within 24 hours after notification of noncompliance. If corrective actions are not taken within 24 hours, the Engineer may:

1. Assess a contract price reduction of \$500 per day per instance;
2. Have deficiencies corrected by another Contractor and deduct the cost of the work from the monies due or to become due to the Contractor;
3. Suspend all work; or
4. Withhold payment on other contract items/pay estimates.

These actions will be applied until deficiencies have been corrected.

#### 5. BASIS OF PAYMENT

ESCM installation will be paid for at the contract unit price for erosion and sediment control for the appropriate items and sections. The plans will detail the required ESCMs for temporary and permanent installations. The same bid items may be used for temporary and permanent ESCMs.

ESCM items will be measured as specified in the "Method of Measurement" portion of the appropriate section of the specifications.

ESCM item removal will be paid for at the contract unit price for "Remove \_\_\_\_\_" in the appropriate section of the specifications.

Include the costs for labor, materials, maintenance, equipment, disposal, adherence to the permit, and SWPPP modifications in the respective pay items.

When the Engineer directs the replacement of temporary erosion and sediment ESCMs that are no longer functional because of deterioration or functional incapacity and those items were installed as specified in the Contract or as directed by the Engineer, the Department will pay for replacement ESCMs

No payment will be made for replacing temporary erosion and sediment ESCMs that the Engineer determines are ineffective because of improper installation, lack of maintenance, or the Contractor's failure to pursue timely installation of permanent erosion and sediment ESCMs as required in the Contract.

No payment will be made for replacing temporary erosion and sediment ESCMs due to contractor operations. Include the cost to move Flotation Silt Curtain as work progresses in the price bid for "Flotation Silt Curtain".

Erosion and sediment controls for Contractor Controlled Areas are the responsibility of the Contractor and will not be paid for by the Department.

Removal of sediment from silt fence and fiber rolls will be paid for at the price listed in the "Price Schedule PS-1."

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**SPECIAL PROVISION**  
**LOCAL AGENCY CONTRACTS**

References to NDDOT, Department, Director, or Engineer in the Standard Specifications for Road and Bridge Construction and other portions of the Contract must be construed as referring to the Owner of the project.

If the Contractor intends to file a claim for additional compensation for work or material not covered by the Contract, the Contractor is required to prosecute the claim in accordance with the Standard Specifications for Road and Bridge Construction, Section 104.05, "Claims for Adjustment". The provisions of Section 104.05 D, "Conditions Precedent to Contractor's Demand for Arbitration", are not applicable to this Contract, nor are the provisions of North Dakota Century Code §24-02-26 et seq. regarding arbitration applicable, as the North Dakota Department of Transportation is not a party to the Contract.

## NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

### SPECIAL PROVISION

#### LONGITUDINAL JOINT DENSITY FOR HOT MIX ASPHALT PAVEMENTS

##### DESCRIPTION

This provision describes the procedure for determining core locations, coring frequency and acceptance criteria for longitudinal joint construction. This Special Provision is in addition to the requirements of Section 430, "Hot Mix Asphalt (HMA)".

##### ATTACHMENTS

Appendix A – Notched Wedge

##### CONSTRUCTION REQUIREMENTS

###### A. General

Applicable longitudinal joints are defined as those between any two paved areas that require calculated density; excluding joints for mats constructed on aggregate base, reclaimed material, or cold in place recycled material.

Hot seams or seams created via echelon paving are not considered applicable joints.

###### B. Longitudinal Joint Placement.

When placing the top lift of pavement, locate longitudinal joints at lane lines or the proposed edge of pavement.

When placing asphalt pavement over existing concrete pavement, place longitudinal joints at the same location as the existing concrete pavement longitudinal joints.

###### C. Notched Wedge Construction Option.

If a notched wedge joint is used, construct the notched wedge according to Appendix A.

###### D. Coring.

Obtain joint cores at locations determined by the Engineer. The locations for joint cores will be independent of mat density cores.

Obtain density cores for butt joints centered over the longitudinal joint.

If a notched wedge style joint is constructed, center the core over the tapered portion of the joint.

###### E. Longitudinal Joint Field Density.

A lot for joint density is defined as the length of the joint completed in one day. Sublots are 1,000 feet in length, contained within the lot. If a day contains less than 3 sublots, that day will not be considered a lot and the sublots will be included in the next complete lot.

Sublots less than 500 feet in length will not be counted separately. Sublots 500 feet or greater in length will be considered separate sublots.

The Engineer will determine the density of each longitudinal joint core. The Engineer will then divide the joint core density by the daily Maximum Theoretical Density (MTD) calculated from the day the lot is completed.

The subplot percent MTD will then be averaged to obtain a lot percent MTD for the joint. The Engineer will use the lot percent MTD and Table 1 to determine a contract price adjustment. The Contract Price Adjustment per Linear Foot will be applied to the entire length of the lot.

**F. Low Density Requirements.**

If the percentage of compaction of a subplot is below 87.0%, a corrective action must be performed for that subplot. Collaborate with the Engineer on what corrective action to take.

If the percent compaction of a subplot is less than 90.0% and the joint is in a location where rumble strips will not be installed, seal the joint represented by that subplot with an undiluted emulsion that meets the requirements of Section 401.03 C, "Fog Coat" at no additional cost to the Department. Seal butt joints at a width of 8 inches centered on the joint and seal notched wedges at a width of 16 inches centered on the middle of the notched wedge. Use an application rate ranging from 0.10 to 0.15 Gal/SY.

**METHOD OF MEASUREMENT**

The Engineer will measure each lot in linear feet along the longitudinal joint.

**BASIS OF PAYMENT**

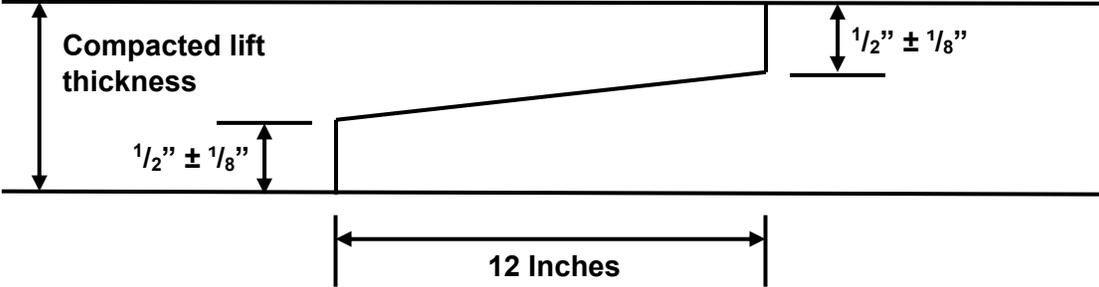
The pay adjustment for longitudinal joint density will not be used for areas constructed according to Section 430.04 I.3, "Ordinary Compaction".

The Engineer will apply the appropriate pay adjustment specified in Table 1 for each lot.

**Table 1**

<b>Contract Price Adjustment Per Linear Foot</b>	<b>Joint Lot % MTD</b>
\$0.40	≥ 91.1%
\$0.20	90.6% – 91.0%
\$0.00	90.0% - 90.5%
\$(0.20)	89.0% - 89.9%
\$(0.60)	88.5% - 88.9%
\$(1.10)	88.0% - 88.4%
\$(1.80)	87.5% - 87.9%
\$(3.60)	87.0% - 87.4%

**Appendix A**  
**Notched Wedge**



## NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

### SPECIAL PROVISION

### LIMITATIONS OF OPERATIONS

#### DESCRIPTION

Section 108.05, "Limitations of Operations" is no longer valid. Use this Special Provision in its place.

#### 108.05 LIMITATION OF OPERATIONS

##### A. General.

Perform the work in a manner and sequence that minimizes interference to traffic, and with due regard to the location of detours and provisions for handling traffic. Do not begin work to the prejudice or detriment of work already started; the contract may require a section of roadway to be finished before starting additional sections if the opening of the section is essential to public convenience.

If the prosecution of the work is discontinued, provide the Engineer at least 24-hours notice before resuming operations.

##### B. Holidays.

Unless the contract allows work on holidays, perform work on holidays only with the Engineer's prior written approval. Submit a written request to the Engineer by noon 2 business days before the requested holiday.

##### C. Night-time Operations and Extended Hours.

###### 1. General.

When performing work in low light conditions, implement proper safety precautions and provide adequate lighting for the performance and inspection of the work.

###### 2. Nighttime Operations.

Unless the contract allows for nighttime operations, perform work at night only with the Engineer's prior written approval.

Submit a written request to the Engineer a minimum of 7 calendar days before anticipated nighttime operations. The Engineer may deny the request or delay approval if it would require additional staffing considerations. If nighttime operations requires the Engineer to hire additional forces, nighttime operations may not be allowed for up to 30 days from the receipt of the request.

When requesting to perform nighttime operations, include a plan to ensure the safety of all individuals on the project site, including the Contractor's and subcontractor's workers, Department representatives, and the traveling public.

The Department bears no liability for costs or delays resulting from the Engineer's approval, rejection, or delay for staffing purposes of a request to perform nighttime operations.

**3. Extended Hours.**

Extended hours are allowed before sunrise with verbal notice given to the Engineer the previous day. Extended hours are allowed after sunset with verbal notice given to the Engineer that same day.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION**

**BITUMEN TESTING PRICE ADJUSTMENTS**

**DESCRIPTION**

This Special Provision outlines the Contract Price Adjustment procedures for acceptance of PG Asphalt Binder Using the Multiple Stress Creep Recovery (MSCR) Test under AASHTO M 332.

**MATERIAL ACCEPTANCE SPECIFICATION**

**A. Sampling.**

Obtain one sample of asphalt binder for each 250 tons of binder material supplied to the project. Obtain the sample as prescribed in the NDDOT Field Sampling and Testing Manual, Procedure NDDOT 1. Each 250 tons of material will represent a subplot and 4 sublots will constitute a lot of material. Partial lots will consist of however many subplot samples were collected for that lot.

**B. Original and Check Samples.**

Each sample consists of two parts, an original and a check. The Engineer will perform tests using the original sample first.

If a test returns a value resulting in a pay factor of less than 1.00, the Engineer will perform that test on the check sample and the check sample results will be used to determine the pay factor for the material.

**C. Testing Parameters.**

The Engineer will randomly select one subplot for testing per lot.

If the check sample results in a pay factor of less than 1.00 the Engineer will perform the substandard tests on the remaining sublots within that lot.

**D. Determination of Pay Factor.**

The Engineer will apply the pay factors in the Basis of Payment section of this Special Provision to each individual subplot of material. If more than one test parameter in a subplot results in a pay factor of less than 1.00, the Engineer will apply the pay factor that results in the largest monetary deduction to that subplot.

**BASIS OF PAYMENT**

The pay factor determined by the Engineer will be applied to the "PG \_\_\_\_\_ Asphalt Cement" contract item. The pay factor will be multiplied by the unit cost of the item and the quantity of oil represented by the sample.

**Table 1**  
**Requirements on Original Binder**

Specification	Test Result	Pay Factor (Percent)
Dynamic Shear AASHTO T 315 $G^*/\sin \delta$ Min. 1.00 kPa	$\geq 1.00$	1.00
	0.97 – 0.99	0.95
	0.94 – 0.96	0.90
	0.91 – 0.93	0.85
	$< 0.91$	0.70

**Table 2**  
**Requirements on Rolling Thin Film Oven (RTFO) Residue**

Specification	Test Result	Pay Factor (Percent)	Specification	Test Result	Pay Factor (Percent)
Standard Traffic "S" AASHTO T 350 $J_{nr@3.2}$ Max. 4.5 kPa <sup>-1</sup>	$\leq 4.5$	1.00			
	4.6	0.95			
	4.7	0.90			
	4.8	0.85			
	$> 4.8$	0.70			
Heavy Traffic "H" AASHTO T 350 $J_{nr@3.2}$ Max. 2.0 kPa <sup>-1</sup>	$\leq 2.0$	1.00	Heavy Traffic "H" AASHTO R 92 Percent Recovery @ 3.2 kPa Min. 30%	$> 30$	1.00
	2.1	0.95		29	0.95
	2.2	0.90		28	0.90
	2.3	0.85		27	0.85
	$> 2.3$	0.70		$< 27$	0.70
Very Heavy Traffic "V" AASHTO T 350 $J_{nr@3.2}$ Max. 1.0 kPa <sup>-1</sup>	$\leq 1.0$	1.00	Very Heavy Traffic "V" AASHTO R 92 Percent Recovery @ 3.2 kPa Min. 55%	$> 55$	1.00
	1.1	0.95		54	0.95
	1.2	0.90		53	0.90
	1.3	0.85		52	0.85
	$> 1.3$	0.70		$< 52$	0.70
Extreme Traffic "E" AASHTO T 350 $J_{nr@3.2}$ Max. 0.5 kPa <sup>-1</sup>	$\leq 0.5$	1.00	Extreme Traffic "E" AASHTO R 92 Percent Recovery @ 3.2 kPa Min. 75%	$> 75$	1.00
	0.6	0.95		74	0.95
	0.7	0.90		73	0.90
	0.8	0.85		72	0.85
	$> 0.8$	0.70		$< 72$	0.70

**Table 3**  
**Requirements for Pressure Aging Vessel (PAV)**  
**Residue**

<b>Specification</b>	<b>Test Result</b>	<b>Pay Factor (Percent)</b>
Standard Traffic "S" AASHTO T 315 DSR, $G^*(\sin \delta)$ Max. 5000 kPa	$\leq 5000$	1.00
	5001 - 5200	0.95
	5201 - 5400	0.90
	5401 - 5600	0.85
	$> 5600$	0.70
Traffic "H", "V", "E" AASHTO T 315 DSR, $G^*(\sin \delta)$ Max. 6000 kPa	$\leq 6000$	1.00
	6001 - 6050	0.95
	6051 - 6100	0.90
	6101 - 6150	0.85
	$> 6150$	0.70
Creep Stiffness AASHTO T 313 Max. 300 mPa	$\leq 300$	1.00
	301 - 310	0.95
	311 - 320	0.90
	321 - 330	0.85
	$> 330$	0.70
m-value AASHTO T 313 Min. 0.300	$\geq 0.300$	1.00
	0.295 – 0.299	0.95
	0.290 – 0.294	0.90
	0.285 – 0.289	0.85
	$< 0.285$	0.70

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  
**SPECIAL PROVISION**

**FEDERAL PROHIBITION ON CERTAIN TECHNOLOGICAL HARDWARE**

**DESCRIPTION**

This Special Provision details technological items that are prohibited from use on Department contracts. The contents of this SP take precedent over requirements regarding affected equipment in all other contract documents.

**CONTRACT REQUIREMENTS**

**A. Technological Equipment Prohibitions.**

Equipment, services, and systems using telecommunications equipment or services are prohibited from containing equipment produced by:

- Huawei Technologies Company;
- ZTE Corporation; and
- Any subsidiary or affiliate of the named entities.

Video surveillance and telecommunications equipment are prohibited from containing equipment produced by:

- Hytera Communications Corporation;
- Hangzhou Hikvision Digital Technology Company;
- Dahua Technology Company; and
- Any subsidiary or affiliate of the named entities.

**B. Contractor Certification.**

The Prime Contractor must complete the information below, sign this Special Provision, and submit the signed document to the Engineer at the preconstruction conference. This signature affirms that no prohibited products will be used in the project.

Project Number(s): \_\_\_\_\_

PCN(s): \_\_\_\_\_

Company Name: \_\_\_\_\_

Signatory Name (printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION****SPECIAL PROVISION****HMA CORING, ACCEPTANCE, AND PAY FACTORS****DESCRIPTION**

This special provision modifies portions of Section 430 of the 2020 Standard Specifications for Road and Bridge Construction. It changes the requirements of shoulder construction, depending on the method of construction; updates coring requirements for the changes in subplot size; and to clarify how contract price adjustments are calculated.

**CONSTRUCTION REQUIREMENTS**

Replace Section 430.04 I, "Compaction" and Section 430.04 M, "Acceptance" with the following text.

**I. Compaction.****1. General.**

Remove all surface irregularities before beginning compaction.

Sequence rolling operations and select the type and the number of rollers to match production and to attain the required density before the mat temperatures fall below 185°F.

In areas not accessible to rollers, compact the pavement mat with hand or mechanical tampers.

**2. Calculated Density.****a. General.**

Use calculated density on mainline pavement, interstate crossroads, ramps, turn lanes, rest area approaches, and parking lots.

**b. Coring.****(1) General.**

Obtain pavement cores at locations designated by the Engineer under the observation of the Engineer.

Use a machine that cuts a cylindrical core sample without disturbing the density of the sample. Complete coring on or before the working day following the placement of the lift. Obtain a core with a smooth outer surface, no distortion of the cylindrical shape, and no displacement of the aggregate particles. Obtain a core that is 4 to 6 inches in diameter and the full depth of the in place asphalt.

Fill core holes before placing the subsequent lift of pavement. If there is no subsequent lift of pavement, fill the core hole within 24 hours of obtaining the core. Remove free standing water before filling core holes. Fill core holes in 2

inch lifts using material from the same mix design used on the roadway. Compact each lift using a hand tamper.

**(2) Pavement Density Cores.**

Use a masonry saw to cut the core so that only the layer to be tested is removed.

Label each core, using a system approved by the Engineer, to identify the location from which the core was obtained.

**(3) Pavement Thickness Determination Cores.**

Obtain pavement thickness determination cores after the final lift of pavement has been placed. Label the cores. The Engineer will take possession of these cores immediately upon extraction. Do not cut these cores.

**3. Ordinary Compaction.**

**a. General.**

Use ordinary compaction on shoulders, driveways, section line approaches, bike paths, leveling courses, and patches.

Ordinary compaction consists of breakdown rolling, intermediate rolling, and finish rolling. Compact the bituminous material until the surface is tightly bound and shows no displacement under operation of the roller.

For patching, immediately after spreading perform initial rolling with pneumatic-tired rollers or combination rollers.

**b. Breakdown Rolling.**

Breakdown rolling consists of one or more complete coverage with a roller meeting the requirements of one of the following Sections:

- 151.01 A.3, “Self-Propelled Pneumatic-Tired Rollers”;
- 151.01 B.2, “Smooth-Faced Steel-Wheel Roller: Tandem – Type A”;
- 151.01 C, “Vibratory Rollers”; or
- 151.01 D, “Combination Rollers”.

**c. Intermediate Rolling.**

Follow breakdown rolling with intermediate rolling with a roller conforming to Section 151.01 A.3, “Self-Propelled Pneumatic-Tired Rollers”, or 151.01 D, “Combination Rollers” until the surface is tightly bound and shows no displacement under the roller.

If roller tires pick up the bituminous material or there are excessive roller marks in the mat, the Engineer may allow the removal of the intermediate rolling operation if it appears to the Engineer that compaction is being achieved.

**d. Finish Rolling.**

Perform the finish rolling with a roller conforming to Section 151.01 B.3, “Smooth-Faced Steel-Wheel Roller: Tandem – Type B”, or 151.01 C, “Vibratory Rollers” in the static mode, and continue until roller marks are eliminated.

## **M. Acceptance.**

### **1. General.**

The Engineer will accept bituminous mix based on the criteria in this section.

The Engineer will exclude material used in shoulder placement when calculating the total quantity of material affected by pay factors and will not designate core locations within shoulder areas.

### **2. Aggregate.**

The Engineer will accept aggregate used in the mix based on QC tests that are verified by QA testing, and the control limits specified in Section 430.04 E.5, "Control Limits".

If the results for two consecutive aggregate gradation tests in a single day fall outside the single test target value control limits, the Engineer will apply a contract price adjustment as specified in Section 430.06 C, "Contract Price Adjustments".

### **3. Asphalt Content.**

The Engineer will base the acceptance of the asphalt content of bituminous mix on the totalizer readings obtained as specified in Section 430.04 E, "QC Testing" and SFN 9988, "Mix Bitumen Cut-Off Report" and will apply a contract price adjustment as specified in Section 430.06 C, "Contract Price Adjustments".

If the average asphalt content, as determined by the Engineer according to SFN 9988, "Mix Bitumen Cut-off Report" deviates from the target value by 0.40 percentage points or more, the Engineer may reject the material. If the material is accepted, the Engineer will apply a contract price adjustment as specified in Section 430.06 C, "Contract Price Adjustments".

### **4. Field Density.**

This section will apply when the pavement is constructed as specified in Section 430.04 I.2, "Calculated Density".

The Engineer will base acceptance of the density of hot mix asphalt on the average density of the pavement compared to the daily average maximum theoretical density. The comparison will be made using SFN 59132, "Density Pay Factor".

The Engineer will determine the density of pavement based on lots. A lot is equal to the amount of material, in tons, placed each production day.

A subplot is defined as a single lift, one paver width wide, and 1,000 feet long. If a partial subplot is less than 500 feet, it will be included in the previous subplot. A partial subplot 500 feet or greater will be considered a separate subplot.

The individual subplot densities will be averaged to determine the density of the pavement lot.

If the average density of the pavement compared to the daily average maximum theoretical density is above the values in Table 430-10, the Engineer will apply the adjustment factors specified in Section 430.06 C, "Contract Price Adjustments".

If the average density of the pavement compared to the daily average maximum theoretical density is at or below the values specified in Table 430-10, remove and replace the pavement.

**Table 430-10**

<b>Superpave FAA 40, 41, 42, and 43</b>	<b>Superpave FAA 44 and 45</b>
88.0%	89.0% <sup>1</sup>

<sup>1</sup> When the lift of pavement is placed on aggregate base, reclaimed material, or cold in place recycle material this number is reduced to 88.0%

**BASIS OF PAYMENT**

Replace Section 430.04 C.1, "General" with the following text.

**C. Contract Price Adjustments.**

**1. General**

The Engineer will calculate the Combined Adjustment Factor by multiplying the individual adjustment factors for:

- Aggregate gradation;
- Asphalt content; and
- Compaction.

1.0 will be subtracted from the Combined Adjustment Factor to determine the Contract Price Adjustment.

The contract price adjustment will be determined by multiplying the Contract Price Adjustment Factor by the total tons of hot mix asphalt placed during a single day and the contract unit price for "Superpave, FAA \_\_\_" or "RAP Superpave FAA \_\_\_".

## NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

### SPECIAL PROVISION

### UTILITY COORDINATION

NHU-SU-1-981(118) - 22435

#### DESCRIPTION

This work consists of coordinating the construction schedule with third party utility companies owning facilities within the project limits, verifying the location of those facilities during construction, and resolving issues with those utilities.

The requirements in this Special Provision replace the requirements of Section 105.03, "Cooperation With Utility Owners".

#### ATTACHMENTS

Appendix A – Utility Coordination Table

Appendix B – Utility Exhibits

#### DEFINITIONS

**Conflict:** A utility in need of relocation or adjustment for the construction to proceed in that area.

**Protect in Place (PIP):** A utility that does not need relocation, but needs precautions to protect the utility during construction activities.

**Utility Encounter (UE):** A Conflict or Protect in Place situation involving an existing third party owned utility.

#### CONTRACTOR RESPONSIBILITIES

##### A. Responsibilities.

The responsibilities for utility coordination include the following:

- Conduct the preconstruction utility coordination meeting;
- Main point of contact for all utility companies;
- Maintain a schedule for utility activities;
- Hold weekly utility meetings in addition to the weekly planning and reporting meeting and report on the utility meetings at the weekly planning and reporting meeting;
- Follow up with any utility companies that do not show up to construction meetings;
- Coordinate work efforts of the utility companies, revise work schedules and traffic control as necessary to ensure adequate cooperation between UE and construction work;
- Develop and update the utility coordination plan;
- Provide a weekly written summary for contacts and meetings to the Engineer; and
- Coordinate with all of the other parties to update the project schedule specified in Section 108.03, "Progress Schedule".

**B. Utility Coordination Plan.**

Develop a utility coordination plan with each utility company that includes the phasing and scheduling requirements for UE.

**C. Record of Utility Outage Notifications.**

Request a copy of notifications that utility companies provide to customers for service outages. Maintain copies of all notifications until the Contractor signs the final estimate.

**D. Utility Coordination Schedule.**

Create and maintain a construction schedule that includes timelines for the phasing of utility coordination work. Include information contained in the contract documents and information obtained during coordination discussions with utility owners. Written agreements between the Contractor and a utility company will govern over information contained in contract documents; however, the agreements must be signed by the NDDOT, Contractor and Utility Company to be effective. Written agreements are considered contract revisions, however they are not eligible for additional compensation or additional time unless agreed to separately by the Engineer.

The Utility Coordination Table contains information related to the utility coordination requirements at each area designated as a UE. The timelines included on the Table may be longer than shown if the Contractor requests multiple resolutions simultaneously. Adjust work schedules as required to accommodate utility resolutions.

Revisions to the construction schedule due to a utility company or companies non-conformance with agreed upon schedules or failure to reasonably coordinate work efforts with the Contractor will be considered excusable, non-compensable delays as specified in Section 108.06, "Determination of and Extensions to the Contract Time".

Failure by the Contractor to reasonably coordinate schedules with a utility company or companies for UE identified in the contract, or failure to document coordination efforts will be considered non-excusable delays as specified in Section 108.06, "Determination of and Extensions to the Contract Time".

## **CONSTRUCTION REQUIREMENTS**

**A. General.**

The vertical and horizontal utility locations shown in the plans are approximate. Plan locations should not be interpreted as exact for bidding or construction purposes.

Utility facilities shown on the plans, if any, are for reference purposes only and may not constitute an exhaustive representation of all utility facilities within the project. Notify the North Dakota One Call System (811) before starting the work, so they may locate and mark all utility facilities within the project. Receive utility locates for Department-owned, publicly-owned, and privately-owned utility facilities, whether on or off the One Call System.

Comply with Chapter 49-23 of the NDCC in determining the location of underground utilities.

**B. Utilities Identified in Plans.**

Coordinate UE work with the affected utility owners. Maintain continuous communication with the Engineer, affected subcontractors, and affected utility owners until UE will no longer affect or be affected by the Contractor.

Cooperate with utility owners in relocating and adjusting utility facilities to minimize interruption to service and duplication of work by utility owners.

The Contract documents show all known UE for the project.

If a UE identified as a Protect in Place is determined to be a Conflict during construction, the Engineer will make necessary revisions to the Contract as specified in Section 104.02, "Contract Revisions". These types of changes will be considered excusable, compensable delays as specified in Section 108.06, "Determination of and Extensions to the Contract Time".

**C. Utilities Encountered During Work.**

**1. General**

Neither of the cases discussed in this subsection relieve the Contractor of liability that may arise under provisions of the NDCC.

**2. Unidentified Utility Encounters**

The Department will bear costs associated with revisions to the work as specified in Section 104.02 B, "Differing Site Conditions" only if the Engineer determines that all of the following conditions exist:

- a UE exists that was not designated in the plans; and
- the UE is in a location that affects the prosecution of the work to construct the project as designed.

**3. Utility Encounters Created Due to Actions Performed by the Contractor**

If a new UE is created due to actions performed by the Contractor for the Contractor's convenience; the Contractor shall account for and protect the affected facilities. Before performing these actions, the Contractor shall coordinate with the utility owner. The Department will not make additional payments to the Contractor nor the utility owner for UE created in this manner and will not provide additional time to the Contractor for completing the work.

If utility companies incur costs, the Department will not participate in those costs and will not make payment to the Contractor for those costs.

**D. Utility Coordination Meetings.**

**1. Preconstruction Utility Meeting.**

Arrange the meeting with the utility owners, the Contractor and affected subcontractors, local agency representatives, and the Engineer to occur no later than two weeks after the preconstruction meeting. At the meeting, provide an agenda and a tentative construction schedule for planning UE work; after the meeting, publish minutes and distribute a copy to all meeting attendees within 48 hours of the conclusion of the meeting.

**2. Weekly Utility Coordination Meeting.**

Organize a weekly meeting to discuss utility coordination efforts with utility companies and affected subcontractors, local authorities, the Engineer and others who may have an interest in utility coordination efforts. Hold the weekly utility coordination meeting immediately before the weekly planning and reporting meeting. Publish minutes and distribute copies to all meeting attendees within 48 hours of the conclusion of the meeting.

The intent of this meeting is to disseminate information regarding ongoing and upcoming UE work and to ensure that all affected parties are collaborating and sharing information related to that work.

Provide a summary of the discussion at the weekly planning and reporting meeting.

**E. Fire Hydrants.**

Before starting work that affects a fire hydrant, coordinate with the local fire authority to determine if provisions need to be in place before starting the work. If provisions are necessary, obtain the approval of the local fire authority before beginning the work affecting the fire hydrant.

**F. Damage and Interruptions.**

If the Contractor causes damage to utility facilities, the Contractor is responsible for the costs of restoring or repairing the damaged utility facility to a condition equal to or better than the condition existing before the damage occurred. Immediately notify the utility owner of the damage or, if the owner is unknown, the One Call System. Do not conceal, attempt to conceal, or make repairs to the utility facilities until approved by the utility owner. If this damage causes interruption to utility service, continuously coordinate with the utility owner until the service is fully restored.

The Department will not pay the Contractor for the cost to restore utility facilities or repair damage to utility facilities and will consider any delays resulting from this damage to be non-excusable in accordance with Section 108.06, "Determination of and Extensions to the Contract Time."

**G. Utility Criteria.**

The Utility Coordination Table and Utility Exhibits contain specific information related to each UE location.

Rev. 2019-09-27

### Utility Conflict & Resolution - Table

NHU-SU-1-981(118) PCN 22435

UE ID# UR ID# PR ID#	Utility Coordinat ion Exhibits	Beginning Point			Ending Point			LT/RT or Crossing or Point Location	Roadway (Alignment/Ch ain)	Approx. Qty	Unit	Max Excavation Cut (-) / Fill (+) Feet	Encount er Level	Comments	Utility Company	Type of Facility	After Notification - Time For Utility to Mobilize (D = Working Day, W = Week)	Estimated Time to Complete Relocation (D = Working Day, W = Week, H = Hours)	Protect In Place Conflict	Determination for Reimbursement: Length of Line (FT) or Each (EA)										Additional Potoling or Survey to be performed by Utility company
		Sta.	Offset (FT)	RT or LT	Sta.	Offset (FT)	RT or LT													Reimbursable Agreements (RA) - Impacted Utility was Outside existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42. Or Utility Line was in place prior to the Jurisdiction law took place as outlined in NDCC 24-01-42.					Non-Reimbursable Agreements (NRA) - Impacted Utility was In existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42.					
																				Quantity RA	FT / EA	% RA	Quantity NRA	FT / EA	% NRA	Total Quantity	Percent RA = RA / NRA	YES / NO / NA	If Yes, How many?	
CAELCI-29	1	10+30	59.6	LT	14+87	55.0	LT	LT	43rd Ave	457.0	LF	0	Level 1	Overhead powerline should not be affected by construction.	Capital Electric Cooperative Incorporat	Overhead Power Line	-	-	X	0.0	FT	0%	457.0	FT	100%	-	-	NO		
MDU-2	1	10+30	43.2	LT	11+84	40.8	LT	LT	43rd Ave	154.0	LF	0	Level 1	No excavation over the line gas line.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	0%	154.0	FT	100%	-	-	NO		
MIDCO-1	1	11+67	56.2	RT	12+68	55.2	RT	RT	43rd Ave	101.0	LF	-1	Level 2	Driveway approaches installed over fiber optic line. Final grade is 0.14' below existing grade but will require 1' excavation during approach installation.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	0%	101.0	FT	100%	-	-	NO		
MDU-3	1	11+84	40.8	LT	12+92	47.2	RT	Crossing	43rd Ave	200.0	LF	-4	Level 3	Gas line will be replaced for roadway and ditch excavation.	Montana-Dakota Utilities	Gas Line	2D	2W	X	0.0	FT	0%	200.0	FT	100%	200.0	100.0%	NO		
CIBIWA-1	1	11+91	35.6	LT	11+91	25.6	RT	Crossing	43rd Ave	61.2	LF	-2	Level 2	More than 2 feet of excavation over the water line during construction. Final grade will be 0.28' lower than original grade.	City of Bismarck Water	Water Line	-	-	X	0.0	FT	0%	61.2	FT	-	-	-	NO		
CIBIWA-2	1	11+91	25.6	RT	11+91	40.0	RT	RT	43rd Ave	15.0	LF	-6	Level 4	Hydrant needs to be moved east out of the radius of the approach (approximately 7 ft. east). Culvert installation requires -5.6' excavation over the water line. Valve and water line will need to be moved.	City of Bismarck Water	Water Line	1D	1W	X	0.0	FT	0%	15.0	FT	100%	15.0	100.0%	NO	-	
CIBIWA-3	1	12+48	28.1	LT	16+10	28.0	LT	LT	43rd Ave	362.0	LF	-4	Level 2	Water line is in the inslope of the ditch off of the shoulder. Maximum excavation over the water line is approximately 3.5' during roadway construction but final grade will have a maximum of 1.5' lower elevation than existing grade. Air release manhole will need to be adjusted to final grade.	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	362.0	FT	-	-	-	NO	-	
CIBIWA-4	1	14+65	28.0	LT				Point	43rd Ave	1.0	EA	-2	Level 3	Water line is in the inslope of the ditch off of the shoulder. Excavation over the water line is approximately -3.5' during roadway construction but final grade will have a maximum of 1.5' lower elevation than existing grade. Air release manhole will need to be adjusted to final grade.	City of Bismarck Water	Water Line	-	-	X	0.0	FT	0%	1.0	FT	100%	1.0	100.0%	NO	-	
CAELCI-1	1	12+56	59.6	LT	14+85	59.0	LT	LT	43rd Ave	229.0	LF	0	Level 1	Underground electric line is outside of proposed construction and shouldn't be affected.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	0%	229.0	FT	100%	-	-	NO		
MDU-4	1	12+95	54.0	LT	16+63	40.2	LT	LT	43rd Ave	368.0	LF	-1	Level 2	Ditch excavation over the gas line varies from -0.5' to a maximum of -1.2' but final grade over the gas line has a maximum grade change of -0.7'	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	368.0	FT	-	-	-	NO	-	
SOCRWD-1	1	13+06	68.1	RT	15+12	64.0	RT	RT	43rd Ave	206.0	LF	0	Level 1	Water line within the Right of Way with no proposed construction affecting the line.	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	206.0	FT	-	-	-	NO	-	
MIDCO-2	1	13+17	58.0	LT	14+85	58.5	LT	LT	43rd Ave	168.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	168.0	FT	-	-	-	NO	-	
WEARPA-1	1	13+88	60.0	LT	17+51	75.0	RT	Crossing	43rd Ave	366.0	LF	-2	Level 1	Overhead powerlines cross the roadway where the roadway grade is being lowered. The overhead line should not be affected.	Western Area Power Administration	Overhead Power Line	-	-	X	0.0	FT	-	366.0	FT	-	-	-	NO	-	
MIDCO-3	1	14+85	58.5	LT	15+61	58.2	LT	LT	43rd Ave	76.0	LF	-1	Level 2	Ditch backslope construction requires -0.7' of excavation over the fiber optic line. Final grade is 0.2 ft. lower than the original grade.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	76.0	FT	-	-	-	NO	-	
CAELCI-2	1	14+85	59.5	LT	15+61	59.5	LT	LT	43rd Ave	76.0	LF	-1	Level 2	Ditch backslope construction requires -0.7' of excavation over the underground electric line. Final grade is 0.2 ft. lower than the original grade.	Capital Electric Cooperative Incorporat	UG Fiber Optic Line	-	-	X	0.0	FT	-	76.0	FT	-	-	-	NO	-	
CAELCI-30	1	14+87	55.3	LT				Point	43rd Ave	1.0	EA	-1	Level 2	Ditch backslope construction requires -0.7' of excavation around the overhead power pole. Final grade is 0.21 ft. lower than original grade.	Capital Electric Cooperative Incorporat	Overhead Power Pole	-	-	X	0.0	FT	-	1.0	EA	-	-	-	NO	-	
CAELCI-31	1	14+87	55.3	LT	20+02	60.0	LT	LT	43rd Ave	515.0	LF	0	Level 1	Overhead power line should not be affected by construction.	Capital Electric Cooperative Incorporat	Overhead Power Line	-	-	X	0.0	FT	-	515.0	FT	-	-	-	NO	-	
BECOCO-1	1	15+17	59.8	LT	15+61	59.7	LT	LT	43rd Ave	44.0	LF	-1	Level 2	Ditch backslope construction requires -0.7' of excavation over the fiber optic line. Final grade is 0.2 ft. lower than the original grade.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	44.0	FT	-	-	-	NO	-	
SOCRWD-2	1	15+12	63.7	RT	17+00	60.0	RT	RT	43rd Ave	188.0	LF	-3	Level 3	Ditch backslope construction requires -2.5' of excavation over the water line. Final grade is 2 ft. lower than the original grade. Water line can be lowered to provide adequate cover.	South Central Regional Water District	Water Line	1D	4D	X	0.0	FT	0%	188.0	FT	100%	188.0	100.0%	NO	-	
BECOCO-2	1	15+61	59.7	LT	19+05	52.5	LT	LT	43rd Ave	344.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	344.0	FT	-	-	-	NO	-	
MIDCO-4	1	15+61	58.0	LT	19+05	58.5	LT	LT	43rd Ave	344.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	344.0	FT	-	-	-	NO	-	
CIBIWA-5	1	16+10	27.9	LT	21+43	28.0	LT	LT	43rd Ave	533.0	LF	-1	Level 1	Water line is in the inslope of the ditch off of the shoulder. Maximum excavation over the line during construction is -1.2' but the net grade change is between 0.8' to 5.8'	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	533.0	FT	-	-	-	NO	-	
MDU-7	1	16+63	40.2	LT	19+04	44.8	LT	LT	43rd Ave	241.0	LF	1	Level 1	Gas line is near the edge of construction limits with part in a small cut and part in a fill section. Line should not be affected by the proposed construction.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	241.0	FT	-	-	-	NO	-	
SOCRWD-3	1	17+09	60.2	RT	18+47	28.0	RT	RT	43rd Ave	157.0	LF	3	Level 1	Water line is mostly outside of construction limits with part the line within the fill section of the roadway inslope. Line should not be affected by proposed construction.	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	157.0	FT	-	-	-	NO	-	
SOCRWD-4	1	18+47	28.0	RT	18+63	60.0	LT	Crossing	43rd Ave	89.0	LF	-2	Level 2	Water line crosses 43rd Ave with a maximum -1.69' of excavation over the water line at the centerline during construction. The finished grade will be 0.31 above existing ground at the centerline and 2.9' at the roadway inslopes.	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	89.0	FT	-	-	-	NO	-	
MDU-8	1	19+05	75.0	RT	19+04	60.0	LT	Crossing	43rd Ave	135.0	LF	-1	Level 2	Gas line crosses 43rd Ave with maximum of a -1.13' excavation at centerline during construction and a net final grade raise ranging between 0.87' to 3.51' when construction is completed.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	135.0	FT	-	-	-	NO	-	
CENLIN-1	1	19+05	60.3	LT	19+66	57.0	LT	LT	43rd Ave	61.0	LF	-1	Level 2	Excavation during the construction of the Hay Creek Drive roadway approach requires excavation of -0.91' while the finished roadway grade is 0.08' below existing grade.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	61.0	FT	-	-	-	NO	-	
MIDCO-5	1	19+05	58.6	LT	19+66	58.6	LT	LT	43rd Ave	61.0	LF	-1	Level 2	Excavation during the construction of the Hay Creek Drive roadway approach requires excavation of -0.91' while the finished roadway grade is 0.08' below existing grade.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	61.0	FT	-	-	-	NO	-	
BECOCO-3	1	19+05	52.8	LT	19+60	52.0	LT	LT	43rd Ave	55.0	LF	-4	Level 4	Excavation during the installation of the culvert at the Hay Creek Drive approach requires -3.82' of excavation over the fiber optic line. The fiber optic line will need to be moved to avoid conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	2W	X	0.0	FT	0%	55.0	FT	100%	55.0	100.0%	NO	-	
BECOCO-4	1	19+60	52.0	LT	21+48	50.9	LT	LT	43rd Ave	188.0	LF	8	Level 1	Fiber optic line is located in a fill section with a maximum of 7.68' of embankment placed over the fiber optic line.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	188.0	FT	-	-	-	NO	-	
MIDCO-6	1	19+66	58.6	LT	21+48	59.2	LT	LT	43rd Ave	182.0	LF	7	Level 1	Fiber optic line is located in a fill section with a maximum of 7.02' of embankment placed over the fiber optic line.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	182.0	FT	-	-	-	NO	-	
CENLIN-2	1	19+66	57.0	LT	21+48	56.0	LT	LT	43rd Ave	182.0	LF	8	Level 1	Fiber optic line is located in a fill section with a maximum of 7.76' of embankment placed over the fiber optic line.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	182.0	FT	-	-	-	NO	-	
CAELCI-32	1	20+02	60.0	LT				Point	43rd Ave	1.0	EA	1	Level 2	Power pole is located in a fill section with the final grade 1.09' above existing ground.	Capital Electric Cooperative Incorporat	Overhead Power Pole	-	-	X	0.0	EA	-	1.0	EA	-	-	-	NO	-	
CAELCI-33	1 & 2	20+02	60.0	LT	23+00	60.0	LT	LT	43rd Ave	0.0	LF	7	Level 2	Overhead power line is located in a fill section with a maximum fill of 7.13' and where mainline culverts are being installed. Contractor should take care working under the power lines and during culvert installation.	Capital Electric Cooperative Incorporat	Overhead Power Line	-	-	X	0.0	FT	-	0.0	FT	-	-	-	NO	-	
MDU-11	1	20+45	77.9	RT	21+48	77.0	RT	RT	43rd Ave	103.0	LF	8	Level 1	Gas line is in a fill section with a maximum of 8.32' of embankment over the line.	Montana-Dakota Utilities	Gas Line	-	-	X	103.0	FT	-	0.0	FT	-	-	-	NO	-	
MIDCO-7	1	20+66	88.0	RT	21+48	87.3	RT	RT	43rd Ave	82.0	LF	6	Level 1	Fiber optic line is located in a fill section with a maximum of 5.80' of embankment placed over the fiber optic line.	Mid-Continent Cable	Fiber Optic Line	-	-	X	82.0	FT	-	0.0	FT	-	-	-	NO	-	
MDU-12	1	20+68	88.8	RT	21+48	85.0	RT	RT	43rd Ave	80.0	LF	6	Level 1	Underground electric line is located in a fill section with a maximum of 6.21' of embankment placed over the underground electric line.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	80.0	FT	-	0.0	FT	-	-	-	NO	-	
MDU-13	1	21+68	88.8	RT	21+48	87.1	RT	RT	43rd Ave	80.0	LF	6	Level 1	Underground electric line is located in a fill section with a maximum of 5.80' of embankment placed over the underground electric line.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	80.0	FT	-	0.0	FT	-	-	-	NO	-	
CAELCI-34	1	20+68	88.8	RT	21+48	85.0	RT	RT	43rd Ave	80.0	LF	6	Level 1	Underground electric line is located in a fill section with a maximum of 6.21' of embankment placed over the underground electric line.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	80.0	FT	-	0.0	FT	-	-	-	NO	-	
CAELCI-35	1	21+68	88.8	RT	21+48	87.1	RT	RT	43rd Ave	80.0	LF	6	Level 1	Underground electric line is located in a fill section with a maximum of 5.80' of embankment placed over the underground electric line.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	80.0	FT	-	0.0	FT	-	-	-	NO	-	
MDU-14	1	21+48	87.4	RT	21+87	87.3	RT	RT	43rd Ave	39.0	LF	-3	Level 4	Culvert installation requires -3.13 ft. of excavation over the underground electric line. Underground electric line will be moved to avoid conflict.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	39.0	FT	100%	0.0	FT	0%	39.0	100.0%	NO	-	

## Utility Conflict & Resolution - Table

NHU-SU-1-981(118) PCN 22435

UE ID# UR ID# PR ID#	Utility Coordinat ion Exhibits	Beginning Point			Ending Point			LT/RT or Crossing or Point Location	Roadway (Alignment/Ch ain)	Approx. Qty	Unit	Max Excavation Cut (-) / Fill (+) Feet	Encount er Level	Comments	Utility Company	Type of Facility	After Notification - Time For Utility to Mobilize (D = Working Day, W = Week)	Estimated Time to Complete Relocation (D = Working Day, W = Week, H = Hours)	Protect In Place Conflict	Determination for Reimbursement: Length of Line (FT) or Each (EA)										Additional Potholing or Survey to be performed by Utility company
		Sta.	Offset (FT)	RT or LT	Sta.	Offset (FT)	RT or LT													Reimbursable Agreements (RA) - Impacted Utility was Outside existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42. Or Utility Line was in place prior to the Jurisdiction law took place as outlined in NDCC 24-01-42.					Non-Reimbursable Agreements (NRA) - Impacted Utility was In existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42.					
																				Quantity RA	FT / EA	% RA	Quantity NRA	FT / EA	% NRA	Total Quantity	Percent RA = RA / NRA	YES / NO / NA	If Yes, How many?	
CAELCI-36	1	21+48	87.4	RT	21+87	87.3	RT	RT	43rd Ave	39.0	LF	-3	Level 4	Culvert installation requires -3.13 ft. of excavation over the underground electric line. Underground electric line will be moved to avoid conflict.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	1W	2D	X	39.0	FT	100%	0.0	FT	0%	39.0	100.0%	NO	-	
MIDCO-8	1	21+48	87.0	RT	21+87	86.9	RT	RT	43rd Ave	39.0	LF	-3	Level 4	Culvert installation requires -3.13 ft. of excavation over the fiber optic line. Underground fiber optic line will be moved to avoid conflict.	Mid-Continent Cable	Fiber Optic Line	1D	3D	X	39.0	FT	100%	0.0	FT	0%	39.0	100.0%	NO	-	
MDU-15	1	21+48	84.6	RT	21+87	82.8	RT	RT	43rd Ave	39.0	LF	-3	Level 4	Culvert installation requires -3.12 ft. of excavation over the underground electric line. Underground electric line will be moved to avoid conflict.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	39.0	FT	100%	0.0	FT	0%	39.0	100.0%	NO	-	
CAELCI-37	1	21+48	84.6	RT	21+87	82.8	RT	RT	43rd Ave	39.0	LF	-3	Level 4	Culvert installation requires -3.12 ft. of excavation over the underground electric line. Underground electric line will be moved to avoid conflict.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	1W	2D	X	39.0	FT	100%	0.0	FT	0%	39.0	100.0%	NO	-	
MDU-16	1	21+48	76.7	RT	21+87	76.3	RT	RT	43rd Ave	39.0	LF	-3	Level 3	Culvert installation requires -3.13 ft. of excavation over the natural gas line. Underground gas line will be lowered in place to avoid conflict.	Montana-Dakota Utilities	Gas Line	1D	2W	X	39.0	FT	100%	0.0	FT	0%	39.0	100.0%	NO	-	
MIDCO-9	1	21+48	58.7	LT	21+87	58.8	LT	LT	43rd Ave	39.0	LF	-10	Level 4	Culvert installation requires -10.35 ft. of excavation over the fiber optic line. Underground fiber optic line will be moved to avoid conflict.	Mid-Continent Cable	Fiber Optic Line	1D	2W	X	0.0	FT	0%	39.0	FT	100%	39.0	100.0%	NO	-	
CENLIN-3	1	21+48	56.1	LT	21+87	56.5	LT	LT	43rd Ave	39.0	LF	-11	Level 4	Culvert installation requires -10.88 ft. of excavation over the fiber optic line. Underground fiber optic line will be moved to avoid conflict.	Century Link	Fiber Optic Line	1D	2W	X	0.0	FT	0%	39.0	FT	100%	39.0	100.0%	NO	-	
BECOCO-5	1	21+48	50.8	LT	21+87	50.8	LT	LT	43rd Ave	39.0	LF	-12	Level 4	Culvert installation requires -11.97 ft. of excavation over the fiber optic line. Underground fiber optic line will be moved to avoid conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	2W	X	0.0	FT	0%	39.0	FT	100%	39.0	100.0%	NO	-	
CIBIWA-6	1	21+48	28.1	LT	21+87	28.0	LT	LT	43rd Ave	39.0	LF	-17	Level 2	Culvert installation requires -16.54 ft. of excavation over the water line. Water line will be left in place and worked around during excavation and installation of culvert. Water line will be insulated during this process to allow it to remain in place.	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	39.0	FT	-	-	-	NO	-	
MIDCO-10	1 & 2	21+87	58.8	LT	30+51	59.3	LT	LT	43rd Ave	864.0	LF	7	Level 1	Fiber optic line is located in a fill section ending at Sta 23+03 with a maximum of 5.80' of embankment placed over the fiber optic line. Fiber optic line is outside of the construction extents from Sta 23+03 to Sta 30+51.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	0%	864.0	FT	-	-	-	-	-	
CENLIN-4	1 & 2	21+87	56.5	LT	27+97	56.8	LT	LT	43rd Ave	610.0	LF	7	Level 1	Fiber optic line is located in a fill section ending at Sta 23+52 with a maximum of 7.33' of embankment placed over the fiber optic line. Fiber optic line is outside of the construction extents from Sta 23+52 to Sta 27+87.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	610.0	FT	-	-	-	-	-	
BECOCO-6	1 & 2	21+87	50.8	LT	27+87	49.3	LT	LT	43rd Ave	599.0	LF	7	Level 1	Fiber optic line is located in a fill section ending at Sta 23+10 with a maximum of 7.30' of embankment placed over the fiber optic line. Fiber optic line is outside of the construction extents from Sta 23+10 to Sta 27+97.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	599.0	FT	-	-	-	-	-	
CAELCI-38	2	22+53	60.0	LT	-	-	Point	43rd Ave	1.0	EA	1	Level 2	Power pole is located in a fill section with the final grade 1.35' above existing ground.	Capital Electric Cooperative Incorporat	Overhead Power Pole	-	-	X	0.0	EA	-	1.0	EA	-	-	-	-	-		
CIBIWA-7	1 & 2	21+87	28.0	LT	34+00	28.0	LT	LT	43rd Ave	1213.0	LF	7	Level 1	Water line is in the inslope of the ditch off of the shoulder resulting in a maximum fill over the line of 6.50.'	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	1213.0	FT	-	-	-	-	-	
MIDCO-11	1 & 2	21+87	86.9	RT	22+50	87.2	RT	RT	43rd Ave	63.0	LF	5	Level 1	Fiber optic line is located in a fill section with a maximum of 4.90' of embankment placed over the fiber optic line.	Mid-Continent Cable	Fiber Optic Line	-	-	X	63.0	FT	-	0.0	FT	-	-	-	-	-	
MDU-18	1 & 2	21+87	87.1	RT	22+50	87.3	RT	RT	43rd Ave	63.0	LF	5	Level 1	Underground electric line is located in a fill section with a maximum of 4.90' of embankment placed over the underground electric line.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	63.0	FT	-	0.0	FT	-	-	-	-	-	
CAELCI-39	1 & 2	21+87	87.1	RT	22+50	87.3	RT	RT	43rd Ave	63.0	LF	5	Level 1	Underground electric line is located in a fill section with a maximum of 4.90' of embankment placed over the underground electric line.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	63.0	FT	-	0.0	FT	-	-	-	-	-	
MDU-19	1 & 2	21+87	82.8	RT	22+60	79.8	RT	RT	43rd Ave	73.0	LF	6	Level 1	Underground electric line is located in a fill section with a maximum of 6.00' of embankment placed over the underground electric line.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	73.0	FT	-	0.0	FT	-	-	-	-	-	
CAELCI-40	1 & 2	21+87	82.8	RT	22+60	79.8	RT	RT	43rd Ave	73.0	LF	6	Level 1	Underground electric line is located in a fill section with a maximum of 6.00' of embankment placed over the underground electric line.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	73.0	FT	-	0.0	FT	-	-	-	-	-	
MDU-20	1 & 2	21+87	76.3	RT	28+04	68.9	RT	RT	43rd Ave	4991.0	LF	8	Level 1	Gas line is located in a fill section ending at Sta 22+67 with a maximum of 7.80' of embankment placed over the gas line. Gas line is outside of the stripping extents of construction from Sta 22+67 to Sta 28+04.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	4991.0	FT	-	-	-	-	-	
BECOCO-7	2	27+87	49.3	LT	29+66	47.5	LT	LT	43rd Ave	179.0	LF	-1	Level 2	Ditch construction requires a maximum of -0.98' of excavation over the fiber optic line. Final grade is a maximum of 0.48 ft. lower than the original grade.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	179.0	FT	-	-	-	-	-	
CENLIN-5	2	27+97	56.8	LT	29+52	58.2	LT	LT	43rd Ave	155.0	LF	-1	Level 2	Ditch construction requires a maximum of -0.83' of excavation over the fiber optic line. Final grade is a maximum of 0.33 ft. lower than the original grade.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	155.0	FT	-	-	-	-	-	
MDU-21	2	28+04	68.9	RT	31+12	65.3	RT	RT	43rd Ave	308.0	LF	-1	Level 2	Ditch construction requires a maximum of -0.83' of excavation over the gas line. Final grade is a maximum of 0.42 ft. lower than the original grade. Care should be taken at the approach at Sta 30+81 since the gas line is located very near to the approach construction extents.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	308.0	FT	-	-	-	-	-	
CENLIN-6	2	29+52	58.2	LT	30+68	59.0	LT	LT	43rd Ave	116.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	116.0	FT	-	-	-	-	-	
BECOCO-8	2	29+66	47.5	LT	30+51	46.4	LT	LT	43rd Ave	85.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	85.0	FT	-	-	-	-	-	
BECOCO-9	2	30+51	46.4	LT	31+12	48.5	LT	LT	43rd Ave	61.0	LF	-6	Level 4	Culvert installation requires -5.82 ft. of excavation over the fiber optic line. Underground fiber optic line will be moved to avoid conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	2W	X	0.0	FT	0%	61.0	FT	100%	61.0	100.0%	-	-	
CENLIN-7	2	30+68	59.0	LT	30+98	58.5	LT	LT	43rd Ave	30.0	LF	-1	Level 2	Excavation during the construction of the Hillsboro Drive roadway approach requires excavation of -0.85' while the finished roadway grade is 0.02' below existing grade.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	30.0	FT	-	-	-	-	-	
CENLIN-8	2	30+98	58.5	LT	34+00	57.9	LT	LT	43rd Ave	302.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	302.0	FT	-	-	-	-	-	
MDU-22	2	31+09	50.5	LT	31+11	54.7	RT	Crossing	43rd Ave	106.0	LF	-3	Level 4	Gas line conflicts with construction of roadway and with the installation of approach culverts on both the north and south side of the road. Gas line conflicts with North approach culvert where there is -2.36' of excavation during culvert installation. Gas line crosses 43rd Ave with maximum of a -1.63' excavation at centerline during construction and a net final grade raise of 0.38' after construction is completed. Gas line conflicts with South approach culvert where there is -2.83' of excavation during culvert installation. Gas line will be moved to avoid conflicts	Montana-Dakota Utilities	Gas Line	1D	2D	X	0.0	FT	0%	106.0	FT	100%	106.0	100.0%	-	-	
BECOCO-10	2	31+12	48.5	LT	34+00	47.7	LT	LT	43rd Ave	288.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	288.0	FT	-	-	-	-	-	
MDU-23	2	31+12	65.3	RT	34+00	66.8	RT	RT	43rd Ave	288.0	LF	0	Level 1	Gas line within Right of Way is outside of proposed construction.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	288.0	FT	-	-	-	-	-	
CENLIN-9	3	34+00	57.9	LT	37+81	59.0	LT	LT	43rd Ave	381.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	381.0	FT	-	-	-	-	-	
BECOCO-11	3	34+00	47.5	LT	39+41	42.2	LT	LT	43rd Ave	541.0	LF	2	Level 1	Fiber optic line is located in a fill section with a maximum of 1.89' of embankment placed over the fiber optic line.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	541.0	FT	-	-	-	-	-	
CIBIWA-8	3	34+00	28.0	LT	38+36	28.1	LT	LT	43rd Ave	436.0	LF	4	Level 1	Water line is in the inslope of the ditch off of the shoulder resulting in a maximum fill over the line of 4.12.'	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	436.0	FT	-	-	-	-	-	
MDU-24	3	34+00	66.6	RT	37+18	68.0	RT	RT	43rd Ave	318.0	LF	0	Level 1	Gas line within Right of Way is outside of proposed construction.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	318.0	FT	-	-	-	-	-	
SOCRWD-5	3	34+99	47.4	LT	46+00	51.0	LT	LT	43rd Ave	1101.0	LF	4	Level 1	Water line is in a fill section with a maximum embankment over the line of 3.74.'	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	1101.0	FT	-	-	-	-	-	
MDU-25	3	37+64	52+85	RT	38+20	79.6	RT	RT	43rd Ave	90.0	LF	-3	Level 4	Ditch excavation requires -3.45' of excavation over the underground electric line. Final grade is 2.95' ft. lower than the original grade. Line is located in the bottom of the ditch and line is also located in the ditch backslope. Line will be moved to avoid conflict.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	0.0	FT	0%	90.0	FT	100%	90.0	100.0%	-	-	
CAELCI-41	3	37+64	52+85	RT	38+20	79.6	RT	RT	43rd Ave	90.0	LF	-3	Level 4	Ditch excavation requires -3.45' of excavation over the underground electric line. Final grade is 2.95' ft. lower than the original grade. Utility box is located in the bottom of the ditch and line is also located in the ditch backslope. Line will be moved to avoid conflict.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	1D	1W	X	0.0	FT	0%	90.0	FT	100%	90.0	100.0%	-	-	
CENLIN-10	3	37+81	52.0	LT	38+50	51.4	LT	LT	43rd Ave	69.0	LF	-2	Level 3	Ditch excavation requires -2.04' of excavation over the fiber optic line. Final grade is 1.54' ft. lower than the original grade. Line can be lowered to provide adequate cover.	Century Link	Fiber Optic Line	1D	3D	X	0.0	FT	0%	69.0	FT	100%	69.0	100.0%	-	-	
MDU-26	3	37+18	67.8	RT	39+62	69.6	RT	LT	43rd Ave	244.0	LF	-5	Level 4	Gas line conflicts with construction of ditch and Nebraska Drive approach. Ditch excavation ranges from -4.65' to -0.75' during construction and a final grade change of -4.15' to -0.25'. Nebraska Drive approach construction requires -1.10' of excavation over the gas line during construction with a final grade change of -0.10	Montana-Dakota Utilities															

## Utility Conflict & Resolution - Table

NHU-SU-1-981(118) PCN 22435

UE ID# UR ID# PR ID#	Utility Coordinat ion Exhibits	Beginning Point			Ending Point			LT/RT or Crossing or Point Location	Roadway (Alignment/Ch ain)	Approx. Qty	Unit	Max Excavation Cut (-) / Fill (+) Feet	Encounte r Level	Comments	Utility Company	Type of Facility	After Notification - Time For Utility to Mobilize (D = Working Day, W = Week)	Estimated Time to Complete Relocation (D = Working Day, W = Week, H = Hours)	Protect In Place Conflict	Determination for Reimbursement: Length of Line (FT) or Each (EA)										Additional Potholing or Survey to be performed by Utility company
		Sta.	Offset (FT)	RT or LT	Sta.	Offset (FT)	RT or LT													Reimbursable Agreements (RA) - Impacted Utility was Outside existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42. Or Utility Line was in place prior to the Jurisdiction law took place as outlined in NDCC 24-01-42.					Non-Reimbursable Agreements (NRA) - Impacted Utility was In existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42.					
																				Quantity RA	FT / EA	% RA	Quantity NRA	FT / EA	% NRA	Total Quantity	Percent RA = RA / NRA	YES / NO / NA	If Yes, How many?	
CIBIWA-11	3	38+74	49.2	RT	38+74	75.5	RT	RT	43rd Ave	27.0	LF	-5	Level 4	Water line conflicts with Culvert installation which requires -4.99' of excavation over the water line. Water line to be moved to avoid conflict.	City of Bismarck Water	Water Line	1D	1W	X	0.0	FT	0%	27.0	FT	100%	27.0	100.0%	-	-	
CIBIWA-12	3	38+79	28.0	LT	46+00	28.0	LT	LT	43rd Ave	721.0	LF	4	Level 1	Water line is in the inslope of the ditch off of the shoulder resulting in a maximum fill over the line of 4.12.'	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	721.0	FT	-	-	-	-	-	
BECOCO-12	3	39+41	42.2	LT	42+00	46.8	LT	LT	43rd Ave	259.0	LF	-2	Level 3	Ditch and approach excavation over the fiber optic line ranges from -0.50' to -1.97' resulting in a finished grade change of 0' to -1.47'. Line can be lowered to eliminate conflict. Care should be taken during culvert installation since the fiber optic line is located approximately 5ft away from the proposed culvert.	Bek Communications Cooperative	Fiber Optic Line	1D	5D	X	0.0	FT	0%	259.0	FT	100%	259.0	100.0%	-	-	
CENLUN-11	3	39+61	59.5	LT	42+20	58.8	LT	LT	43rd Ave	259.0	LF	-2	Level 3	Ditch and approach excavation over the fiber optic line ranges from -0.50' to -1.66' resulting in a finished grade change of 0' to -1.16'. Line can be lowered to eliminate conflict.	Century Link	Fiber Optic Line	1D	2D	X	0.0	FT	0%	259.0	FT	100%	259.0	100.0%	-	-	
MDU-27	3	39+62	69.6	RT	46+00	72.1	RT	RT	43rd Ave	638.0	LF	0	Level 1	Gas line within Right of Way is outside of proposed construction.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	638.0	FT	-	-	-	-	-	
CAELCI-42	3	40+20	61.5	LT	-	-	Point	Point	43rd Ave	1.0	EA	-1	Level 3	Overhead power pole is located in the ditch backslope. Construction excavation around the pole is -1.40' with a finished grade change of -0.90'	Capital Electric Cooperative Incorporat	Overhead Power Pole	-	-	X	1.0	EA	100%	0.0	EA	0%	1.0	100.0%	-	-	
BECOCO-13	3	42+00	46.8	LT	45+63	50.2	LT	LT	43rd Ave	363.0	LF	1	Level 1	Fiber optic line is located outside of proposed construction and in a fill section with a maximum of 0.60' of embankment placed over the fiber optic line.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	363.0	FT	-	-	-	-	-	
CENLUN-12	3	42+20	58.8	LT	43+90	60.0	LT	LT	43rd Ave	170.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	170.0	FT	-	-	-	-	-	
MDU-29	3	43+50	47.4	LT	43+50	24.0	LT	Crossing	43rd Ave	23.4	LF	-1	Level 2	Gas line crosses 43rd Ave and has a maximum construction excavation of -0.88' with a final grade 0.38' lower than existing grade in the ditch. Care should be taken during approach construction and ditch excavation to avoid gas line.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	23.4	FT	-	-	-	-	-	
MDU-30	3	43+50	24.0	LT	43+49	71.1	RT	Crossing	43rd Ave	47.1	LF	4	Level 1	Gas line is in a fill section crossing 43rd Ave with a maximum fill of 3.61'. Care should be taken working around gas line.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	47.1	FT	-	-	-	-	-	
BECOCO-14	3 & 4	45+63	50.2	LT	46+15	50.9	LT	LT	43rd Ave	52.0	LF	0	Level 2	Fiber optic line has a -0.20 of construction excavation in the ditch with a final grade change of 0.31' higher than original grade. The fiber optic line is located approximately 1' away from the culvert flared end section so care should be taken to protect the line during culvert installation.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	52.0	FT	-	-	-	-	-	
BECOCO-15	4	46+15	50.9	LT	50+90	57.7	LT	LT	43rd Ave	475.0	LF	0	Level 1	Fiber optic line located within the right of way is located near the edge of construction limits with slight excavation in places and slight fill in areas (-0.5' to 0.5').	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	475.0	FT	-	-	-	-	-	
SOCRWD-6	4	46+00	50.7	LT	55+28	51.7	LT	LT	43rd Ave	928.0	LF	1	Level 1	Water line is located in a fill section with maximum fill of 1.08' Water line is located near culverts at Sta 46+00 and Prairie Pines Loop Approach. Care should be taken when installing culverts so water line is not disturbed.	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	928.0	FT	-	-	-	-	-	
CIBIWA-13	4	46+00	28.0	LT	55+12	28.0	LT	LT	43rd Ave	912.0	LF	5	Level 1	Water line is in the inslope of the ditch off of the shoulder resulting in a maximum fill over the line of 4.65.'	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	912.0	FT	-	-	-	-	-	
MDU-31	4	46+00	72.3	RT	51+23	74.6	RT	RT	43rd Ave	523.0	LF	0	Level 1	Gas line within Right of Way is outside of proposed construction.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	523.0	FT	-	-	-	-	-	
MDU-32	4	51+23	74.6	RT	52+07	74.9	RT	RT	43rd Ave	84.0	LF	-1	Level 2	Gas line is located under proposed sidewalk and approach for Minnesota Drive. Excavation for construction of sidewalk is -0.93' with a final grade change of -0.10'. Excavation for Minnesota Drive approach is -0.83 with no change in final grade. Care should be taken to identify and work around gas line.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	84.0	FT	-	-	-	-	-	
MDU-33	4	51+22	83.2	RT	51+30	83.2	RT	RT	43rd Ave	8.0	LF	-1	Level 2	Underground electric line is located under proposed sidewalk. Construction requires -1.23' of excavation while final grade change is -0.40'. Care should be taken to identify and work around line.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	-	-	X	0.0	FT	-	8.0	FT	-	-	-	-	-	
CAELCI-43	4	51+22	83.2	RT	51+30	83.2	RT	RT	43rd Ave	8.0	LF	-1	Level 2	Underground electric line is located under proposed sidewalk. Construction requires -1.23' of excavation while final grade change is -0.40'. Care should be taken to identify and work around line.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	0.0	FT	-	8.0	FT	-	-	-	-	-	
MIDCO-12	4	51+22	88.7	RT	51+30	88.7	RT	RT	43rd Ave	8.0	LF	-1	Level 2	Fiber optic line is located under proposed sidewalk. Construction requires -1.13' of excavation while final grade change is -0.30'. Care should be taken to identify and work around line.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	8.0	FT	-	-	-	-	-	
CAELCI-9	4	50+64	62.5	LT	51+77	62.3	LT	LT	43rd Ave	113.0	LF	-1	Level 2	Underground electric line is located in the backslope and under an approach with a maximum construction excavation of -1.26' and a maximum final grade change of -0.76'. Care should be taken to identify and work around line.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	113.0	FT	-	0.0	FT	-	-	-	-	-	
CENLUN-13	4	50+68	63.8	LT	51+75	63.0	LT	LT	43rd Ave	107.0	LF	-1	Level 2	Fiber optic line is located in the backslope and under an approach with a maximum construction excavation of -0.79' and final grade change of -0.29'. Care should be taken to identify and work around line.	Century Link	Fiber Optic Line	-	-	X	107.0	FT	-	0.0	FT	-	-	-	-	-	
MDU-34	4	50+64	62.2	LT	51+77	62.1	LT	LT	43rd Ave	113.0	LF	-1	Level 1	Ditch backslope construction is located under overhead powerline. Care should be taken to avoid overhead powerline during construction.	Montana-Dakota Utilities	Overhead power line	-	-	X	113.0	FT	-	0.0	FT	-	-	-	-	-	
BECOCO-16	4	50+90	57.5	LT	51+88	57.9	LT	LT	43rd Ave	97.0	LF	-1	Level 3	Fiber optic line is located in ditch backslope and under approach with a maximum construction excavation of -1.40' and final maximum grade change of -0.90'. Line should be lowered to avoid conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	3D	X	97.0	FT	100%	0.0	FT	0%	97.0	100.0%	-	-	
CIBIWA-14	4	51+37	26.6	LT	-	-	Point	Point	43rd Ave	1.0	EA	4	Level 3	Water valve located in a fill section must be adjusted to final grade.	City of Bismarck Water	Water Line	-	-	X	1.0	EA	100%	0.0	EA	0%	1.0	100.0%	-	-	
CIBIWA-15	4	51+32	321.7	RT	51+37	26.6	LT	Crossing	43rd Ave	348.3	LF	4	Level 1	Water line crosses 43rd Ave and runs parallel to Minnesota Drive along new sidewalk construction and is located in a fill section with a maximum fill of 3.51'	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	348.3	FT	-	-	-	-	-	
BECOCO-17	4	51+88	57.8	LT	54+29	56.7	LT	LT	43rd Ave	241.0	LF	0	Level 1	Fiber optic line within Right of Way is outside of proposed construction.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	241.0	FT	-	-	-	-	-	
MDU-34	4	52+07	74.9	RT	56+95	80.1	RT	RT	43rd Ave	488.0	LF	3	Level 1	Gas lines located in a fill section and is located near the edge of the construction extents. Care should be taken working near the gas line.	Montana-Dakota Utilities	Gas Line	-	-	X	488.0	FT	-	0.0	FT	-	-	-	-	-	
MDU-35	4	52+23	84.3	RT	52+71	82.4	RT	RT	43rd Ave	48.0	LF	1	Level 1	Underground electric line is located in a fill section with a maximum of 1.00' of embankment over the line.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	-	-	X	48.0	FT	-	0.0	FT	-	-	-	-	-	
CAELCI-44	4	52+23	84.3	RT	52+71	82.4	RT	RT	43rd Ave	48.0	LF	1	Level 1	Underground electric line is located in a fill section with a maximum of 1.00' of embankment over the line.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	48.0	FT	-	0.0	FT	-	-	-	-	-	
BECOCO-18	4	54+29	56.7	LT	54+67	56.5	LT	LT	43rd Ave	38.0	LF	-1	Level 2	Fiber optic line crosses Prairie Pines Loop roadway approach where there is -0.69' of construction excavation over the fiber optic line and a permanent grade change of 0.14'. Care should be taken to identify and work around the line.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	38.0	FT	-	-	-	-	-	
BECOCO-19	4	54+67	56.5	LT	55+29	56.4	LT	LT	43rd Ave	62.0	LF	0	Level 1	Fiber optic line located within the right of way is located outside or just within the construction extents with excavation ranging from 0' to -0.5'.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	62.0	FT	-	-	-	-	-	
BECOCO-20	4	55+29	56.4	LT	58+00	55.6	LT	LT	43rd Ave	271.0	LF	-1	Level 3	Fiber optic line conflicts with proposed roadway ditch construction with a maximum of -1.37' of construction excavation over the line and a maximum grade change of -0.87'. Line will be lowered to avoid conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	3D	X	0.0	FT	0%	271.0	FT	100%	271.0	100.0%	-	-	
CIBIWA-16	4	55+12	28.1	LT	-	-	Point	Point	43rd Ave	1.0	EA	2	Level 3	Water valve located in a fill section must be adjusted to final grade.	City of Bismarck Water	Water Line	-	-	X	0.0	EA	0%	1.0	EA	100%	1.0	100.0%	-	-	
SOCRWD-7	4	55+28	51.7	LT	58+00	49.9	LT	LT	43rd Ave	272.0	LF	-1	Level 3	Water line conflicts with proposed roadway ditch construction with a maximum of -1.29' of construction excavation over the line and a maximum grade change of -0.79'. Line will be lowered to avoid conflict.	South Central Regional Water District	Water Line	1D	3D	X	0.0	FT	0%	272.0	FT	100%	272.0	100.0%	-	-	
CENLUN-14	4	55+50	62.1	LT	57+12	61.8	LT	LT	43rd Ave	162.0	LF	-1	Level 3	Fiber optic line conflicts with proposed roadway ditch construction with a maximum of -1.27' of construction excavation over the line and a maximum grade change of -0.77'. Line will be lowered to avoid conflict.	Century Link	Fiber Optic Line	1D	1W	X	162.0	FT	100%	0.0	FT	0%	162.0	100.0%	-	-	
MDU-36	4	55+49	62.8	LT	57+10	62.6	LT	LT	43rd Ave	161.0	LF	-1	Level 2	Ditch backslope construction is located under overhead powerline. Care should be taken to avoid overhead powerline during construction. A power pole located at Sta 56+23 will have a final grade change of -0.14' around the pole. Contractor will protect and work around the pole.	Montana-Dakota Utilities	Overhead Power Line/Pole	-	-	X	161.0	FT	-	0.0	FT	-	-	-	-	-	
CAELCI-45	4	55+49	62.8	LT	57+10	62.6	LT	LT	43rd Ave	161.0	LF	-1	Level 2	Ditch backslope construction is located under overhead powerline. Care should be taken to avoid overhead powerline during construction. A power pole located at Sta 56+23 will have a final grade change of -0.14' around the pole. Contractor will protect and work around the pole.	Capital Electric Cooperative Incorporat	Overhead Power Line/Pole	-	-	X	161.0	FT	-	0.0	FT	-	-	-	-	-	
CIBIWA-17	4	57+05	27.9	LT	57+25	28.1	LT	LT	43rd Ave	20.0	LF	-4	Level 2	Culvert installation over the water line requires -3.52' of excavation over the water line with the final pipe invert 1.52' below the existing ground elevation. Care should be taken to identify and work around the water line.	City of Bismarck Water	Water Line	-	-	X	0.0	FT	-	20.0	FT	-	-	-	-	-	
MDU-37	4	56+99	77.6	RT	57+29	77.7	RT	RT	43rd Ave	30.0	LF	-2	Level 3	Culvert installation requires -1.9' of excavation over the gas line. Gas line will be lowered in place to avoid conflict.	Montana-Dakota Utilities	Gas Line	1D	1D	X	0.0	FT	0%	30.0	FT	100%	30.0	100.0%	-	-	
MDU-38	4	56+99	80.0	RT	57+29	80.0	RT	RT	43rd Ave	30.0	LF	-3	Level 4	Culvert rip rap installation requires -3.25' of excavation over the underground electric line. Line will be moved to avoid conflict.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	2W	2W	X	0.0	FT	0%	30.0	FT	100%	30.0	100.0%	-	-	
CAELCI-46	4	56+99	80.0																											

### Utility Conflict & Resolution - Table

NHU-SU-1-981(118) PCN 22435

UE ID# UR ID# PR ID#	Utility Coordinat ion Exhibits	Beginning Point			Ending Point			LT/RT or Crossing or Point Location	Roadway (Alignment/Ch ain)	Approx. Qty	Unit	Max Excavation Cut (-) / Fill (+) Feet	Encounte r Level	Comments	Utility Company	Type of Facility	After Notification - Time For Utility to Mobilize (D = Working Day, W = Week)	Estimated Time to Complete Relocation (D = Working Day, W = Week, H = Hours)	Protect In Place Conflict	Determination for Reimbursement: Length of Line (FT) or Each (EA)										Additional Potholing or Survey to be performed by Utility company
		Sta.	Offset (FT)	RT or LT	Sta.	Offset (FT)	RT or LT													Reimbursable Agreements (RA) - Impacted Utility was Outside existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42. Or Utility Line was in place prior to the Jurisdiction law took place as outlined in NDCC 24-01-42.					Non-Reimbursable Agreements (NRA) - Impacted Utility was In existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42.					
																				Quantity RA	FT / EA	% RA	Quantity NRA	FT / EA	% NRA	Total Quantity	Percent RA = RA / NRA	YES / NO / NA	If Yes, How many?	
MDU-39	4	57+29	77.7	RT	57+77	77.9	RT	RT	43rd Ave	48.0	LF	2	Level 1	Gas line is located in a fill section with a maximum of 1.86' of embankment over the line.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	48.0	FT	-	-	-	-	-	-
MDU-40	4	57+29	80.0	RT	57+62	79.6	RT	RT	43rd Ave	33.0	LF	1	Level 1	Underground electric line is located in a fill section with a maximum of 1.26' of embankment over the line.	Montana-Dakota Utilities	UG Electric and Fiber Optic Line	-	-	X	0.0	FT	-	33.0	FT	-	-	-	-	-	-
CAELCI-47	4	57+29	80.0	RT	57+62	79.6	RT	RT	43rd Ave	33.0	LF	1	Level 1	Underground electric line is located in a fill section with a maximum of 1.26' of embankment over the line.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	0.0	FT	-	33.0	FT	-	-	-	-	-	-
BECOCO-21	5	58+00	55.0	LT	62+00	48.8	LT	LT	43rd Ave	400.0	LF	-3	Level 3	Roadway ditch construction and Prairie Pines Loop Construction requires excavation over the fiber optic line ranging from -0.12' to a maximum of -2.70'. Line will be lowered to resolve conflict. Line is located within 5' of the edge of the Prairie Pines Loop approach culvert and care should be taken during culvert installation to identify and work around line.	Bek Communications Cooperative	Fiber Optic Line	1D	4D	X	0.0	FT	0%	400.0	FT	100%	400.0	100.0%	-	-	
SOCRWD-8	5	58+00	50.1	LT	60+82	63.1	LT	LT	43rd Ave	289.0	LF	-3	Level 3	Water line conflicts with proposed roadway ditch construction with a maximum of -2.56' of construction excavation over the line and a maximum grade change of -2.06'. Line will be lowered to avoid conflict.	South Central Regional Water District	Water Line	1D	3D	X	0.0	FT	0%	289.0	FT	100%	289.0	100.0%	-	-	
CIBIWA-18	5	58+00	28.0	LT	62+00	28.0	LT	LT	43rd Ave	400.0	LF	-1	Level 2	Water line is located in the ditch inslope with a permanent grade change ranging between 1.72' to -0.68'.	City of Bismark Water	Water Line	-	-	X	0.0	FT	-	400.0	FT	-	-	-	-	-	-
CENLUN-15	5	58+83	61.7	LT	62+00	58.9	LT	LT	43rd Ave	317.0	LF	-2	Level 3	Fiber optic line is located in the ditch backslope with construction excavation ranging from -0.72 to -1.85 with permanent grade change ranging from -0.12' to -1.35'. Line will be lowered to avoid conflict.	Century Link	Fiber Optic Line	1D	3D	X	0.0	FT	0%	317.0	FT	100%	317.0	100.0%	-	-	
CAELCI-48	5	58+73	62.2	LT	62+00	62.0	LT	LT	43rd Ave	327.0	LF	-1	Level 2	Ditch backslope construction required under overhead powerlines. Overhead power poles are located at Sta 58+73 (no grade change at this site) and at Sta 60+65 (-1.14' of permant grade change at this pole). Care should be taken working around power poles and under lines.	Capital Electric Cooperative Incorporat	Overhead Power Line/Pole	-	-	X	327.0	FT	-	0.0	FT	-	-	-	-	-	-
CIBISU-1	5	60+26	30.0	RT	62+00	37.8	RT	RT	43rd Ave	174.0	LF	-1	Level 2	Underground electric line and street light poles are located next to roadway construction. Construction excavation for the roadway is -2.0' located immediately next to the light poles and utility line. Poles are located at Stations 60+26 and 61+76. Contractor will identify the utility line and poles and work along side the line while leaving the utility in place.	City of Bismark Street Utility	Underground Electric Line/ Light Pole	-	-	X	0.0	FT	-	174.0	FT	-	-	-	-	-	-
MDU-42	5	61+52	36.2	RT	62+00	45.5	LT	Crossing	43rd Ave	127.0	LF	-2	Level 2	Gas line crosses 43rd Ave at Sta 61+52 and then runs parallel to 43rd Ave in the north ditch bottom. Construction excavation in the roadway crossing over the gas line has a maximum of -2.25' with a permanent grade change of -0.25'. Construction of the ditch results in a maximum of -1.75' of construction excavation with a maximum of grade change of -1.25'. Line will be identified and protected in place.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	127.0	FT	-	-	-	-	-	-
MDU-43	5	61+52	36.2	RT	61+52	63.1	RT	RT	43rd Ave	26.9	LF	1	Level 1	Gas line is located in the roadway inslope in a fill section with a maximum of 1.23' of embankment placed on the line.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	26.9	FT	-	-	-	-	-	-
MDU-44	5	61+52	63.1	RT	63+93	75.9	RT	RT	43rd Ave	253.0	LF	-1	Level 2	Gas line crosses multi-use path where construction excavation reaches a maximum of -0.74' and a final grade change of 0.09'. Gas line is located in the roadway inslope where a maximum of 1.25' of embankment is placed over the line.	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	253.0	FT	-	-	-	-	-	-
CIBISU-2	5	62+00	37.8	RT	64+34	61.4	RT	RT	43rd Ave	245.0	LF	-1	Level 1	Construction along roadway will require topsoil to be removed over underground electric line with excavation reaching up to -0.6'. Contractor will work around light and signal poles at Stations 63+49 and 64+34.	City of Bismark Street Utility	Underground Electric Line	-	-	X	0.0	FT	-	245.0	FT	-	-	-	-	-	-
CAELCI-14	5	62+32	77.2	RT	62+35	33.8	RT	Crossing	43rd Ave	43.4	LF	-1	Level 1	Underground electric line crosses bike path and inslope embankment. Construction excavation over the line is a maximum of -0.75' with a final grade change of 0.05'.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	0.0	FT	-	43.4	FT	-	-	-	-	-	-
CAELCI-49	5	62+33	77.2	RT	62+35	37.5	RT	Crossing	43rd Ave	39.7	LF	-1	Level 1	Fiber optic line crosses bike path and inslope embankment. Construction excavation over the line is a maximum of -0.75' with a final grade change of 0.05'.	Capital Electric Cooperative Incorporat	UG Electric and Fiber Optic Line	-	-	X	0.0	FT	-	39.7	FT	-	-	-	-	-	-
MIDCO-14	5	63+89	38.9	RT	63+88	70.9	RT	Crossing	43rd Ave	32.0	LF	3	Level 1	Fiber optic line crosses bike path and inslope embankment. Construction embankment over the line is a maximum of 2.77'.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	32.0	FT	-	-	-	-	-	-
MIDCO-15	5	63+88	70.9	RT	63+92	91.9	RT	Crossing	43rd Ave	21.0	LF	2	Level 2	Fiber optic line is located in the inslope embankment and is also located near rip rap installation. Contractor will identify and protect line during installation of rip rap and embankment.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	21.0	FT	-	-	-	-	-	-
MDU-45	5	63+90	75.4	RT	64+26	80.7	RT	RT	43rd Ave	37.0	LF	-4	Level 4	Installatio of rip rap over the gas line requires -4.21' of excavation. Gas line will be moved to avoid conflict.	Montana-Dakota Utilities	Gas Line	1D	1W	X	0.0	FT	0%	37.0	FT	100%	37.0	100.0%	-	-	
CAELCI-15	5	64+11	54.9	RT	64+13	85.1	RT	Crossing	43rd Ave	30.2	LF	-4	Level 4	Culvert and rip rap installation conflict with underground electric line. Rip rap installation over the underground electric line requires -3.9' of excavation while culvert installation requires -2.15' of excavation. Underground electric line to be moved to avoid conflict.	Capital Electric Cooperative Incorporat	Underground Electric Line	1D	3D	X	0.0	FT	0%	30.2	FT	100%	30.2	100.0%	-	-	
CAELCI-50	5	65+38	67.2	RT	65+41	56.3	RT	Crossing	43rd Ave	10.9	LF	-2	Level 4	Culvert installation requires -2.4' of excavation over the underground electric line. Line to be moved to avoid conflict.	Capital Electric Cooperative Incorporat	Underground Electric Line	1D	3D	X	0.0	FT	0%	10.9	FT	100%	10.9	100.0%	-	-	
CAELCI-51	5	65+41	56.3	RT	65+40	35.4	RT	Crossing	43rd Ave	20.9	LF	2	Level 1	Underground electric line is located in a fill section with a maximum embankment of 1.70' over the line. A signal pole is located at Sta 65+42 and contractor will place embankment around signal pole.	Capital Electric Cooperative Incorporat	Underground Electric Line/Signal Pole	-	-	X	0.0	FT	-	20.9	FT	-	-	-	-	-	-
MDU-46	5	65+48	76.1	RT	69+05	64.3	RT	RT	43rd Ave	357.0	LF	1	Level 1	Overhead power lines located within the right of way have construction occurring underneath the lines from Sta 66+91 to 69+05. Earthwork occurring under the lines includes excavation and embankment ranging from -0.52 to 1.44'. Contractor should take care working under lines to protect the utility.	Montana-Dakota Utilities	Overhead Power Line	-	-	X	0.0	FT	-	357.0	FT	-	-	-	-	-	-
CAELCI-16	5	65+58	55.9	RT	+66	29.2	RT	Crossing	43rd Ave	26.7	LF	1	Level 1	Underground electric line is located in a fill section with a maximum embankment of 1.37' over the line.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	-	26.7	FT	-	-	-	-	-	-
MIDCO-16	5	65+68	74.0	RT	67+84	69.2	RT	RT	43rd Ave	216.0	LF	-1	Level 1	Fiber optic line located under multi-use path with construction excavation at a maximum of -1.07" and a permanent grade change of -0.24'. Contractor to identify and work around line.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	216.0	FT	-	-	-	-	-	-
BECOCO-22	5	67+07	28.3	RT	68+48	28.3	RT	RT	43rd Ave	141.0	LF	-2	Level 3	Fiber optic line is located in the roadway inslope next to the road. Construction excavation requires a maximum of -1.83' of cut while final grade change is a maximum of -0.78'. Line can be lowered in place to avoid conflict.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	0%	141.0	FT	100%	141.0	100.0%	-	-	
BECOCO-23	5 & 6	68+48	28.3	RT	70+11	28.1	RT	RT	43rd Ave	163.0	LF	-1	Level 2	Fiber optic line is located in the roadway inslope next to the road. Construction excavation requires a maximum of -0.84' of cut during roadway construction while final grade change is a maximum of 0.27'. Line to be identified and protected during construction.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	163.0	FT	-	-	-	-	-	-
MDU-47	5	68+03	80.2	RT	69+40	79.9	RT	RT	43rd Ave	137.0	LF	-1	Level 1	Gas line is located within the edge of the construction limits with a maximum construction excavation of -0.56' and a permanent grade change of -0.06'. Line should be identified and protected during construction.	Montana-Dakota Utilities	Gas Line	-	-	X	137.0	FT	-	0.0	FT	-	-	-	-	-	-
MDU-48	5	68+37	81.6	RT	70+00	70.7	RT	RT	43rd Ave	163.0	LF	-1	Level 3	Underground electric line is located under proposed multi-use path with a maximum construction excavation of -1.18' and a final grade change of -0.35'. Line can be lowered to avoid conflict.	Montana-Dakota Utilities	Underground Electric Line	1D	2D	X	0.0	FT	0%	163.0	FT	100%	163.0	100.0%	-	-	
MIDCO-17	5	68+80	79.6	RT	70+12	63.1	RT	RT	43rd Ave	132.0	LF	-1	Level 3	Fiber optic line is located under proposed multi-use path with a maximum construction excavation of -1.24' over the line and a final grade change of -0.41'. Line can be lowered to avoid conflict.	Mid-Continent Cable	Fiber Optic Line	1D	3D	X	0.0	FT	0%	132.0	FT	100%	132.0	100.0%	-	-	
MDU-49	5	69+05	64.3	RT				Point	43rd Ave	1.0	EA	-1	Level 2	Overhead power pole is located next to multi-use path with construction requiring excavation of -1.02' and a permanent grade change of -0.52'. Contractor will work around pole and protect in place.	Montana-Dakota Utilities	Overhead Power Pole	-	-	X	0.0	EA	-	1.0	EA	-	-	-	-	-	-
CIBISU-5	5	67+07	37.3	LT	69+58	28.1	LT	LT	43rd Ave	251.0	LF	-2	Level 2	Construction along roadway and over underground electric line requires excavation reaching up to -1.83'. Contractor will identify line and leave line in place and work around line and light poles at Stations 68+03 and 69+57.	City of Bismark Street Utility	Underground Electric Line/Light Poles	-	-	X	0.0	FT	-	251.0	FT	-	-	-	-	-	-
CENLUN-16	5	67+07	55.0	LT	70+00	55.7	LT	LT	43rd Ave	293.0	LF	2	Level 1	Fiber optic line is located in a fill section with up to 1.57' of embankment placed over the line.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	293.0	FT	-	-	-	-	-	-
CEPOEC-1	5	67+07	60.5	LT	70+00	60.6	LT	LT	43rd Ave	293.0	LF	1	Level 1	Overhead power lines located within the right of way are near the edge of construction limits with a maximum of 1' of embankment placed under the lines.	Central Power Electric Cooperative	Overhead Power Line	-	-	X	0.0	FT	-	293.0	FT	-	-	-	-	-	-
CAELCI-22	6	70+00	70.7	RT	71+78	74.3	RT	RT	43rd Ave	178.0	LF	-1	Level 3	Underground electric line is located under multi-use path where construction requires a maximum of -1.07' of excavation with a resulting grade change of -0.24'.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	0%	178.0	FT	100%	178.0	100.0%	-	-	
BECOCO-24	6	70+11	27.7	RT	71+26	28.3	RT	RT	43rd Ave	115.0	LF	-1	Level 1	Fiber optic line is located in a fill section with a maximum of 2.5' of embankment placed over the line.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	115.0	FT	-	-	-	-	-	-
MIDCO-18	6	70+12	63.1	RT	72+41	61.5	RT	RT	43rd Ave	229.0	LF	-1	Level 2	Fiber optic line is located in ditch backslope with construction excavation ranging between -0.2' to -0.95' and a final grade change between 0.3' and -0.45'.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	229.0	FT	-	-	-	-	-	-
CAELCI-19	6	70+00	31.8'	LT	70+53	30.9	LT	LT	43rd Ave	53.0	LF	2	Level 1	Underground electric line is located in a fill section on the roadway inslope with a permanent grade change ranging from 1.2' to 2.48'.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	-	53.0	FT	-	-	-	-	-	-
CENLUN-17	6	70+00	55.7	LT	70+50	31.4	LT	LT	43rd Ave	79.0	LF	2	Level 1	Fiber optic line is located outside of proposed construction until Sta 70+50 where it crosses into proposed construction in a fill section with a maximum fill of 2.48' of embankment placed on the line.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	79.0	FT	-	-	-	-	-	-
CEPOEC-2	6	70+00	60.5	LT	74+25	60.5																								

## Utility Conflict & Resolution - Table

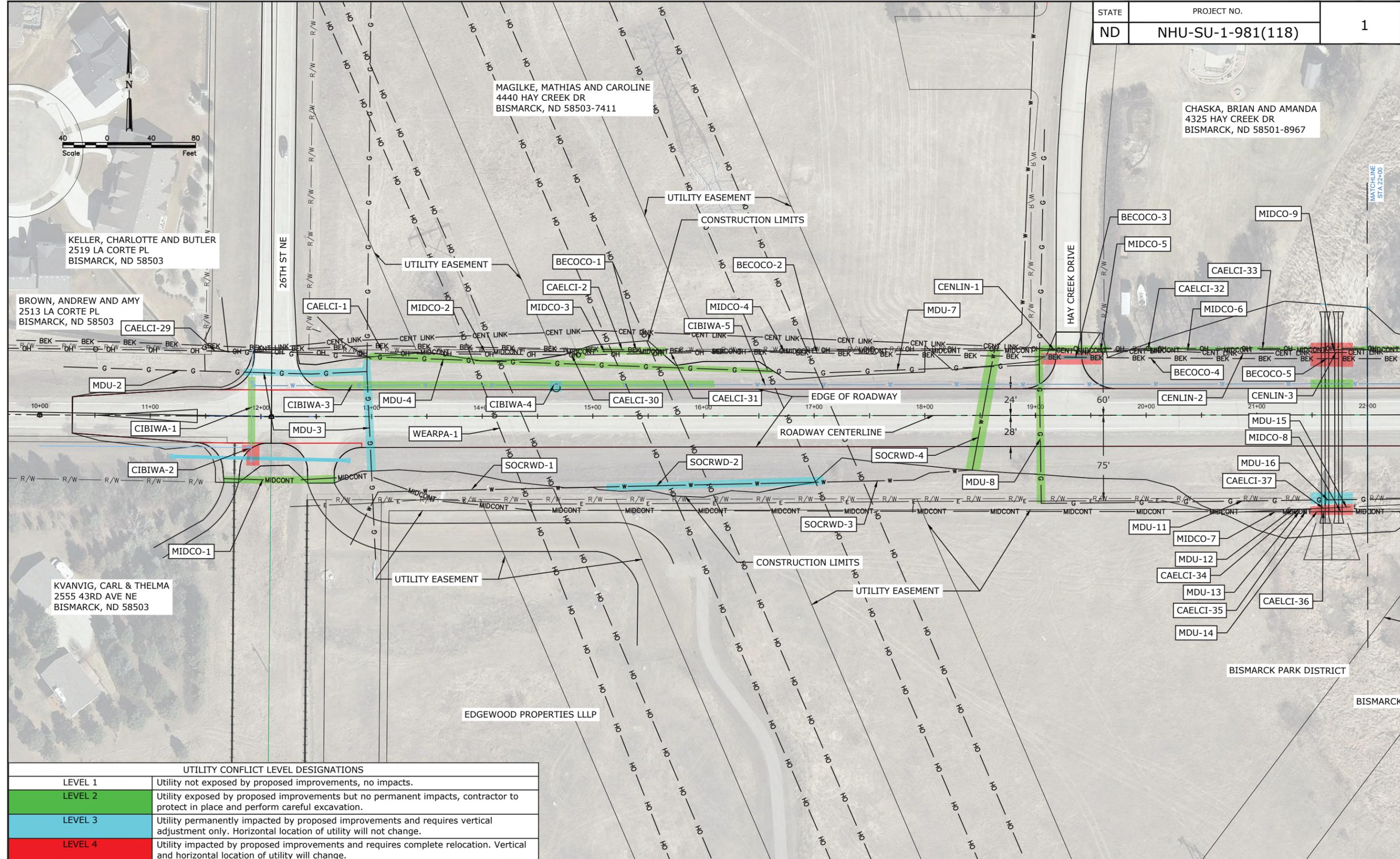
NHU-SU-1-981(118) PCN 22435

UE ID# UR ID# PR ID#	Utility Coordinat ion Exhibits	Beginning Point			Ending Point			LT/RT or Crossing or Point Location	Roadway (Alignment/Ch ain)	Approx. Qty	Unit	Max Excavation Cut (-) / Fill (+) Feet	Encount er Level	Comments	Utility Company	Type of Facility	After Notification - Time For Utility to Mobilize (D = Working Day, W = Week)	Estimated Time to Complete Relocation (D = Working Day, W = Week, H = Hours)	UE TYPE	Determination for Reimbursement: Length of Line (FT) or Each (EA)										Additional Potoling or Survey to be performed by Utility company
		Sta.	Offset (FT)	RT or LT	Sta.	Offset (FT)	RT or LT													Reimbursable Agreements (RA) - Impacted Utility was Outside existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42. Or Utility Line was in place prior to the Jurisdiction law took place as outlined in NDCC 24-01-42.					Non-Reimbursable Agreements (NRA) - Impacted Utility was In existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42.					
																				Quantity RA	FT / EA	% RA	Quantity NRA	FT / EA	% NRA	Total Quantity	Percent RA = RA / NRA	YES / NO / NA	If Yes, How many?	
CENLN-18	6	70+50	31.4	LT	70+55	26.2	RT	Crossing	43rd Ave	57.6	LF	-1	Level 3	Fiber optic line crosses 43rd Ave in a fill section, but roadway construction requires a maximum of -1.06' of excavation over the line with a permanent grade change of 0.94'. Line can be lowered in place to avoid conflict.	Century Link	Fiber Optic Line	1D	3D	X	0.0	FT	0%	57.6	FT	100%	57.6	100.0%	-	-	
CENLN-19	6	70+55	26.2	RT	72+41	62.4	RT	RT	43rd Ave	212.0	LF	-1	Level 2	Fiber optic line crosses into the ditch backslope where construction excavation ranges between -0.50' to a maximum of -1.01'. Permanent grade change ranges from 1.50' to a maximum cut of -0.51'. Contractor will identify line and protect in place.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	212.0	FT	-	-	-	-	-	
CAELCI-20	6	70+53	30.9	LT	70+53	26.0	RT	Crossing	43rd Ave	56.9	LF	-1	Level 3	Underground electric line crosses 43rd Ave in a fill section, but roadway construction requires a maximum of -1.06' of excavation over the line with a permanent grade change of 0.94'. Line can be lowered in place to avoid conflict.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	0%	56.9	FT	100%	56.9	100.0%	-	-	
CAELCI-21	6	70+53	26.0	RT	70+52	63.4	RT	Crossing	43rd Ave	37.4	LF	-1	Level 2	Underground electric line crosses into the ditch and ditch backslope where construction excavation ranges between -0.5' to a maximum of -0.96'. Permanent grade change ranges from 1.90' to a maximum cut of -0.43' located in the ditch bottom. Contractor will identify line and protect in place.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	-	37.4	FT	-	-	-	-	-	
MDU-64	6	70+00	71.0	RT	71+82	72.0	RT	RT	43rd Ave	182.0	LF	-1	Level 3	Underground electric line is located under the multi-use path where a maximum construction excavation is -1.07' and a permanent grade change of -0.23'. Line can be lowered in place to avoid conflict.	Montana-Dakota Utilities	Underground Electric Line	-	-	X	0.0	FT	0%	182.0	FT	100%	182.0	100.0%	-	-	
BECOCO-25	6	71+26	28.3	RT	82+00	29.0	RT	RT	43rd Ave	1074.0	LF	-6	Level 4	Street light construction over the fiber optic line requires the line to be moved to a new location to resolve conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	2D	X	0.0	FT	0%	1074.0	FT	100%	1,074.0	100.0%	-	-	
MIDCO-19	6	72+41	61.5	RT	75+01	60.8	RT	RT	43rd Ave	260.0	LF	-1	Level 3	Fiber optic line is located in a cut section in the ditch backslope near the multi-use path where a maximum construction excavation is -1.26' and a permanent grade change of -0.76'. Line can be lowered in place to avoid conflict.	Mid-Continent Cable	Fiber Optic Line	1D	3D	X	0.0	FT	0%	260.0	FT	100%	260.0	100.0%	-	-	
CENLN-20	6	72+41	62.4	RT	75+46	73.8	RT	RT	43rd Ave	305.0	LF	-1	Level 3	Fiber optic line is located in a cut section in the ditch backslope and under the multi-use path where a maximum construction excavation is -1.37' and a permanent grade change of -0.54'. Line can be lowered in place to avoid conflict.	Century Link	Fiber Optic Line	1D	3D	X	0.0	FT	0%	305.0	FT	100%	305.0	100.0%	-	-	
CEPOEC-3	6	74+25	60.5	LT	-	-	Point	43rd Ave	1.0	EA	-8	Level 3	Overhead power pole is located in the ditch backslope with construction requiring -7.56' of excavation around the pole. Pole can be lowered to resolve conflict.	Central Power Electric Cooperative	Overhead Power Pole	1D	2D	X	1.0	EA	100%	0.0	EA	0%	1.0	100.0%	-	-		
CEPOEC-4	6	74+25	60.5	LT	81+63	59.6	LT	LT	43rd Ave	738.0	LF	-8	Level 1	Overhead power lines located within the right of way are near the edge of construction limits with a maximum of -7.54' of excavation under power lines.	Central Power Electric Cooperative	Overhead Power Lines	-	-	X	738.0	FT	-	0.0	FT	-	-	-	-	-	
MIDCO-20	6	75+01	60.8	RT	78+31	58.5	RT	RT	43rd Ave	329.8	LF	0	Level 1	Fiber optic line located within right of way is outside of construction extents.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	329.8	FT	-	-	-	-	-	
CENLN-21	6	75+46	73.8	RT	76+20	75.9	RT	RT	43rd Ave	64.0	LF	0	Level 1	Fiber optic line located within right of way is near construction limits.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	64.0	FT	-	-	-	-	-	
MDU-50	6	78+10	80.5	RT	78+62	80.7	RT	RT	43rd Ave	54.0	LF	-1	Level 1	Gas line within the right of way crosses through the edge of a fill section with embankment placed over the line to a depth of 0.24'	Montana-Dakota Utilities	Gas Line	-	-	X	0.0	FT	-	54.0	FT	-	-	-	-	-	
MIDCO-21	6	78+31	58.5	RT	78+62	58.3	RT	RT	43rd Ave	31.0	LF	-1	Level 2	Approach installation requires -0.97' of excavation over the line during construction with a permanent grade change of -0.14'.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	31.0	FT	-	-	-	-	-	
MIDCO-22	6	78+62	58.3	RT	78+76	58.2	RT	RT	43rd Ave	14.0	LF	-3	Level 4	Culvert installation requires -3.02' of excavation over the fiber optic line with a final invert elevation -1.02' below existing grade. Line will be moved to avoid conflict.	Mid-Continent Cable	Fiber Optic Line	1D	3D	X	0.0	FT	0%	14.0	FT	100%	14.0	100.0%	-	-	
SOCRWD-9	6	78+62	68.9	RT	78+76	68.5	RT	RT	43rd Ave	14.0	LF	-3	Level 4	Culvert installation requires -3.14' of excavation over the water line with a final culvert flow elevation -1.14' below existing grade. Line will be moved to avoid conflict.	South Central Regional Water District	Water Line	1D	5D	X	0.0	FT	0%	14.0	FT	100%	14.0	100.0%	-	-	
MDU-51	6	78+62	80.7	RT	78+76	80.8	RT	RT	43rd Ave	14.0	LF	-4	Level 3	Culvert installation requires -3.55' of excavation over the gas line with a final invert elevation -1.55' below existing grade. Line will be lowered in place to avoid conflict.	Montana-Dakota Utilities	Gas Line	1D	1D	X	0.0	FT	0%	14.0	FT	100%	14.0	100.0%	-	-	
MIDCO-23	6	78+76	58.2	RT	80+19	58.3	RT	RT	43rd Ave	143.0	LF	0	Level 1	Fiber optic line located within right of way is outside of construction extents.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	143.0	FT	-	-	-	-	-	
SOCRWD-10	6	78+76	68.5	RT	82+00	64.9	RT	RT	43rd Ave	324.0	LF	-2	Level 2	Water line is located under the multi-use path where construction requires a maximum of -1.64' of excavation and a maximum of -0.81' of grade change.	South Central Regional Water District	Water Line	1D	3D	X	0.0	FT	-	324.0	FT	-	-	-	-	-	
MIDCO-24	6	80+19	58.3	RT	82+00	59.8	RT	RT	43rd Ave	181.0	LF	-2	Level 3	Fiber optic line is located in the ditch backslope where construction requires a maximum excavation of -2.44' with a maximum grade change of -1.94'. Line will be lowered in place to avoid conflict.	Mid-Continent Cable	Fiber Optic Line	1D	3D	X	0.0	FT	0%	181.0	FT	100%	181.0	100.0%	-	-	
CAELCI-23	6	81+30	76.2	RT	82+00	73.6	RT	RT	43rd Ave	70.0	LF	-1	Level 2	Underground electric line is located under the multi-use path where construction requires a maximum of -1.23' of excavation and a permanent grade change of -0.43'.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	-	70.0	FT	-	-	-	-	-	
CENLN-22	6	81+43	76.3	RT	82+00	74.4	RT	RT	43rd Ave	0.0	LF	-1	Level 2	Fiber optic line is located next to multi-use path where construction requires -0.83' of excavation and a permanent grade change of -0.33'.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	0.0	FT	-	-	-	-	-	
CEPOEC-5	6	81+63	59.6	LT	82+00	59.6	LT	LT	43rd Ave	37.0	LF	-1	Level 2	Overhead power line and power pole are located in the ditch backslope where construction requires -1.39' of construction excavation and -0.89' of permanent grade change. Contractor will leave utility in place and work around structure.	Central Power Electric Cooperative	Overhead Power Line/Pole	-	-	X	0.0	FT	-	37.0	FT	-	-	-	-	-	
CEPOEC-6	7	82+00	59.6	LT	89+31	58.7	LT	LT	43rd Ave	731.0	LF	-3	Level 1	Overhead power line is located in ditch backslope where a maximum construction excavation reaches -3.02'. Power pole structures are located at Sta 84+33 and Sta 86+79 but are outside of construction extents.	Central Power Electric Cooperative	Overhead Power Line/Pole	-	-	X	0.0	FT	-	731.0	FT	-	-	-	-	-	
BECOCO-26	7	82+00	29.1	RT	88+49	27.6	RT	RT	43rd Ave	649.0	LF	4	Level 4	Street light construction over the fiber optic line requires the line to be moved to a new location to resolve conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	1W	X	0.0	FT	0%	649.0	FT	100%	649.0	100.0%	-	-	
MIDCO-25	7	82+00	59.8	RT	83+98	62.7	RT	RT	43rd Ave	198.0	LF	-2	Level 3	Fiber optic line is located in ditch backslope where there is a maximum construction excavation of -2.05' and a maximum permanent grade change of -1.55'. Line will be lowered in place to avoid conflict.	Mid-Continent Cable	Fiber Optic Line	1D	3D	X	0.0	FT	0%	198.0	FT	100%	198.0	100.0%	-	-	
SOCRWD-11	7	82+00	64.9	RT	90+31	45.6	RT	RT	43rd Ave	831.0	LF	-1	Level 2	Water line is located in the ditch backslope and under the multi-use path where there is a maximum construction excavation of -1.40' and a permanent grade change of -0.57'. Contractor will identify line and protect in place.	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	831.0	FT	-	-	-	-	-	
CAELCI-24	7	82+00	73.6	RT	84+20	65.0	RT	RT	43rd Ave	220.0	LF	-2	Level 3	Underground electric line is located under multi-use path where construction requires a maximum of -1.54' of excavation with a resulting grade change of -0.71'. Line will be lowered to avoid conflict.	Capital Electric Cooperative Incorporat	Underground Electric Line	1D	3D	X	0.0	FT	0%	220.0	FT	100%	220.0	100.0%	-	-	
CENLN-23	7	82+00	74.4	RT	84+14	61.2	RT	RT	43rd Ave	214.0	LF	-1	Level 3	Fiber optic line is located under the proposed multi-use path where construction requires a maximum of -1.43' of excavation and a maximum of -0.60' of grade change. Line will be lowered to avoid conflict.	Century Link	Fiber Optic Line	1D	3D	X	0.0	FT	0%	214.0	FT	100%	214.0	100.0%	-	-	
MIDCO-26	7	83+98	62.7	RT	87+73	68.1	RT	RT	43rd Ave	375.0	LF	-1	Level 2	Fiber optic line is located in the ditch backslope and under the proposed multi-use path where construction requires a maximum of -0.82' of excavation over the line and a permanent grade change of -0.39'. Contractor will identify line and work around it while leaving it in place.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	375.0	FT	-	-	-	-	-	
CENLN-24	7	84+14	61.2	RT	87+54	59.7	RT	RT	43rd Ave	340.0	LF	-1	Level 2	Fiber optic line is located in the ditch backslope and under the proposed multi-use path where construction requires a maximum of -0.89' of excavation over the line and a permanent grade change of -0.36'. Contractor will identify line and work around it while leaving it in place.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	340.0	FT	-	-	-	-	-	
CAELCI-25	7	84+20	65.0	RT	85+15	61.5	RT	RT	43rd Ave	95.0	LF	-1	Level 2	Underground electric line is located under the proposed multi-use path and ditch backslope where construction requires a maximum of -0.92' of excavation and a grade change of -0.08'. Contractor will identify line and work around it while leaving it in place.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	-	95.0	FT	-	-	-	-	-	
CAELCI-26	7	84+94	31.4	RT	85+15	61.5	RT	Crossing	43rd Ave	30.1	LF	3	Level 1	Underground electric line is located in ditch, and roadway inslope where embankment placed on the line varies between -0.56' to 2.99'.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	-	30.1	FT	-	-	-	-	-	
CAELCI-27	7	84+61	18.1	LT	84+94	31.4	RT	Crossing	43rd Ave	13.3	LF	-2	Level 3	Underground electric line crosses 43rd Ave in a fill section, but roadway construction requires a maximum of -1.60' of excavation over the line with a permanent grade change of 0.40'. Line crosses proposed underground electrical line for street light. Line can be lowered in place to avoid conflict.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	0%	13.3	FT	100%	13.3	100.0%	-	-	
CAELCI-28	7	84+33	59.1	LT	84+61	18.1	LT	Crossing	43rd Ave	41.0	LF	2	Level 1	Underground electric line is located in roadway and roadway inslope in a fill section with 2.57' of embankment placed over the line.	Capital Electric Cooperative Incorporat	Underground Electric Line	-	-	X	0.0	FT	-	41.0	FT	-	-	-	-	-	
CENLN-25	7	86+15	58.1	LT	86+18	19.7	LT	Crossing	43rd Ave	38.4	LF	3	Level 1	Fiber optic line is located in roadway and roadway inslope in a fill section with 3.01' of embankment placed over the line.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	38.4	FT	-	-	-	-	-	
CENLN-26	7	86+18	19.7	LT	86+18	30.9	RT	Crossing	43rd Ave	11.2	LF	-1	Level 3	Fiber optic line crosses 43rd Ave in a fill section, but roadway construction requires a maximum of -1.30' of excavation over the line with a permanent grade change of 0.70'. Line crosses proposed underground electrical line for street light. Line can be lowered in place to avoid conflict.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	0%	11.2	FT	100%	11.2	100.0%	-	-	
CAELCI-52	7	86+18	19.7	LT	86+18	30.9	RT	Crossing	43rd Ave	11.2	LF	-1	Level 3	Underground electric line crosses 43rd Ave in a fill section, but roadway construction requires a maximum of -1.30' of excavation over the line with a permanent grade change of 0.70'. Line crosses proposed underground electrical line for street light. Line can be lowered in place to avoid conflict.	Capital Electric Cooperative Incorporat	Fiber Optic Line	-	-	X	0.0	FT	0%	11.2	FT	100%	11.2	100.0%	-	-	
CENLN-27	7	86+18	30.9	RT	86+19	60.4	RT	Crossing	43rd Ave	29.5	LF	3	Level 1	Fiber optic line is located in roadway and roadway inslope in a fill section with 3.08' of embankment placed over the line.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	29.5	FT	-					

### Utility Conflict & Resolution - Table

NHU-SU-1-981(118) PCN 22435

UE ID# UR ID# PR ID#	Utility Coordinat ion Exhibits	Beginning Point			Ending Point			LT/RT or Crossing or Point Location	Roadway (Alignment/Ch ain)	Approx. Qty	Unit	Max Excavation Cut (-) / Fill (+) Feet	Encounte r Level	Comments	Utility Company	Type of Facility	After Notification - Time For Utility to Mobilize (D = Working Day, W = Week)	Estimated Time to Complete Relocation (D = Working Day, W = Week, H = Hours)	UE TYPE  Protect In Place Conflict	Determination for Reimbursement: Length of Line (FT) or Each (EA)										Additional Potholing or Survey to be performed by Utility company	
		Sta.	Offset (FT)	RT or LT	to	Sta.	Offset (FT)													RT or LT	Reimbursable Agreements (RA) - Impacted Utility was Outside existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42. Or Utility Line was in place prior to the Jurisdiction law took place as outlined in NDCC 24-01-42.					Non-Reimbursable Agreements (NRA) - Impacted Utility was In existing NDDOT RW and/or Jurisdictional Area as outlined by NDCC 24-01-42.					
																					Quantity RA	FT / EA	% RA	Quantity NRA	FT / EA	% NRA	Total Quantity	Percent RA = RA / NRA	YES / NO / NA		If Yes, How many?
BECOCO-27	7	88+49	27.6	RT	to	90+28	27.2	RT	RT	43rd Ave	179.0	LF	3	Level 1	Fiber optic line is located in the roadway where embankment will be placed over the line ranging between 2.01' to 3.13'	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	179.0	FT	-	-	-	-	-	-
CEPOEC-7	7	89+31	58.7	LT	to	-	-	Point	Point	43rd Ave	1.0	EA	-2	Level 3	Overhead power pole is located in the ditch backslope with construction requiring -1.91' of excavation around the pole and a permanent grade change of -1.41'. Pole can be lowered to resolve conflict.	Central Power Electric Cooperative	Overhead Power Pole	1D	2D	X	1.0	EA	100%	0.0	EA	0%	1.0	100.0%	-	-	
CEPOEC-8	7	89+31	58.7	LT	to	91+79	57.9	LT	LT	43rd Ave	248.0	LF	-2	Level 1	Overhead power line is located in ditch backslope where a maximum construction excavation reaches -2.10' and a permanent grade change of -1.60'	Central Power Electric Cooperative	Overhead Power Line	-	-	X	248.0	FT	-	-	FT	-	-	-	-	-	
BECOCO-28	7	90+28	27.2	RT	to	91+75	26.4	RT	RT	43rd Ave	147.0	LF	-2	Level 3	Fiber optic line is located in the roadway where a maximum construction excavation reaches -1.61' and a permanent grade change of 0.39' over the line. Line will be lowered in place to avoid conflict.	Bek Communications Cooperative	Fiber Optic Line	1D	3D	X	0.0	FT	0%	147.0	FT	100%	147.0	100.0%	-	-	
SOCRWD-13	7	90+31	45.6	RT	to	90+60	45.7	RT	RT	43rd Ave	29.0	LF	-2	Level 3	Water line is located in the ditch where construction requires -2.40' of excavation and a permanent grade change of -1.90'. Line will be lowered in place to avoid conflict.	South Central Regional Water District	Water Line	1D	3D	X	0.0	FT	0%	29.0	FT	100%	29.0	100.0%	-	-	
SOCRWD-14	7	90+60	45.7	RT	to	92+00	46.4	RT	RT	43rd Ave	140.0	LF	-2	Level 2	Water line is in roadway inslope and crosses Roosevelt Drive Roadway approach. Constructio requires -1.51' ft of excavation but the final grade change is -0.01'. Contractor will identify line and leave it in place during construction.	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	140.0	FT	-	-	-	-	-	
BUCOSS-1	7	91+24	71.1	RT	to	-	-	Point	Point	43rd Ave	1.0	EA	-2	Level 3	Sanitary sewer line manhole is located in Roosevelt Drive approach where construction requires -1.86' of excavation and a permanent grade change of -0.36'. Contractor will work around the manhole and adjust the manhole to finished grade.	Burleigh County Sanitary Sewer	Sanitary Sewer Manhole	-	-	X	0.0	EA	0%	1.0	EA	100%	1.0	100.0%	-	-	
BUCOSS-2	7	91+24	71.1	RT	to	91+25	19.0	LT	Crossing	43rd Ave	90.1	LF	-2	Level 2	Sanitary sewer line crosses 43rd Ave where construction requires a maximum of -1.91' of excavation over the line and a permanent grade change ranging between -0.38' to 0.40'. Contractor will leave line in place.	Burleigh County Sanitary Sewer	Sanitary Sewer Line	-	-	X	0.0	FT	-	90.1	FT	-	-	-	-	-	
BUCOSS-3	7	91+25	19.0	LT	to	-	-	Point	Point	43rd Ave	1.0	EA	1	Level 3	Sanitary sewer line manhole is located in 43rd Ave Roadway where constructon requires -0.65' of excavation and a permanent grade change of 1.35'. Contractor will work around the manhole during construction and adjust the manhole to finished grade.	Burleigh County Sanitary Sewer	Sanitary Sewer Manhole	-	-	X	0.0	EA	0%	1.0	EA	100%	1.0	100.0%	-	-	
BUCOSS-4	7	91+25	19.0	LT	to	94+00	17.6	LT	LT	43rd Ave	275.0	LF	-2	Level 2	Sanitary sewer line is located in roadway and roadway inslope where construction requires a maximum of -1.50' of excavation over the line and a permanent grade change ranging from 1.44' to 0.14'. Contractor will leave line in place.	Burleigh County Sanitary Sewer	Sanitary Sewer Line	-	-	X	0.0	FT	-	275.0	FT	-	-	-	-	-	
CIBISU-6	7	90+99	134.0	RT	to	90+99	160.0	RT	Crossing	43rd Ave	26.0	LF	-1	Level 2	Underground street utility electric line runs parallel to Roosevelt Drive behind the curb where driveway installation requires -1.0' of excavation over the line. Contractor will identify line and work around line during construction.	City of Bismarck Street Utility	Underground Electric Line	-	-	X	0.0	FT	-	26.0	FT	-	-	-	-	-	
MIDCO-28	7	91+64	72.9	RT	to	93+05	46.4	RT	RT	43rd Ave	141.0	LF	0	Level 1	Fiber optic line is within the right of way but outside of construction extents.	Mid-Continent Cable	Fiber Optic Line	-	-	X	0.0	FT	-	141.0	FT	-	-	-	-	-	
CENLUN-29	7	91+69	57.9	RT	to	94+00	57.0	RT	RT	43rd Ave	231.0	LF	0	Level 1	Fiber optic line is within the right of way but outside of construction extents.	Century Link	Fiber Optic Line	-	-	X	0.0	FT	-	231.0	FT	-	-	-	-	-	
BECOCO-29	7	91+75	26.4	RT	to	94+00	25.7	RT	RT	43rd Ave	225.0	LF	3	Level 1	Fiber optic line is located in the roadway inslope in a fill section where embankment up to 2.89' will be placed over the line.	Bek Communications Cooperative	Fiber Optic Line	-	-	X	0.0	FT	-	225.0	FT	-	-	-	-	-	
SOCRWD-15	7	92+00	46.4	RT	to	94+00	47.0	RT	RT	43rd Ave	200.0	LF	0	Level 1	Water line is located within the right of way but outside of construction extents.	South Central Regional Water District	Water Line	-	-	X	0.0	FT	-	200.0	FT	-	-	-	-	-	
CEPOEC-9	7	91+79	57.9	LT	to	-	-	Point	Point	43rd Ave	1.0	EA	-1	Level 2	Overhead power pole is located in the ditch backslope with a permanent grade change of -0.62'. Contractor will work around the pole and leave it in place.	Central Power Electric Cooperative	Overhead Power Pole	-	-	X	1.0	EA	-	0.0	EA	-	-	-	-	-	
CEPOEC-10	7	91+79	57.9	LT	to	92+56	58.3	LT	LT	43rd Ave	77.0	LF	-1	Level 1	Overhead power line is located in the ditch backslope where a maximum of -1.08' is required. Contractor will work around utility.	Central Power Electric Cooperative	Overhead Power Line	-	-	X	77.0	FT	-	0.0	FT	-	-	-	-	-	
CENLUN-30	7	89+20	59.5	LT	to	92+54	58.2	LT	LT	43rd Ave	334.0	LF	-2	Level 3	Fiber optic line is located in the ditch backslope a maximum of -2.13' of excavation during construction and a maximum permanent grade change of -1.63'.	Century Link	Fiber Optic Line	1D	4D	X	0.0	FT	0%	334.0	FT	100%	334.0	100.0%	-	-	



KELLER, CHARLOTTE AND BUTLER  
2519 LA CORTE PL  
BISMARCK, ND 58503

BROWN, ANDREW AND AMY  
2513 LA CORTE PL  
BISMARCK, ND 58503

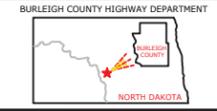
MAGILKE, MATHIAS AND CAROLINE  
4440 HAY CREEK DR  
BISMARCK, ND 58503-7411

CHASKA, BRIAN AND AMANDA  
4325 HAY CREEK DR  
BISMARCK, ND 58501-8967

KVANVIG, CARL & THELMA  
2555 43RD AVE NE  
BISMARCK, ND 58503

UTILITY CONFLICT LEVEL DESIGNATIONS	
LEVEL 1	Utility not exposed by proposed improvements, no impacts.
LEVEL 2	Utility exposed by proposed improvements but no permanent impacts, contractor to protect in place and perform careful excavation.
LEVEL 3	Utility permanently impacted by proposed improvements and requires vertical adjustment only. Horizontal location of utility will not change.
LEVEL 4	Utility impacted by proposed improvements and requires complete relocation. Vertical and horizontal location of utility will change.

**GOVERNING SPECIFICATIONS**  
STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION  
ADOPTED BY THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
OCTOBER 2020; STANDARD DRAWINGS CURRENTLY IN EFFECT;  
AND OTHER CONTRACT PROVISIONS SUBMITTED HEREIN.

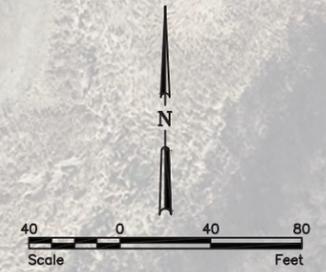


BURLEIGH COUNTY  
DRAWN BY: TJ  
DATE: 11/09/2020  
CHECKED BY: CE  
SCALE: AS SHOWN

43RD AVE NE RECONSTRUCTION  
BURLEIGH COUNTY HIGHWAY DEPARTMENT  
8100 43RD AVENUE NE

APPENDIX B  
UTILITY COORDINATION EXHIBIT  
STA 10+30 TO 22+00  
PROJECT NO. 0157

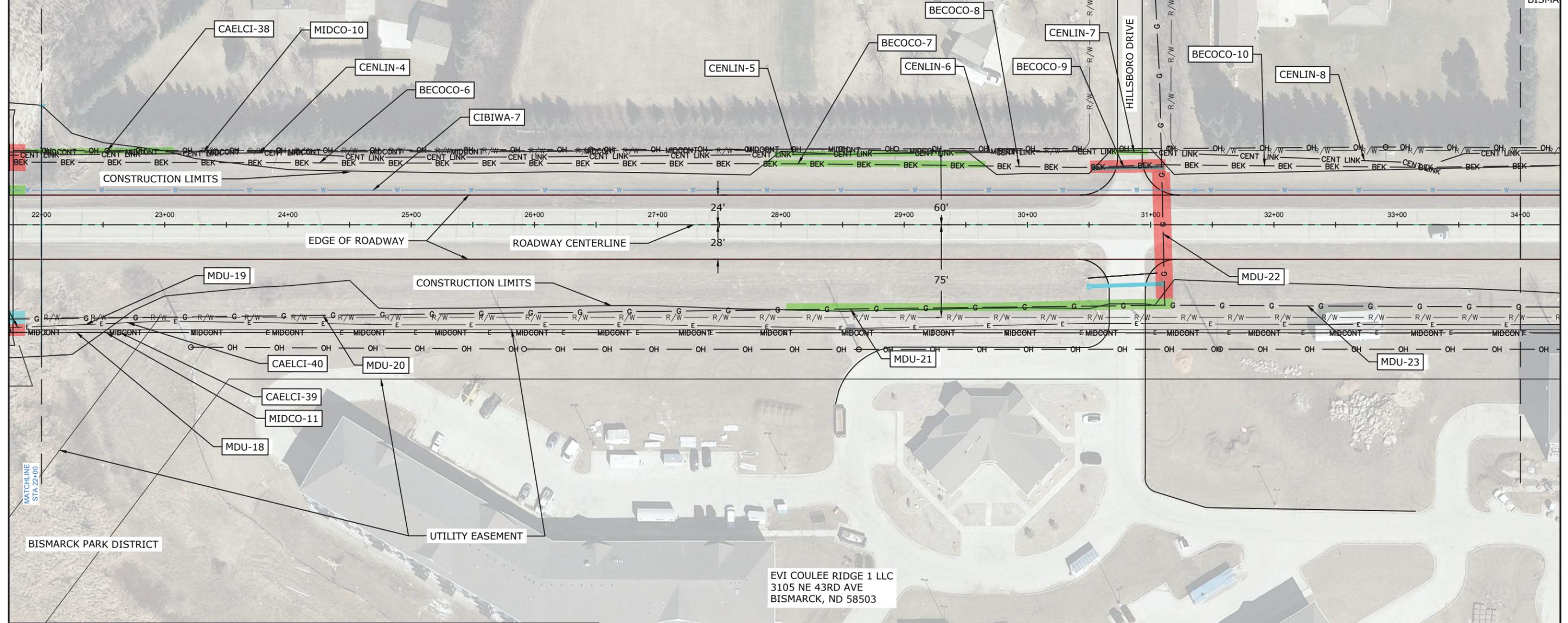
NO.	REVISION	DATE	BY



ZANDER, STACY AND WENDY  
4301 W ROUNDUP RD  
BISMARCK, ND 58503-8913

KLIMPEL, DARCY AND HEIER, JANET  
4354 HILLSBORO DR  
BISMARCK, ND 58503-8902

MAUTZ, RYAN AND BECKER, CHRISTY  
4355 HILLSBORO DR  
Bismarck, ND 58503-8903

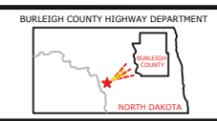


**UTILITY CONFLICT LEVEL DESIGNATIONS**

LEVEL 1	Utility not exposed by proposed improvements, no impacts.
LEVEL 2	Utility exposed by proposed improvements but no permanent impacts, contractor to protect in place and perform careful excavation.
LEVEL 3	Utility permanently impacted by proposed improvements and requires vertical adjustment only. Horizontal location of utility will not change.
LEVEL 4	Utility impacted by proposed improvements and requires complete relocation. Vertical and horizontal location of utility will change.

NO.	REVISION	DATE	BY

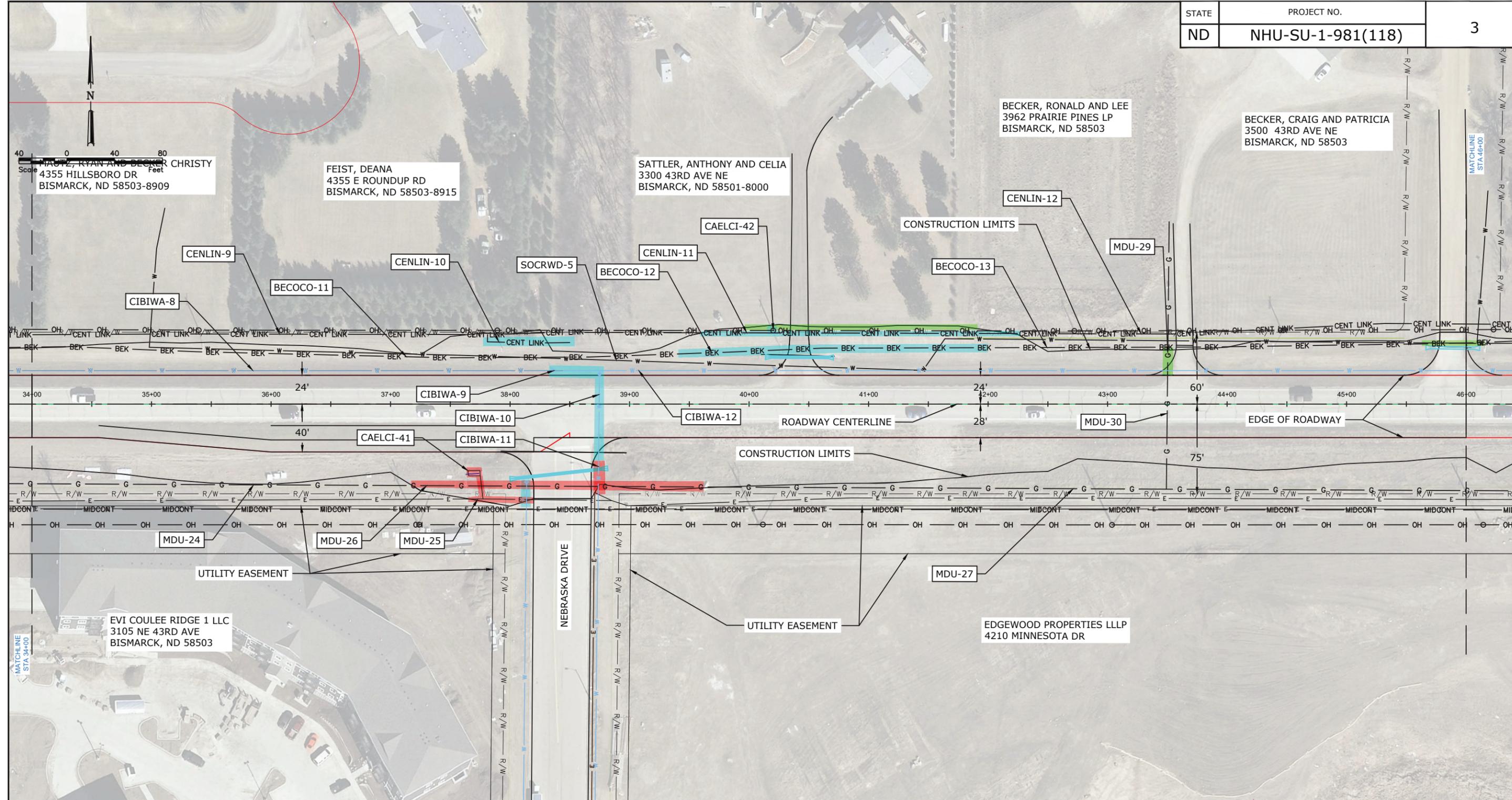
**GOVERNING SPECIFICATIONS**  
STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION  
ADOPTED BY THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
OCTOBER 2014; STANDARD DRAWINGS CURRENTLY IN EFFECT;  
AND OTHER CONTRACT PROVISIONS SUBMITTED HEREIN.



**BURLEIGH COUNTY**  
DRAWN BY: TJ  
DATE: 10/23/2019  
CHECKED BY: CE  
SCALE: AS SHOWN

**43RD AVE NE RECONSTRUCTION**  
BURLEIGH COUNTY HIGHWAY DEPARTMENT  
8100 43RD AVENUE NE

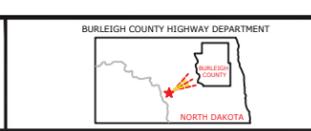
**APPENDIX B**  
**UTILITY COORDINATION EXHIBIT**  
STA 22+00 TO 34+00  
PROJECT NO. 0157



UTILITY CONFLICT LEVEL DESIGNATIONS	
LEVEL 1	Utility not exposed by proposed improvements, no impacts.
LEVEL 2	Utility exposed by proposed improvements but no permanent impacts, contractor to protect in place and perform careful excavation.
LEVEL 3	Utility permanently impacted by proposed improvements and requires vertical adjustment only. Horizontal location of utility will not change.
LEVEL 4	Utility impacted by proposed improvements and requires complete relocation. Vertical and horizontal location of utility will change.

NO.	REVISION	DATE	BY

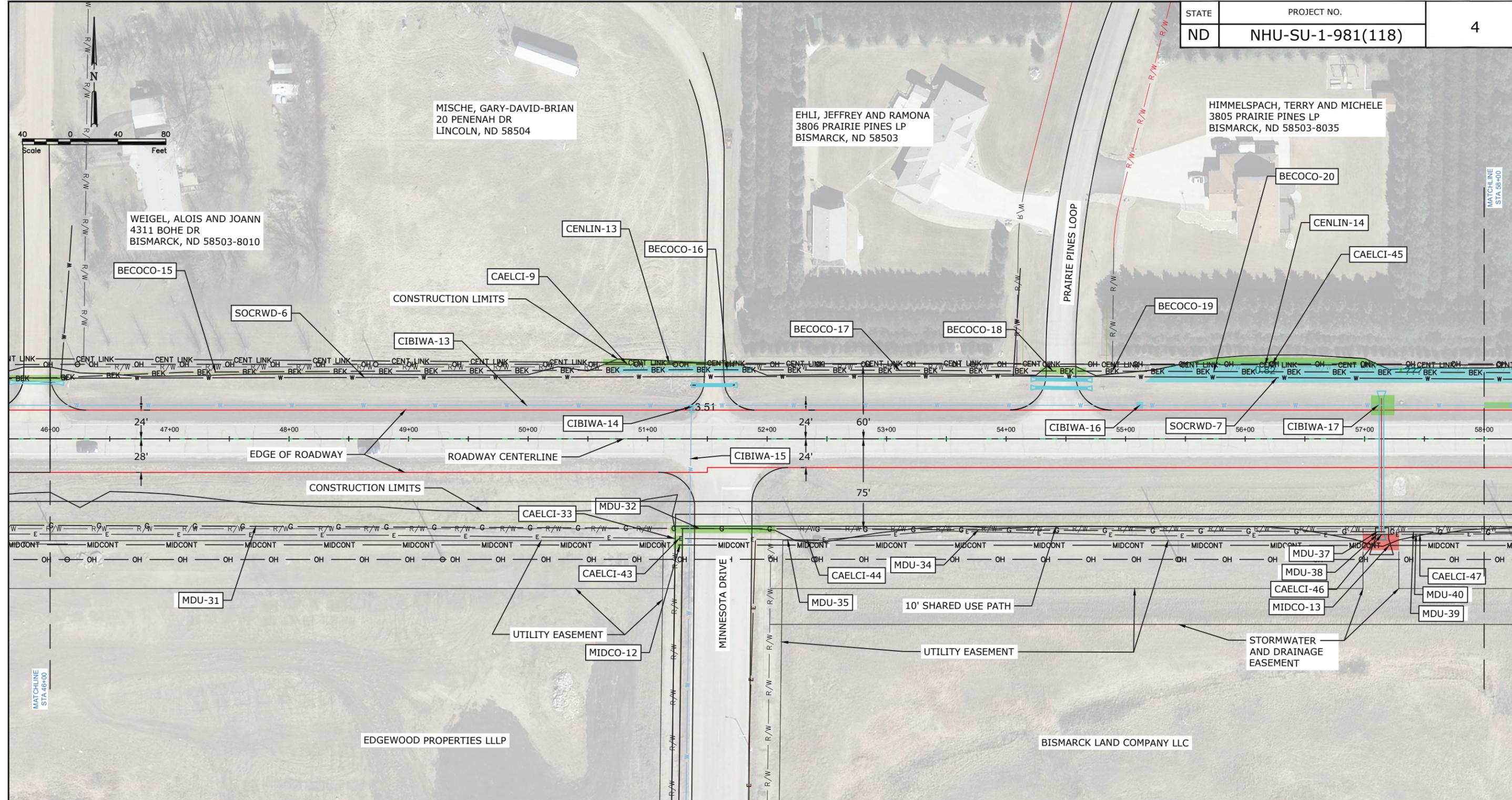
**GOVERNING SPECIFICATIONS**  
 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION  
 ADOPTED BY THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
 OCTOBER 2014; STANDARD DRAWINGS CURRENTLY IN EFFECT;  
 AND OTHER CONTRACT PROVISIONS SUBMITTED HEREIN.



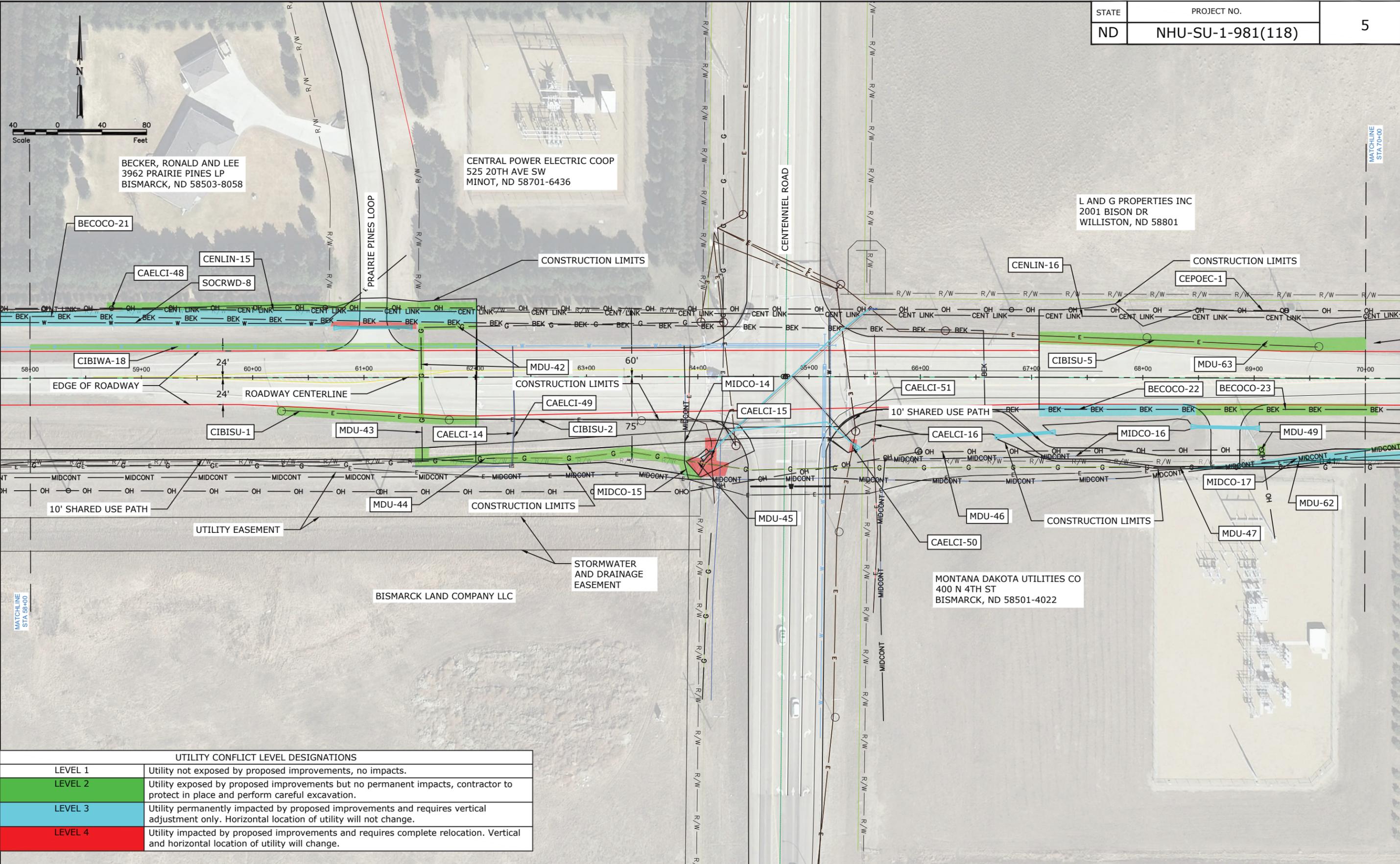
**BURLEIGH COUNTY**  
 DRAWN BY: TJ  
 DATE: 10/23/2019  
 CHECKED BY: CE  
 SCALE: AS SHOWN

**43RD AVE NE RECONSTRUCTION**  
 BURLEIGH COUNTY HIGHWAY DEPARTMENT  
 8100 43RD AVENUE NE

**APPENDIX B**  
**UTILITY COORDINATION EXHIBIT**  
 STA 34+00 TO 46+00  
 PROJECT NO. 0157



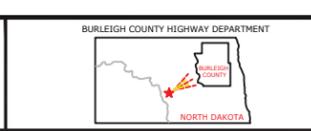
UTILITY CONFLICT LEVEL DESIGNATIONS	
LEVEL 1	Utility not exposed by proposed improvements, no impacts.
LEVEL 2	Utility exposed by proposed improvements but no permanent impacts, contractor to protect in place and perform careful excavation.
LEVEL 3	Utility permanently impacted by proposed improvements and requires vertical adjustment only. Horizontal location of utility will not change.
LEVEL 4	Utility impacted by proposed improvements and requires complete relocation. Vertical and horizontal location of utility will change.



UTILITY CONFLICT LEVEL DESIGNATIONS	
LEVEL 1	Utility not exposed by proposed improvements, no impacts.
LEVEL 2	Utility exposed by proposed improvements but no permanent impacts, contractor to protect in place and perform careful excavation.
LEVEL 3	Utility permanently impacted by proposed improvements and requires vertical adjustment only. Horizontal location of utility will not change.
LEVEL 4	Utility impacted by proposed improvements and requires complete relocation. Vertical and horizontal location of utility will change.

NO.	REVISION	DATE	BY

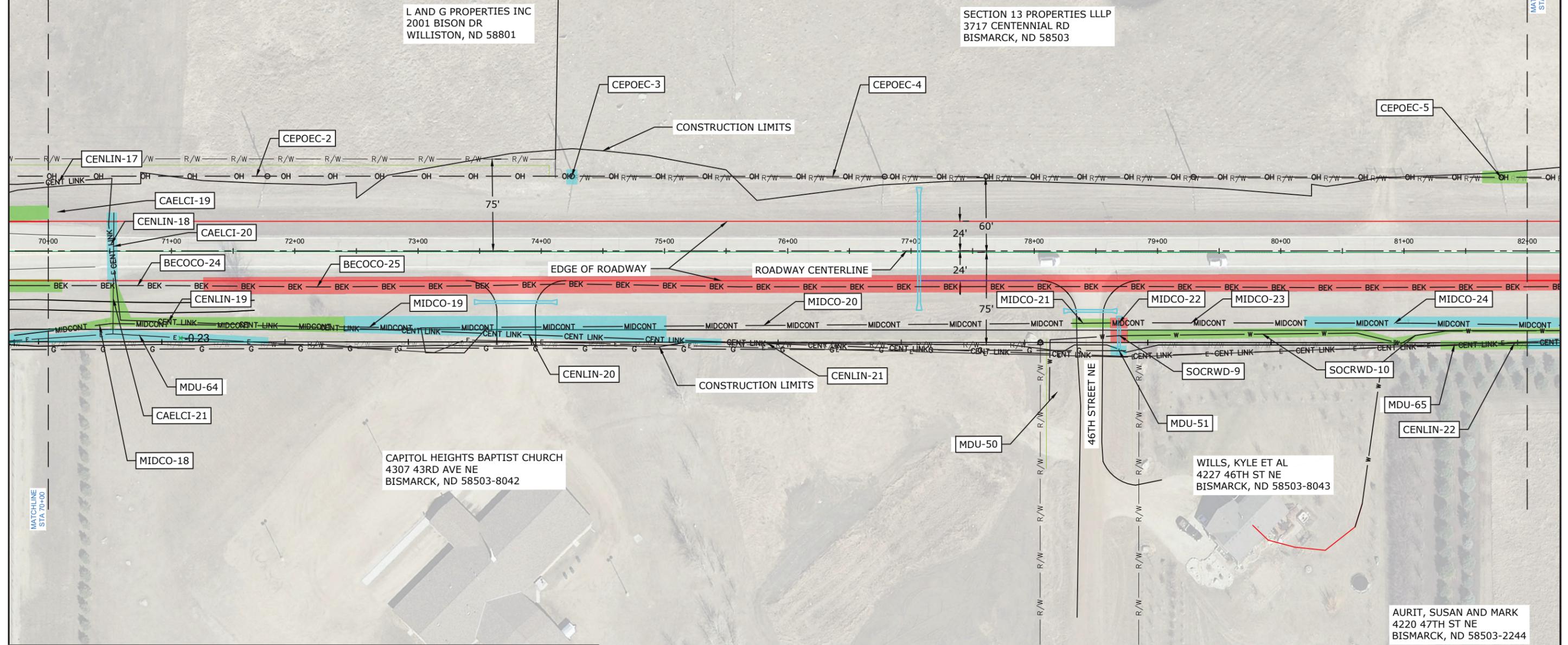
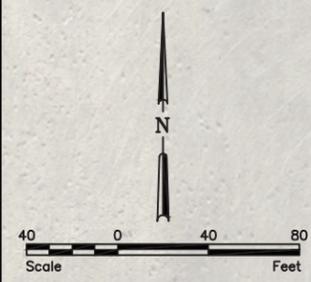
**GOVERNING SPECIFICATIONS**  
 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION  
 ADOPTED BY THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
 OCTOBER 2014; STANDARD DRAWINGS CURRENTLY IN EFFECT;  
 AND OTHER CONTRACT PROVISIONS SUBMITTED HEREIN.



**BURLEIGH COUNTY**  
 DRAWN BY: TJ  
 DATE: 10/23/2019  
 CHECKED BY: CE  
 SCALE: AS SHOWN

**43RD AVE NE RECONSTRUCTION**  
 BURLEIGH COUNTY HIGHWAY DEPARTMENT  
 8100 43RD AVENUE NE

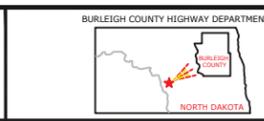
**APPENDIX B**  
**UTILITY COORDINATION EXHIBIT**  
 STA 58+00 TO 70+00  
 PROJECT NO. 0157



UTILITY CONFLICT LEVEL DESIGNATIONS	
LEVEL 1	Utility not exposed by proposed improvements, no impacts.
LEVEL 2	Utility exposed by proposed improvements but no permanent impacts, contractor to protect in place and perform careful excavation.
LEVEL 3	Utility permanently impacted by proposed improvements and requires vertical adjustment only. Horizontal location of utility will not change.
LEVEL 4	Utility impacted by proposed improvements and requires complete relocation. Vertical and horizontal location of utility will change.

NO.	REVISION	DATE	BY

**GOVERNING SPECIFICATIONS**  
 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION  
 ADOPTED BY THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
 OCTOBER 2014; STANDARD DRAWINGS CURRENTLY IN EFFECT;  
 AND OTHER CONTRACT PROVISIONS SUBMITTED HEREIN.



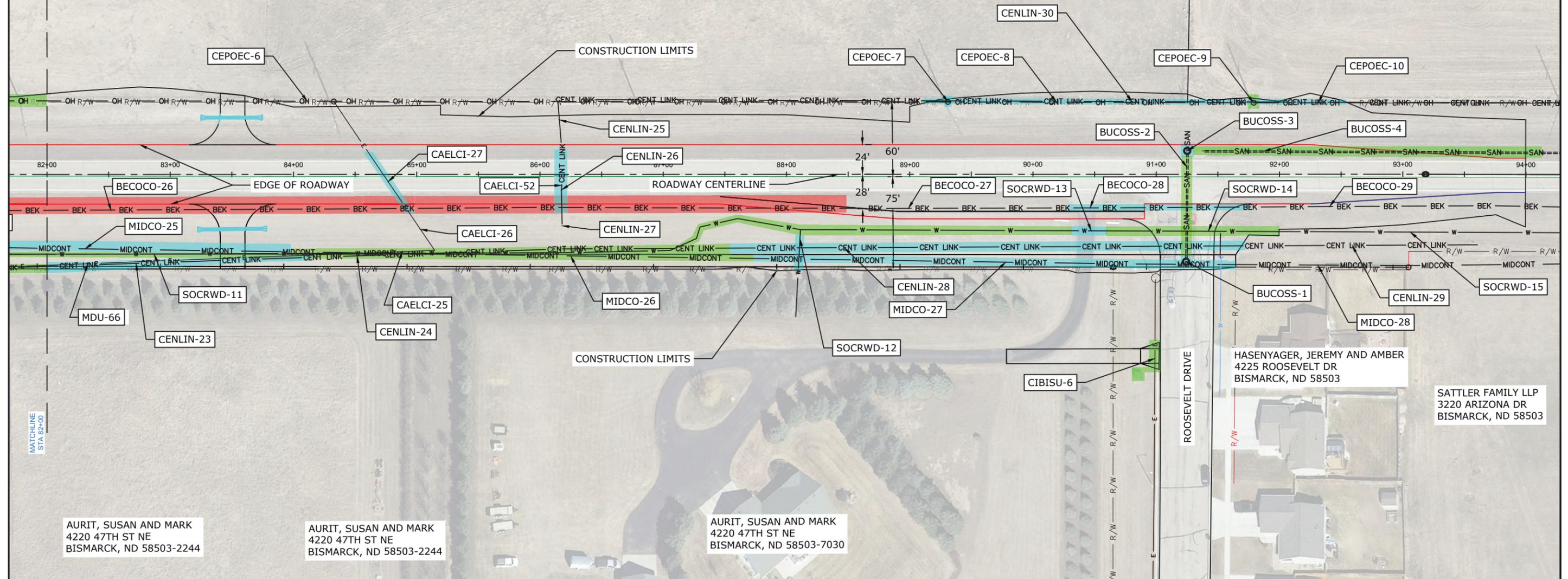
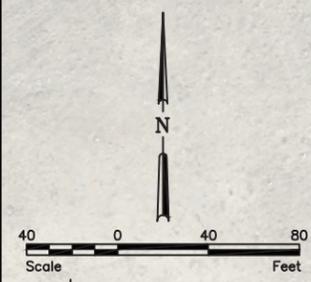
**BURLEIGH COUNTY**  
 DRAWN BY: TJ  
 DATE: 10/23/2019  
 CHECKED BY: CE  
 SCALE: AS SHOWN

**43RD AVE NE RECONSTRUCTION**  
 BURLEIGH COUNTY HIGHWAY DEPARTMENT  
 8100 43RD AVENUE NE

**APPENDIX B**  
**UTILITY COORDINATION EXHIBIT**  
 STA 70+00 TO 82+00  
 PROJECT NO. 0157

SECTION 13 PROPERTIES LLLP  
3717 CENTENNIAL RD  
BISMARCK, ND 58503

SCHAFER, THOMAS M ETAL  
4728 43RD AVE NE  
BISMARCK, ND 58503-8042



AURIT, SUSAN AND MARK  
4220 47TH ST NE  
BISMARCK, ND 58503-2244

AURIT, SUSAN AND MARK  
4220 47TH ST NE  
BISMARCK, ND 58503-2244

AURIT, SUSAN AND MARK  
4220 47TH ST NE  
BISMARCK, ND 58503-7030

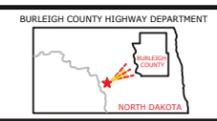
HASENYAGER, JEREMY AND AMBER  
4225 ROOSEVELT DR  
BISMARCK, ND 58503

SATTLER FAMILY LLP  
3220 ARIZONA DR  
BISMARCK, ND 58503

UTILITY CONFLICT LEVEL DESIGNATIONS

LEVEL 1	Utility not exposed by proposed improvements, no impacts.
LEVEL 2	Utility exposed by proposed improvements but no permanent impacts, contractor to protect in place and perform careful excavation.
LEVEL 3	Utility permanently impacted by proposed improvements and requires vertical adjustment only. Horizontal location of utility will not change.
LEVEL 4	Utility impacted by proposed improvements and requires complete relocation. Vertical and horizontal location of utility will change.

GOVERNING SPECIFICATIONS  
STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION  
ADOPTED BY THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
OCTOBER 2014; STANDARD DRAWINGS CURRENTLY IN EFFECT;  
AND OTHER CONTRACT PROVISIONS SUBMITTED HEREIN.



BURLEIGH COUNTY  
DRAWN BY: TJ  
DATE: 10/23/2019  
CHECKED BY: CE  
SCALE: AS SHOWN

43RD AVE NE RECONSTRUCTION  
BURLEIGH COUNTY HIGHWAY DEPARTMENT  
8100 43RD AVENUE NE

APPENDIX B  
UTILITY COORDINATION EXHIBIT  
STA 82+00 TO 94+00  
PROJECT NO. 0157

NO.	REVISION	DATE	BY

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION****SPECIAL PROVISION****PERMITS AND ENVIRONMENTAL CONSIDERATIONS****PROJECT NUMBER****NHU-SU-1-981(118) – PCN 22435**

This Special Provision incorporates the US Department of the Army Corps of Engineers (USACE) Nationwide Permit (NWP) No. 23 and a Floodplain Development Permit. The project as proposed will include grading, aggregate base course, hot mix asphalt, culverts, water main, lighting, markings, and signing. A copy of this permit is available on the ePlans website.

The contractor shall be responsible for complying with all the terms and conditions as contained in the permit attached hereto. Bidders shall become familiar with all standard conditions and special conditions of the permit and submit their bid for the construction of this project based on the following:

- **USACE Nationwide Permit (NWP) No. 23**

USACE Permit NWO-2020-00324-BIS authorizes reconstructing the existing roadway, adding a shared use path on the south side, lighting, culvert extension, and at Sta 21+60 two new 179' by 88" by 54" RCPs with riprap at the outlet. Permanent impacts will not exceed 0.19 acre and temporary impacts to 0.09 acre will be restored upon project completion. Wetland impacts will be mitigated from an aquatic resource credit from Ducks Unlimited at a 2:1 ratio.

The contractor shall be responsible for obtaining permits for impacts not authorized by the attached USACE NWP No. 23 obtained by Burleigh County.

- **Floodplain Development Permit**

The Floodplain Development Permit authorizes reconstructing the existing roadway, adding a shared use path on the south side, lighting, culvert extension, and at Sta 21+60 two new 179' by 88" by 54" RCPs with riprap at the outlet. All State and Federal Permits necessary for reconstruction of the roadway must be approved and crossings are designed in accordance with criteria established by Burleigh County and the City of Bismarck.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
SPECIAL PROVISION

FUEL COST ADJUSTMENT CLAUSE

Revision Date: 9/8/2006

Introduction

This Special Provision provides for price adjustments to the Contract when significant changes in the cost of motor fuels and burner fuels occur while completing the Contract work. Participation in fuel cost adjustment program is not mandatory. A Contractor is not required to notify the Department at the time of submitting bids whether the Contractor will or will not participate in the fuel cost adjustment provision.

The North Dakota Department of Transportation (NDDOT) will send the low responsible bidder a "Fuel Cost Adjustment Affidavit" (SFN 58393) with the proposed Contract. The Contractor shall return a completed Fuel Adjustment Affidavit with the signed Contract as specified in Standard Specification Section 103.06, Execution and Approval of the Contract. The affidavit shall be returned on all Contracts with this provision even if the Contractor elects not to participate in the provision.

Compensation adjustments for motor fuels and burner fuels consumed in prosecuting the Contract shall be determined by the Engineer in accordance with the provisions set forth herein. Compensation adjustments will be assessed monthly for the cost of the motor fuels and burner fuels whenever the Current Fuel Index (CFI) is outside the given threshold of the Base Fuel Index (BFI) for the Contract.

If the Contractor has a fixed price for fuel for motor or burner fuels to complete the work, no fuel cost adjustments will be made for that fuel type. If there is no fixed fuel price for motor or burner fuels, participation in the Fuel Adjustment provision is the decision of the prime Contractor.

If the prime Contractor decides not to participate, no fuel cost adjustments will be made to the Contract for the Contractor or any subcontractors. If the prime Contractor elects to participate in the fuel cost adjustment provision, the prime Contractor shall include the anticipated fuel cost of subcontractors who wish to participate. If fuel cost adjustments are made to the Contract, the prime Contractor shall ensure that participating subcontractors including second and lower tier, are included in the adjustments in proportion to the percentage of work and anticipated fuel cost by that subcontractor.

Fuel Indexes

Each month, NDDOT will record the average wholesale price for No. 2 diesel fuel and the average wholesale price for unleaded gasoline (87 octane). The monthly average will be the average of the daily rack prices for the month as reported by DTN Energy for Fargo ND.

The burner fuel index will be the No. 2 diesel fuel index regardless of the type of burner fuel actually used.

The Base Fuel Index (BFI) price for motor fuels and burner fuel to be used in the Contract will be the average wholesale price for the month prior to the bid opening.

The Current Fuel Index (CFI) price for motor fuels and burner fuel to be used for each monthly adjustment will be the average wholesale price for the month prior to the adjustment month.

Fuel Ratio

For motor fuels diesel and unleaded gas, the fuel ratio of the Contract will be determined by dividing the Contractor's affidavit costs for each motor fuel by the original Contract amount.

For burner fuels, the fuel ratio of the contract will be determined by dividing the Contractor's affidavit cost for burner fuels by the original Contract amount of plant-mixed hot bituminous pavement paid by the ton. Asphalt cement, binders and other miscellaneous bituminous items shall not be included.

The fuel ratio of the contract for motor and burner fuels will remain the same throughout the length of the contract. The sum of the affidavit fuel costs shall not exceed 15% of the original Contract amount.

The fuel ratio for the three fuel types will be determined by the following equation:

<b>Fuel Ratio<sub>(x, y, z)</sub> = Affidavit Cost<sub>(x, y, z)</sub> / Original Contract Amount<sub>(x, y, z)</sub></b>		
(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
Fuel Ratio <sub>(x, y, z)</sub>	=	Fuel ratio of the contract for each respective fuel type
Affidavit Cost <sub>(x, y, z)</sub>	=	Fuel costs from Fuel Adjustment Affidavit (SFN 58393)
Original Contract Amount <sub>(x, y)</sub>	=	Total of the original contract amount excluding lane rental, and Part B of the bid (when A+B bidding is used), if applicable.
Original Contract Amount <sub>(z)</sub>	=	Total original contract amount for all hot bituminous pavement bid items combined, excluding bid items for asphalt cement, sawing and sealing joints, coring, etc. Only hot bituminous pavement bid items measured by the Ton will be included in the calculation.

Cost Change

The monthly change in fuel costs will be determined by the following equation:

<b>Cost Change<sub>(x, y, z)</sub> = ( CFI<sub>(x, y, z)</sub> - BFI<sub>(x, y, z)</sub> ) / BFI<sub>(x, y, z)</sub></b>		
(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel (use diesel prices)
Cost Change <sub>(x, y, z)</sub>	=	The relative change in the current CFI and the BFI for each fuel type
CFI <sub>(x, y, z)</sub>	=	Current Fuel Index for each fuel type
BFI <sub>(x, y, z)</sub>	=	Base Fuel Index for each fuel type

Contract Adjustments

Contract adjustments will be made for the cost of motor and burner fuels whenever the cost change exceeds a ±0.10 threshold. No fuel cost adjustment will be made for work done under liquidated damages. Adjustments will be determined for Motor Fuel (diesel), Motor Fuel (unleaded), and Burner Fuel (burner) separately and shall be computed on a monthly basis.

When the cost change is greater than 0.10, the rebate to the Contractor for each fuel type shall be computed according to the following formulas:

<b><math>FCA_{(x, y, z)} = \text{Fuel Ratio}_{(x, y, z)} \times \text{Estimate}_{(x, y, z)} \times (\text{Cost Change}_{(x, y, z)} - 0.10)</math></b>		
$(x)$	=	Motor Fuel (Diesel)
$(y)$	=	Motor Fuel (Unleaded)
$(z)$	=	Burner Fuel
$FCA_{(x, y, z)}$	=	Fuel Cost Adjustment for each of the fuel types
Fuel Ratio $_{(x, y, z)}$	=	Fuel Ratio for each of the fuel types
Estimate $_{(x, y)}$	=	The monthly total of work done on estimates issued in the current month excluding incentive or disincentive payments, pay factor adjustments and any work completed under liquidated damages.
Estimate $_{(z)}$	=	The monthly total of hot bituminous pavement work done on estimates issued in the current month, excluding bid items for asphalt cement, sawing and sealing joints, coring, etc. Only hot bituminous pavement bid items measured by the Ton will be included in the calculation. Hot bituminous pavement work completed under liquidated damages will not be included.
Cost Change $_{(x, y, z)}$	=	The monthly change in fuel costs for each of the fuel types

When the cost change is less than -0.10, the credit to the Department for each fuel type shall be computed according to the following formulas:

<b><math>FCA_{(x, y, z)} = \text{Fuel Ratio}_{(x, y, z)} \times \text{Estimate}_{(x, y, z)} \times (\text{Cost Change}_{(x, y, z)} + 0.10)</math></b>		
(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
$FCA_{(x, y, z)}$	=	Fuel Cost Adjustment for each of the fuel types
$\text{Fuel Ratio}_{(x, y, z)}$	=	Fuel Ratio for each of the fuel types
$\text{Estimate}_{(x, y)}$	=	The monthly total of work done on estimates issued in the current month excluding any incentive or disincentive payments, pay factor adjustments and any work completed under liquidated damages.
$\text{Estimate}_{(z)}$	=	The monthly total of hot bituminous pavement work done on estimates issued in the current month, excluding bid items for asphalt cement, sawing and sealing joints, coring, etc. Only hot bituminous pavement bid items measured by the Ton will be included in the calculation. Hot bituminous pavement work completed under liquidated damages will not be included.
$\text{Cost Change}_{(x, y, z)}$	=	The monthly change in fuel costs for each of the fuel types

### Payments

Adjustments will be determined by the Engineer monthly. Adjustments will be made under the following spec and code for each fuel type:

109 0100	Motor Fuels (Diesel)
109 0200	Motor Fuels (Unleaded)
109 0300	Burner Fuel

When significant payment adjustments are made on final estimates to account for final in-place measured quantities, the Engineer may prorate the adjustments back to the months when the work was done.

### Attachments

For informational purposes, a 'Fuel Cost Adjustment Affidavit' (SFN 58393) is included as Attachment A.

**FUEL COST ADJUSTMENT AFFIDAVIT**

North Dakota Department of Transportation, Construction Services  
 SFN 58393 (8-2017)

SP Fuel Cost Adjustment Clause  
 6 of 6

**Attachment A**

PCN	Project Number		
<p>The Contractor is not required to notify the Department at the time of submitting bids whether he will or will not participate in the fuel cost adjustment program. The Contractor shall return the affidavit on all Contracts with this Provision even if the Contractor elects not to participate.</p>			
<p>Check the box for each fuel type that has a fixed price. No adjustments in fuel price will be made for the boxes that are checked.</p> <p><input type="checkbox"/> Diesel      <input type="checkbox"/> Unleaded      <input type="checkbox"/> Burner</p>			
<p>Does your company elect to participate in a fuel adjustment for this contract for the fuels that do not have a fixed price? No adjustments in fuel prices will be made if <b>No</b> is checked .      <input type="checkbox"/> Yes      <input type="checkbox"/> No</p>			
<p>If yes, provide the total dollars for each of the applicable fuels:</p>			
Diesel (D)			
Unleaded (U)			
Burner Fuel (B)			
Sum (D+U+B)			
		% of Original Contract Amount *	
*The sum of the D, U, and B may not exceed 15% of the original contract amount.			
<p>Under the penalty of law for perjury of falsification, the undersigned,</p>			
Name (print or type)		Title (print or type)	
Contractor (print or type)			
<p>hereby certifies that the documentation is submitted in good faith, that the information provided is accurate and complete to the best of their knowledge and belief, and that the monetary amount identified accurately reflects the cost for fuel, and that they are duly authorized to certify the above documentation on behalf of the company.</p>			
<p>I hereby agree that the Department or its authorized representative shall have the right to examine and copy all Contractor records, documents, work sheets, bid sheets and other data pertinent to the justification of the fuel costs shown above.</p>			
Signature			Date

**Acknowledgement**

State of	
County of	
Signed and sworn to (or affirmed) before me on this day _____ (month, day, year)	
Name of Notary Public or other Authorized Officer (Type or Print)	Affix Notary Stamp
Signature of Notary Public or other Authorized Officer	
Commission Expiration Date (if not listed on stamp)	