

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSAL
STATE FEDERAL AID PROJECT NO. NH-6-081(120)175 (PCN-24107)

6.796 Miles

MILLING & HMA, ADA CURB RAMP REVISIONS
US 81, NEAR CMC 5022 (ARDOCH) N TO CMC 5018 (MINTO)

WALSH COUNTY

BID OPENING: The bidder's proposal will be accepted via the Bid Express on-line bidding exchange at www.bidx.com until **09:30AM Central Time on October 09, 2026.**

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: NH-6-081(120)175 (PCN-24107)

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: NH-6-081(120)175 (PCN-24107)

-
- 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: NH-6-081(120)175 (PCN-24107)

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: NH-6-081(120)175 (PCN-24107)

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: NH-6-081(120)175 (PCN-24107)

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	107	0121	RAILWAY PROTECTION INSURANCE - COMPANY A	L SUM	1.				
003	107	0122	RAILWAY PROTECTION INSURANCE - COMPANY B	L SUM	1.				
004	107	0123	RAILWAY PROTECTION INSURANCE - COMPANY C	L SUM	1.				
005	107	0141	RAILROAD COORDINATION - COMPANY A	L SUM	1.				
006	107	0142	RAILROAD COORDINATION - COMPANY B	L SUM	1.				
007	107	0143	RAILROAD COORDINATION - COMPANY C	L SUM	1.				
008	109	1000	E-TICKETING	L SUM	1.				
009	202	0114	REMOVAL OF CONCRETE PAVEMENT	SY	457.				
010	202	0130	REMOVAL OF CURB & GUTTER	LF	715.				
011	202	0132	REMOVAL OF BITUMINOUS SURFACING	SY	212.				
012	302	0101	SALVAGED BASE COURSE	CY	1,381.				
013	302	0120	AGGREGATE BASE COURSE CL 5	TON	253.				
014	401	0050	TACK COAT	GAL	10,106.				
015	401	0070	FOG SEAL	GAL	1,787.				
016	411	0105	MILLING PAVEMENT SURFACE	SY	134,693.				

BID ITEMS

Project: NH-6-081(120)175 (PCN-24107)

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	430	0143	RAP - SUPERPAVE FAA 43	TON	15,027.				
018	430	0400	HMA INTELLIGENT COMPACTION	L SUM	1.				
019	430	0425	PAVER MOUNTED THERMAL PROFILER	L SUM	1.				
020	430	0500	COMMERCIAL GRADE HOT MIX ASPHALT	TON	83.				
021	430	1000	CORED SAMPLE	EA	83.				
022	430	2000	PATCHING	TON	1,381.				
023	430	5815	PG 58S-34 ASPHALT CEMENT	TON	789.				
024	702	0100	MOBILIZATION	L SUM	1.				
025	704	0100	FLAGGING	MHR	540.				
026	704	1000	TRAFFIC CONTROL SIGNS	UNIT	2,940.				
027	704	1048	PORTABLE RUMBLE STRIPS	EA	3.				
028	704	1054	SIDEWALK BARRICADE	EA	18.				
029	704	1058	PEDESTRIAN WALKWAY	LF	1,200.				
030	704	1067	TUBULAR MARKERS	EA	280.				
031	704	1080	STACKABLE VERTICAL PANELS	EA	45.				
032	704	1185	PILOT CAR	HR	180.				

BID ITEMS

Project: NH-6-081(120)175 (PCN-24107)

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	2108	TEMPORARY CURB RAMP	EA	18.				
034	706	0550	BITUMINOUS LABORATORY	EA	1.				
035	706	0600	CONTRACTOR'S LABORATORY	EA	1.				
036	708	1540	INLET PROTECTION-SPECIAL	EA	24.				
037	709	0100	GEOSYNTHETIC MATERIAL TYPE G	SY	6,209.				
038	722	6200	ADJUST MANHOLE	EA	6.				
039	748	0100	CURB & GUTTER	LF	715.				
040	748	1020	VALLEY GUTTER 36IN	SY	33.				
041	750	0115	SIDEWALK CONCRETE 4IN	SY	455.				
042	750	2115	DETECTABLE WARNING PANELS	SF	298.				
043	760	0025	SINUSOIDAL RUMBLE STRIP - ASPHALT SHOULDER	MILE	8.226				
044	760	0027	SINUSOIDAL RUMBLE STRIP - ASPHALT CENTERLINE	MILE	4.113				
045	762	0103	PVMT MK PAINTED-MESSAGE	SF	705.500				
046	762	0432	SHORT TERM 6IN LINE-TYPE NR	LF	48,138.				
047	762	1106	PVMT MK PAINTED 6IN LINE	LF	88,552.				
048	762	1112	PVMT MK PAINTED 12IN LINE	LF	843.				

BID ITEMS

Project: NH-6-081(120)175 (PCN-24107)

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	762	1124	PVMT MK PAINTED 24IN LINE	LF	90.				
050	970	0008	LANDSCAPE PREPARATION	SY	289.				
			TOTAL SUM BID						

Project: NH-6-081(120)175 (PCN-24107)

Type of Work: MILLING & HMA, ADA CURB RAMP REVISIONS

County: WALSH

Length: 6.7960 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 09/11/2027 *. 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.

***REFER TO PLAN NOTE 100-P01 FOR ADDITIONAL TIME REQUIREMENTS.**

PROPOSAL FORM

North Dakota Department of Transportation

BID OPENING: October 09, 2026**Job 24107**

Page 10 of 10

Project: NH-6-081(120)175 (PCN-24107)**Type of Work:** MILLING & HMA, ADA CURB RAMP REVISIONS**County:** WALSH**Length:** 6.7960 Miles**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 24107, NH-6-081(120)175

Milling & HMA, ADA Curb Ramp Revisions

INDEX OF PROVISIONS

Road Restriction Permits

Hot Line Notice

Price Schedule for Miscellaneous Items dated January 2, 2026 (PS-1)

Required Contract Provisions Federal Aid Construction Contracts
(Form FHWA 1273 Revised June 25, 2026)

SP Certified Payrolls, dated 3-7-24

SP Project Payment Reporting

Labor Rates from U.S. Department of Labor dated July 30, 2026 (Mod. No. 3)

On-The-Job Training Program 2026

SSP 4 Longitudinal Joint Density

SSP 5 Limitations of Operations

SSP 8 Federal Prohibition on Certain Technological Hardware

SSP 11 Domestic Material Procurement Preferences

SSP 12 Public Liability and Property Damage Insurance

SSP 13 Federal Drone Restriction

SP 379(25) Utility Coordination

SP 411(25) Railroad Coordination BNSF

SP 412(25) Railroad Coordination NP

SP 420(25) Railroad Coordination CPKC

INDEX OF PROVISIONS

Page 2 of 2

SP 428(25) E-Ticketing (Mandatory)

SP 429(25) Intelligent Compaction for HMA

SP 430(25) Paver Mounted Thermal Profiler

SP 431(25) Flexible Pavement Surface Tolerance

SP 432(25) Percent Within Limits

SP 433(25) Temporary Pedestrian Facilities

SP 434(25) Commercial Grade Asphalt

PSP 60(25) Permits and Environmental Considerations

SP Fuel Cost Adjustment Clause

NOTICE

T0: 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.

NDDOT ROAD AND VEHICLE RESTRICTIONS

Date Revised 05-22-10

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.

RESTRUCTION CLASSIFICATIONS WITH ALLOWABLE AXLE WEIGHTS AND GROSS VEHICLE WEIGHTS	PERMIT AND TON/MILE FEES
Highways Restricted by Legal Weight Single Axle -- 20,000 lbs. Tandem Axle -- 34,000 lbs. Triple Axle -- 48,000 lbs. 4 Axles or more -- 15,000 lbs. per axle Gross Vehicle Weight -- 105,500 lbs. 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.	Permit Fee: \$20-\$70 per trip Ton Mile Fee: 105,501 lbs. to 130,000 lbs. GVW -- \$1 per mile Over 130,000 lbs. GVW -- \$1 per mile plus \$5 per ton per mile for that weight exceeding 130,000 lbs. GVW Exceeding axle limits -- \$1 per ton per mile
8-Ton: Single Axle -- 16,000 lbs. Tandem Axle -- 32,000 lbs. 3 Axles or more -- 14,000 lbs. per axle Gross Vehicle Weight -- 105,500 lbs.	Permit Fee: \$20-\$70 per trip Ton Mile Fee: 105,501 lbs. to 120,000 lbs. GVW -- \$1 per mile Over 120,000 lbs. GVW -- \$1 per mile plus \$5 per ton per mile for that weight exceeding 120,000 lbs. GVW Exceeding restricted axle limits -- \$1 per ton per mile
7-Ton: Single Axle -- 14,000 lbs. Tandem Axle -- 28,000 lbs. 3 Axles or more -- 12,000 lbs. per axle Gross Vehicle Weight -- 105,500 lbs.	Permit Fee: \$20-\$70 per trip Ton Mile Fee: 105,500 lbs. to 110,000 lbs. GVW -- \$1 per mile Over 110,000 lbs. GVW -- \$1 per mile plus \$5 per ton per mile for that weight exceeding 110,000 lbs. GVW Exceeding restricted axle limits -- \$1 per ton per mile
6-Ton: Single Axle -- 12,000 lbs. Tandem Axle -- 24,000 lbs. 3 Axles or more -- 10,000 lbs. per axle Gross Vehicle Weight -- 80,000 lbs.	Permit Fee: \$20-\$70 per trip Ton Mile Fee: \$5 per ton per mile for all weight exceeding 80,000 lbs. GVW Exceeding restricted axle limits -- \$1 per ton per mile
5-Ton: Single Axle -- 10,000 lbs. Tandem Axle -- 20,000 lbs. 3 Axles or more -- 10,000 lbs. per axle Gross Vehicle Weight -- 80,000 lbs.	No overweight movement allowed

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

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

**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. Materials and construction methods used in performing maintenance and restoration work for 107. 08 Haul Roads shall meet the requirements of the relevant specifications.

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.

Spec	Code	Specification Section No.	Section Name	Item	Price
100	9950	704.04 C.5	Temporary Traffic Control	Flagging	\$61.00 per MHR
100	9951	216.04	Water	Water	\$35.00 per M Gal
100	9952	430.04 G & I.3	HMA – Bituminous Materials	Patching – Machine Placed	\$250.00 per Ton
100	9952	430.04 G & I.3	HMA – Bituminous Materials	Patching – Hand Placed	\$270.00 Per Ton
100	9954	302.04 B	Aggregate Base and Surface Course	Aggregate Base CL 13	\$40.00 per Ton ¹
100	9955	203.01 C	Rock Excavation	Rock Excavation	\$30.00 per CY
100	9956	203.01 D	Shale Excavation	Shale Excavation	\$9.25 per CY
100	9957	203.01 E	Muck Excavation	Muck Excavation	\$10.50 per CY
100	9958	203.01 G & 203.05 G.3	Excavation and Embankment	Overhaul	\$0.08 per CY-Sta
100	9960	420.04 E	Bituminous Seal Coat	Blotter Sand	\$40.00 per Ton ¹
100	9962	260.06	Silt Fence	Cleaning Silt Fence	\$5.00 per LF
100	9963	261.06	Fiber Rolls	Cleaning of Fiber Rolls	\$5.00 per LF
100	9964	260.06	Silt Fence	Removal of Silt Fence ²	\$5.00 per LF
100	9965	261.06	Fiber Rolls	Removal of Fiber Rolls ²	\$5.00 per LF

¹ 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 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.

² This is only for pre-existing items that were not installed under the Contract.

CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Davis-Bacon and Related Act Provisions
- IV. Contract Work Hours and Safety Standards Act Provisions
- V. Subletting or Assigning the Contract
- VI. Safety: Accident Prevention
- VII. False Statements Concerning Highway Projects
- VIII. Implementation of Clean Air Act and Federal Water Pollution Control Act
- IX. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- X. Certification Regarding Use of Contract Funds for Lobbying
- XI. Use of United States-Flag Vessels

ATTACHMENTS

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

I. GENERAL

1. Historically, contracting agencies using Federal-aid highway funds were required to ensure Form FHWA-1273 was physically incorporated into all contracts and subcontracts. Effective June 10, 2026, this requirement was eliminated [91 FR 25492]. Future use of Form FHWA-1273 is now optional on the part of the contracting agency using Federal-aid highway funds. FHWA continues to make Form FHWA-1273 available as a convenience to contracting agencies. Contracting agencies must continue to ensure compliance with the provisions cited in Form FHWA-1273 in accordance with the provisions regardless of the use of Form FHWA-1273. Accordingly, the contracting agency retains the authority to determine whether the contractor must use Form FHWA-1273 to physically incorporate required contract provisions in each subcontract and in lower tier contracts. Where permitted by the contracting agency, the contractor may choose other ways to include required contract provisions in each subcontract, besides incorporating Form FHWA-1273. Contract provisions in Form FHWA-1273 are not required to be physically included in subcontracts for design services on Federal-aid design-build contracts, or in purchase orders, rental agreements and other agreements for supplies or services.

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

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents.

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.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION

The contractor and all subcontractors must comply with the following policies: 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27, including any amendments thereto.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27, including any amendments thereto.

The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract.

1. Assurances Required:

a. The requirements of 49 CFR Part 26, including any amendments thereto, and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26, including any amendments thereto, in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E, including any amendments thereto, are incorporated by reference. 49 CFR Part 21.

III. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in

paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

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

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

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

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

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the

classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

e. Unfunded plans. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. Interest. In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. Withholding requirements. The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered

necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

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

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its repurchase costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number

of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

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

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

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

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

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

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

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

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

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

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

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

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

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

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

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

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

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with [29 CFR part 30](#), including any amendments thereto.

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

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

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

6. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (1) through (11) of this section, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the

contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

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

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

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

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

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

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

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

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

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

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

IV. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the

Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

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

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$33 as of January 15, 2025 (See 90 FR 1859) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

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

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

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its procurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

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

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

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

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

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

V. SUBLETTING OR ASSIGNING THE CONTRACT

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

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of

the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

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

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

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

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however,

contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VI. SAFETY: ACCIDENT PREVENTION

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

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

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

VII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the

character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

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

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

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

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

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

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

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

IX. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

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

1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

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

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

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

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

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

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

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the

eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

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

* * * * *

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

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

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

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

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

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

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

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

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

* * * * *

3. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered

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

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

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

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

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

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

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

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

* * * * *

X. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

XI. USE OF UNITED STATES-FLAG VESSELS:

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

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

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

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

extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

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

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS** (40 U.S.C. sections 14501(d) and 14701
and the Appalachian Regional Commission Code as
authorized under 40 U.S.C. section 14302)

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 40 U.S.C. 14501 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 on one of these lists before entry of the subcontractor into LCPtracker. These lists may be found at: <https://www.dot.nd.gov/construction-and-planning/construction-and-contractor-resources/contractor-information>. 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 Program (Davis-Bacon)/LCPtracker page at: <https://www.dot.nd.gov/about-nddot/civil-rights/labor-compliance-program-davis-bacon>. 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.

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

A. DESCRIPTION

This Special Provision (SP) replaces Section 109.04 D, "Prompt Payment"

This SP details the requirements for Contractors to document payment to all tiers of DBE subcontractors and suppliers and all non-DBE subcontractors. For the purposes of this SP, the term "payee" will be used to denote all tiers of DBE subcontractors and suppliers as well as all tiers of non-DBE subcontractors.

The Department utilizes the Certification and Compliance System (CCS) for this purpose. The direct web address to this system is <https://dotnd.diversitycompliance.com/>

B. PROMPT PAYMENT REQUIREMENTS

Within 20 calendar days of receiving payment from the Department, pay all payees their portion of the payment less applicable retainage, not to exceed 2 percent. If the Contractor does not make prompt payment, the payee may notify the Engineer.

The Contractor may withhold payment to a payee for just cause. If withholding payment from a payee, immediately provide written notification to the payee and the Engineer with the reasons for withholding the payment. If the Engineer determines the Contractor is withholding payment with just cause, interest will not accrue.

If the Engineer determines the Contractor is withholding payment without just cause, beginning on the 21st calendar day after the Contractor's receipt of payment from the Department interest will accrue for the payee at the rate provided by NDCC 13-01.1-02. Additionally, the Department may withhold all payments to the Contractor until the Contractor properly pays the payee and agrees to make all future payments to payees as required by the contract.

The Department will apply these prompt payment procedures to all payees, in accordance with 49 CFR 26.29.

C. REPORTING REQUIREMENTS

1. General.

Create a vendor account with CCS if one does not exist. Create a user for each employee who will use the system and identify the main user. The main user will receive communications from the Department.

2. Utilization Plan.

Complete a Utilization Plan (UP) and submit it for approval in CSS within 14 days of being notified the UP is available, or contract execution, whichever is later. The Department may grant an extension upon written request from the Contractor.

List all payees with the UP and at the proper tier. Ensure payees are completing their requirements and provide assistance as necessary.

The Department's Civil Rights Division will review the UP, verify the DBE participation is reported correctly, and approve the UP or return it for updates. If the UP is returned it will contain a note describing the necessary updates. Complete changes and resubmit within 7 days of receiving a returned UP.

a. Non-Account Holders.

If a payee does not already have an account within CSS when creating the UP send the information listed below to the compliance officer via CSS:

- Company name;
- Mailing address;
- Phone number;
- Contact person's name; and
- Contact person's email address.

The NDDOT will then set up a vendor account within CCS for the payee and notify the contractor when they are available to add to the UP.

b. Additional Payees.

If a payee is added after the initial UP is approved, submit a request for the payee to be added via the "Subs" tab inside CCS. Complete this process before the payee is due payment.

3. Payments.

Once the UP is approved, the UP is locked in and contractor progress payments will be reported, and the monthly auditing process begins. An audit is the term used in the system to refer to a monthly period while the project is active.

Contractors must report any payments for all payees for each audit period. A payment may be marked as final and if the payee agrees to the final payment no other reporting will be required on that payee. Payments of \$0 must be reported or the audit will be considered incomplete. Audits are available in subsequent months, meaning the January audit period will open in February. Payments not reported within 30 days will be considered past due. Audits containing past due payments must be unlocked by a system administrator.

4. Payment Discrepancies.

Payees are required to confirm payments or open a Discrepancy (dispute original submission) within 30 days of the payment being recorded. Payments not confirmed nor disputed within 30 days will be auto-confirmed by the system administrators and the ability to dispute that payment will no longer be available. Contractors are to ensure the payees on their project are timely confirming/disputing payments.

Attempts should be made to resolve Discrepancies between the two parties. CCS provides functionality for each party to comment publicly or privately (private comments are visible to system administrators only). If the parties cannot come to a resolution, the Department will make a resolution. The Department may request additional information, if applicable, before making a resolution.

5. Certification and Compliance System Assistance.

A user manual for UP's and recording project payments is available within the system. The user manual and other training is offered by navigating to it once logged in. A UP does not have to be assigned to an entity to view the guide or attend system training.

For further assistance, contact the Civil Rights Division for DBE related inquiries and the Construction Services Division for all other inquiries.

01242023

NDDOT's *Davis-Bacon Wage and Payroll Requirements Handbook* is available at:

<https://www.dot.nd.gov/about-nddot/civil-rights/labor-compliance-program-davis-bacon>

U.S. DEPARTMENT OF LABOR

STATE	COUNTY	
NORTH DAKOTA	STATEWIDE	ND20260006 Page 1
		DATE OF DECISION 01-16-2026 01-30-26(Mod.1) 05-18-26(Mod.2) 07-30-26(Mod.3)

CARPENTERS**CEMENT MASONS/FINISHERS****LINE CONSTRUCTION:**

Lineman
Cable Splicer
Line Equipment Operator
Groundman

ELECTRICIANS:

Electrician
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)

Electrician
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)

Electrician
Cable Splicer
(Burleigh, Morton and Stark Counties)

Electrician
(Cass County)

WELDERS:

Receive rate prescribed for craft performing operation to which welding is incidental

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$38.70	\$ 9.00
38.70	9.00
55.35	24.55
55.35	24.55
47.00	22.21
31.32	14.69
55.35	24.55
55.35	24.55
55.35	24.55
55.35	24.55
37.41	16.75

LABOR RATES

Page 2 of 5

01-16-2026

01-30-2026(Mod.1)

05-18-2026(Mod.2)

07-30-2026(Mod.3)

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; 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 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 Tunnel Mucking Machine; Power Shovel;3-1/2 CY and over; Traveling Tower Crane.

Group 2

All Cranes 59 tons and under; Backhoe Operator 3 CY. and over; Creter Crane; Dredge Operator 12" and over; Equipment Dispatcher; Equipment Foreman; Finish Dozer; 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; Tugboat.

ND20260006

Page 2

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$30.90	\$ 3.40
31.15	3.40
31.30	3.40
32.05	3.40
36.65	23.10
35.25	23.10

LABOR RATES

Page 3 of 5

01-16-2026

01-30-2026(Mod.1)

05-18-2026(Mod.2)

07-30-2026(Mod.3)

ND20260006

Page 3

POWER EQUIP.OPERATORS: (CONT.)

Group 3

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; Lazer-Screed 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 (SurfacePlaner) 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(Controls the spread of asphalt); Asphalt Paving Screed 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; Fuel/ Lube Truck Operator; Grade Person(Responsible for establishing and determining grade through instrumentation); Gravel Screening Plant Operator (not Crushing or Washing); Greaser; Hydro Vac and Hydro Excavator self propelled; Longitudinal Float and Spray Operator; Micro Surfacers Machine; Motor Grader Operator (Haul Roads); Paving Breaker HydroHammer 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.

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-Non-Truck; Power Actuated Auger and Horizontal Boring MachineOperator up to and including 5"; Roller (on other than hot mix asphalt

Basic Hourly Rates	Fringe Benefits Payments
	H & W/Pensions
\$35.00	\$23.10
34.85	23.10

LABOR RATES
Page 4 of 5
01-16-2026
01-30-2026(Mod.1)
05-18-2026(Mod.2)
07-30-2026(Mod.3)

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); Gunite 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

ND20260006		Page 4
Basic Hourly Rates	Fringe Benefits Payments	
	H & W/Pensions	
\$34.00		\$23.10
33.20		23.10
33.84		19.28
33.96		19.28
34.27		19.28
34.27		19.28
35.79		19.28

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

LABOR RATES

Page 5 of 5

01-16-2026

01-30-2026(Mod.1)

05-18-2026(Mod.2)

07-30-2026(Mod.3)

HIGHWAY CONSTRUCTION PROJECTS

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022.

Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION (NDDOT)

ON-THE-JOB TRAINING 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 within the ND Highway Construction industry. 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 based only on federal highway dollars awarded to contractors from April to March. Trainee assignments are not project specific; that means the contractor may train program participants on any project where training opportunities exist within the state of North Dakota.

The number of trainee positions assigned will be determined by formula based on calculations involving particular project specification numbers on applicable projects.

Once the formula calculations are determined the OJT Program Administrator completes a further analysis based on number of trainees per contractor, contractor work type, location, past assignments, etc.

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 as part of 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 April to March the following year:

8,000,000 to 16,000,000	1	trainee
16,000,001 to 24,000,000	2	trainees
24,000,001 and above	3	trainees

A maximum of three (3) 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 three trainee maximum, e.g., a contractor with one carryover and three assigned positions may have a total four trainees.

Contractors assigned OJT positions are required to attend one-on-one meetings with the OJT Program Administrator and the OJT Supportive Services Consultant in early spring. The meeting is conducted virtually via Microsoft TEAMS. At this meeting any changes to the program and other important information will be shared and the contractor will have an opportunity to ask any questions they may have.

Failure to follow the OJT Special Provision and 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

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/about-nddot/civil-rights/labor-compliance-program-davis-bacon>

VI. APPROVALS REQUIRED

- A. Requests for Approval of Training Programs and Trainee Candidates 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.
 2. Submit *SFN 7857 Application for Eligibility* directly to Job Service North Dakota (JSND) for 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 Civil Rights Division.

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."

VII. NDDOT'S RESPONSIBILITIES

- A. The NDDOT OJT supportive services (OJTSS) consultant will monitor excerpts from the weekly certified payrolls or LCP Tracker for NDDOT projects submitted with the monthly vouchers for reimbursement. 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.
- B. 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.
- C. 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. Must have trainees available to the OJTSS consultant for at least two on-site visits during the construction season. The OJTSS consultant will be provided a private location to meet with the trainee and the trainee will be allowed as much time away from the project as necessary to complete the on-site visit.
- 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 confirmation letter 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 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 of CRD.
- L. May transfer trainees from one project to another to complete the OJT Program. If transfers are made, CRD must be notified and provided with the name of the trainer.
- M. May train trainees on municipal, private, 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. Payrolls of employees trained on non-NDDOT projects must be provided to prove appropriate wages are paid.

- N. Must train trainees on projects within North Dakota. Cannot train trainees on projects located outside of the state lines. The OJTSS consultant must be able to visit the trainee twice during their program. It is unreasonable for the OJTSS consultant to make these visits outside of the state.
- O. 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.
- P. May use trainees on projects subject to TERO requirements as part of the core crew. 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.
- Q. Must not use one trainee to simultaneously fill multiple trainee positions
- R. 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 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.

Contractors will be reimbursed for classroom training hours after the trainee has completed 40 hours of work on highway construction projects.

Reimbursement for classroom training will be limited to 40 hours per trainee per construction season.
- B. 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 non-federal aid 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. Current and prior labor rates can be found on the NDDOT website at:

<https://www.dot.nd.gov/about-nddot/civil-rights/labor-compliance-program-davis-bacon>

- 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. DBRA requirements can be found on the NDDOT website at <https://www.dot.nd.gov/about-nddot/civil-rights/labor-compliance-program-davis-bacon>
- 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. Trainees must be a North Dakota resident during their training program.

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.

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. LCPtracker must be utilized on NDDOT projects for reporting certified payrolls. The OJTSS consultant will be verifying hours submitted on NDDOT projects through this online reporting system. For non-NDDOT projects the firm must attach excerpts from the weekly certified payrolls showing the trainee's hours, rate of pay, and how applicable fringe benefits were paid. 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.
- 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 (15th) 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.

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

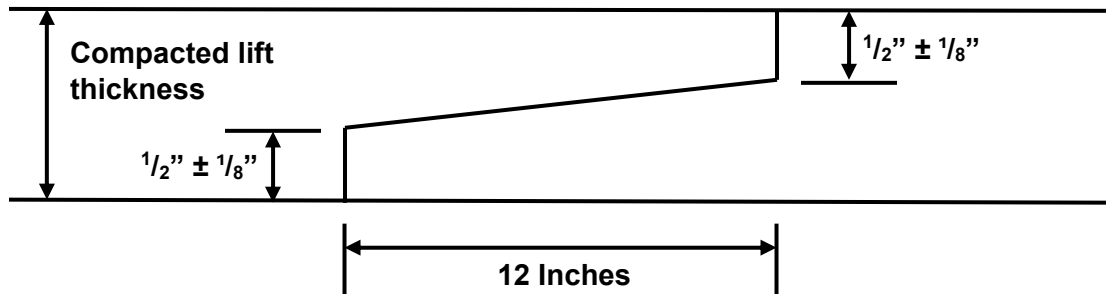
The pay adjustment for longitudinal joint density will not be used for areas constructed according to Section 430.04 I.3, "Ordinary Compaction".

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

Table 1

Contract Price Adjustment Per Linear Foot	Joint Lot % MTD
\$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. Nighttime 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.

The following operations are exempt from the definitions of extended hours and nighttime operations:

- Pavement coring;
- Concrete joint cutting; and
- Temporary traffic control.

Work conducted less than 1 hour after sunset and less than 1 hour before sunrise is considered extended hours. All other operations conducted under darkness fall under nighttime operations.

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 before anticipated nighttime operations. Allow up to 7 calendar days for the Engineer to review the request. The Engineer may deny the request or delay approval if it would require additional staffing considerations. If nighttime

operations require 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

STANDARD 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

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.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**STANDARD SPECIAL PROVISION****DOMESTIC MATERIAL PROCUREMENT PREFERENCES****DESCRIPTION**

Replace Section 106.08, "Buy America", with the following:

DOMESTIC MATERIAL PROCUREMENT FOR INFRASTRUCTURE PROJECTS**A. General.**

Provide materials from domestic material sources when articles, materials, or supplies are permanently incorporated into the work.

The requirements of this SP are not applicable to equipment, tools, and temporary items.

Domestic material procurement requirements do not apply to items used by the Contractor to facilitate construction that are not required to be permanently installed as part of the contract requirements, but that are left in place upon completion of the work at the convenience of the Contractor.

The definitions and requirements in this SP have been assembled based on the following Federal requirements:

- Iron and steel requirements are based on 23 CFR Part 635, "Buy America requirements";
- Manufactured products are based on 23 CFR Part 635 "Buy America requirements"; and
- Construction materials are based on 2 CFR Part 184, "Buy America Preferences for Infrastructure Projects" (BABA).

B. Certifications.

All certifications are submitted by the prime Contractor. When submitting certifications for materials that are subject to the requirements of this provision, the prime Contractor shall include a signed letter stating that the submitted documentation is the documentation that was received by the prime Contractor for material incorporated into the work. The prime Contractor's signature on the Department's Certificate of Compliance form meets this requirement.

C. Determination of Material Category.**1. General.**

Only a single category of requirements will apply to an item.

Exceptions:

- 1) Precast concrete items are classified as manufactured products, however components of these items that consist wholly or in part of iron, steel, or a combination of both must meet the requirements of Section C.2, "Iron or Steel Products" of this provision.

- 2) Cabinets or enclosures for intelligent transportation systems or other electronic hardware systems classified as manufactured products that consist wholly or in part of iron, steel, or a combination of both must meet the requirements of Section C.2, "Iron or Steel Products" of this provision.

Some contract items are composed of multiple components that may fall into different categories. Individual components will be categorized based on their nature when they arrive at the work site. In cases where the classification of an item is in question or dispute, the Engineer's determination of the classification will be binding.

Exception:

Items that comprise a kit will be considered based on their status as a whole product and classified as either iron or steel products or as manufactured products. A kit is a product intended for incorporation into the project whose parts are acquired from a single manufacturer or supplier and delivered to the work site as separate components but are then assembled to form a single product at the work site.

2. Iron or Steel Products.

Iron or steel products are defined as articles, materials, or supplies that consist wholly or predominantly of iron, steel, or a combination of both.

Predominantly iron or steel or a combination of both means the cost of the iron and steel components exceeds 50 percent of the total cost of all components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

3. Manufactured Products.

Manufactured products are defined as articles, materials, or supplies that have been:

- Processed into specific form or shape; or
- Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

If the cost of iron and steel components of a manufactured product exceed 50 percent of the total cost of the product, the iron and steel must meet the requirements of Section C.2, "Iron or Steel Products" of this provision. The remaining components are then exempt from any domestic procurement preference.

4. Construction Materials.

Construction materials are materials that consist primarily of:

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

Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization.

5. Other Materials

If articles, materials or supplies do not meet any of the definitions in sections C.2, C.3, or C.4, there are no requirements for domestic manufacturing. This includes the following items that are specifically categorized as other (excluded) materials per BABA Section 70917(c) of the Infrastructure Investment and Jobs Act of 2021:

- Cement and cementitious materials;
- Aggregates such as stone, sand, or gravel; or
- Aggregate binding agents or additives.

D. Steel and Iron Certification.

1. General.

Ensure all manufacturing processes, including applications of coatings, occur in the United States. A coating includes all processes required to apply the coating to a product to protect or enhance the value of the product.

2. Bulk Manufactured Steel and Iron Materials.

In addition to the requirements of Section 106.01 C, "Certificate of Compliance", submit a contractor's Certificate of Compliance stating that the iron and steel products listed in Table 1 are of domestic origin.

Table 1

Mailbox supports	Cable Fence Materials
Chain Link Fence Materials	Barbed Wire Fence Materials
Guardrail Components	Woven Wire Fence Materials
Culvert Markers	Delineators
Perforated Tube Sign Supports and Related Materials	

3. Other Steel and Iron Products.

For steel and iron products that are not listed in Table 1, submit a manufacturer's Certificate of Compliance as specified in Section 106.01 C, "Certificate of Compliance".

4. Foreign or Uncertified Steel and Iron.

These requirements allow the use of steel and iron products produced and manufactured outside the United States, or steel and iron products that cannot be certified as manufactured in the United States, of a total value less than 0.1 percent of the original contract amount, or \$2,500, whichever is greater.

The total value is that shown to be the cost of the steel and iron products as delivered to the project site.

Document the cost of:

- Foreign steel and iron products, plus
- Steel and iron products which cannot be certified as manufactured in the United States.

Submit the documentation of foreign and uncertified steel and iron products with the required certifications.

E. Manufactured Products.

Manufactured products are acceptable under this provision if the product was manufactured in the United States. For the purposes of this provision, “manufactured in the United States” means that the final assembly of the product occurred in the United States.

F. Construction Materials.

1. General.

Each material classified as a construction material has a specific standard for the material to be considered in compliance with this provision.

Except as specifically provided, only a single standard under this section should be applied to a single construction material.

2. Non-Ferrous Metals.

For non-ferrous metals, all manufacturing processes from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

3. Plastic and Polymer-Based Products.

For plastic and polymer-based products; including polyvinylchloride, composite building materials, and polymers used in fiber optic cables; all manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

4. Glass.

For glass; including optic glass; all manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

5. Fiber Optic Cable.

For fiber optic cable; including drop cable; all manufacturing processes, from the initial ribboning if applicable, through buffering, fiber stranding and jacketing, occurred in the United States.

All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

6. Optical Fiber.

For optical fiber, all manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

7. Lumber.

For lumber, all manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

8. Drywall.

For drywall, all manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

9. Engineered Wood.

For engineered wood, all manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

DESCRIPTION

This SP replaces Section 107.14 Public Liability and Property Damage Insurance.

107.14 Public Liability and Property Damage Insurance.

A. General Requirements.

Submit to the Department the certificates of insurance effecting the requirements in this section for the Commercial General Liability and Commercial Automobile Liability Insurances with the contract and the contract bond in accordance with Section 103.06, "Execution and Approval of Contract."

Provide insurance policies executed by a corporation qualified and authorized to write the policies in the State of North Dakota. The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Secure and maintain insurance in full force and effect before starting the work and until completion of all work required and accepted by the Department or owner. The policies shall provide 30 calendar days notice to the Department or the owner of any intent to cancel or materially alter such insurance.

Failure to maintain the insurance as required constitutes a material breach of contract. The Department or the owner may, after giving 5 business days notice to the Contractor to correct the breach, immediately terminate the Contractor in accordance with Section 108.08, "Termination of the Contract for Default," and procure or renew such insurance and pay all premiums. The Department or the owner may demand repayment of premium costs by the Contractor, or may offset the premium costs against funds due the Contractor from the Department or the owner.

B. Insurance Requirements.

Secure and maintain in full force and effect during the term of the contract the following insurance coverages:

1. Commercial General Liability for limits not less than \$2,000,000 combined single limit per occurrence and aggregate for bodily injury, property damage, personal injury and completed operations/product liability. Provide products and completed operations coverage for a period of one year following final acceptance of the work. Provide coverage with the aggregate limit applied separately to occurrences at the location or project described in this contract. Provide a policy including a "stop-gap" Employers Liability endorsement to cover the employer's liability for injury to employees falling outside the State Worker's Compensation Law.
2. Commercial Automobile Liability for limits not less than \$2,000,000 combined single limit per accident for bodily injury and property damage.

3. Workers Compensation coverage as required by the State of North Dakota.

The General Liability and Automobile policies shall provide an additional insured endorsement in favor of the State of North Dakota and the Owner and shall contain a "Waiver of Subrogation" to waive any right of recovery that the Insurance company may have against the State and the Owner. The coverage required under this agreement shall be primary for the State and the Owner, and shall not be affected by any other insurance or coverage obtained by the State or the Owner on their own behalf.

Any right of the State to receive indemnification and insurance shall not give rise to a duty on the part of the State to exercise its rights or status for the benefit of the owner, or any other person or entity.

C. Subcontractor.

If subletting a portion of the contract, the Contractor shall obtain insurance protection in accordance with Section 107.14.B, "Insurance Requirements," to provide liability coverage to protect the Contractor, State, and owner for work undertaken by the subcontractor. Ensure public liability and property damage insurance coverage in accordance with Section 107.14.B, "Insurance Requirements," for all parties performing work under the contract.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

STANDARD SPECIAL PROVISION

FEDERAL DRONE RESTRICTION

DESCRIPTION

This Special Provision is to comply with the Federal Regulations, NDAA Public Law 118-31 - Section 1825 "American Security Drone Act of 2023", and the Office of Management and Budget (OMB) Memorandum-26-02 to prohibit the uses of Unmanned Aircraft Systems (UAS) manufactured by covered foreign entities on projects and project activities.

CONTRACT REQUIREMENTS

Maintain records and documents pertaining to the origins of drones used on NDDOT projects. Furnish copies of these records upon request of the Department or FHWA. Retain the records for a minimum of 4 years after the Contractor return the signed final payment voucher.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

UTILITY COORDINATION

PROJECT 6-081(120)175– PCN 24107

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 Exhibits

DEFINITIONS

Abandon Utility (AU): Utility Encounter that was originally a Conflict, but relocated before bidding. The line is still represented in the Exhibits to make the Contractor aware of its location. See the Utility Coordination Table for final details.

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.

Proposed Resolution (PR): A proposed location of a future Utility Encounter. The Utility Owner is in the process of moving the Utility to this Proposed location. PIP activities may still be required in the proposed location.

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

UTILITY COMPANY CONTACTS

UTILITY COMPANY	CONTACT NAME	PHONE NUMBER	EMAIL
City of Minto	Pat Paschke	701-213-2586	N/A
Midcontinent Cable	Chris Brorby	701-5158623	Christopher.Brorby@midco.com
Ottertail Power Co	Evan Thostenson	701-760-0998	ethostenson@otpc.com

Lumen	Trevor Christensen	701-415-7058	Trevor.a.christenen@lumen.com

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 Exhibits in Appendix A contain specific information related to each UE location.

I. Midco

All utilities in the project limits will be protected in place.

II. Lumen

All utilities in the project limits will be protected in place.

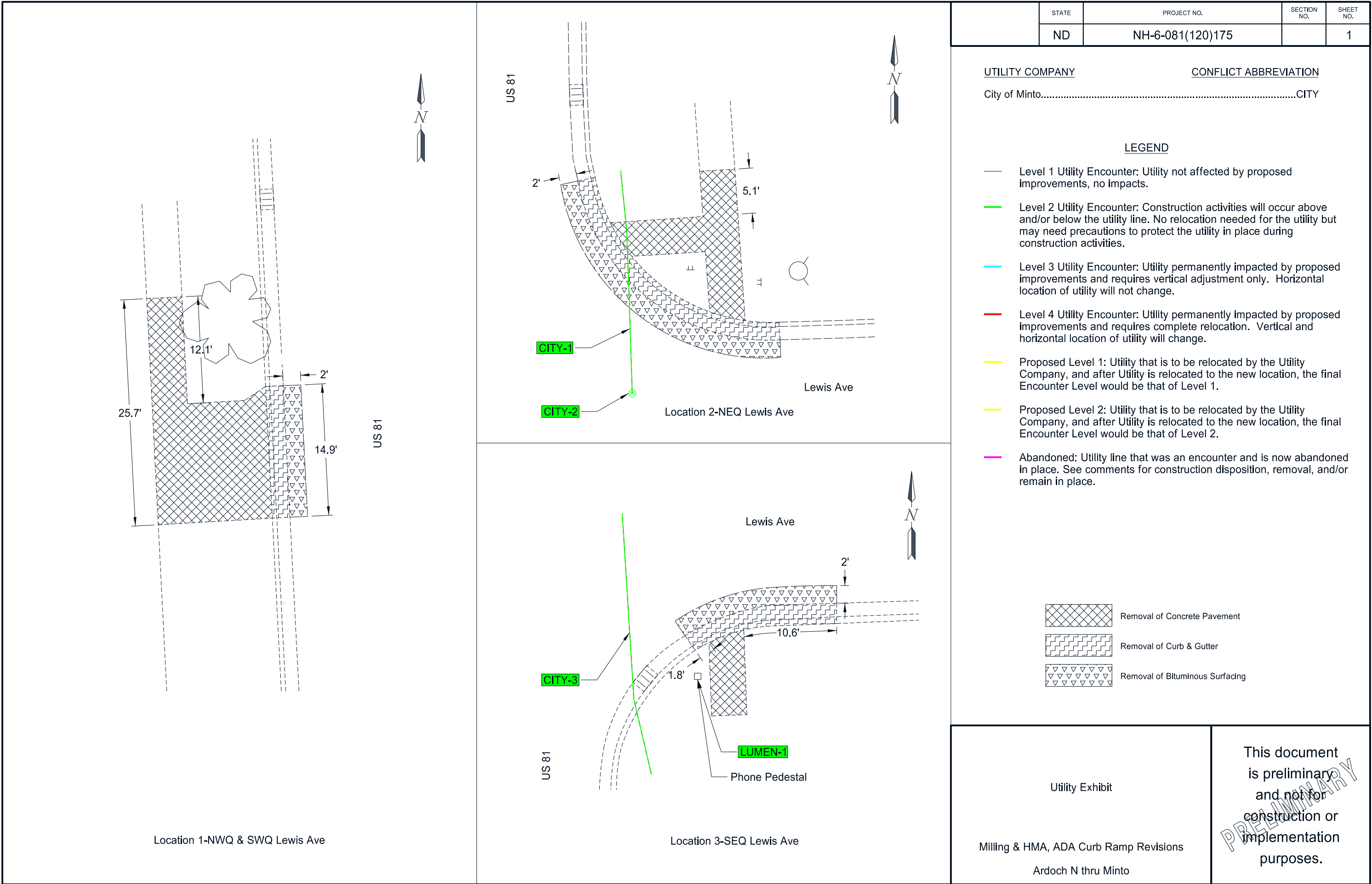
III. Ottertail Power Co.

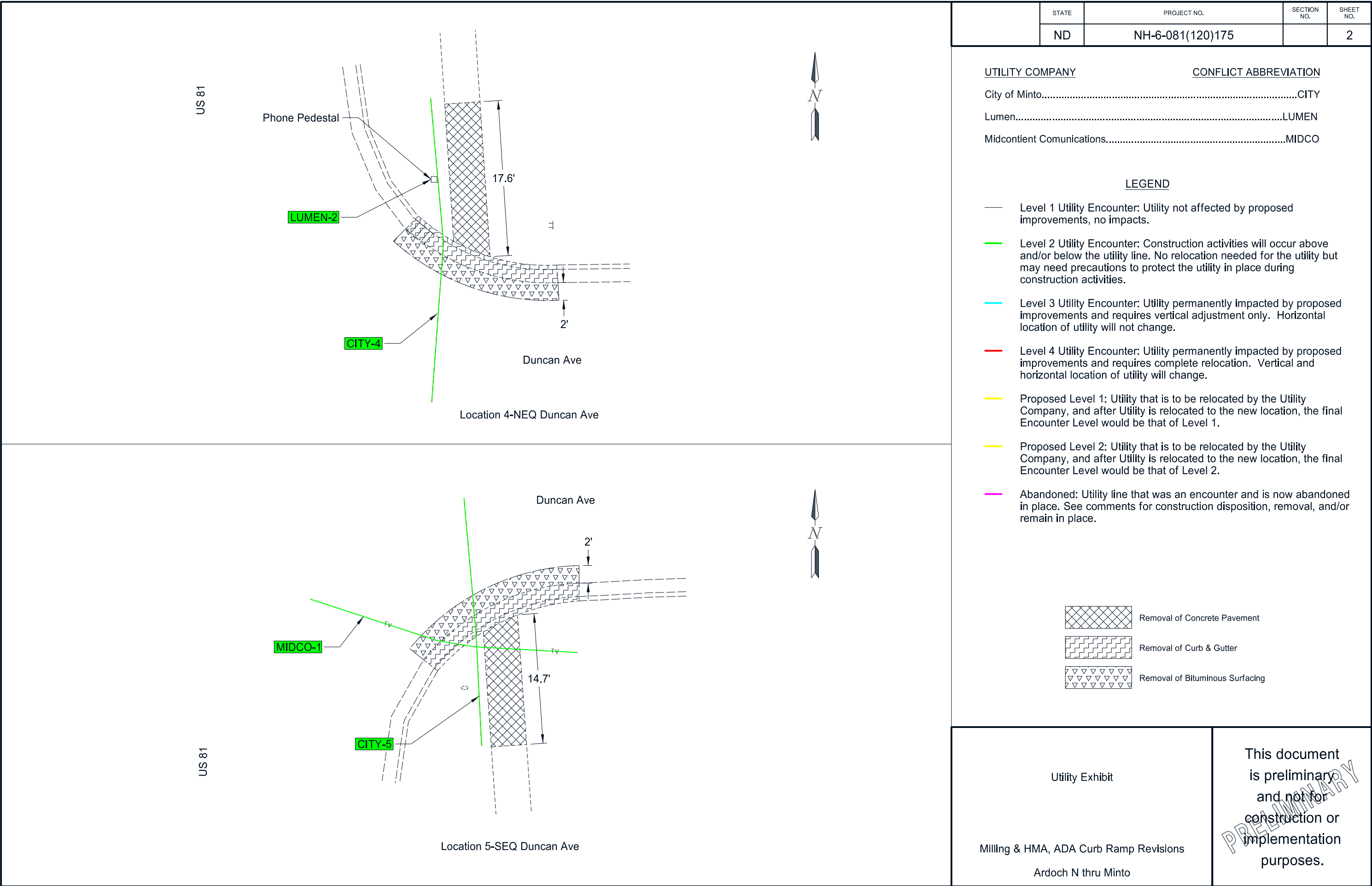
All utilities in the project limits will be protected in place.

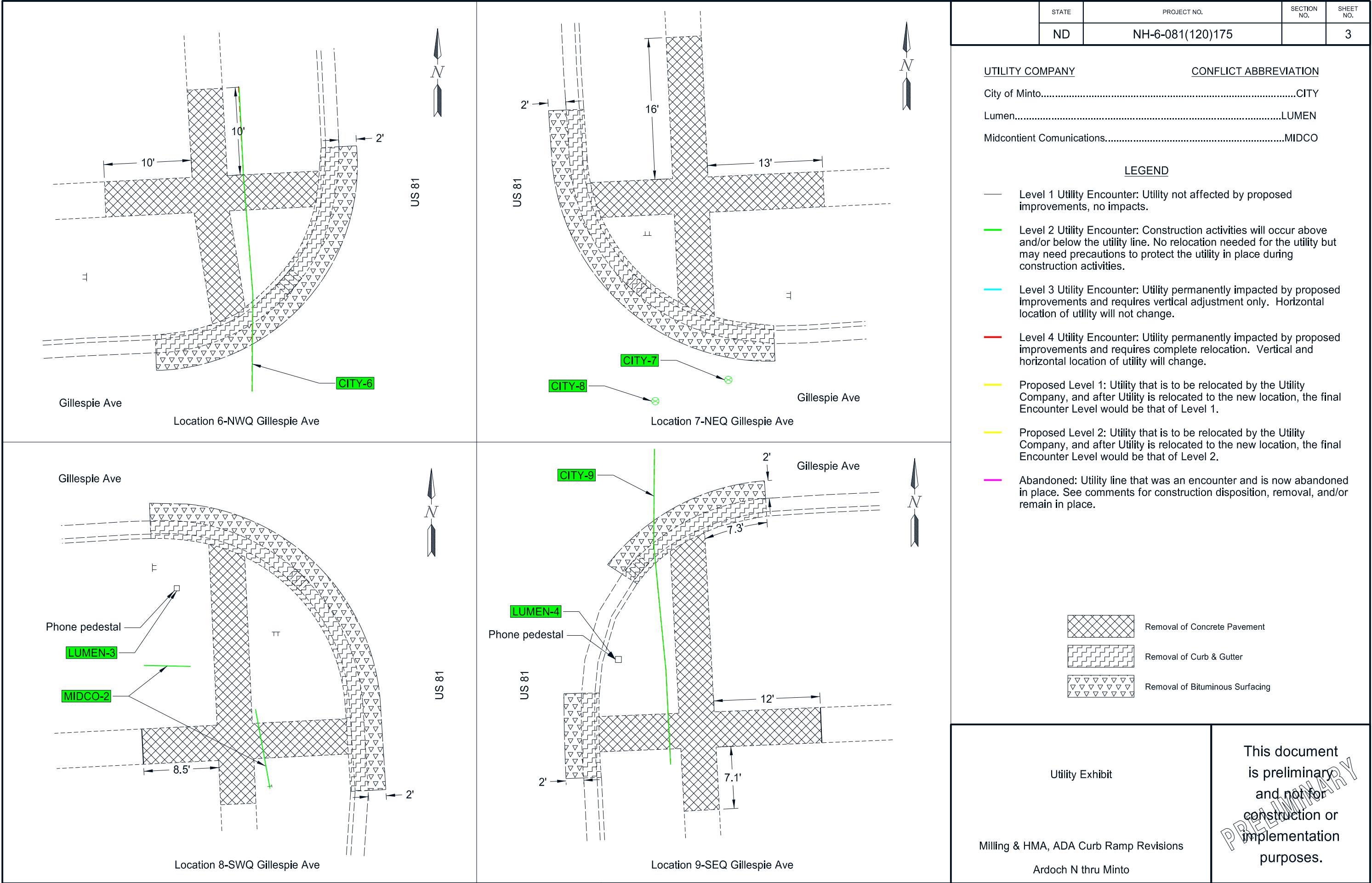
IV. City of Minto-(water).

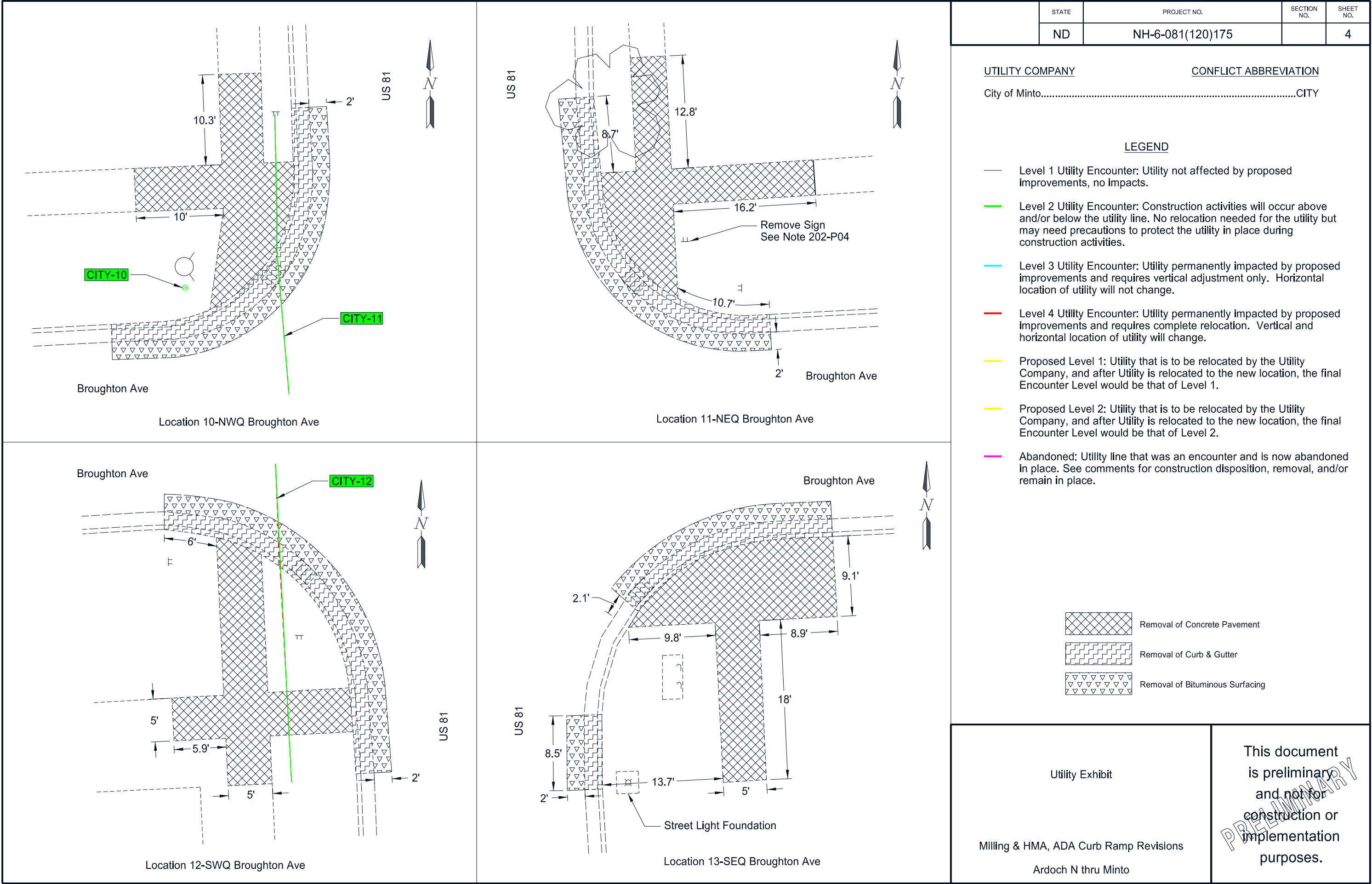
All utilities in the project limits will be protected in place except for **CITY-13** which is a Water Valve Cover needing vertical adjustment. Contractor to coordinate with the city of Minto prior to working in the area. Contractor and city representative to coordinate adjusting the cover during construction.

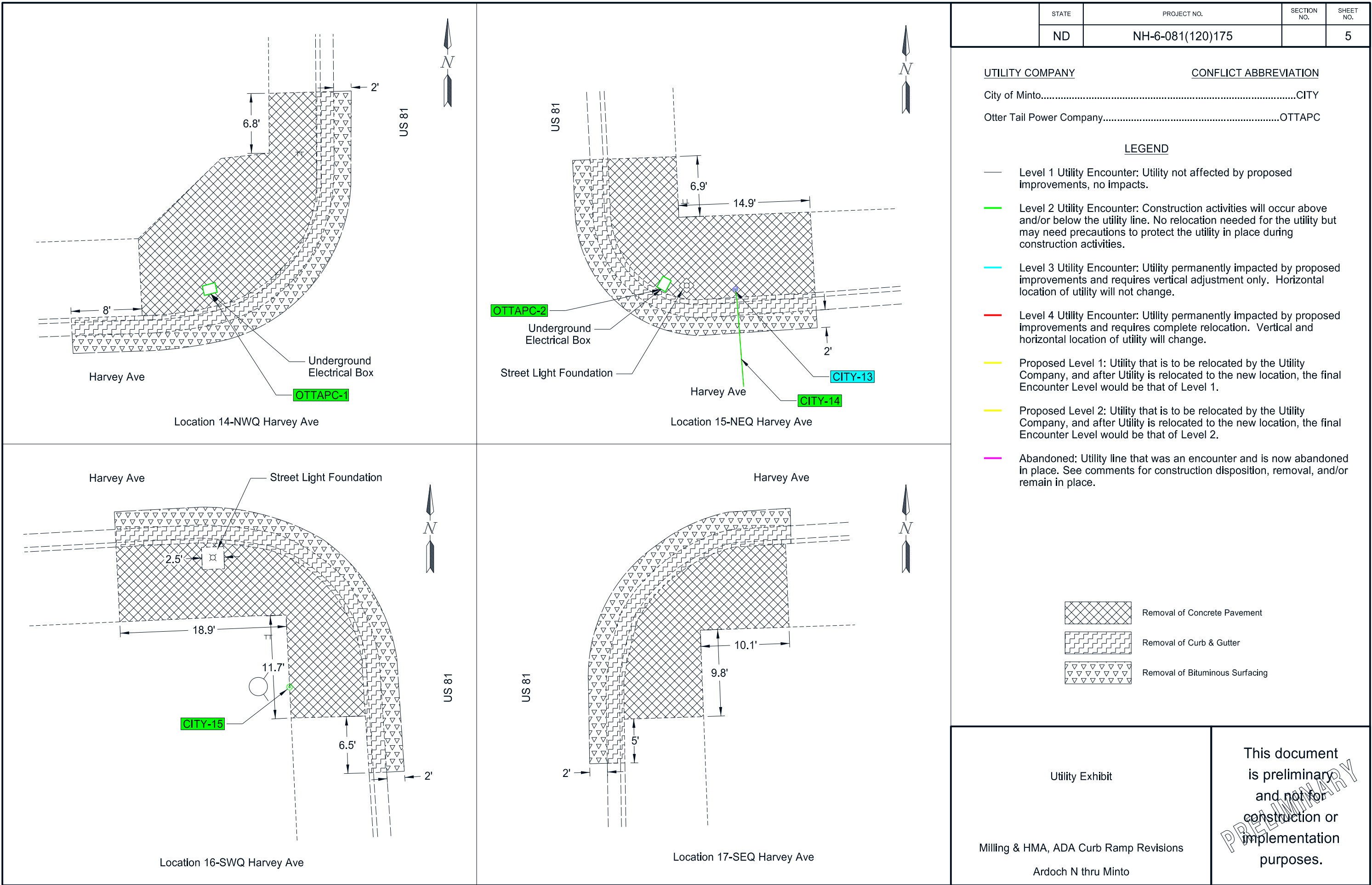
APPENDIX A

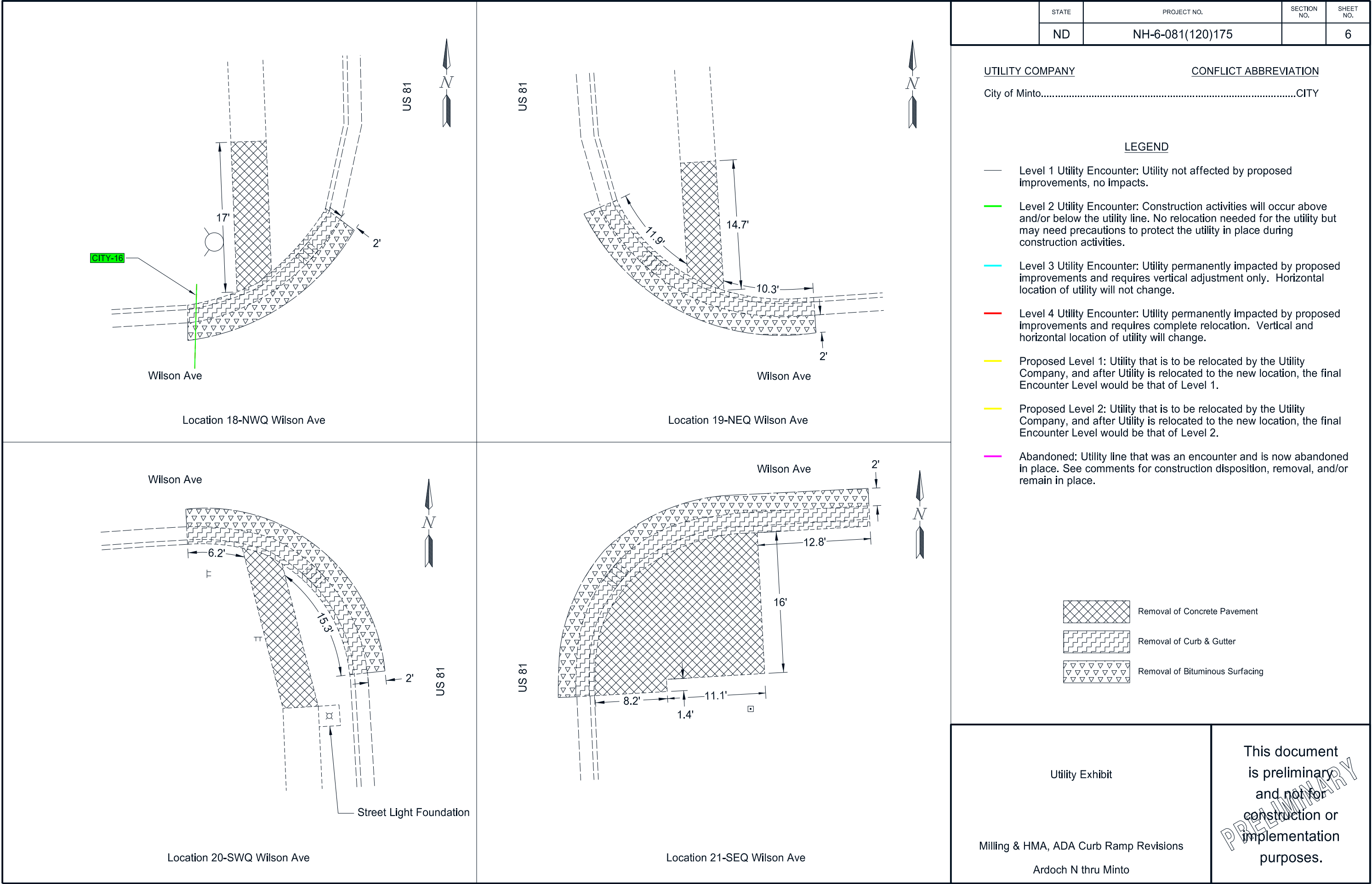


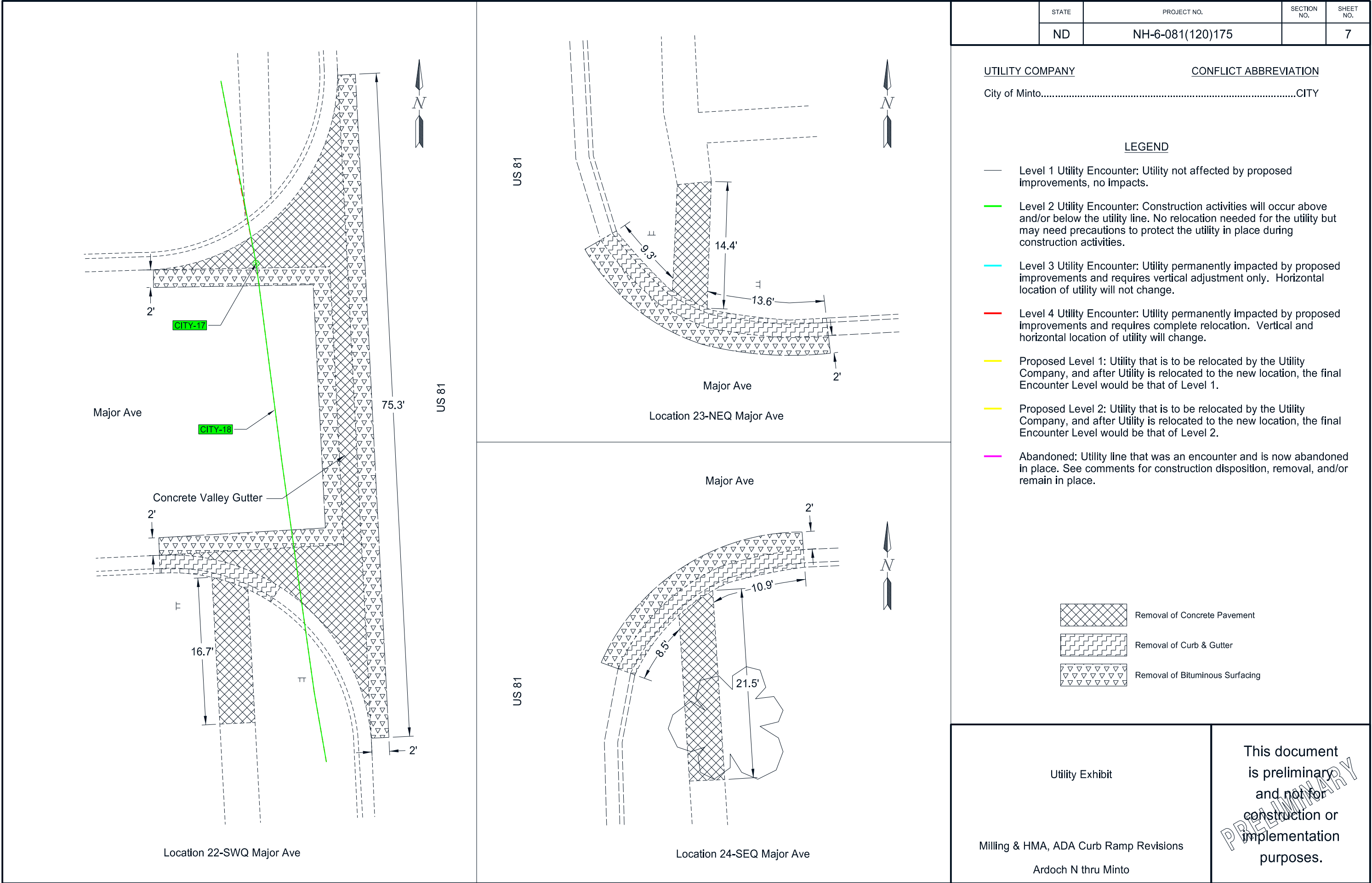












NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

RAILROAD REQUIREMENTS BNSF

Project NH-6-081(120)175 – PCN 24107

DESCRIPTION

This Special Provision replaces the requirements of Section 107.13 “Railroad Provisions” and outlines the Contractor’s coordination requirements with Burlington Northern Santa Fe Railway Company (BNSF). Portions of the Special Provision may apply to both the prime contractor and subcontractors. It is the prime contractor’s responsibility to ensure subcontractor compliance with these requirements.

A. Details of the project and the work in the Railroad Right of Way and around the crossing(s):

Project Location: Ardoch N Thru Minto

Crossing Information:

At Grade: 062535U, Milepost: 0024.782, Line Segment: 250, which is a crossing Operated and Owned by BNSF.

Work includes: The type of work that will be performed within the railroad right of way is reconstruction and widening up to the crossing material, and drive through striping (CL/Edge) up to crossing, and signage up to the crossing.

ATTACHMENTS

Supplemental Agreement Tracking No. 286399/ BF-20626599-A-0001 – To amend Licensor’s Contract No. Original BF-20626599

Roadway Resurfacing License Tracking #26W-29172/BF-20626599

Exhibit “B” – Contractor’s Right of Entry Agreement

BNSF Scheduling Agent Process

CONTRACTOR RESPONSIBILITIES

A. General.

Upon execution of the construction contract with the Department, the Contractor must coordinate with BNSF and execute the Right of Entry Agreement included in Exhibit “B” prior to commencing work activities for the roadway as outlined in the Roadway Resurfacing License attached hereto.

To obtain the Contractor's Right to Enter Agreement found in Exhibit "B" of the Roadway Resurfacing License, the Contractor must coordinate with BNSF's Permit Manager, JLL, as outlined in the Roadway Resurfacing License attached hereto. The agreement will not be fully executed until BNSF's Permit Manager, JLL, has returned the signed agreement.

In addition, the Contractor must send an email to at:

Alexis Jones, BNSF Manager of Public Projects; MN, ND, SD, Manitoba
Email: alexis.jones@bnsf.com
Phone: (901) 495-3778

At a minimum, in email to BNSF Manager of Public Projects include:

- PCN & Project Number
- Crossing Number(s), Milepost(s), and Segment(s) Locations
- What work is occurring around the crossing(s)
- Anticipated dates you will start and end work.

Submit copies of all correspondence with BNSF or JLL to the Engineer within one business day of receipt.

The Contractor must coordinate with the Engineer to arrange for a preconstruction meeting with NDDOT, BNSF and the Contractor.

Project delays incurred by the Contractor based on BNSF enforcing its authority in Exhibit "B" will be considered a non-excusable delay as specified in Section 108.06 B.6, "Non-Excusable Delays". Any other delays incurred by the Contractor arising from this provision or the exhibits will be evaluated by the Engineer as either excusable, non-compensable; excusable, compensable; or non-excusable based on the circumstances of the specific delay.

Payments required by the Contractor to BNSF for train delays or damage to the railway property shall be borne by the Contractor and are not reimbursable by the Department to the Contractor.

Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by the NDDOT. If the Department incurs costs from the railroad in the manner, the Department will recoup these costs from the Contractor.

B. Railroad Flagging.

BNSF will bill the Department for railroad flagging costs. The Contractor is responsible for coordinating all flagging activities with BNSF's Roadmaster.

The Contractor must submit documentation of all discussions with BNSF's Roadmaster coordinating flagging activities to the Engineer.

Bidding Instructions

The Department has set the "Approx Quantity" of railroad flagging at 2,500. This number is the anticipated cost per day for railroad flagging. The bidder must enter the anticipated

number of days of railroad flagging required to complete the work in the "Unit Price" column for railroad flagging.

The quantity entered by the bidder will be multiplied by the 2,500 in the "Approx Quantity" column, and the result will be a dollar amount. This dollar amount will be added to the bid. The "Total Sum Bid" is the sum of the regular contract items and the Railroad Flagging" item.

If additional work is added to the contract that would affect the required number of railroad flagging days, the number of days allowed under the contract will be adjusted accordingly.

C. Railroad Protective Liability Insurance.

This project crosses the BNSF Railway Company at the above crossing location. Direct inquiries regarding protective liability insurance to:

Rosa Martinez Marsh USA Inc.
4400 Comerica Bank Tower 1717 Main Street
Dallas, TX 75201-7357, USA 214-303-8519
Rosa.M.Martinez@marsh.com

Obtain information regarding crossing from the Federal Railroad Administration website:
<http://safetydata.fra.dot.gov/Officeofsafety/>

METHOD OF MEASUREMENT AND BASIS OF PAYMENT

A. Railroad Flagging.

Include the cost of railroad flagging in the contract unit price for "**RAILWAY FLAGGING – COMPANY A**"

1. General.

The Department will track and record each day(s) that railroad flagging is requested and provided, and each day(s) railroad flagging is requested, but not cancelled in a timely manner. A day will be counted for each flagger provided.

The Department will pay the railroad company for the cost of providing railroad flagging and will deduct the amount paid to the railroad company from monies due or to become due to the Contractor.

2. Flagging Days Incurred are Less than those Bid.

On each progressive estimate, the Engineer will calculate the amount of railroad flagging the Department has been billed for and enter that quantity for railroad flagging, up to the quantity bid.

The Engineer will then process a contract price reduction for an amount equivalent to the value of the railroad flagging included on that estimate. This is performed to zero out the railroad flagging item and balance the overall estimate.

3. Flagging Days Incurred are More than those Bid.

If the quantity of railroad flagging exceeds the amount bid, the Engineer will cease entering amounts for railroad flagging bid item but will continue to process contract price reductions for the billed flagging at the rate included in the railroad flagging contract item.

B. Railroad Protective Liability Insurance.

Include the cost of railroad insurance in the contract unit price for “**RAILWAY PROTECTION INSURANCE – COMPANY A**”. Upon receiving proof of approval of the policies by the railroad company, the Department will pay the Contractor the lump sum contract unit price.

C. Railroad Coordination.

Include all other costs associated with coordination with BNSF as well as compliance with the contents of this Special Provision and attachments in the contract unit price for “**RAILROAD COORDINATION – COMPANY A**”. The Department will pay for one-half of this item upon receipt of a copy of an executed Exhibit “B” and the remaining half upon completion of the project.

ATTACHMENTS

Supplemental Agreement Tracking No. 286399/ BF-20626599-A-0001 – To amend Licensor's
Contract No. Original BF-20626599

Tracking No. **286399/ BF-20626599-A-0001**

SUPPLEMENTAL AGREEMENT

This SUPPLEMENTAL AGREEMENT, made this 16th day of July, 2026, subject to the terms and conditions set forth in the original agreement, between **BNSF RAILWAY COMPANY**, a Delaware corporation, its successors and assigns, (hereinafter called "Licensor") and **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**, a governmental agency of the State of North Dakota (hereinafter called "Licensee").

RECITALS:

Licensor and Licensee are now parties to an agreement dated May 26th, 2026, Licensor's Contract No. Original BF-20626599 together with any and all modifications, supplements and amendments thereto (hereinafter called "Original Contract"), relating to a roadway resurfacing near the station of Ardoch.

AGREEMENT:

IN CONSIDERATION of the sum of two thousand and No/100 Dollars (\$2,000.00) to be paid to Licensor upon execution of this supplemental Agreement as a one-time charge of preparation and administration of this Supplemental Agreement, for both extending the term of the agreement by two years and modifying the construction period of the project. It is mutually agreed that the following modification will be made to the Original Contract:

1. The term of the agreement is changed from expiring on May 25th, 2027 to expire on May 25th, 2029.
2. Section 11.6 will be modified and replaced with the following language:
 - a. Licensee shall, at its sole cost and expense, construct and maintain the Project in such a manner and of such material that the Project will not at any time endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. The construction of the Project and any subsequent maintenance shall be completed within one (1) year of initiation. Within fifteen (15) days after completion of the construction of the Project or the performance of any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore the Premises to substantially their state as of the Effective Date, unless otherwise approved in advance by Licensor in writing. On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense, surrender the Premises to Licensor pursuant to the terms and conditions set forth in Section 24 hereof.

As herein modified, the Original Contract shall continue in full force and effect.

Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

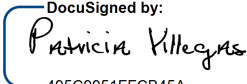
Tracking No. **286399/ BF-20626599-A-0001**

IN WITNESS WHEREOF, this Supplemental Agreement has been duly executed in duplicate by the parties hereto as of the day and year first above written.

LICENSOR:

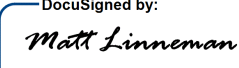
BNSF Railway Company, a Delaware corporation

By: Jones Lang LaSalle Brokerage, Inc.
2650 Lou Menk Drive – MOB2
Fort Worth, TX 76131

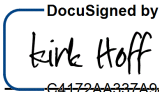
By: 
By: Patricia Villegas
Vice President, Permits
Title:

LICENSEE:

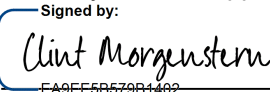
North Dakota Department of Transportation

By: 
By: Matt Linneman
Deputy Director for Engineering
Title:
7/10/2026
Date:

Approved as to substance by:

By: 
By: Kirk Hoff
Design Engineer
Title:
7/8/2026

Attorney General Approved as to Form:

By: 
By: Clint Morgenstern
SAAG
Title:
7/9/2026

SCALE: 1 IN = 75 FT
TWIN CITIES DIV.
GLASSTON SUBDIV. L.S. 0250
DATE: 3/31/2026

EXHIBIT "A"

SECTION: 29
TOWNSHIP & RANGE:
155N 52W
MERIDIAN: 5PM



MAP REF. s50805



LEGEND:

- PREMISES
- RIGHT OF WAY LINE
- TRACK

DESCRIPTION:

A PARCEL(S) OF LAND CONTAINING A TOTAL OF 13,356 SQ FT. (0.31 A.C.) MORE OR LESS SHOWN HATCHED. TO BE USED FOR 2" MILL & 2" HMA OVERLAY.

ARDOCH
COUNTY OF WALSH

STATE OF ND

Source: Esri, Vantor, Earthstar Geographics, IGN, and the GIS User Community

ATTACHMENTS

BNSF Roadway Resurfacing License Tracking #26W-29172/BF-20626599

With Exhibit "B" – Contractor's Right of Entry Agreement

ROADWAY RESURFACING LICENSE

THIS ROADWAY RESURFACING LICENSE ("**License**") is made to be effective May 26th, 2026 (the "**Effective Date**") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**Licensor**") and **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**, a governmental agency of the State of North Dakota ("**Licensee**").

In consideration of the mutual covenants contained herein, the parties agree to the following:

GENERAL

1. Grant of License. Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, use rights, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct and maintain, in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process (the "**Drawings and Specifications**"), roadway resurfacing (the "**Project**"), across or along Licensor's rail corridor at or near the station of Ardoch as shown on the attached Drawing No. 101386, dated March 31, 2026, attached hereto as **Exhibit "A"** and incorporated herein by reference (the "**Premises**"). Notwithstanding either the foregoing or anything herein to the contrary, neither Licensee nor its contractor(s) have any right to enter or possess the Premises, or commence any construction or maintenance at the Premises contemplated as a part of the Project prior to Licensee's receipt and approval of a Right of Entry Agreement, as hereinafter defined.
2. Term. This License shall commence on the Effective Date and shall continue for a period of one (1) year, subject to prior termination as hereinafter described.
3. Existing Improvements. Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, licensees, easement beneficiaries or lien holders, if any, or interfere with the use, repair, maintenance, or replacement of such improvements.
4. Use of the Premises. Licensee shall use the Premises solely for Project in accordance with the Drawings and Specifications. Licensee is expressly prohibited from using or allowing any telecommunication facilities or equipment within the Premises or using or allowing the use of the Premises for any other purpose.
5. Alterations. Except as set forth in this License, Licensee may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensor's prior written consent.

COMPENSATION

6. License Fee. Licensee shall pay Licensor, prior to the Effective Date, the sum of Zero Dollars (\$0.00) as compensation for the use of the Premises.
7. Costs and Expenses.
 - 7.1 For the purpose of this License, "cost" or "costs" and "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.
 - 7.2 Licensee agrees to reimburse Licensor (pursuant to the terms of **Section 8** below) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction, and maintenance of the Project, including but not limited to the furnishing of Licensor's flaggers and any vehicle rental costs incurred. Licensee shall bear the cost of flagger services and other safety measures provided by Licensor, when deemed necessary by Licensor's representative. Flagging costs shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); railway and unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. Negotiations for railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal

authorities may increase flagging rates. Flagging rates in effect at the time of performance by the flaggers will be used to calculate the flagging costs pursuant to this **Section 7**.

8. **Payment Terms.** All invoices are due thirty (30) days after the date of invoice. If Licensee fails to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from the due date until paid at an annual rate equal to the lesser of (i) the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2-1/2%), or (ii) the maximum rate permitted by law.

LICENSOR'S RESERVED RIGHTS; BNSF CROSSING WORK

9. **Reserved Rights of Use.** Licensor excepts and reserves the right, to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:
- 9.1 to maintain, use, operate, repair, replace, modify and relocate any utility, power or communication pipe/lines/cables and appurtenances (other than the Project) and other facilities or structures of like character upon, over, under or across the Premises existing as of the Effective Date;
 - 9.2 to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities, structures and related appurtenances upon, over, under or across the Premises; or
 - 9.3 to use the Premises in any manner as Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in **Section 4** above.
10. **Intentionally Deleted.**

LICENSEE'S OPERATIONS

11. **Construction and Maintenance of the Project.**
- 11.1 Licensee shall not enter the Premises or commence construction unless accompanied by Licensor's representative, the Scheduling Agent or its designee. Licensee shall notify Licensor's representative or the Scheduling Agent at ROWCoordinator@BNSF.com at least ten (10) business days prior to entering the Premises. Only in the event of emergency, Licensee shall notify Licensor's Roadmaster of entry onto the Premises, at the telephone (701) 837-6614, as soon as practicable and shall promptly thereafter follow up with written notice of such entry to the email provided above.
 - 11.2 Licensee's on-site contractors shall retain/maintain a fully executed copy of this License at all times while on the Premises.
 - 11.3 While on the Premises, Licensee shall use only public roadways to cross from one side of Licensor's tracks to the other.
 - 11.4 Licensee must, at its sole cost and expense, furnish all labor, materials, tools and equipment for the performance of the Project as provided for in the Drawings and Specifications for the Project, except for the BNSF Crossing Work that will be performed by Licensor hereunder. Licensee shall, or shall cause its contractor to, complete the Project in strict accordance with the Drawings and Specifications and all Legal Requirements, including without limitation completion of the following elements as part of the Project work:
 - 11.4.1 Resurface the roadway.
 - 11.4.2 Install pavement marking stop bar in accordance with the Manual on Uniform Traffic Control Devices (hereinafter called, "MUTCD").
 - 11.4.3 Install advance warning signs in accordance with the MUTCD.
 - 11.4.4 Perform all necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on Licensor's right-of-way.

11.4.5 Provide suitable drainage, both temporary and permanent.

11.4.6 Provide all barricades, lights, flagmen or traffic control devices as necessary.

11.4.7 [intentionally deleted]

11.4.8 Clean up the job site to Licensor's satisfaction, including without limitation removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials.

11.5 Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. If ordered to cease using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.

11.6 Licensee shall, at its sole cost and expense, construct and maintain the Project in such a manner and of such material that the Project will not at any time endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. The construction of the Project shall be completed within one (1) year of the Effective Date, and any subsequent maintenance shall be completed within one (1) year of initiation. Within fifteen (15) days after completion of the construction of the Project or the performance of any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore the Premises to substantially their state as of the Effective Date, unless otherwise approved in advance by Licensor in writing. On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense, surrender the Premises to Licensor pursuant to the terms and conditions set forth in **Section 24** hereof.

11.7 Licensor may direct one or more of its field engineers to observe or inspect the construction and/or maintenance of the Project at any time for compliance with the Drawings and Specifications and Legal Requirements (defined below). If ordered at any time to halt construction or maintenance of the Project by Licensor's personnel due to non-compliance with the Drawings and Specifications or any other hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to observe or inspect, or to halt work on, the Project, it being solely Licensee's responsibility to ensure that the Project is constructed and maintained in strict accordance with the Drawings and Specifications and in a safe and workmanlike manner in compliance with all terms hereof. Neither the exercise of, nor the failure by Licensor to exercise, any right granted by this Section will alter in any way the liability allocation provided by this License. If at any time Licensee shall, in the sole judgment of Licensor, fail to properly perform its obligations under this **Section 11**, Licensor may, at its option and at Licensee's sole expense, arrange for the performance of such work as it deems necessary for the safety of its operations and activities. Licensee shall promptly reimburse Licensor for all costs and expenses of such work, pursuant to the terms of **Section 8** above. Licensor's failure to perform any obligations of Licensee shall not alter the liability allocation hereunder.

12. Boring and Excavation.

12.1 If the Project requires any boring, excavation, or similar work on or about any portion of the Premises, and such work has been previously approved by Licensor, prior any such work Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, Licensee shall have the right to use suitable detection equipment or other generally

accepted industry practice (e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Licensee may request information from Licensor concerning the existence and approximate location of Licensor's underground lines, utilities, and pipelines at or near the vicinity of the proposed Project work by contacting Licensor's Telecommunications Helpdesk at least thirty (30) business days prior to commencing any Project work requiring boring, excavation or similar work on or about any portion of the Premises. Upon receiving Licensee's timely request, Licensor will provide Licensee with the information Licensor has in its possession regarding any existing underground lines, utilities, and pipelines at or near the vicinity of the proposed Project work and, if applicable, identify the location of such lines on the Premises pursuant to Licensor's standard procedures. Licensor does not warrant the accuracy or completeness of information relating to subsurface conditions of the Premises and Licensee's operations will be subject at all times to the liability provisions herein.

12.2 Intentionally deleted.

12.3 Any open hole or boring constructed on the Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:

12.3.1 filled in to surrounding ground level with compacted bentonite grout; or

12.3.2 otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on Licensor's property for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.

LIABILITY AND INSURANCE

13. Liability and Indemnification.

13.1 For purposes of this License: (a) "**Indemnitees**" means Licensor and Licensor's affiliated companies, partners, successors, assigns, legal representatives, officers, directors, shareholders, employees, and agents; (b) "**Liabilities**" means all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes of action, suits, demands, judgments, and expenses (including, without limitation, court costs, reasonable attorneys' fees, costs of investigation, removal and remediation, and governmental oversight costs) environmental or otherwise; and (c) "**Licensee Parties**" means Licensee or Licensee's officers, agents, invitees, licensees, employees, or contractors, or any party directly or indirectly employed by any of them, or any party they control or exercise control over.

13.2 **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS INDEMNITEES FOR, FROM, AND AGAINST ANY AND ALL LIABILITIES OF ANY NATURE, KIND, OR DESCRIPTION DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO (IN WHOLE OR IN PART):**

13.2.1 **LICENSEE'S OCCUPATION AND USE OF THE PREMISES,**

13.2.2 **THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED TO BY LICENSEE, OR**

13.2.3 **ANY ACT OR OMISSION OF ANY LICENSEE PARTY.**

13.3 **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE NOW AND FOREVER WAIVES ANY AND ALL CLAIMS THAT BY VIRTUE OF ENTERING INTO THIS LICENSE, LICENSOR IS A GENERATOR, OWNER, OPERATOR, ARRANGER, OR TRANSPORTER FOR THE PURPOSES OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED ("CERCLA") OR OTHER ENVIRONMENTAL LAWS (DEFINED BELOW). NOTHING IN THIS LICENSE IS MEANT BY EITHER PARTY TO CONSTITUTE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES AND THIS LICENSE SHOULD NOT BE SO CONSTRUED. IF ANY AGENCY OR COURT CONSTRUES THIS LICENSE TO BE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES, LICENSEE SHALL CAUSE ITS CONTRACTOR TO INDEMNIFY,**

HOLD HARMLESS, AND DEFEND INDEMNITEES FOR ANY LIABILITIES RELATED TO THAT CONSTRUCTION OF THIS LICENSE. IN NO EVENT AS BETWEEN LICENSOR AND LICENSEE AS TO USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL LICENSOR BE RESPONSIBLE TO LICENSEE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

- 13.4 **IF ANY EMPLOYEE OF ANY LICENSEE PARTY ASSERTS THAT HE OR SHE IS AN EMPLOYEE OF ANY INDEMNITEE, TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM AND AGAINST ANY LIABILITIES ARISING OUT OF OR RELATED TO (IN WHOLE OR IN PART) ANY SUCH ASSERTION INCLUDING, BUT NOT LIMITED TO, ASSERTIONS OF EMPLOYMENT BY AN INDEMNITEE RELATED TO THE FOLLOWING OR ANY PROCEEDINGS THEREUNDER: THE FEDERAL EMPLOYERS' LIABILITY ACT, THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.**
- 13.5 **THE FOREGOING OBLIGATIONS OF LICENSEE AND LICENSEE'S CONTRACTOR SHALL NOT APPLY TO THE EXTENT LIABILITIES ARE PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE, BUT SHALL, TO THE FULLEST EXTENT PERMITTED BY LAW, APPLY TO ALL OTHER LIABILITIES, INCLUDING THOSE ARISING FROM OR ATTRIBUTED TO ANY OTHER ALLEGED OR ACTUAL NEGLIGENCE, INTENTIONAL ACTS, OR STRICT LIABILITY OF ANY INDEMNITEE.**
- 13.7 Upon written notice from Licensor, Licensee agrees to tender to its Contractor the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee's Contractor has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee's Contractor shall pay all costs and expenses incident to such defense, including, but not limited to, reasonable attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.
- 13.8 Licensee shall cause Licensee's contractor to perform all such construction, installation, maintenance, repairs and removal of the Project in accordance with the terms and conditions of this License. Licensee shall require that prior to entry upon the Premises, each of Licensee's contractors performing work on the Project or entering the Premises on behalf of Licensee for any purpose to enter into and comply with the Contractor's Right of Entry Agreement ("**Right of Entry Agreement**") in the form attached hereto as **Exhibit "B"** and incorporated herein.
14. **Personal Property Risk of Loss. ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**
15. **Insurance.** Licensee is a governmental agency of the State of North Dakota and has liability coverage through the Risk Management Fund, pursuant to N.D.C.C. Chapter 32-12.2. Coverage meets or exceeds the minimum limits of insurance specified below. Licensee shall provide Licensor a certificate of financial responsibility upon request. Licensee's contractors will be required to sign the Right of Entry Agreement and provide the required insurance certificate prior to performing any work or entering the Premises.
- 15.1 **Commercial General Liability Insurance.** This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by Licensee. Coverage must be purchased on a post 2004 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- Bodily Injury and Property Damage
 - Fire legal liability
 - Products and completed operations
- 15.2 **Business Automobile Insurance.** This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- Bodily injury and property damage.
 - Any and all vehicles owned, used or hired.

- 15.3 Workers' Compensation and Employers' Liability Insurance. This insurance shall include coverage for, but not limited to:
- Licensee's statutory liability under the workers' compensation laws of the state(s) in which the services are to be performed. If optional under state laws, the insurance must cover all employees anyway.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.
- 15.4 Intentionally Deleted.
- 15.5 Intentionally Deleted.
- 15.6 Other Requirements:
- 15.6.1 Licensee shall furnish to Licensor an acceptable certificate(s) of financial responsibility including a signature of the authorized representative. Licensee shall notify Licensor in writing at least 30 days prior to any change in its liability program. In the event of a claim or lawsuit involving Licensor arising out of this License, Licensee will make available any required policy covering such claim or lawsuit.
- 15.6.2 Failure to provide evidence as required by this Section 15 shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this Section shall not operate as a waiver of Licensee's obligations hereunder.
- 15.6.3 The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.
- 15.6.4 These insurance provisions are intended to be a separate and distinct obligation on the part of the Licensee. Therefore, these provisions shall be enforceable and Licensee shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable.
- 15.6.5 For purposes of this Section 15, Licensor shall mean "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

COMPLIANCE WITH LAWS, REGULATIONS, AND ENVIRONMENTAL MATTERS

16. Compliance with Laws, Rules, and Regulations.
- 16.1 Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("**Legal Requirements**") relating to the construction, maintenance, and use of the Project and the use of the Premises.
- 16.2 Prior to entering the Premises, Licensee shall and shall cause its contractor(s) to comply with all of Licensor's applicable safety rules and regulations. Licensee must ensure that each of its employees, contractors, agents or invitees entering upon the Premises completes the safety orientation program at the Website "www.BNSFcontractor.com" (the "**Safety Orientation**") within one year prior to entering upon the Premises. Additionally, Licensee must ensure that each and every employee of Licensee, its contractors, agents and invitees possess a card certifying completion of the Safety Orientation prior to entering upon the Premises. Licensee must renew the Safety Orientation annually.
- 16.3 Licensee shall obtain on or before the date it or its contractor enters the Premises, any and all additional rights-of way, easements, licenses and other agreements relating to the grant of rights and interests in and/or access to the Premises (collectively, the "**Rights**") and such other rights, licenses, permits, authorizations, and approvals (including without limitation, any necessary local, state, federal or tribal authorizations and environmental permits) that are necessary in order to permit Licensee to construct, maintain, own and operate the Project and otherwise to perform its obligations hereunder in accordance with the terms and conditions hereof.

- 16.4 Licensee shall either require that the initial stated term of each such Rights be for a period that does not expire, in accordance with its ordinary terms, prior to the last day of the term of this License or, if the initial stated term of any such Right expires in accordance with its ordinary terms on a date earlier than the last day of the term of this License, Licensee shall, at its cost, exercise any renewal rights thereunder, or otherwise acquire such extensions, additions and/or replacements as may be necessary, in order to cause the stated term thereof to be continued until a date that is not earlier than the last day of the term of this License.
- 16.5 Upon the expiration or termination of any Right that is necessary in order for Licensee to own, operate or use the Project in accordance with the terms and conditions of this License, this License thereby shall automatically expire upon such expiration or termination of the Right.

17. Environmental.

- 17.1 Licensee shall strictly comply with all federal, state and local environmental Legal Requirements and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, and CERCLA (collectively referred to as the "**Environmental Laws**"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.
- 17.2 Licensee covenants that it will not handle or transport "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any federal, state, or local governmental agency or body on Licensor's property. Licensee agrees periodically to furnish Licensor with proof, satisfactory to Licensor that Licensee is in compliance with the provisions of this **Section 17.2**.
- 17.3 Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any known (i) release of hazardous substances on, from, or affecting the Premises, (ii) violation of Environmental Laws, or (iii) inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on, from, or affecting the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.
- 17.4 If Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the Project which occurred or may occur during the term of this License, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.
- 17.5 Licensee shall promptly report to Licensor in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons, property, or the environment arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.

DISCLAIMER OF WARRANTIES

18. No Warranties.

- 18.1 **LICENSOR'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSOR OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST**

BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

- 18.2 **LICENSOR MAKES NO WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING (A) THE SCOPE OF THE LICENSE OR OTHER RIGHTS GRANTED HEREUNDER TO LICENSEE OR (B) WHETHER OR NOT LICENSEE'S CONSTRUCTION, MAINTENANCE, OWNERSHIP, USE OR OPERATION OF THE PROJECT WILL VIOLATE OR INFRINGE UPON THE RIGHTS, INTERESTS AND ESTATES OF THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY LEASES, USE RIGHTS, EASEMENTS AND LIENS OF ANY THIRD PARTY.**
19. Disclaimer of Warranty for Quiet Enjoyment. **LICENSOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.**
20. Eviction at Risk of Licensee. In case of the eviction of Licensee by anyone owning, claiming title to, or claiming any interest in the Premises, or by the abandonment by Licensor of the affected rail corridor, Licensor shall not be liable (i) to refund Licensee any compensation paid hereunder, except for the pro-rata part of any recurring charge paid in advance, or (ii) for any damage Licensee sustains in connection with the eviction.

LIENS AND TAXES

21. Liens and Charges. Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to Premises that is or may be permitted by law to prevent the attachment of any such liens to Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this **Section 21** or any other Section of this License.
22. Taxes. Licensee shall pay when due any taxes, assessments or other charges (collectively, "**Taxes**") levied or assessed by any governmental or quasi-governmental body upon the Project, or any other improvements constructed or installed on the Premises by or for Licensee (collectively, the "**Improvements**") or any Taxes levied or assessed against Licensor or the Premises that are attributable to the Improvements.

DEFAULT, TERMINATION, AND SURRENDER

23. Default and Termination. In addition to and not in limitation of Licensor's right to terminate for failure to provide evidence of insurance as required pursuant to the terms of **Section 15**, the following events are also deemed to be events of default pursuant to which Licensor has the right to terminate as set forth below:
- 23.1 If default shall be made in any of Licensee's covenants, agreements, or obligations contained in this License and Licensee fails to cure said default within thirty (30) days after written notice is provided to Licensee by Licensor, or in case of any assignment or transfer of this License in violation of **Section 26** below, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee. Notwithstanding the foregoing, Licensor shall have the right to terminate this License immediately if Licensee fails to provide evidence of insurance as required in **Section 15**.
- 23.2 Should Licensee not comply fully with the obligations of **Section 17** regarding the handling or transporting of hazardous waste or hazardous material, notwithstanding anything contained in any other provision of this License, Licensor may, at its option, terminate this License by serving five (5) days' notice of termination upon Licensee.
- 23.3 Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this License. The remedy set forth in this **Section 23** shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.
- 23.4 In addition to and not in limitation of Licensor's rights to terminate this License for failure to provide evidence of insurance or occurrence of defaults as described above, this License may be terminated by either party,

at any time, by serving thirty (30) days' written notice of termination upon the other party. Such termination shall not release either party hereto from any liability or obligation under the License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or thereafter in case by the terms of the License it is provided that anything shall or may be done after termination hereof.

- 23.5 If Licenser does not receive an executed Right of Entry Agreement from Licensee's contractor within 18 months of the Effective Date, Licenser may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee.

24. Surrender of the Premises.

- 24.1 On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense:

24.1.1 if so directed by Licenser in writing, remove the Improvements, the Project and all appurtenances thereto, or, at the sole discretion of Licenser, appropriately decommission the Project with a method satisfactory to Licenser;

24.1.2 report and restore any damage to the Premises or Licenser's other property arising from, growing out of, or connected with Licensee's use of the Premises;

24.1.3 remedy any unsafe conditions on the Premises created or aggravated by Licensee; and

24.1.4 leave the Premises in substantially the condition which existed as of the Effective Date.

- 24.2 Upon any expiration or termination of this License, if Licensee fails to surrender the Premises to Licenser or if Licensee fails to complete its obligations under **Section 24.1** above (the "**Restoration Obligations**"), Licensee shall have a limited license to enter upon the Premises solely to the extent necessary for Licensee to complete the Restoration Obligations, and all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered and the Restoration Obligations are completed. Neither termination nor expiration shall release Licensee from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Licensee surrenders the Premises and all of the Restoration Obligations are completed.

- 24.3 If Licensee fails to complete the Restoration Obligations within thirty (30) days after the date of such termination of its tenancy, then Licenser may, at its election, either: (i) remove the Project and the other Improvements or otherwise restore the Premises, and in such event Licensee shall, within thirty (30) days after receipt of bill therefor, reimburse Licenser for cost incurred, (ii) upon written notice to Licensee, take and hold the Project and the other Improvements and personal property as its sole property, without payment or obligation to Licensee therefor, or (iii) specifically enforce Licensee's obligation to restore and/or pursue any remedy at law or in equity against Licensee for failure to so restore. Further, if Licenser has consented to the Project and the other Improvements remaining on the Premises following termination, Licensee shall, upon request by Licenser, provide a bill of sale in a form acceptable to Licenser conveying the Project and the other Improvements to Licenser.

MISCELLANEOUS

25. Successors and Assigns. All provisions contained in this License shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of Licenser and Licensee to the same extent as if each such successor and assign was named a party to this License.

26. Assignment.

- 26.1 Licensee may not sell, assign, transfer, or hypothecate this License or any right, obligation, or interest herein (either voluntarily or by operation of law, merger, or otherwise) without the prior written consent of Licenser, which consent may not be unreasonably withheld or delayed by Licenser. Any attempted

assignment by Licensee in violation of this **Section 26** shall be a breach of this License and, in addition, shall be voidable by Licensor in its sole and absolute discretion.

26.2 For purposes of this **Section 26**, the word "assign" shall include without limitation (a) any sale of the equity interests of Licensee following which the equity interest holders of Licensee immediately prior to such sale own, directly or indirectly, less than 50% of the combined voting power of the outstanding voting equity interests of Licensee, (b) any sale of all or substantially all of the assets of (i) Licensee and (ii) to the extent such entities exist, Licensee's parent and subsidiaries, taken as a whole, or (c) any reorganization, recapitalization, merger or consolidation involving Licensee. Notwithstanding the foregoing, any reorganization, recapitalization, merger or consolidation following which the equity interest holders of Licensee immediately prior to such reorganization, recapitalization, merger or consolidation own, directly or indirectly, at least 50% of the combined voting power of the outstanding voting equity interests of Licensee or any successor thereto or the entity resulting from such reorganization, recapitalization, merger or consolidation shall not be deemed an assignment. THIS LICENSE SHALL NOT RUN WITH THE LAND WITHOUT THE EXPRESS WRITTEN CONSENT OF LICENSOR, SUCH CONSENT TO BE IN LICENSOR'S SOLE DISCRETION.

26.3 Notwithstanding the provisions of **Section 26.1** above or anything contained in this License to the contrary, if Licensee sells, assigns, transfers, or hypothecates this License or any interest herein in contravention of the provisions of this License (a "**Purported Assignment**") to another party (a "**Purported Transferee**"), the Purported Transferee's enjoyment of the rights and privileges granted under this License shall be deemed to be the Purported Transferee's agreement to be bound by all of the terms and provisions of this License, including but not limited to the obligation to comply with the provisions of **Section 15** above concerning insurance requirements. In addition to and not in limitation of the foregoing, Licensee, for itself, its successors and assigns, shall indemnify, defend and hold harmless Licensor for all Liabilities of any nature, kind or description of any person or entity directly or indirectly arising out of, resulting from or related to (in whole or in part) a Purported Assignment.

26.4 The provisions of this **Section 26** shall survive the expiration or earlier termination of this License.

27. Notices. Any notice, invoice, or other writing required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Jones Lang LaSalle Brokerage, Inc.
4200 Buckingham Rd, Ste 110
Fort Worth, TX 76155
Attn: Permits/Licenses

with a copy to: BNSF Railway Company
2301 Lou Menk Dr., GOB 3-W
Fort Worth, TX 76131
Attn: Senior Manager Real Estate

If to Licensee: North Dakota Department of Transportation
Office of Project Development
608 East Boulevard Ave
Bismarck, ND 58505

28. Survival. Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Project work and the other Improvements are removed and the Premises are restored to its condition as of the Effective Date.

29. Recordation. It is understood and agreed that this License shall not be placed or allowed to be placed for recording in the public real property records of Walsh County, North Dakota. The parties further understand that North

Dakota law limits the ability of Licensee to shield from public disclosure any information given to Licensee. Accordingly, the parties agree to work together to avoid disclosures of this License or other information which could result in economic loss or damage to Licensor because of mandatory disclosure requirements to third persons. Licensee shall give Licensor reasonable notice of public records requests for this License or other Licensor documents.

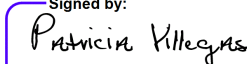
30. Intentionally Deleted.
31. Severability. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.
32. Integration. This License is the full and complete agreement between Licensor and Licensee with respect to all matters relating to Licensee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.
33. Joint and Several Liability. If Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.
34. Waiver. The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.
35. Interpretation.
- 35.1 This License shall be interpreted in a neutral manner, and not more strongly for or against any party based upon the source of the draftsmanship; both parties hereby agree that this License shall not be subject to the principle that a contract would be construed against the party which drafted the same. Article titles, headings to sections and paragraphs and the table of contents (if any) are inserted for convenience of reference only and are not intended to be a part or to affect the meaning or interpretation hereof. The exhibit or exhibits referred to herein shall be construed with and as an integral part of this License to the same extent as if they were set forth verbatim herein.
- 35.2 As used herein, "include", "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import; "writing", "written" and comparable terms refer to printing, typing, lithography and other means of reproducing words in a visible form; references to any person are also to that person's successors and permitted assigns; "hereof", "herein", "hereunder" and comparable terms refer to the entirety hereof and not to any particular article, section, or other subdivision hereof or attachment hereto; references to any gender include references to the masculine or feminine as the context requires; references to the plural include the singular and vice versa; and references to this License or other documents are as amended, modified or supplemented from time to time.
36. Counterparts. This License may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this License may also be exchanged via email or electronic facsimile machines and any email or electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.
37. Licensor's Representative. Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

END OF PAGE – SIGNATURE PAGE FOLLOWS

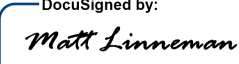
This License has been duly executed by the parties hereto as of the date below each party's signature; to be effective, however, as of the Effective Date.

LICENSOR:**BNSF Railway Company**, a Delaware corporation

By: Jones Lang LaSalle Brokerage, Inc.
2650 Lou Menk Drive – MOB2
Fort Worth, TX 76131

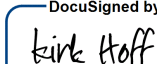
By: 
495C9951EECB45A...
By: Patricia Villegas
Vice President, Permits
Title

LICENSEE:**North Dakota Department of Transportation**

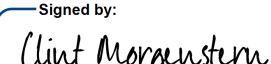
By: 
B68D48DF4615466...
By: Deputy Director for Engineering
Matt Linneman
Title:
May 22, 2026
Date:

Approved as to substance by:



By: 
C4172AA337A94D9...
By: Kirk Hoff
NDDOT Design Engineer
Title:
May 22, 2026

Attorney General Approved as to Form:

By: 
EA9EE5B579B1402...
By: Clint Morgenstern
Clint Morgenstern - SAAG
Title:
May 22, 2026

SCALE: 1 IN = 75 FT
TWIN CITIES DIV.
GLASSTON SUBDIV. L.S. 0250
DATE: 3/31/2026

EXHIBIT "A"

SECTION: 29
TOWNSHIP & RANGE:
155N 52W
MERIDIAN: 5PM



MAP REF. S50805



LEGEND:

- PREMISES
- RIGHT OF WAY LINE
- TRACK

DESCRIPTION:

A PARCEL(S) OF LAND CONTAINING A TOTAL OF 13,356 SQ FT. (0.31 A.C.) MORE OR LESS SHOWN HATCHED. TO BE USED FOR 2" MILL & 2" HMA OVERLAY.

ARDOCH
COUNTY OF WALSH

STATE OF ND

EXHIBIT "B"**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT
FOR CONSTRUCTION PROJECTS ON OR ADJACENT TO PROPERTY OF
BNSF RAILWAY COMPANY**

This Right of Entry Agreement ("**Agreement**") is made to be effective _____, 20____ ("**Effective Date**"), by and between **BNSF RAILWAY COMPANY** ("**Railroad**"), a Delaware corporation, and _____, a(n) _____ ("**Contractor**").

WHEREAS, Railroad operates a freight transportation system by rail with operations throughout the United States and Canada; and

WHEREAS, **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION** ("**Licensee**") has licensed the Premises under that certain License dated _____, 2026 ("**License**"). Licensee desires Contractor to perform certain construction services upon the Premises (defined herein), and Contractor is willing to perform such services.

NOW, THEREFORE, in consideration of Railroad entering this Agreement with Contractor and granting Contractor permission to enter upon the Premises, Contractor agrees with Railroad as follows:

SECTION 1. SCOPE OF SERVICES

Contractor will perform the following services, hereinafter described as "**Work**":

Co Rd 19 2" Mill & HMA overlay

Performance of the Work will necessarily require Contractor to enter Railroad's right of way and property as shown on Drawing No. 101386, dated March 31, 2026 marked **Exhibit "A"** attached hereto and incorporated herein ("**Premises**"). Contractor agrees that no work will be commenced on the Premises until (i) this Agreement is executed by both Contractor and Railroad, and (ii) Contractor provides Railroad with the insurance contemplated herein. Contractor further agrees that if this Agreement is not executed by the owner, general partner, president or vice-president of Contractor, Contractor will furnish Railroad with evidence certifying that the signatory is empowered to execute this Agreement.

SECTION 2. TERM; PAYMENT OF FEES

This Agreement is effective from the date of the mutual execution until the earlier to occur of (i) the completion of the Work; or (ii) termination or earlier expiration of the License; provided that if the Work is not complete by one (1) year; Railroad shall have the right to terminate this Agreement upon written notice to Contractor. Contractor acknowledges and agrees that Licensee will be solely responsible for paying Contractor for the Work. Contractor will be solely responsible for paying its subcontractors and materialmen (if any). Contractor shall promptly, and in any case no later than ten (10) days after notice of the filing thereof, pay and discharge any and all liens arising out of any portion of the Work performed by Contractor's subcontractors or materialmen, or any other activities done, suffered or permitted to be done on behalf of Contractor on the Premises, and shall indemnify, defend and hold harmless Railroad from any such liens. Railroad is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by law to prevent the attachment of any such liens to the Premises; provided,

however, that failure of Railroad to take any such action shall not relieve Licensee or Contractor of any obligation or liability under this **Section 2** or any other section of this Agreement.

SECTION 3. RELEASE OF LIABILITY AND INDEMNITY

(a) Contractor hereby waives, releases, indemnifies, defends and holds harmless Railroad for, from and against all judgments, awards, claims, demands, and expenses (including reasonable attorneys' fees), for injury or death to all persons, including Railroad's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about the Premises or Railroad's other property or right of way. **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILROAD, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF RAILROAD.**

(b) **THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR INCLUDES ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILROAD UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED.**

(c) Contractor further agrees, at its expense, in the name and on behalf of Railroad, that it will adjust and settle all claims made against Railroad, and will, at Railroad's discretion, appear and defend any suits or actions of law or in equity brought against Railroad on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railroad is liable or is alleged to be liable. Railroad will give notice to Contractor, in writing, of the receipt or pendency of such claims and thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a claim brought against Railroad, Railroad may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railroad's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railroad from and against all damages, judgments, decrees, reasonable attorneys' fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

(d) It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement will survive any termination of this Agreement.

SECTION 4. INSURANCE

(a) Contractor must, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverages:

- (i) Commercial General Liability Insurance. This insurance must contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post 2004 ISO occurrence

form or equivalent and include coverage for, but not limited to, the following:

- Bodily Injury and Property Damage
- Personal Injury and Advertising Injury
- Fire legal liability
- Products and completed operations

This policy must also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- The definition of insured contract must be amended to remove any exclusion or other limitation for any work being done within fifty (50) feet of railroad property.
- Waiver of subrogation in favor of and acceptable to Railroad.
- Additional insured endorsement in favor of and acceptable to Railroad and Jones Lang LaSalle Brokerage, Inc.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Railroad.

It is agreed that the Workers' Compensation and employers' liability related exclusions in the Commercial General Liability Insurance policy(ies) required herein are intended to apply to employees of the policy holder and shall not apply to Railroad employees.

No other endorsements limiting coverage may be included on the policy with regard to the work being performed under this Agreement or otherwise with respect to any obligations under this Agreement.

(ii) Business Automobile Insurance. This insurance must contain a combined single limit of at least \$1,000,000 per accident, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

The policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Railroad.
- Additional insured endorsement in favor of and acceptable to Railroad.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Railroad.

(iii) Workers' Compensation and Employers' Liability Insurance. This insurance shall include coverage for, but not limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.

- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Railroad.

(iv) Railroad Protective Liability Insurance. This insurance must name only Railroad as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The policy must be issued on a standard ISO form CG 00 35 12 04 and include the following:

- Endorsed to include the Pollution Exclusion Amendment.
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to include Evacuation Expense Coverage Endorsement.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to Railroad prior to performing any work or services under this Agreement.
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured's care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations."

In lieu of providing a Railroad Protective Liability Policy, for a period of one (1) year from the Effective Date, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$633.00.

☐ I **elect** to participate in Licensor's Blanket Policy;

☐ I **elect not** to participate in Licensor's Blanket Policy.

(v) Intentionally deleted.

(vi) In addition to the foregoing, the following other requirements shall apply to this Agreement:

Where allowable by law, all policies (applying to coverage listed above) must not contain an exclusion for punitive damages.

Contractor agrees to waive its right of recovery against Railroad for all claims and suits against Railroad. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against Railroad for all claims and suits. The certificate of insurance must reflect the waiver of subrogation endorsement Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad, for loss of its owned or leased property or property under its care, custody or control.

Allocated loss expense shall be in addition to all policy limits for coverages referenced above.

Contractor is not allowed to self-insure without the prior written consent of Railroad. If granted by Railroad, any self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all Railroad liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing the Work, Contractor shall furnish to Railroad an acceptable certificate(s) of insurance from an authorized representative evidencing the required coverage(s), endorsements, and amendments.

Contractor shall notify Railroad in writing at least thirty (30) days prior to any cancellation, non-renewal, substitution or material alteration.

Any insurance policy must be written by a reputable insurance company acceptable to Railroad or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement.

Not more frequently than once every five years, Railroad may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that the subcontractor provide and maintain the insurance coverages set forth herein, naming Railroad as an additional insured, and requiring that the subcontractor release, defend and indemnify Railroad to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify Railroad herein.

Failure to provide evidence as required by this **Section 4** will entitle, but not require, Railroad to terminate this Agreement immediately. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad will not be limited by the amount of the required insurance coverage.

In the event of a claim or lawsuit involving Railroad arising out of this Agreement, Contractor will make available any required policy covering such claim or lawsuit.

For purposes of this **Section 4**, "Railroad" means "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

These insurance provisions are intended to be a separate and distinct obligation on the part of the Contractor. Therefore, these provisions shall be enforceable and Contractor shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

SECTION 5. CONTRACTOR REQUIREMENTS

- (a) While on or about the Premises, Contractor must fully comply with Railroad's "Contractor Requirements", including (but not limited to) clearance requirements and personal protective equipment requirements. Contractor will be solely responsible for fully informing itself as to Railroad's "Contractor Requirements".
- (b) Contractor must ensure that each of its employees, subcontractors, agents or invitees entering upon the Premises completes the safety training program at the following Internet Website: "www.BNSFcontractor.com" (the "**Safety Orientation**") within one year prior to entering upon the Premises. Additionally, Contractor must ensure that each and every employee of Contractor, its subcontractors, agents and invitees possess a card certifying completion of the Safety Orientation prior to entering the Premises. The Safety Orientation must be renewed annually.
- (c) Prior to entering the Premises, Contractor must prepare and implement a safety action plan acceptable to Railroad. Contractor must audit compliance with that plan during the course of Contractor's work. A copy of the plan and audit results must be kept at the Premises and will be available for inspection by Railroad at all reasonable times.
- (d) When not in use, Contractor's machinery and materials must be kept at least fifty (50) feet from the centerline of Railroad's nearest track. Contractor must not cross Railroad's tracks except at existing open public crossings.

SECTION 6. PROTECTION OF RAILROAD FACILITIES / FLAGGER SERVICES

- (a) Railroad flagger and protective services and devices will be required and furnished when Railroad determines, in Railroad's sole discretion, that such services and devices are necessary for safety purposes, including but not limited to the following events:
 - (i) when Work is located over, under or within twenty-five (25) feet from the center line of the nearest track.
 - (ii) when cranes or similar equipment are positioned outside of 25-foot horizontally from track center line but could foul the track in the event of tip-over or other catastrophic occurrence.
 - (iii) when any excavation is performed below the bottom of tie elevation, if, in Railroad's sole opinion, track or other Railroad facilities may be subject to movement or settlement.
 - (iv) when Work in any way interferes, or is likely to interfere, with the safe operation of trains at timetable speeds.
 - (v) when persons, material, equipment, blasting or other hazardous activities in the vicinity present any actual or potential threat to Railroad's personnel, track, communications, signal, electrical, or other facilities.
- (b) Special permission must be obtained from Railroad before moving heavy or cumbersome objects or equipment which might result in damage, injury or making the track impassable.
- (c) Contractor shall notify Licensor's representative or the Scheduling Agent at ROWCoordinator@BNSF.com at least ten (10) business days prior to entering the Premises. Only in the event of emergency, Licensee shall notify Licensor's Roadmaster of entry onto the Premises, at the telephone (701) 213-0092 or (701) 795-1252, as soon as practicable and shall promptly thereafter follow up with written notice of such entry to the email provided above.

- (d) Flagging services will be performed solely by qualified Railroad flaggers. The costs for flaggers shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); Railroad and unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. Negotiations for Railroad labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase flagging rates. The flagging rate in effect at the time of performance by Contractor will be used to calculate the costs of flagging pursuant to this **Section 6(c)**.
- (i) A flagging crew generally consists of one employee. However, additional personnel may be required to protect the Premises and operations, if deemed necessary by Railroad's representative.
- (ii) The cost of flagger services provided by Railroad, when deemed necessary by Railroad's representative, will be borne by _____.

SECTION 7. INDEPENDENT CONTRACTOR

Contractor is considered an independent contractor under this Agreement and neither Contractor nor any of its employees, subcontractors, agents or servants are considered employees of Railroad in any respect. Contractor has the exclusive right and duty to control the work of its employees. All persons employed by Contractor or any of its subcontractors under this Agreement are the sole employees of Contractor or its subcontractors. Contractor will be given general directions and instructions regarding the Work; however, direct supervision of Contractor's employees will be Contractor's responsibility and obligation.

SECTION 8. TRAIN DELAYS

Work performed by Contractor must not cause any interference with the constant, continuous and uninterrupted use of the tracks, property and facilities of Railroad, its lessees, licensees or others, unless specifically permitted under this Agreement, or specifically authorized in writing in advance by Railroad's representative. Additionally, Contractor must not, at any time, impair the safety of Railroad operations or the operations of Railroad's lessees, licensees or other Railroad invitees. Delays to freight or passenger trains affect Railroad's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be responsible to Railroad, including its subsidiaries, affiliated companies, partners, successors and assigns, for all economic losses resulting from unscheduled delays to freight or passenger trains in accordance with the following:

- (i) Contractor will be billed for the economic losses arising from loss of use of equipment and train service employees, contractual incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, its subcontractors or by Railroad performing Work.
- (ii) The parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts with Railroad. Under such arrangements, if Railroad does not meet its contract service commitments, Railroad may (i) suffer loss of performance or incentive pay, or (ii) be subject to a penalty payment. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railroad which are attributable to a train delay caused by Contractor or its subcontractors.

- (iii) The contractual relationship between Railroad and its passenger customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railroad will share information relevant to any train delay to the maximum extent consistent with Railroad confidentiality obligations.

END OF PAGE – SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date above.

LICENSOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: Jones Lang LaSalle Brokerage, Inc.
2650 Lou Menk Drive – MOB2
Fort Worth, TX 76131

By: _____

Name: Patricia Villegas

Title: Vice President, Permits

Date: _____

CONTRACTOR:

_____, a(n) _____

By: _____

Name: _____

Title: _____

Date: _____

ATTACHMENT

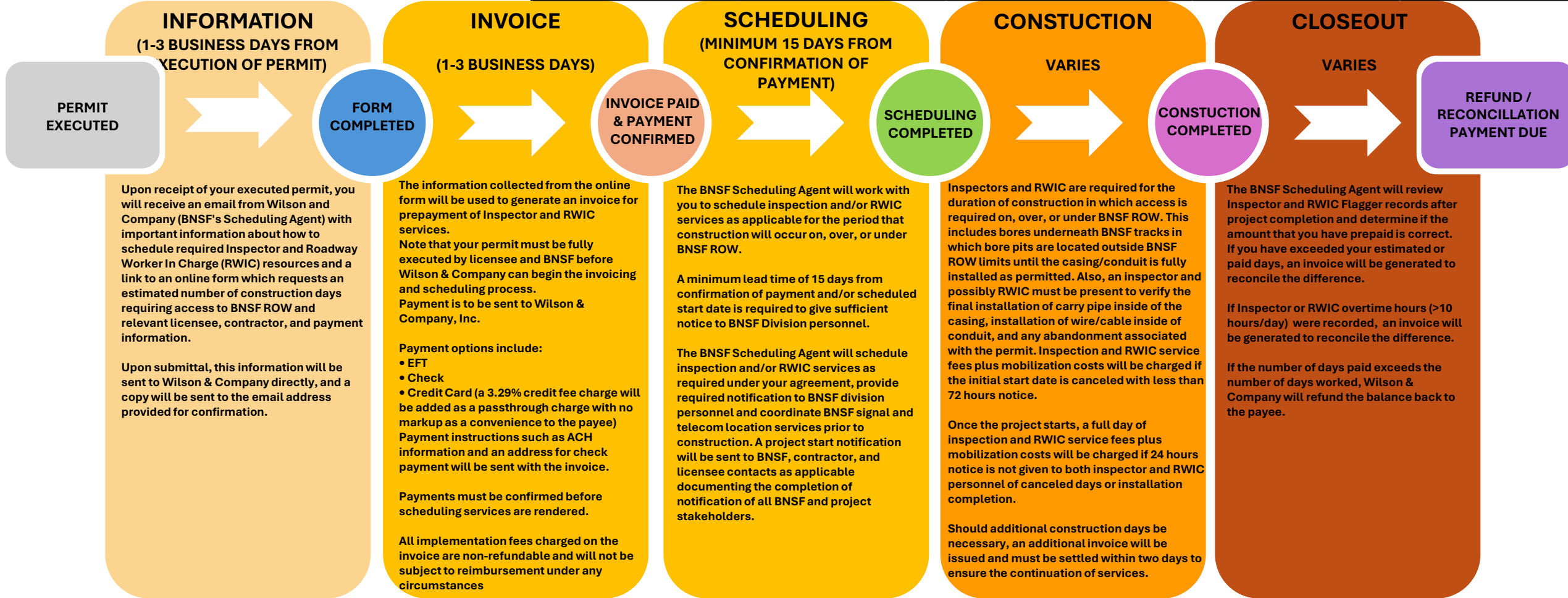
BNSF Scheduling Agent Process



BNSF Scheduling Agent Process

What to expect after your permit for utility installation is executed

Fee Structure (effective 05/05/2025)				
Scheduling Agent Services				
Services	L1 Duration ≤ 15 Days	L2 15 < Duration ≤ 45 Days	L3 Duration > 45 Days	
Project Implementation	\$3,500	\$6,250	\$9,000	
Utility Inspection and Coordination Services				
	Per Day 10 Hours or Less	Per Hour over 10 Hours	Mobilizations	Additional Mob
Utility Inspection	\$1,500	\$165	\$450	\$450
Third Party Flagging				
Flagging	Reimbursed at cost incurred by flagging entity and invoiced through Wilson & Company			



▪ Typical time frames are estimates only and are provided strictly for informational purposes. No guarantees of minimum or maximum times are expressed or implied.

▪ All employees and contractors involved in utility installation or construction work on BNSF right-of-way (ROW) must complete the required Safety Orientation program, including the BNSF Contractor Safety Orientation Training and/or eRailSafe, as specified in their agreement. Additionally, all utility agreements must review of the BNSF Utility Accommodation Policy prior to accessing BNSF property.

A positive balance of pre-paid inspection and/or RWIC days are required throughout the entire duration of the project to maintain continuation of services. If all prepaid days have been used, construction will be stopped and cancellation charges will be assessed accordingly. It is the licensee's responsibility to ensure that a sufficient number of days to complete construction have been fully funded.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

RAILROAD REQUIREMENTS NPR Leases from CPKC

Project NH-6-081(120)175 – PCN 24107

DESCRIPTION

This Special Provision and attachments replace the requirements of Section 107.13 “Railroad Provisions” and outlines the Contractor’s coordination requirements with Northern Plains Rail (NPR). It is the prime contractor’s responsibility to ensure subcontractor compliance with the requirements.

A. Details of the project and the work in the Railroad Right of Way and around the crossing(s):

Project Location: Ardoch N Thru Minto

Crossing 1:

At Grade Crossing 696262E: Milepost 0364.64 which is a crossing Operated by NPR and the property is Owned by CPKC.

Work includes: The type of work that will be performed within the railroad right of way is reconstruction and widening up to the crossing material, and drive through striping (CL/Edge) up to crossing, and signage up to the crossing.

ATTACHMENTS

Northern Plains Railroad, Inc Temporary Occupancy Permit

CONTRACTOR RESPONSIBILITIES

A. General.

Upon execution of the construction contract with the Department, the Contractor must coordinate with NPR and execute the Northern Plains Railroad, Inc Temporary Occupancy Permit prior to commencing work activities for the roadway as outlined in the Northern Plains Railroad, Inc Temporary Occupancy Permit attached hereto.

The Contractor must coordinate with NPR’s Manager Maintenance of Way. The Northern Plains Railroad, Inc Temporary Occupancy Permit will not be fully executed until NPR’s Manager Maintenance of Way has returned the signed permit.

Submit copies of all correspondence and submittals (Northern Plains Railroad, Inc Temporary Occupancy Permit, Certificate of Insurance, etc) with NPR to the Engineer within one business day of receipt.

Project delays incurred by the Contractor based on NPR enforcing its authority will be considered a non-excusable delay as specified in Section 108.06 B.6, "Non-Excusable Delays". Any other delays incurred by the Contractor arising from this provision or the exhibits will be evaluated by the Engineer as either excusable, non-compensable; excusable, compensable; or non-excusable based on the circumstances of the specific delay.

Payments required by the Contractor to NPR for train delays or damage to the railway property shall be borne by the Contractor and are not reimbursable by the Department to the Contractor.

B. Railroad Flagging

NPR will bill the Contractor for railroad flagging costs.

C. Railroad Protective Liability Insurance.

This project crosses the NPR Railway at the above crossing location.

Direct inquiries regarding protective liability insurance to:

ADAM LIDEN
Manager Maintenance of Way | Northern Plains Rail Services
600 Demers Ave, 5th Floor
Grand Forks, ND 58201
E: adam.liden@nprail.com
C: 218.791.9032

Contractor to provide a copy of the Certificate of Insurance to NPR. Contact NPR to find required insurance coverage amounts.

Obtain information regarding crossing number from the Federal Railroad Administration website: <http://safetydata.fra.dot.gov/Officeofsafety/>

METHOD OF MEASUREMENT AND BASIS OF PAYMENT

A. Railroad Protective Liability Insurance.

Include the cost of railroad insurance in the contract unit price for "**RAILWAY PROTECTION INSURANCE – COMPANY B**". Upon receiving proof of approval of the policies and the signed right of entry agreement by the railroad company, the Department will pay the Contractor the lump sum contract unit price.

B. Railroad Coordination.

Include all other costs associated with flagging and coordination with NPR and compliance with the contents of this Special Provision and attachments in the contract unit price for **“RAILROAD COORDINATION – COMPANY B.”** The Department will pay for one-half of this item upon receipt of a copy of an executed Northern Plains Railroad, Inc Temporary Occupancy Permit and the remaining half upon completion of the project.

ATTACHMENTS

Northern Plains Railroad, Inc Temporary Occupancy Permit



Northern Plains Railroad, Inc

600 Demers Ave, 5th Floor
Grand Forks, ND 58201
Ph. (701) 229-3330
www.nprail.com

TEMPORARY OCCUPANCY PERMIT

This Temporary Occupancy Permit ("Agreement") is entered into by and between **Northern Plains Railroad, Inc., 600 Demers Ave., Ste. 5, Grand Forks, ND 58201** ("Railroad"), and _____ ("Grantee").

For good and valuable consideration, including Grantee's covenants herein, Railroad grants Grantee permission, solely for Grantee's accommodation, to temporarily occupy the following:

That portion of the _____ of Railroad's premises located in or near _____ ("Premises").

1. Term

Occupancy shall continue from _____ until _____, unless extended in writing by both parties. Liability assumed by Grantee shall continue so long as Grantee or Grantee's property remains on the Premises.

2. Railroad Representative

Grantee shall contact the Railroad's Roadmaster at **218-791-9032** at least fifteen (15) business days **before entering the Premises** to provide dates, times, location, and purpose of occupancy. Alternatively, Grantee may operate only under the direct observation of Railroad employees.

3. Use of Premises

Grantee agrees that:

- (a) Grantee acknowledges this is an active railroad and train schedule changes need to be approved in writing by Roadmaster.
- (b) Railroad is not responsible for train delays or weather events that affect Grantee's projects.
- (c) Use shall not damage Railroad property, structures of the railroad, or property of others;
- (d) Use shall not pose a hazard to Railroad operations;
- (e) All federal, state, and local laws and regulations shall be observed;
- (f) No hazardous substances shall be brought onto or stored on the Premises.

4. Flagging Services

If flagging services are required by Railroad, such services shall be provided in accordance with the terms, conditions, and rates outlined in the attached **Exhibit A**.

5. Encumbrances

Grantee shall not take any action that results in liens, encumbrances, or questions regarding ownership of the Premises.

6. Indemnification and Insurance

Grantee releases, indemnifies, and holds harmless Railroad, its successors, assigns, and authorized occupants against all claims, losses, damages, costs, or expenses arising from Grantee's acts or omissions.

Grantee shall provide the following insurance coverage before this Agreement is effective:

1. Railroad Protective Liability Coverage (RPLI)

\$2,000,000 per occurrence / \$6,000,000 aggregate with Railroad named as Named Insured. A certificate of Insurance for Railroad Protective Liability shall be made out to **Northern Plains Railroad, Inc., 600 Demers Ave., Ste. 5, Grand Forks, ND 58201**, before access to Railroad property is given. A Railroad Protective Liability Binder shall follow listing **Northern Plains Railroad, Inc., 600 Demers Ave., Ste. 5, Grand Forks, ND 58201** as the insured. Both documents can be emailed to roadmaster@nprail.com.

A separate Certificate of Insurance for the coverage below shall be emailed to insurance@nprail.com.

2. Commercial General Liability

\$2,000,000 General Aggregate
\$1,000,000 Products & Completed Operations Aggregate
1,000,000 Each Occurrence
\$1,000,000 Personal & Advertising Injury
\$100,000 Damage to Rented Premises

Policy must include:

- Waiver of Subrogation in favor of Contractor
- Contractor listed as Additional Insured (Ongoing and Completed Ops)
- Primary & Non-Contributory language
- Contractual Liability - Railroads Endorsement (CG2417)
- No punitive damage exclusion (unless legally required)
- Umbrella policies permitted to meet limits
- 30-day cancellation notice

3. Workers' Compensation and Employer's Liability

\$1,000,000 Bodily Injury by Accident (Each Accident)
\$1,000,000 Bodily Injury by Disease (Policy Limit)
\$1,000,000 Bodily Injury by Disease (Each Employee)

Policy must include:

- Waiver of Subrogation in favor of Contractor
- Alternate Employer Endorsement (if applicable)
- 30-day cancellation notice

4. Business Auto Insurance

\$1,000,000 Combined Single Limit (all vehicles)

Policy must include:

- Waiver of Subrogation in favor of Contractor
- Contractor listed as Additional Insured (Primary & Non-Contributory)
- Coverage for Certain Operations in Connection with Railroads Endorsement, if applicable (CA 20 70 or equivalent).
- Pollution Coverage (if applicable)
- 30-day cancellation notice

5. Umbrella/Excess Liability Coverage

\$5,000,000 Each Occurrence

\$5,000,000 General Aggregate

\$5,000,000 Products & Completed Operations Aggregate

Policy must include:

- Waiver of Subrogation on follow-form basis
- Contractor listed as Additional Insured (Primary & Non-Contributory)
- No punitive damage exclusion (unless legally required)
- 30-day cancellation notice

7. Condition of Premises; Maintenance, Inspection, and Restoration

The Premises are accepted by Grantee AS IS. Grantee shall, at its sole expense, maintain the Premises in a clean and safe condition during the period of occupancy. Railroad shall not be responsible for any deterioration of, damage to, or loss of Grantee's property located on or about the Premises, and Grantee hereby releases and agrees to hold Railroad harmless from any such liability. Railroad reserves the right, upon reasonable notice (except in case of emergency), to enter and inspect the Premises to ensure compliance with the terms of this Permit. Upon termination of this Permit, Grantee shall promptly remove all of its property and restore the Premises to the condition existing at the commencement of occupancy, ordinary wear and tear excepted.

8. Termination

Either party may terminate this Agreement for breach not cured within ten (10) days of notice. Railroad may terminate immediately at its discretion, including for commercial development. Notices shall be sent by U.S. Mail to the addresses provided above.

9. Removal of Property

Upon termination, Grantee shall remove their property immediately to a safe location and off Railroad property within five (5) business days. If not, Railroad may remove, use, or dispose of such property at Grantee's expense.

10. Assignment and Entire Agreement

This Agreement binds successors and assigns. Grantee may not assign without Railroad's written consent. This Agreement contains the entire understanding of the parties and may be amended only in writing signed by both parties.

11. Relationship

Grantee shall not be considered an employee or agent of Railroad.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day
of _____, 20____.**

Northern Plains Railroad, Inc. (Railroad)

Signature:

By:

Title:

Date:

_____ **(Grantee)**

Signature:

By:

Title:

Date:

Northern Plains Railroad, Inc.
Temporary Occupancy Permit

Exhibit A

Per Location	Item Description	Eight (8) hour minimum between 8:00 am to 4:00 pm	Total Amount
1	One (1) Flagger	\$1,200.00	\$1,200.00

Notes:

- Standard Flagging hours are from 8:00 am to 4:00 pm.
- Additional Flaggers, if needed, will be billed at the same rate as above per flagger.
- Additional hours not between 8:00 am to 4:00 pm will be charged at a rate of \$180.00 per hour.
- An Invoice will be sent to Grantee for Flagging hours.

Grantee Billing Information Required:

Business Name: _____

Accounts Payable Contact: _____

Address: _____ City _____ State _____ Zip _____

Accounts Payable Phone: _____

Accounts Payable Email: _____

Purchase Order No.: (if required) _____

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
RAILROAD REQUIREMENTS CPKC
Project NH-6-081(120)175 – PCN 24107**

DESCRIPTION

This Special Provision and attachments replace the requirements of Section 107.13 “Railroad Provisions” and outlines the Contractor’s coordination requirements with Canadian Pacific Kansas City (CPKC). It is the prime contractor’s responsibility to ensure subcontractor compliance with the requirements.

A. Details of the project and the work in the Railroad Right of Way and around the crossing(s):

Project Location: Ardoch N Thru Minto

Crossing 1:

At Grade Crossing 696262E: Milepost 0364.64 which is a crossing Operated by NPR and the property is Owned by CPKC.

Work includes: The type of work that will be performed within the railroad right of way is reconstruction and widening up to the crossing material, and drive through striping (CL/Edge) up to crossing, and signage up to the crossing.

ATTACHMENTS

RIGHT OF ENTRY LICENSE AGREEMENT
CPKC SAFETY REQUIREMENTS FOR CONTRACTORS – UNITED STATES

CONTRACTOR RESPONSIBILITIES

A. General.

Upon execution of the construction contract with the Department, the Contractor must coordinate with CPKC and execute the Right of Entry License Agreement (ROELA), CPKC Safety Requirements For Contractors – United States (Safety Policies), and Flagging Request Form (FRF) prior to commencing work activities for the roadway as outlined in the ROELA, Safety Policies, and FRF attached hereto.

The Contractor must coordinate with CPKC’s Grade Crossing Coordinator with the timelines as outlined in the Attachments of this Special Provision. The ROELA, Safety Policies, and FRF will not be fully executed until CPKC’s Grade Crossing Coordinator has returned the signed agreement.

Submit copies of all correspondence and submittals (ROELA, Safety Policies, FRF, Certificate of Insurance, etc) with CPKC to the Engineer within one business day of receipt.

Project delays incurred by the Contractor based on CPKC enforcing its authority will be considered a non-excusable delay as specified in Section 108.06 B.6,

“Non-Excusable Delays”. Any other delays incurred by the Contractor arising from this provision or the exhibits will be evaluated by the Engineer as either excusable, non-compensable; excusable, compensable; or non-excusable based on the circumstances of the specific delay.

Payments required by the Contractor to CPKC for train delays or damage to the railway property shall be borne by the Contractor and are not reimbursable by the Department to the Contractor.

B. Railroad Flagging

Flagging at this crossing will be through the Operating railroad – NPR. See SP 412(25) – Railroad Coordination NPR for details and additional requirements from NPR.

C. Railroad Protective Liability Insurance.

This project crosses the CPKC Railway at the above crossing location.

Direct inquiries regarding protective liability insurance to:

Charles Kretchman
Grade Crossing Coordinator
(612)247-0706
120 S 6th Street – Suite 700
Minneapolis, MN 55402
Charles.kretchman@cpkcr.com

Contractor to provide a copy of the Certificate of Insurance to CPKC. Contact CPKC to find required insurance coverage amounts.

Obtain information regarding crossing from the Federal Railroad Administration website: <http://safetydata.fra.dot.gov/Officeofsafety/>

METHOD OF MEASUREMENT AND BASIS OF PAYMENT

A. Railroad Protective Liability Insurance.

Include the cost of railroad insurance in the contract unit price for “RAILWAY PROTECTION INSURANCE – COMPANY C”. Upon receiving proof of approval of the policies, the Department will pay the Contractor the lump sum contract unit price.

B. Railroad Coordination.

Include all other costs associated with flagging and coordination with CPKC and compliance with the contents of this Special Provision and attachments in the contract unit price for “RAILROAD COORDINATION – COMPANY C.” The Department will pay for one-half of this item upon receipt of a copy of an executed ROELA and the remaining half upon completion of the project.

ATTACHMENT

RIGHT OF ENTRY LICENSE AGREEMENT

RIGHT OF ENTRY LICENSE AGREEMENT

THIS RIGHT OF ENTRY LICENSE AGREEMENT (hereinafter called, “**ROE License Agreement**”) is made by and between:

1. PARTIES

SOO LINE RAILROAD COMPANY, a Minnesota corporation doing business as CPKC with general offices at:

Address	Contact Info	
Canadian Pacific Plaza 120 South 6th St. – Suite 500 Minneapolis, Minnesota 55402	Name:	Charles Kretchman
	Phone:	612-247-0706
	Email	Charles.kretchman@cpkcr.com

hereinafter called “**CPKC**,”

and

_____, whose address is:

Address	Contact Info	
	Name:	
	Phone:	
	Email	

hereinafter called “**Licensee**,” each individually being referred to herein as “**Party**” and collectively as “**the Parties**.”

2. PROPERTY; SCHEDULE; GRANT OF LICENSE;

2.1. Property

CPKC hereby grants Licensee a license to enter in and upon certain property owned or controlled by CPKC in _____ near **railroad mile post** _____ +/- on the _____ **Subdivision**, as shown upon the map labeled **Exhibit A** that is attached hereto and made a part hereof (“the Property”),

2.2 Work Schedule

For the sole for the purpose of performing, generally, the following activities:

(the “Work”) within the scope and in the manner described in Licensee's plans, specifications, and special provisions and which have been approved by CPKC's Designated Engineering Representative.

2.3. Grant of License

This license is granted subject to all the terms and conditions set forth below and apply to all Work and activities upon the Property that may be performed by Licensee through its employees, agents, and contractors. For the purposes of this ROE License Agreement, the actions and omissions of such employees, agents, and contractors shall be deemed the actions and omissions of Licensee.

2.4. Agreement To Be Available At Work Site

Licensee shall keep a copy of this ROE License Agreement at the Work site and shall make it available upon demand by any employee or NPR.

3. TERM, EFFECTIVE DATE, EXPIRATION & TERMINATION

3.1. Term

The term of this ROE Agreement shall

Commence at 12:01 am on _____, 2026, the “**Commencement Date**,” and

Expire at 11:59 pm on _____, 2026, the “**Expiration Date**,”

the “**Term**.” Upon agreement between CPKC and Licensee, the Term may be lengthened or shortened without affecting any other provisions of this ROE License Agreement.

3.2. Effective Date

This ROE License Agreement shall become effective upon the date that it has been signed by the Parties.

3.3. Expiration

This ROE License Agreement will expire at the Expiration Date, or when the Work is completed, whichever occurs first. Notwithstanding any other provision of this ROE License Agreement, the preceding sentence shall not terminate or limit any Claim by CPKC against Licensee arising prior to the Expiration Date. If the Work includes monitoring wells, and if such wells remain on the Property after the Expiration Date, this ROE License Agreement shall remain in effect for those wells until the earlier of the following:

- (i) the date they are properly closed (i.e., sealed and abandoned in accordance with applicable legal requirements) by Licensee; or
- (ii) the date CPKC assumes ownership of such wells pursuant to section 10.8.

3.4. TERMINATION; EXCLUSION:

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, this ROE License Agreement is terminable by CPKC prior to the Expiration Date in the event Licensee breaches any of its obligations under this ROE License Agreement. The early termination of this ROE License Agreement shall not terminate or limit any claim by CPKC against Licensee arising prior to such termination. If Licensee is in breach of any of its obligations under this ROE License Agreement, any employee or agent of CPKC may order Licensee off the Property, in which case Licensee shall immediately leave the Property; moreover, Licensee shall leave the property immediately upon termination pursuant to this paragraph.

4. PAYMENTS

4.1. License Fee

In consideration of the permissions herein granted, the Licensee shall with its execution hereof pay to CPKC the sum of **One Thousand Five Hundred Dollars (\$1,500.00)**.

4.2. Utilities

Licensee shall assume and timely pay for any gas, electrical, telephone, computer, sewer, water, storm water, waste or trash removal, or any other service or commodity connected with the Work, collectively "**Utility Service**." If any Utility Service fee is in common with CPKC or other parties, Licensee shall be liable for its proportionate share of any such Utility Service Fee and upon receipt of a bill therefor, promptly pay CPKC or such other party for its share. It shall be a default in the terms of this ROE License Agreement if it can be shown that Licensee has not made such payments within 30 days if due to CPKC, or within 60 days if payable to any other party.

4.3. Mechanics' And Materialmen's Liens

If any mechanics' or materialmen's lien, or similar lien, is asserted against the Property, or any other property of CPKC, as a consequence of the Work, Licensee shall immediately satisfy, defend, or obtain the release of such lien, all at Licensee's expense, and Licensee shall indemnify and defend CPKC against any Claims (as defined in this ROE License Agreement) arising out of or connected with such lien.

4.4. Additional Charges

Licensee shall within 30 days of receipt of a bill therefor, pay to CPKC or its designee the costs for flagging, track changes, or damage, or other such charges as may be provided by this ROE License Agreement or that CPKC may reasonably impose in connection with Licensee's Work.

4.5. Due Dates; Penalties; Other Charges

4.5.1. Due Dates

Any item, submission, or payment required to be made shall be deemed timely made if received by the other Party on or before the specified due date, or prior to expiration of the applicable period for compliance, submission, or payment.

4.5.2. Late Fees

In addition to any amounts payable by Licensee to CPKC, Licensee shall pay CPKC a late fee for any payment not timely made by Licensee. The late fee shall be at the rate for overdue accounts set by CPKC's Accounting Department that is in effect at the time that that any such payment is due. Said late fee shall initially be an amount equal to 1% of the invoice amount per month.

4.5.3. Fines & Service Fees

In addition to any other amounts payable by Licensee to CPKC, Licensee shall pay CPKC for any bank fines or service incurred by it in connection with the handling, non-payment, return, or currency conversion incurred by CPKC in connection with processing of any payment made by Licensee to CPKC.

4.6. Work At No Cost To CPKC:

The Work completed by Licensee shall be performed at no cost to CPKC.

5. CONTACT, NOTICES, ETC.

5.1. Contact Persons; Communications

Communications pursuant to this ROE License Agreement shall be directed to the contact persons designated in Section 1 or their designees. Either Party may change its contact person, or the address(es), telephone number, or fax number for the contact person, by notice to the other Party.

5.2. Notices

Except as otherwise provided in this ROE License Agreement, all notices pursuant to this ROE License Agreement shall be in writing and shall be effective upon delivery to the address or fax number of the contact person for the Party to whom notice is being given. If notice is given by fax, the notice shall not be deemed effective until received in legible form.

5.3. Notification Prior To Beginning Work

Licensee must notify NPR in writing at least seven (7) days prior to beginning any separate phase of the Work, and again promptly after such phase of the Work has been completed so that NPR may arrange for the necessary flagging protection.

6. PERMITTED & PROHIBITED USES; RIGHTS OF CPKC

6.1. Permitted Uses

6.1.1. The Work

The use of Property by Licensee shall be limited to the completion of the Work set forth in Section 2.2., or such other kind of activities as may be approved by CPKC in writing.

6.1.2. Government Authorities

Licensee may permit governmental authorities with jurisdiction over the Work to enter the Property for the purpose of inspecting or monitoring the Work. Whenever possible, Licensee shall advise CPKC (by telephone or other means calculated to bring the matter to CPKC's immediate attention) prior to permitting such governmental authorities to enter the Property for such purposes. The actions and omissions of such governmental authorities while on the Property for such inspections and monitoring shall be deemed the actions and omissions of Licensee. Licensee is not authorized to permit governmental authorities to enter the Property for any other purpose.

6.2. Prohibited Uses and Activities

The Licensee shall not use, occupy or permit the Property to be used for any purpose, activity or improvement except as provided in this ROE License Agreement or as may be approved of in writing by CPKC. Specifically, Licensee shall not:

6.2.1. Advertising

permit any advertisements or signs upon the Property;

6.2.2. Use of Hazardous Substances

without prior written disclosure to and approval by CPKC, Use or authorize the Use of any Hazardous Substance on the Property, including installation of any above or underground storage tanks; subject thereto, the Licensee shall arrange at its own cost for the lawful transportation and off-site disposal of any and all Hazardous Substances that it shall Use or generate;

6.2.3. Use of Premises for waste treatment or as storage or disposal facility

cause or allow the Property or any of CPKC's adjacent property to become a hazardous waste treatment, storage or disposal facility within the meaning of, or to otherwise bring any such property within the ambit of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or any similar state statute or local ordinance; or

6.2.4. Subleasing Prohibited.

sublease the Property or the permissions or rights herein granted in any manner or form.

6.3. Reservations and Rights of CPKC

6.3.1. Railroad Activities Take Priority over Work

All Work by Licensee shall always and all times be subordinate to the needs of CPKC and any other duly-authorized third party/lessee in connection with their duly-authorized activities and operation, including but not limited to the movement of railroad trains and equipment and the repair of railroad track, structures, communications, and appurtenances thereto.

6.3.2. Reservation of prior and future uses not inconsistent with Licensee's activities.

The rights herein granted to Licensee to conduct the Work are subject to the rights granted in all other licenses, permits, and easements for tracks, roads, walkways, poles, wires, pipelines, sewers, billboards, and other improvements that exist or may be placed upon, across, above or underneath the Property by CPKC, or its employees, agents, licensees, grantees, representatives or invitees. Further, CPKC reserves unto itself the right to place (or to give others the right to place) additional tracks, roads, walkways, poles, wires, pipelines, sewers and billboards upon, across, above or underneath the Property in any manner that does not unreasonably interfere with Licensee's Work.

6.3.3. Monitoring

CPKC may elect to be present during the conduct of the Work and to monitor same.

7. COVENANTS, CONDUCT & RESPONSIBILITIES

7.1 Definitions. For purposes of this ROE License Agreement:

7.1.1 "Claim" or "Claims" means any and all liabilities, suits, claims, counterclaims, causes of action, demands, penalties, debts, obligations, promises, acts, fines, judgments, damages, consequential damages, losses, costs, and expenses of every kind (including without limitation any attorneys' fees, consultants' fees, response costs, remedial action costs, cleanup costs, and expenses which may be related to any Claims);

7.1.2 "Environmental Law" or "Environmental Laws" means all Governmental Requirements that, in any way, govern or regulate Licensee's Work or activities arising from or relating to or resulting from such Work for the protection of human health, safety, the environment, and natural resources (including, without limitation, ambient air, surface, water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species, and vegetation), including, without limitation, Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Clean Water Act, 33 U.S.C. § 1321 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §§ 5101 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. §§ 136 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Safe Drinking Water Act, as amended, 42 U.S.C. §§ 300f et seq., all as amended from time to time, or hereafter enacted;

7.1.3 "Governmental Requirements" shall mean all federal, state, and local laws, statutes, ordinances, regulations, codes, standards, guidance, judicial or administrative orders, consent decrees, binding judgments, or the orders of any public agency or authority, or association, or other similar requirements, now or hereafter in effect, in each case as amended or supplemented from time to time, that, in any way, govern or regulate Licensee's Work on or use of the Property or activities arising from or relating to or resulting from such Work on or use of the Property.

7.1.4 “**Hazardous Substance**” or “**Hazardous Substances**” means any substance, class of substances, or such quantity of an otherwise non-hazardous substance or substances, which are or may be detrimental to the environment or human or animal health including, without limitation:

- a. radioactive, explosive, poisonous, corrosive, flammable, or toxic substances or materials;
- b. toxic substances, which shall include, without limitation, asbestos, polychlorinated biphenyls, all chemicals and substances known or suspected to cause cancer or reproductive toxicity;
- c. any substance, chemical, or material declared to be hazardous or toxic under any Governmental Requirements applicable to CPKC, Licensee, or the Property;
- d. any Waste containing hazardous biological material;
- e. any substance that, if added to any water, would degrade or alter the quality of the water to the extent that it is detrimental to its use by humans or by any animal, fish, or plant; and
- f. any solid, liquid, gas, or odor or combination of any of them that, if Released, creates or contributes to a condition that:
 - i. endangers the health, safety, or welfare of humans;
 - ii. interferes with the normal enjoyment of life or property; or
 - iii. causes damage to plant life, animal life, or to property.

7.1.5 “**Release**” or “**Released**” means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, or spreading of any Hazardous Substance into the environment, as “environment” is defined in CERCLA or any other Governmental Requirement;

7.1.6 “**Response**” or “**Respond**” means action taken in compliance with Environmental Laws to correct, remove, remediate, cleanup, prevent, mitigate, monitor, evaluate, investigate, assess, or abate the Release of a Hazardous Substance;

7.1.7 “**Use**” as a verb, shall be broadly defined to include all uses, including without limitation to manage, generate, manufacture, process, treat, store, use, re-use, refine, recycle, reclaim, blend, or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of, or abandon.

7.2 Investigation; Compliance with Laws; Safety Requirements.

7.2.1 Tenants and Licensees in possession of Property

Before entering the Property to perform the Work, Licensee shall secure the consent of all persons or entities who are using or occupying any portion of the Property. CPKC will cooperate with Licensee to obtain consent from any such person or entity who unreasonably withholds consent.

7.2.2 Underground Utilities And Structures

- a. Licensee shall be responsible for determining the location of all underground utilities (electric lines, telephone lines, gas lines, steam lines, sewer lines, water lines, fiber optic cables, pipes, wires, and the like) and underground structures.

- b. Licensee shall call **CPCBYD “Canadian Pacific Call before You Dig”** at 1-866-291-0741 or call b4udig@cpkcr.com for Signal, Fiber Optics, and Power for CPKC Facilities on Canadian Pacific Right of Way and the State’s “ONE CALL” a minimum of five (5) business prior to commencing any excavation, boring, or earth-moving on the Property.
- c. CPKC will cooperate with Licensee to identify the location of underground utilities and structures known to CPKC, but such cooperation shall not relieve Licensee from its primary responsibility to determine the locations of such utilities and structures.

7.2.3 Permits And Licenses; Compliance With Laws

Licensee shall secure, at no expense to CPKC, any permits or licenses required in connection with the Work and shall comply with all laws applicable to the Work and the Property, including (but not limited to) any Environmental Laws or other laws, standards, regulations, and permit requirements relating to environmental pollution or contamination or to occupational health and safety. Licensee shall indemnify and defend CPKC against any and all Claims arising out of or connected with the violation of any law by Licensee while on or about the Property to perform the Work.

7.2.4 Compliance With CPKC Safety Requirements; Identification

- a. While on the Property, Licensee shall comply with the safety requirements of CPKC, as such requirements may be amended from time to time during the duration of the Work, all at no expense to CPKC. CPKC’s safety requirements are set forth in the “**CPKC SAFETY REQUIREMENTS FOR CONTRACTORS – United States**”, which accompanies this ROE License Agreement as **Exhibit B**, and in CPKC’s current safety handbook. One free copy of the current safety handbook will be provided to the Licensee by the CPKC contact person. Additional copies will be provided at Licensee’s expense. Licensee shall be responsible for ensuring that any person performing any of the Work for or on behalf of Licensee shall comply with the CPKC safety requirements that would apply to a CPKC employee performing similar work.
- b. Prior to any entry onto the Property, Licensee and every employee, agent, or subcontractor who carries out any part of the Work on the Property shall successfully complete the safety training available through the e-railsafe program at www.e-railsafe.com in respect to requirements for CPKC operations.
- c. Licensee and every employee, agent, or subcontractor who carries out any part of the Work on the Property shall at all times wear and visibly display the identification badge issued to them following successful completion of the e-railsafe safety training together with whatever additional identification materials that CPKC may reasonably require.

7.3 Work In Close Proximity To Railroad Operations; Drainage:

7.3.1 Interference With Railroad Operations

Licensee shall keep CPKC fully apprised of its proposed activities on the Property so as to prevent any interference with the operations of CPKC trains or equipment (or trains or equipment of others) operating on or near the Property.

7.3.2 Clearance

No work shall be done or any equipment or other obstruction placed over or within 25 feet laterally of the centerline of any track without advance notification to CPKC prior to performing such work or placing such equipment or obstruction.

7.3.3 Flagging

Licensee must make arrangements with NPR for such flagging or watchman service for the protection of railroad traffic.

7.3.4 Certain Work Close To Track Not Permitted; Lateral Support:

- a. Unless otherwise agreed to in writing by CPKC, excavations, borings, wells, pits, test holes, probe sites, and the like shall not be located closer than 25 feet from the centerline of the nearest railroad track on or adjacent to the Property nor shall it take or allow any action upon the Property that would materially impair the lateral or subadjacent support of adjacent lands or railroad tracks;
- b. Unless otherwise agreed to in writing by CPKC, drilling and excavating equipment and related equipment shall not be located closer than 25 feet from the nearest rail of any such track;
- c. In the event that CPKC permits excavations, borings, wells, pits, test holes, probe sites, or the like in close proximity to tracks, embankments or other features providing lateral or subadjacent support to land or tracks, then notwithstanding anything to the contrary in this license, Licensee shall be responsible for designing and constructing at no cost to CPKC any measure that is required to prevent the collapse, erosion, or impairment to said land or tracks.

7.3.5. Storm Water

Licensee shall not, without the advance written approval of CPKC, make any changes to the Property that would either increase the historic flow rate of storm water from the Property or create an impediment to the historic flow of storm water to the Property. Unless otherwise agreed in writing, between CPKC and the Licensee it is understood and agreed that Licensee shall at Licensee's cost and expense be liable to CPKC for the construction, maintenance, repair, and replacement upon the real property or other land not belonging to Grantor such storm sewer lines, manholes, mains, rip rap, boulders, wing walls, ditches, and related to improvements required for Licensee's compliance with this section.

7.3.6. Fencing

Licensee shall, as applicable and at no cost to CPKC, construct and maintain during the term hereof a fence acceptable to CPKC in the location(s) designated on **Exhibit A**. Following completion of the Work, the Licensee shall remove the fencing, remove any post footings or concrete, and fill and tamp any post holes with clean fill material.

7.4 Conduct

7.4.1. Property clean, safe and free from nuisances

Licensee shall not permit the existence of any nuisance upon the Property and shall at all times keep the Property in a proper, clean, safe, and sanitary condition, and free from accumulations of waste materials, debris, or refuse.

7.4.2. Release of Hazardous Substances

Licensee shall not cause or allow the Release or threat of Release of any Hazardous Substance on, to, or from the Property.

7.4.3. Response Actions

The Licensee shall promptly take all necessary action in Response to any Release or Use of a Hazardous Substance at the Property caused by, or attributable to, any act or

omission of the Licensee (or the Licensee's employees, agents, representatives or invitees) that could:

- a. Give rise to any Claim under any Environmental Law,
- b. Cause a public health or workplace hazard, or
- c. Create a nuisance.

7.5. Required Notices/Disclosures

7.5.1 Transportation and Disposal Contracts

The Licensee shall, as applicable and upon written request by CPKC, provide CPKC with copies of transportation and disposal contracts and manifests for Hazardous Waste, any permits issued under any Environmental Laws, and any other documents demonstrating that the Licensee has complied with all Environmental Laws relating to the Property

7.5.2 Releases or Suspected Releases

The Licensee shall promptly notify CPKC of any actual or suspected Release of any Hazardous Substance on, to, or from the Property, regardless of the cause of the Release.

7.5.3. Notices, summons citations, etc.

The Licensee shall promptly provide CPKC with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, claims, causes of action, complaints, investigations, judgments, letters, notices of environmental liens, or Response actions in progress, and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, or other federal, state, or local agency or authority, or any other entity or individual, concerning:

- a. Any Release of a Hazardous Substance on, to or from the Property,
- b. The imposition of any lien on the Property, or
- c. Any alleged violation of or responsibility under any Environmental Law relating to the Property.

7.5.4. Other Reports

Licensee shall, at CPKC's option and at no cost to CPKC, provide CPKC a copy of any other report, summary or written test results, collectively "**Report**," pertaining to the Work. If any such Report is to be filed or made available to any governmental agency acting in a regulatory capacity, then Licensee shall also give CPKC a reasonable time (not less than five (5) working days) to review and comment on a draft of such Report and when preparing any such final Report pertaining to the Work, Licensee or its contractor shall give due consideration to CPKC's comments with respect to the draft of that Report. Licensee will promptly provide CPKC with a copy of any final Report.

7.6. CPKC's Right to Participate in Response Actions

Following receipt of any notice, order, claim, investigation, information request, letter, summons, citation, directive, or other communication identified in Section 7.5.3 above in connection with any response action taken pursuant to Section 7.4.3 above, Licensee shall notify CPKC of and permit CPKC to participate in any and all investigations, telephone conferences, settlement discussions, remediation plans, and all other interactions, direct or indirect, with governmental or regulatory officials, and Licensee shall take all action necessary to ensure that any indemnification, release, waiver, covenant not to sue, or hold harmless agreement benefiting Licensee and arising out of such activities, whether from a governmental or regulatory entity or from a private entity, also benefits CPKC to at least the same extent as Licensee.

7.7. Restoration of Property;

Upon completion of the Work or expiration or early termination of this ROE License Agreement, whichever occurs first, Licensee shall remove any debris resulting therefrom and shall restore the Property to the condition it was in prior to the commencement of the Work (or such other condition as is satisfactory to CPKC, taking into account the necessary changes associated with the agreed-to construction by Licensee of an underground box culvert, its approaches, drainage, and all work incidental thereto). All excavations are to be backfilled and tamped. All borings shall be backfilled with grout. Drill cuttings shall not be used as backfill. Licensee shall dispose of all drill cuttings, soil and sediment samples, purge water, dewatering effluent, and water samples and all excess excavation material in a manner acceptable to CPKC and in accordance with all applicable laws, all at no expense to CPKC.

8. LIABILITY

8.1. Damage To Tracks, Facilities, And Equipment

If any tracks, facilities, or equipment owned, used, or maintained by CPKC are damaged in connection with the Work, CPKC shall repair (or arrange for the repair of) such damage, and Licensee shall pay the full cost of such repair within 30 days after CPKC shall tender a bill therefor.

8.2. Assumption Of Risk

Licensee is fully aware of the dangers of working on and about railroad property and railroad operations and knowingly and willingly assumes the risk of harm (e.g., injury to or death of persons and damage to or destruction of property) that may occur while on and about the Property. Without in any way limiting the scope of the preceding sentence, Licensee assumes the risk that monitoring wells, elevation bench marks, reference points, and other installations located on the Property may be disturbed, damaged, or destroyed by CPKC or third persons, and Licensee shall not make any claim against CPKC on account of same, even if such disturbance, damage, or destruction arises from the negligence of CPKC or its employees, agents, lessees, or invitees. Licensee assumes full responsibility for protecting its installations and personal property from theft and vandalism while such installations and personal property are on the Property.

8.3. Indemnity

To the maximum extent permitted by applicable law, Licensee shall indemnify, defend, and hold harmless the CPKC Indemnified Parties (as defined below) against all Claims (as defined in this ROE License Agreement) arising out of, resulting from or relating to any loss of (or damage to) any property, natural resource, or business or any injury to (or death of) any person, where such loss, damage, injury, or death actually arises (whether directly or indirectly, wholly or in part) from the Work, any action or omission of Licensee while on or about the Property pursuant to this ROE License Agreement, or the exercise by Licensee of the license granted by this ROE License Agreement. As used in this ROE License Agreement, CPKC Indemnified Parties, individually and collectively, means (a) CPKC, (b) CPKC's directors, officers, stockholders, employees, agents, invitees, insurers, parents, affiliates, subsidiaries, predecessors, successors, and assigns, and (c) anyone acting on behalf of any person or entity described in (a) or (b).

9. INSURANCE.

9.1. During the Term of this ROE License Agreement, Licensee shall at its own cost and expense, take out and keep in full force and effect:

9.1.1. Commercial General Liability Insurance

Commercial General Liability Insurance policy with an inclusive limit of not less than Ten Million Dollars (\$10,000,000) per occurrence for personal injury, bodily injury, death or property damage, or any other increased amount as CPKC may reasonably require upon conducting reviews from time to time. Such insurance shall specifically state by its wording or by endorsement:

- a. CPKC, together with its associated parents, affiliates, and subsidiaries (and the directors, officers, employees, agents, and trustees of all of the foregoing) shall be named as an additional insured with respect to the Licensee's indemnity obligations under this ROE License Agreement;
- b. The policy shall contain a "cross-liability" or "severability of interest" clause which shall have the effect of insuring each entity, person, firm or corporation insured thereunder in the same manner and to the same extent as if a separate policy had been insured to each;
- c. Blanket contractual liability, including the insurable liabilities and obligations assumed by the Licensee under this ROE License Agreement;
- d. Broad form completed operations;
- e. Tenants' legal liability;
- f. Sudden and accidental pollution liability; and
- g. Shall not exclude operations on or in the vicinity of the railway right-of-way.

9.1.2. Automobile Liability and Property Damage Insurance

Automobile public liability and property damage insurance in an amount not less than Five Million dollars (\$5,000,000) all-inclusive covering the ownership, use and operation of any motor vehicles and trailers licensed for use on public highways and which are owned, non-owned, licensed, or controlled by Licensee or its agents or Licensee Representatives, and used in regards to this ROE License Agreement.

9.1.3. Workers Compensation Insurance

Workers compensation insurance which shall be in strict accordance with the requirements of the most current and applicable state workers compensation insurance laws, and employers' liability insurance, including occupational disease insurance with limits of not less than One Million Dollars (\$1,000,000) for each accident/each employee, and where appropriate coverage under said policies to be extended for liability under the Federal Employers Liability Act (FELA), United States Longshore and Harbor Workers Compensation Act (USL&H), and the Merchant Marine Act of 1920 ("Jones Act"). Licensee shall, before any services are commenced under this ROE License Agreement submit written evidence that it has obtained full Workers Compensation insurance coverage for persons whom it employs or may employ in carrying out the services under this ROE License Agreement. CPKC Indemnified Parties shall be waived of any and all subrogation in the event of injury, death, losses, incidents, claims and potential claims.

9.1.5. Environmental Pollution Legal Liability Insurance:

Pollution Legal Liability insurance in respect of the operations of Licensee thereon against claims including but not limited to bodily injury, property damage and clean-up costs, indemnifying and protecting CPKC and Licensee, their respective employees, servants, agents, contractors and invitees, the amount of which will be determined based on the risks associated to the products being handled, to the inclusive limit of not less than Five Million Dollars (\$5,000,000) per occurrence or such amounts as CPKC may reasonably require from time to time. Such insurance shall provide 1) offsite coverage on a sudden & accidental basis and 2) onsite coverage on a gradual and sudden & accidental basis. Such insurance shall specifically state by its wording or by endorsement that:

- a. the policy extends to cover the contractual obligations assumed by Licensee under the Agreement with CPKC;
- b. the policy shall name CPKC as an additional insured; and
- c. the policy shall contain a "cross-liability" clause.

9.2. Insurance No Limit on Liabilities

Licensee agrees that the insurance requirements set out herein shall not limit or restrict its liabilities pursuant to this ROE License Agreement.

9.3. Form/Type of Insurance Policies

The insurance coverage required to be maintained pursuant to this ROE License Agreement shall be primary, and not excess of any other insurance that may be available. Unless otherwise provided above, all insurance coverage shall take the place in the form of an occurrence-basis policy, and not a claims-made policy.

9.4. Subrogation

Licensee shall waive any and all subrogation in the event of injury, death, losses, incidents, claims and potential claims where permissible under the insurance policies required under this ROE License Agreement.

9.5. Cancellation Notice to CPKC

The insurance coverages above shall be endorsed to provide CPKC with not less than thirty (30) days' written notice in advance of cancellation.

9.6. Contractual Endorsement

Licensee shall provide CPKC with written notice and all reasonable particulars and documents related to any damages, losses, incidents, claims, and potential claims concerning this ROE License Agreement as soon as practicable after the damage, loss, incident, or claim has been discovered. Licensee is responsible for any deductible and excluded loss under any insurance policy. The deductible in any insurance policy shall not exceed such maximum amount that a reasonably prudent business person would consider reasonable.

9.7. Insurance Documentation

Licensee shall, prior to the effective date of this ROE License Agreement, and upon the insurance renewal date thereafter for the duration of the Term of this ROE License Agreement, furnish to CPKC Certificates of Insurance evidencing the above coverages by email to Certs.CertSecure@HUBInternational.com. Upon request, Licensee shall provide CPKC with certified copies of the insurance policies. Such notice shall be by registered mail to the specific attention of: Risk Management, Canadian Pacific Railway Company, 7550 Ogden Dale Road SE, Calgary, AB T2C 4X9.

9.8. CPKC's Review of Insurance Documentation

CPKC shall have no obligation to examine such certificate(s) or to advise Licensee if its insurance coverage is not in compliance with this ROE License Agreement. Acceptance of any certificate(s) which are not compliant with the requirements set out herein shall in no way whatsoever imply that CPKC has waived its insurance requirements.

9.9. Maintenance of Insurance Coverage/Termination Option

CPKC reserves the right to maintain the insurance coverage in good standing at Licensee's expense and to require Licensee to obtain additional insurance where, in CPKC's reasonable opinion, the circumstances so warrant. If the Licensee fails to obtain and maintain the insurance coverage required in this ROE License Agreement, Licensee is not permitted access to the

Property until Licensee has received written approval from CPKC or CPKC may, at its option, terminate this ROE License Agreement without notice.

10. GENERAL PROVISIONS

10.1. Survival of Indemnity Provisions.

The indemnification provisions of this ROE License Agreement shall survive its expiration or termination.

10.2. Mere License.

The permissions encompassed by this ROE License Agreement constitute a mere license to use the Property for the specified purpose of Licensee's performance of the Work and does not create any estate or interest in the Property.

10.3. No Warranty Of Title.

CPKC does not warrant that it has good title to the Property.

10.4. Assignment; Binding Effect:

This ROE License Agreement may not be assigned by Licensee without the advance written consent of CPKC. Subject to the preceding sentence, this ROE License Agreement shall be binding upon, and inure to the benefit of, the Parties' respective successors and assigns.

10.5. Governing Law:

This ROE License Agreement shall be construed and interpreted in accordance with the laws of the state in which the Property is located, without reference to the choice of law rules of that state.

10.6. Entire Agreement:

This ROE License Agreement is the full, complete, and entire agreement of the parties with respect to Licensee's licensed right of entry upon the Property as set forth herein, and any and all prior writings, representations, and negotiations with respect to those subjects are superseded by this ROE License Agreement.

10.7. Headings:

The headings used in this ROE License Agreement are provided solely as a convenient means of reference. They are not intended to, and do not, limit or expand the purpose or effect of the paragraphs to which they are appended. The headings shall not be used to construe or interpret this ROE License Agreement.

10.8. Singular And Plural:

As used in this ROE License Agreement, the singular form of a word includes the plural form of that word, and vice versa, and this ROE License Agreement shall be deemed to include such changes to the accompanying verbiage as may be necessary to conform to the change from singular to plural, or vice versa.

10.9. Duplicate Copies & Counterparts.

This ROE License Agreement may be executed in counterparts, which together shall constitute one and the same document. The Parties may execute more than one copy of this ROE License Agreement, each of which shall constitute an original.

[Remainder of this page left blank; signatures on the following page]

11. SIGNATURES.

THE PARTIES have executed this ROE License Agreement as evidence of their agreement to the terms herein.

SOO LINE RAILROAD COMPANY (“CPKC”)

By:_____

By:_____
Charles Kretchman
Grade Crossing Coordinator

Date:_____

Date:_____

Exhibit A
Map of the Property

Exhibit B

CPKC SAFETY REQUIREMENTS FOR CONTRACTORS – UNITED STATES

ATTACHMENT

CPKC SAFETY REQUIREMENTS FOR CONTRACTORS – UNITED STATES



CPKC Safety Requirements for Contractors United States

Approval Authority:	Safety Management Systems	Effective Date:	Apr. 15, 2025
Version:	5.0	Next Review Date:	Apr. 15, 2028

Table of Contents

1.0 Introduction	1
2.0 Application.....	1
3.0 Definitions and Interpretation	1
4.0 Interpretation and Application.....	3
5.0 Contractor Compliance and Responsibilities	3
6.0 Site Safety Plans	4
7.0 Safety Training	5
8.0 Safety Orientation	5
9.0 Job Safety Briefing.....	6
10.0 Applicable Legislation	7
11.0 Security Access to CPKC Property.....	8
12.0 Personal Conduct	9
13.0 Personal Protection.....	10
14.0 Railroad Track Protection.....	12
15.0 HAZCOM	16
16.0 Operation of Highway Vehicles.....	16
17.0 Tools, Equipment and Machinery.....	18
18.0 Emergency Response	20
19.0 Confined Space	21
20.0 Reportable Accidents, Incidents, and Injuries	21
21.0 Reporting	22
22.0 Contractor & Contractor Personnel Acknowledgement	24
21.0 Attachment A – Emergency Information Sheet	25
22.0 Attachment B – Work Site Information Sheet	26

1.0 Introduction

At CPKC, safety is an integral part of the way we do business. We expect everyone working for CPKC to be unconditionally committed to safety. Safety must be given top priority and will take precedence over deadlines, production schedules, and all other considerations.

2.0 Application

- 2.1 These Safety Requirements are applicable to all who work on CPKC property (except as noted in 2.3 and 2.4 below) including contractors and other persons performing work or otherwise providing services to CPKC on its property in the United States.
- 2.2 These Safety Requirements cannot be waived or altered, in whole or in part, without a prior risk Assessment specific to the work being conducted, and written consent has been provided by the Manager-in-Charge.
- 2.3 Notwithstanding the foregoing, these Safety Requirements do not apply to other railroad companies who only operate trains on CPKC property under various trackage or interchange agreements.
- 2.4 Further notwithstanding the foregoing, these Safety Requirements may not apply to work or services provided in CPKC office premises.

3.0 Definitions and Interpretation

3.1 Definitions

- 3.1.1 In these Safety Requirements, the following capitalized terms shall have the ascribed meaning below:

Applicable Legislation - means all applicable legislation, regulations, by-laws, codes, rules, standards, policies, procedures, promulgated by any federal, state, and municipal governmental body, including those of its agencies, having authority over CPKC and, or a contractor in relation to the work in the matter of health and safety of the person, property and, or the environment.

Canadian Pacific Kansas City or CPKC - means Canadian Pacific Kansas City Limited, and its subsidiaries and affiliates, and includes each of their respective directors, officers, employees, agent, and representatives.

CPKC Personnel - means CPKC's employees, agents, and representatives.

CPKC Property - means any building, facility, yard, track, right of way or other property owned or controlled by CPKC.

Contractor - means the company or person, and their respective employees and authorized agents, representative and subcontractors who are providing goods or services to CPKC; or on behalf of a third party working on CPKC property.

Contractor Personnel - means the contractor's employees, and authorized agents, representative and subcontractors.

Efficiency Test (eTest) - means a planned procedure to evaluate compliance with rules, instructions, and procedures, with or without the employee's knowledge.

Foul of Track - means the placement of an individual or equipment within 4 feet (1.2 m) of the outside rail of a railway track that could be struck by a moving train or on-track work equipment (e.g., hi-rail equipment).

Hazardous Materials- means any substance, which is hazardous to persons or property and includes, without limiting the generality of the foregoing:

- i) radioactive, explosive, poisonous, or toxic substances.
- ii) any substance that if added to any water, would degrade, or alter the quality of the water to the extent that it is detrimental to its use by man or by any animal, or plant.
- iii) any solid, liquid, gas or odor or combination of any of them that, if emitted into the air, would create, or contribute to the creation of a condition of the air that endangers the health, safety, or welfare of persons, or the health of animal life, or causes damage to plant life or to property, or
- iv) substances declared to be hazardous, toxic, or dangerous under any law or regulation now or hereafter enacted by any governmental authority having jurisdiction.

Manager-in-Charge- means a CPKC manager as designated or otherwise identified by CPKC as being responsible for overseeing the work to be performed, such Manager-in-Charge may include, but is not limited to local CPKC Management, Superintendents, Chief Engineers, and Project Managers, etc.

Mobile Equipment- means any motorized and self-propelled equipment, excluding railroad equipment and highway vehicles, but including, for example, forklifts, tractors, cranes, ATVs, mules, motorized scissor lifts, telescopic boom lifts, and similar equipment that are not designed to operate or move on railroad tracks.

Office Premises- means any building, facility, or portion thereof, or other premises, whether owned or controlled by CPKC, which is used solely for clerical or administrative purposes, and which does not contain heavy equipment or machinery, as designated by CPKC from time to time.

Qualified and Authorized- means a status attained by a person who has successfully completed any required training and demonstrated proficiency in the duties of a particular position or function and who has been given the right to act.

Railroad Equipment- means trains, locomotives, railcars, on track equipment (track units), hi-rail vehicles and any other equipment designed to operate or move on railroad tracks.

Site Safety Plan- means a documented plan which set out how work is to be conducted in a safe manner, as required by applicable legislation, see 6.1).

Third Party Project- means any work being performed on CPKC property that CPKC is not managing (i.e., road authority, utility company, commuter agency, or other similar entity, are on CPKC property for their own purposes, and not a project sponsored or managed by CPKC.

Work- means the provision of products and services and related activities.

Work Site- means any CPKC property where CPKC personnel or contractor personnel are present, or permitted to be present, while engaged in any Work, including any railroad equipment, mobile equipment and highway vehicles operated by or used to convey a person engaged in such Work. This applies also to work immediately adjacent to CPKC property which can pose a risk to safe railway operations (i.e., blasting, excavation next to right-of-way (ROW), etc.).

4.0 Interpretation and Application

- 4.1 Where legislation is referred to in these Safety Requirements, it shall include all amendments and replacements thereto as promulgated from time to time.
- 4.2 Where standards, such as those of the American National Standards Institute (ANSI), are referred to in these Safety Requirements, they shall include all amendments and replacements thereof from time to time.
- 4.3 Where there is any ambiguity, inconsistencies, or omissions between or among any agreements with CPKC, expressed or implied; any applicable legislations; any applicable CPKC policies and practices; and any applicable industrial standards and practices, contractor and contractor personnel shall adhere to that which is most stringent and current.

5.0 Contractor Compliance and Responsibilities

5.1 General Compliance

- 5.1.1 The contractor shall be fully and solely responsible for ensuring the health and safety of contractor personnel and for ensuring that its work and other activities do not compromise the health and safety of CPKC personnel or any other party, the protection of the environment, the protection of CPKC's property and those of any other party, and do not interfere with the safety of CPKC's railroad operations.
- 5.1.2 The contractor shall comply with and shall ensure all of contractor personnel are trained and qualified to safely perform the Work and that they comply with all Applicable Legislation pertaining to the protection against fire, safety, health, and environmental hazards, and with any license, permits, authorizations issued by the respective authority and provide CPKC with written certification that contractor's safety program required by 49 CFR Part 243 has been approved by the Federal Railroad Administration (FRA) where applicable.
- 5.1.3 The contractor shall comply with and shall ensure all of contractor personnel comply with all terms and conditions of all agreements, expressed or implied, between contractor and CPKC, and all applicable CPKC policies and practices.
- 5.1.4 Subject to the requirements of CPKC's Access Control Procedures, the contractor shall provide CPKC eRaisafe training for each employee engaged in work on CPKC property.

Note - contractors entering into new agreements after Apr. 14, 2023, will be required to enroll or / subscribe to eRaisafe / ISNetworld as required by CPKC Access Control Policy / Procedure).

Where there is no agreement between CPKC and the contractor, the contractor is responsible for meeting the additional requirements outlines within CPKC's Access Control Procedures.

- 5.1.5 The contractor shall provide contractor personnel, at its own expense, all safety equipment required to protect against injuries during the performance of the work and shall ensure that contractor personnel are knowledgeable of and utilize safe practices in performing the work.
- 5.1.6 The contractor shall always have a copy of the documents listed below at the work site, and shall produce them as and when requested by CPKC:
 - a) CPKC Safety Requirements for Contractors - United States.
 - b) Licenses, certifications, permits, training records or other documents required by applicable legislation or these Safety Requirements.
 - c) Contractor's site safety plan.

- d) Contractor's Emergency Information Sheet (see Attachment A) / Worksite Information Sheet (see Attachment B).
- e) Any additional documents required by contract or by agreement with Manager-in-Charge.
- f) Employee identification (eRailsafe badge or equivalent, see 11.1.1).

5.2 Compliance Assurance

- 5.2.1 CPKC reserves the right to observe, inspect, test and audit contractor and contractor personnel for compliance with all requirements herein, and to demand and receive all relevant records, documentation, and materials evidencing compliance, at any time, and from time to time.
- 5.2.2 Failure of the contractor or contractor personnel to comply with any applicable provisions herein may be considered a material breach, and in addition to all other remedies available, CPKC may without prejudice:
 - a) take over control of that work or activity.
 - b) order the work to stop, and / or
 - c) order contractor personnel to leave CPKC Property.
- 5.2.3 Upon the earlier of the completion of the work, the expiration of the applicable agreement, or the request of a Manager-in-Charge, contractor and contractor personnel shall return all identification, badges, access cards, and decals, issued or provided by CPKC to the Manager-in-Charge.

6.0 Site Safety Plans

6.1 General Requirements

- 6.1.1 Prior to starting any work on CPKC Property, the contractor must have a written site safety plan that identifies:
 - a) All applicable legislation, rules, policies, and work practices in relation to the work being performed.
 - b) Specific hazards that are associated with the work being performed on CPKC property for CPKC, and work being performed not for CPKC:

For example:

- i) Construction, maintenance, or inspections of buildings.
 - ii) Working on or adjacent to railroad tracks.
 - iii) Maintenance or inspection of railroad tracks, crossings, or signal systems.
 - iv) Operating railroad equipment on CPKC tracks, or
 - v) When / where contractor personnel work directly with or in proximity (time or space) to CPKC personnel.
- c) Methods of verifying compliance.
- 6.1.2 The contractor will provide Manager-In-Charge with a copy of this site safety plan on reasonable request.
- 6.1.3 The contractor must be able to demonstrate an awareness of applicable legislation, rules, policies, and work practices in relation to the work being performed.

7.0 Safety Training

7.1 Training & Qualifications

- 7.1.1 At its sole cost and expense, contractor shall ensure that all contractor personnel be fully trained and qualified for the work they will be performing. Contractors and contractor personnel shall meet, or exceed, all applicable legislation requirements relating to training and qualification, including but not limited to the requirements of 49 CFR Part 243 – Training, Qualification, and Oversight for Safety-Related Railroad Employees and provide training documentation to ISNetworld for filing / record keeping as per CPKC Access Control Policy / Procedure.
- 7.1.2 Additionally, contractor personnel training and qualification shall meet or exceed all applicable industry standards.

7.2 Proof of Training & Qualification

- 7.2.1 Contractor personnel shall always have proof of such training and qualifications and shall produce them as and when requested by the Manager-in-Charge.
- 7.2.2 CPKC reserves the right to inspect qualification certificates, licenses, training records and / or work history records for any contractor personnel, and, or to be provided with copies thereof, on reasonable request. In addition, CPKC reserves the right to perform eTests on contractor employees, and request discipline for non-conformance.
- 7.2.3 As per 49 CFR 243.205 contractors are required to conduct periodic oversight tests and inspections of their safety-related railroad employees if a contractor:
- employs more than 15 safety-related railroad employees;
 - contractor relies on training it directly provides to its own employees as the basis for qualifying those employees to perform safety-related duties on a railroad; and
 - employs supervisory safety-related railroad employees capable of performing oversight.

CPKC, in alignment with 49 CFR § 243 regulations, requires that Contractors retain periodic oversight test and inspection records, which include:

- Date, time, place, and result of each test or inspection;
- Specify each person administering the tests and inspections, and each person tested;
- Indicate whether the employee complied with the monitored duties; and
- Indicate whether any interventions or corrective actions were undertaken to remediate non-compliances or unsatisfactory ratings.

Consistent with 49 CFR § 243 regulations, CPKC requires that records from the periodic oversight test and inspections are retained for a period of one calendar year following the end of the calendar year in which such tests and inspections were conducted. CPKC may request and audit the records for completion, quality, and compliance purposes. In case of an audit, CPKC shall provide a ten (10) business day notice to the contractor to provide the records.

Any changes to FRA regulations in the future will supersede requirements set forth in this letter, as required.

8.0 Safety Orientation

8.1 General Requirements

- 8.1.1 Prior to beginning work, all contractor personnel shall participate in a CPKC authorized safety orientation, including on-site orientation presented by the Manager-in-Charge or designate.
- 8.1.2 Any time the scope of work, location, condition or supervision changes, contractor personnel may be required to attend additional safety orientation sessions.
- 8.1.3 After successful completion of such safety orientation, contractors must be able to produce company identification or an eRailsafe photo identification badge authorizing access to CPKC property unescorted for the purposes of conducting work. Managers can enter the tracking code into Compliance Management (CM) (CP property) and Operational Testing System (OTS) (KC property). Third parties who hire subcontractors must ensure required compliance while on CPKC property. The eRailsafe identification card shall be worn or be always made visible or produced upon request and cannot be transferred under any circumstances.

9.0 Job Safety Briefing

- 9.1.1 Contractor personnel shall attend all job safety briefings as and when conducted. Contractor personnel shall be solely and fully responsible for understanding the content of the job safety briefing, shall:
 - a) understand the scope of work to be performed and an appreciation of the nature of the location, environment, and conditions where such work is to be performed.
 - b) be aware of specific or unusual hazardous condition, existing or potential and the control measures required to protect against, control, mitigate, or where possible, avoid said hazard, and
 - c) have an emergency response plan / evacuation procedures.
- 9.1.2 Where contractor personnel are working directly with or in proximity (time or space) to CPKC personnel, job safety briefings must include both CPKC personnel and contractor personnel, and any other affected third parties. The job safety briefing shall identify nature and extent of the interaction between the work being performed by contractor personnel, and those performed by CPKC personnel or other third parties. Contractor personnel shall inform CPKC personnel, and any other third parties of known or potential unsafe conditions and hazards that may be created by, resulting from, or inherent in their work and the corresponding preventative, mitigation, and / or control measures at all job briefings prior to commencing work, or as soon as contractor personnel becomes aware of such conditions.
- 9.1.3 In all situations, all contractor personnel are expected to:
 - a) continually identify hazards and assess risk of hazards and to communicate all hazards continually and clearly to the Manager-in-Charge and to all other parties that may be affected at job safety briefings, and at any other time as and when appropriate or necessary.
 - b) take actions that are within their assigned responsibility to eliminate or control hazards and risks, and
 - c) immediately notify their supervisor or the Manager-in-Charge of hazards that pose unacceptable risk that they are unable to eliminate or control.
- 9.1.4 Where contractor personnel are unable to eliminate or control a hazard, contractor personnel shall take interim measures to protect people, property, equipment, and the environment until the hazard can be accurately assessed and appropriate corrective actions taken.

10.0 Applicable Legislation

10.1 General Requirements

- 10.1.1 Contractor and contractor personnel shall be solely responsible for identifying and complying with all applicable legislation. Contractor and contractor personnel shall comply with the federal legislations set out below which list is intended solely for general guidance, and not as a comprehensive list of all applicable legislation.
- 10.1.2 Additionally, the Association of American Railroads (AAR) is an industry association which can provide support and guidance on matters related to railroad safety and the transportation of hazardous materials.

10.2 Transportation of Hazardous Materials

- 10.2.1 When work involves the handling or transportation of hazardous materials (hazmat), that work must comply with Hazardous Materials Transportation Act and regulations administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA).
- 10.2.2 Contractors shall be solely responsible for ensuring that all contractor personnel who handles, offers for transport and / or transports hazmat by any transportation mode are trained and hold a valid training certificate or is working under the direct supervision of someone who is trained and holds a valid training certificate. That training must be based on the work that the person is expected to perform and the hazmat that the person is expected to handle, offer for transport or transport.
- 10.2.3 All U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations are published in Chapter I of title 49 of the Code of Federal Regulations (49 CFR).

10.3 Railroad Work

- 10.3.1 When work involves the construction, alteration, operation, inspection, and maintenance of any part work of the general railroad system of transportation, that work must comply with the Federal Railroad Safety Act and regulations administered by the Federal Railroad Administration (FRA).
- 10.3.2 Contractors shall be solely responsible for ensuring that all contractor personnel who perform railroad work are trained and qualified in accordance with those regulations and hold valid certificates when required.
- 10.3.3 All FRA regulations are published in Chapter II of title 49 of the Code of Federal Regulations (49 CFR).

10.4 Occupational Safety & Health

- 10.4.1 Any work being performed that may create a risk to the health and safety of any person, including CPKC personnel and contractor personnel, when not covered by FRA regulations shall be governed by U.S. Department of Labor regulations administered by Occupational Safety and Health Administration (OSHA).
- 10.4.2 All OSHA regulations are published in Chapter XVII of title 29 of the Code of Federal Regulations (29 CFR).

10.5 Environmental Protection

- 10.5.1 Where work is being performed that may impact the environment, that work must comply with all applicable federal state, and local government legislation, regulations, and standards.
- 10.5.2 Federal legislation is generally administered by the Environmental Protection Agency (EPA). A compilation of these laws and regulations can be accessed at <http://www.epa.gov/lawsregs/>

11.0 Security Access to CPKC Property

- 11.1.1 All contractor personnel must have a valid eRailsafe photo identification card (when / where required) or personal identification (as per the list below) always authorizing access and in their possession while on CPKC property, and present them for review to any Manager-in-Charge, other CPKC managers and employees, police officer, security guard, or regulatory officer upon request:
- Photo identification (e.g., driver's license); and
 - Proof of employment, document, or card; and
 - CPKC safety orientation certificate, or
 - Building access pass issued by CPKC, or third-party having control over CPKC premises, or
 - CPKC security photo ID card or badge, or
 - Other proof of safety orientation and access authorization issued by CPKC.
- 11.1.2 Where any work requires contractor personnel to ride in locomotive or other non-passenger railroad equipment, the contractor must also possess a CPKC Access Pass for riding non-passenger railroad equipment, signed by the responsible operating manager. Such a signed pass must be presented to the train crew or operator when boarding the equipment. Failure to possess such a pass will result in the equipment not moving, removal from the equipment, and / or the filing of trespasser charges.

11.2 Security Awareness

- 11.2.1 Contractor shall conduct employee background checks as is necessary to ensure that contractor personnel do not pose a security risk to CPKC, such security risk includes the risk of the commission of terrorist activities, sabotage, vandalism, theft, and violence. CPKC reserves the right, at all times, to require that contractors undertake certain security training and / or perform background checks on contractor personnel, prior to allowing such contractor personnel to enter onto CPKC property.
- 11.2.2 On request CPKC can make available a copy of CPKC's Railway Security Awareness Program for use by contractor personnel.

11.3 Firearms & Explosives

- 11.3.1 Firearms (loaded or empty) are not permitted on CPKC Property, except for police officers and other designated government officials when authorized to do so.
- 11.3.2 No explosives will be permitted on CPKC Property without written approval by the Manager-in-Charge.

11.4 Reporting

Contractor personnel must report any security concern, security incident, criminal activity (known or suspected), suspicious happenings and / or suspicious persons on CPKC Property to the Manager-in-Charge or to CPKC Police Services in accordance with Section 20.

12.0 Personal Conduct

12.1 Drug and Alcohol Prohibition

CPKC recognizes the problem of alcohol and substance abuse in today's society. This problem poses concerns to an employer who is subject to governmental regulations and seeks to promote the safety of the general public. CPKC has a concern for the safety, health and well-being of its employees as well as an obligation to comply with the United States Department of Transportation (DOT) and Federal Railroad Administration (FRA) regulations. CPKC will comply with all statutes and regulations administered by the FRA in implementing the required 49 CFR §219 Drug and Alcohol Program. CPKC also expects employees of other railroads, visitors or contractors to comply with this regulation while on CPKC property, consistent with federal regulations. If subject to this regulation, contractor shall be solely responsible for compliance with the 49 CFR Part 219. Contractor shall provide CPKC with proof of its compliance prior to performing services for CPKC and continued proof of compliance must be provided to CPKC immediately upon request. This proof of compliance will include, but will not be limited to, a copy of the 49 CFR §219 Drug and Alcohol Program Plan and FRA Approval Letter and Continued Certification of Compliance and Statistical Reporting. Periodic audits to ensure compliance with these regulations may be performed and cooperation and compliance is expected upon request.

If subject to other DOT modalities and regulations, such as the Federal Motor Carriers Safety Administration (FMCSA), compliance of that modality's drug and alcohol program guidelines will be required and periodic audits to ensure compliance with these regulations may be performed and cooperation and compliance is expected upon request.

12.1.1 Entry onto CPKC Property when in possession of, or under the influence of alcohol, intoxicants, narcotics, or controlled substances is strictly prohibited. Controlled substances include all Schedule 1 drugs (such as marijuana and "medical marijuana") and synthetic / designer drugs and / or any intoxicants or products labeled "not intended for human consumption".

12.1.2 The sale, trade, and / or offer for sale alcohol or controlled substances are prohibited.

12.1.3 Additionally, contractor personnel shall be free of any condition which may in any way adversely affect alertness, concentration, responsiveness, or the ability react calmly and responsibly to safety hazards.

12.1.4 CPKC reserves the right to request drug and / or alcohol tests for contractor personnel as and where required or permitted by law.

12.2 Inappropriate Behavior

12.2.1 CPKC is committed to maintaining a work environment that supports the dignity of all individuals. No person working at CPKC may be subjected to any form of discrimination or harassment, including sexual harassment.

12.2.2 Acts or threats of violence are always unacceptable on CPKC Property. Uttering of threats or committing acts of violence will result in the removal of the responsible contractor personnel from CPKC property, termination of the contract, and / or criminal charges.

12.2.3 Horseplay, practical jokes, fighting or any other activity that may create a safety hazard is not permitted.

12.3 Electronic Entertainment and Communication Devices

12.3.1 The use of personal entertainment devices, including portable audio and video devices such as compact DVD, CD, video game players, iPads / tablets, SMART watches, and MP3 players, is prohibited:

- a) while working on CPKC property.

- b) while transporting CPKC personnel, whether on and off CPKC property, and
- c) while operating any CPKC highway vehicle, railroad equipment or mobile equipment, whether on and off CPKC property.

12.3.2 The use of electronic communication devices, including cell phones, walkie-talkies, PDAs, iPads, Tablets, GPS navigation units, portable computers, and similar devices, is prohibited:

- a) while operating any highway vehicle unless it is stopped and parked in a safe location.
- b) while transporting CPKC Personnel, whether on and off CPKC property.
- c) while operating or assisting in the operation of any railroad equipment or mobile equipment.
- d) while operating power tools, equipment, or machinery.
- e) when Foul of Track for any reason.
- f) wherever use is prohibited by signage or by a CPKC manager, or
- g) whenever use of such a device creates an unsafe condition.

12.3.3 Notwithstanding the foregoing, company cell phones, radios, walkie-talkies, GPS units, iPads, tablets, and other communication devices may be used solely for the conduct of business when authorized by the CPKC Manager-in-Charge and where not prohibited by state or municipal legislation. Any electronic communication device may be used when it is necessary to communicate an emergency condition.

12.4 Smoking

12.4.1 Smoking, including the use of e-cigarettes is prohibited on all CPKC Property, and in or on all highway vehicles, Railroad Equipment, and Mobile Equipment, except for CPKC designated outdoor smoking areas.

13.0 Personal Protection

13.1 Work Clothing

13.1.1 The Contractor must ensure that contractor personnel wear clothing that meets applicable legislation and is suitable to perform the work safely. This always includes at minimum ankle length pants and waist length shirts with a minimum quarter-length sleeves. Clothing must not interfere with vision, hearing or use of hands and feet.

13.2 Personal Protective Equipment (PPE)

13.2.1 The contractor shall ensure that contractor personnel wear personal protective equipment required by applicable legislation, regulations, codes and industry standards as necessary to protect against personal injuries while on railroad property. All personal protective equipment shall meet applicable legislation and American National Standards Institute (ANSI) standards and shall be in good condition and be properly fitted.

13.2.2 The following mandatory personal protective equipment ("PPE") shall be supplied by the contractor at its own expense, and shall be always worn by contractor personnel while on CPKC property:

- Safety hard hat, meeting ANSI Z89.1 standards, except in office buildings or in enclosed vehicles or equipment.
- Safety footwear with protective toe caps and puncture resistant soles, meeting ASTM F2413 standards.
- Safety glasses with permanently attached side shields meeting ANSI Z87.1

- standards in office buildings or enclosed highway vehicles.
- Note- transition lenses are not permitted.
- High visibility fluorescent outerwear with retro reflective striping meeting ANSI / ISEA 107 Class 2 standards not covered by other clothing or equipment, except where necessary for safety reasons such as where fall protection or pole climbing equipment is being used.
- Any other PPE as required by applicable legislation or referenced standard, or as otherwise required to protect contractor personnel from injuries.

Type of Protection	Additional Recommendations
Hard Hats	Have hi-visibility characteristics which are not obscured by markings or decals.
Safety Eyewear	Tinted safety eyewear must meet military tinting standards for red signal recognition if operating railway equipment (safety eyewear meeting this requirement is available from Wurth / North / ORR Safety; ask for CPKC approved tinted safety eyewear). Polarized lenses are discouraged and should be worn with caution when required to view LCD / LED screens. Transition lenses are discouraged and should be worn with caution when working in changing light conditions. Personal sunglasses are discouraged and must not be worn when operating railway equipment. Wear mesh face shields over top safety glasses when using any striking tool while performing on track maintenance work (e.g., spiking, snapping on/off anchors, etc.). If working alongside CPKC employees, you will be required to comply with this practice.
Safety Footwear	Have defined heels. Laced fully to the top and tied securely for ankle support. When snow and ice conditions are present wear anti-slip winter footwear.
High Visibility Apparel	Lime-green is recommended when working on, or near tracks, or when performing work in proximity to CPKC personnel.

13.2.3 Contractor and contractor personnel shall be solely and fully responsible for assessing the risks related to the work and determining whether additional PPE may be required such as:

- Nomex or Proban fire-retardant protective gear when performing certain Transportation of Dangerous Goods (TDG) work and / or handling certain Hazardous Materials or performing specialized work.
- Hearing protection when working in any area where noise exposure levels:
 - are consistently equal to or greater 85 dBA.
 - exceed 115 dBA at any time.
 - any other work areas where posted, or so notified by CPKC management.
- Respiratory protection where contractor personnel may be exposed to occupational dusts / particulates, fumes, mists, gases and vapors, in which case, in which case contractors must have a written Respiratory Protection Program that meets or exceeds applicable legislation.
- Additional eye and face protection meeting ANSI standard Z87.1 (i.e. face shields, impact / splash goggles, welding / cutting goggles and welding helmets).
- Fall protection systems and equipment meeting appropriate ANSI Z359 standards as required by applicable legislation and as appropriate for the related fall hazards.
- Fall protection when working on an unguarded surface over water, where the water is deeper than 4 feet (1.2 m), or where there is a hazard of drowning due to terrain, winter conditions, water velocity or current; contractors must use a fall protection system or a personal floatation device (PFD) meeting approved standards.

14.0 Railroad Track Protection

14.1 Contractor's Responsibilities for the Protection of Railroad Traffic and Property

- 14.1.1 Where the work site is in close proximity to, or is located on, above, or below railroad tracks, special attention, care and precautions shall be taken to ensure the safety of all contractor personnel, CPKC personnel, all other third parties and to protect CPKC's property and railroad operations.
- 14.1.2 Contractor shall ensure that contractor personnel are made aware of all unique and inherent hazards in working near, on, above or below railroad tracks and shall ensure that all contractor personnel are fully trained and equipped to work safely.
- 14.1.3 Contractors who perform inspection, maintenance or repair to railroad tracks or track structures must be trained in accordance with FRA On Track Safety Rules (FRA 49 CFR Part 214, Subpart C - Roadway Worker Protection Regulations).
- 14.1.4 Contractors will not be allowed to foul a track unless:
 - a) They have been properly advised of the On Track Safety awareness procedures.
 - b) A railroad employee who is qualified to provide protection is present at the work site, or
 - c) The contractor has personnel present who are specifically trained, qualified, and authorized to provide that protection.
- 14.1.5 All work shall be organized or executed in such a manner as to ensure no interference with the regularity and safety of railroad operations. No step or sequence of any work that might directly or indirectly affect the safe movement of railroad traffic shall be started without the approval of the Manager-in-Charge.
- 14.1.6 No temporary structure, materials, or equipment shall be permitted closer than 12 feet (3.7 m) to the nearest rail of any track without prior approval in writing of the Manager-in-Charge.

Contractor personnel shall always remain alert to the movement of trains, rolling stock and other railroad equipment.
- 14.1.7 Contractor Personnel shall be especially alert in yards and terminal areas as
 - a) Railroad equipment that appears to be stationary may be moving.
 - b) Rate of movement of railroad equipment may be faster than it appears.
 - c) Railroad equipment change tracks often; and movements may be occurring simultaneously on adjacent tracks.
- 14.1.8 The Contractor shall always conduct its operations in a wholly responsible manner to avoid damage to the CPKC's tracks or property.

14.2 Clearance Requirements (50 feet / 15.2 m)

- 14.2.1 All work shall be performed as far away from railroad tracks as possible.
- 14.2.2 Unless authorized by CPKC, contractor personnel, equipment, and vehicles are not permitted to be within 50 feet (15.2 m) of the closest track centerline.
- 14.2.3 In the event work must be carried out within 50 feet (15.2 m) of the closest track written authorization must be obtained from the Manager-in-Charge, and contractor personnel must always remain at the maximum practicable distance from all railroad tracks.

- 14.2.4 When crossing tracks, contractor personnel shall ensure a minimum of 50 feet (15.2 m) separation between standing railroad equipment, stay at least 15 feet (4.6 m) away from the end of the nearest equipment, and look both ways before crossing tracks, and if clear, walk at a right angle to the tracks.
- 14.2.5 No work activities or processes are allowed within 50 feet (15.2 m) of the track while trains are passing through the work site unless specifically authorized.

14.3 Flagging Protection

- 14.3.1 When the work requires contractor personnel to be within 50 feet (15.2 m) of any railroad tracks, contractor or contractor personnel shall notify and obtain the written approval of the Manager-in-Charge in advance of the intended start date, and when approved, shall only perform work strictly in accordance with all terms and conditions of that approval.
- 14.3.2 Unless otherwise indicated by the Manager-in-Charge, proper protection against the movement of trains, rolling stock and other railroad equipment shall be deemed always required whenever work or contractor personnel must be within 50 feet (15.2 m) of the closet track. Protection may be provided only by a qualified CPKC employee through use of a flag person.
- 14.3.3 Where CPKC determines that flagging is required, then work must be strictly conducted under the direction of a CPKC flag person, or such other person designated by the Manager-in-Charge.
- 14.3.4 Contractor personnel shall ensure that there is always clear communication between contractor personnel and any CPKC flag person. Contractor personnel shall ensure that they are aware of:
 - (a) flagging distance limits.
 - (b) time limits, and
 - (c) any adjacent tracks where movement of railroad equipment may still occur.
- 14.3.5 Contractor Personnel shall not assume that a train movement is being stopped or cleared unless clear communication is received directly from the CPKC flag person.
- 14.3.6 A job briefing between the CPKC flag person, and all contractor personnel must occur before beginning any work on or foul of track.
- 14.3.7 Blue signal protection is used to indicate that CPKC or contractor personnel are working on, under or between railroad equipment and movement of trains or other railroad equipment is prohibited. Blue signals must not be tampered with or obstructed. Blue signals can only be removed by the person or group of persons who originally applied it. Application, use, and removal of blue signals, when appropriate, may only be done under the authorization and guidance of the Manager-in-Charge.
- 14.3.8 Red flag protection is used to indicate that CPKC or contractor personnel are working on or foul of track, or the track is out of service and movement of trains or other railroad equipment is prohibited. Red flags must not be tampered with or obstructed. Application, use, and removal of red flags, when appropriate, may only be done under the authorization and guidance of the Manager-in-Charge.

14.4 Working on or near Tracks

- 14.4.1 When authorized to perform work foul of track or otherwise be near railroad tracks, contractor personnel shall ensure all contractor personnel, equipment, and vehicles are kept as far away from railroad tracks as practicable, and shall at all times:
 - (a) be alert to train movements and shall expect the movement of trains, engines, cars, or

other mobile railroad equipment at any time, on any track, and in any direction, even if they appear to be stationary or in storage.

- (b) not rely on others to protect them from train movement.
- (c) stay at least 15 feet (4.6 m) away from the ends of railroad equipment when crossing the track.
- (d) ensure a minimum of 50 feet (15.2 m) separation prior to crossing between railroad equipment.
- (e) look both ways before crossing tracks, and if clear, walk at a right angle to them.
- (f) never climb on, under or between railroad equipment.
- (g) be aware of the location of structures or obstructions where track clearances are close.
- (h) not stand on the track in front of an approaching engine, car, or other equipment.
- (i) stand at least 20 feet (6.1 m) from the track(s) when there is a passing movement of trains, engines, cars, or other mobile railroad equipment, to prevent injury from flying debris or loose rigging and shall observe the train as it passes and be prepared to take evasive action in the event of an emergency.
- (j) not stand on or between adjacent tracks in multiple track territory when a train is passing.
- (k) not walk, stand or sit on the rails, between rails or on the end of ties, unless necessary. As the rail surface can be extremely slippery, personnel must step over the rails when crossing tracks. Personnel shall also be aware railroad ties can also be slippery and that railroad ballast can shift while walking on top of it. Situational awareness and use of proper footwear is important.
- (l) not remain in a vehicle that is within 50 feet (15.2 m) of a passing train unless specifically authorized, or where this is not possible.
- (m) keep away from track switches as remotely operated switch points can move unexpectedly with enough force to crush ballast rock. Personnel shall stay away from any other railroad devices they are unsure of. Personnel shall not disturb or foul the ballast at any time.
- (n) Third party work that has a potential to impact rail traffic must consider machine swing radius, vertical grade differences, overhead work, etc. to ensure it will not impact a passing train; work and equipment must maintain 50 feet (15.2 m) of a passing train.
- (o) When exiting on track machinery as trains are passing; exit on the opposite side.
 - i) use 3-point contact when getting on / off any vehicle, equipment, or track unit.
 - ii) face the vehicle or equipment / track unit when getting on / off.
 - iii) place handheld items onto equipment / track unit or seek help prior to getting on / off.
 - iv) get on / off on the operators' side when possible.

14.5 Equipment on or near tracks

- 14.5.1 Contractor personnel shall not be Foul of Track with any piece of equipment without a CPKC flag person or other authorized track protection.
- 14.5.2 Contractor personnel shall not move equipment across the tracks except at established road crossings, or unless under the protection and authorization of a CPKC flag person and only if the work site has been properly prepared for such a move. Tracked equipment will require a CPKC flag person any time railroad tracks are crossed.
- 14.5.3 Contractor personnel shall not move equipment across railroad bridges or through tunnels, except as expressly authorized and only under such conditions as stipulated by the Manager-in-Charge.

- 14.5.4 When there is passing rail traffic, contractor personnel shall move equipment away from the tracks at least 50 feet (15.2 m), or where not possible, park the equipment as far away from the tracks as possible, exit to the side away from the track where the movement is taking place, and walk to a safe distance.
- 14.5.5 When there is passing rail traffic, buckets, shovels, and loads on cranes must be lowered to the ground to rest, and cranes without a load must have their load line tightened or retracted to prevent movement.

14.6 Railroad Signs, Signals, Flags, and other Communication Infrastructure

- 14.6.1 Signs, signals and flags shall not be obstructed, removed, relocated, disabled, or altered in any way without proper authorization and qualification.
- 14.6.2 Only qualified contractor personnel who are authorized by CPKC are permitted to operate switches, derails, electric track mechanisms, signal and communication systems or other track control appliances.
- 14.6.3 Railroad pole lines carry electric power and should be treated as any other power lines.
- 14.6.4 The contractor shall keep all contractor personnel informed of current weather conditions.

Personnel shall stay alert for possible high-water conditions, or flash floods. During severe weather conditions:
 - a) Personnel shall be prepared to take cover in the event of a tornado.
 - b) Personnel shall not work while lightning is occurring.
 - c) If storm conditions arise unexpectedly, contractor personnel shall ensure that equipment is in the clear of the tracks and secured before seeking cover. Contractor personnel shall stay away from railroad tracks when visibility is poor, such as during fog or blizzard conditions.

Any Contractor personnel discovering a hazardous or potentially unsafe condition, which may affect the safe passage of railroad traffic, must advise CPKC immediately by calling:

- CPKC U.S. North (north of Kansas City) 1-800-716-9132
- CPKC U.S. South (Kansas City and south of) 1-877-527-9464

14.7 Excavation

- 14.7.1 Before starting excavation operations, the contractor shall ascertain that there are no underground wires, fiber optic cables, pipelines or other utilities which could be damaged or, if present, that such installations are properly protected. Fiber optic cables are present on most segments of the right-of-way. Prior to commencing any excavation, the contractor shall contact the proper authority CPKC and / or public utility to obtain the necessary permit and to locate and protect such cables or other underground utilities.
- 14.7.2 Excavations shall not be left unattended unless they are properly protected; and the Manager-in-Charge shall be notified.
- 14.7.3 Contractors must obtain and maintain utility locates in accordance with applicable law.

15.0 HAZCOM

15.1 General Requirements

- 15.1.1 If at any time contractor's work involves the use, handling, storage, or disposal of hazardous materials ("Handling of Hazardous Materials"), Contractor Personnel must inform the Manager-in-Charge.
- 15.1.2 Contractors shall ensure that all contractor personnel are fully trained in the handling of hazardous materials and that contractor and contractor personnel are in full compliance with all applicable legislation, and as directed by the Manager-in-Charge.
- 15.1.3 Contractor personnel shall have appropriate processes, systems and controls in place to prevent or otherwise mitigate potential environmental, health and safety risks associated with the handling of hazardous materials.

15.2 Access to Safety Data Sheets (SDS)

- 15.2.1 Prior to beginning any work that may expose CPKC personnel to hazardous materials, contractor or contractor personnel shall:
 - a) provide a copy of the respective SDS to the Manager-in-Charge, and
 - b) keep a copy of the SDS at the work site and ensure that it is always readily available.

15.3 Hazardous Material Incident or Spill

- 15.3.1 In the event of a hazardous material incident or spill, the contractor must:
 - (a) ensure that no contractor or CPKC personnel have or will be exposed
 - (b) take all reasonable actions to contain the spill
 - (c) respond in accordance with its emergency response plan, and
 - (d) notify CPKC immediately in accordance with Section 18 below.

16.0 Operation of Highway Vehicles

16.1 Highway Vehicles

- 16.1.1 The following requirements apply to all highway vehicles, when operated on CPKC property; or used to transport CPKC personnel.

16.2 Regulations and Inspection

- 16.2.1 Before using a highway vehicle, contractor personnel shall:
 - (a) complete a pre-trip inspection.
 - (b) maintain an inspection log.
 - (c) ensure periodic inspections are completed at official testing locations as required.
 - (d) ensure the vehicle is always maintained and in safe operating conditions, and
 - (e) ensure the vehicle is in compliance with applicable motor vehicle regulations and license requirements.
- 16.2.2 Vehicle maintenance, inspection records and logs must be made available to the Manager-in-Charge on request.

16.3 Vehicle Operator Requirements

16.3.1 Operation of highway vehicles is restricted to those contractor personnel who are licensed, qualified and authorized to do so. Such contractor personnel shall be always responsible for the safety of all passengers. For greater certainty, such contractor personnel shall:

- (a) hold a valid license for the class of vehicle being operated, in accordance with applicable local, state, and federal requirements.
- (b) strictly comply with all posted traffic signs, signals, and all shall obey all applicable legislation,
- (c) maintain the required driver log, and make the log available to the Manager-in-Charge on request, and
- (d) comply with the requirements on the use of electronic devices as set out in Section 12 above.

16.4 Driving on CPKC Property

16.4.1 In addition to the requirements set out above, while on CPKC Property, contractor personnel shall:

- (a) travel only on designated roadways unless otherwise instructed.
- (b) keep daytime running lights on (if so equipped).
- (c) not exceed 15 mph (24.1 Km/h) unless otherwise posted.
- (d) come to a full stop at all blind corners, rail, and roadway crossings.
- (e) yield the right of way to all mobile equipment and other non-highway equipment or service vehicles.
- (f) not operate vehicles (or any internal combustion equipment) inside buildings or enclosed structures unless adequate ventilation is provided.
- (g) not park foul of track unless on-track protection is provided.
- (h) not leave vehicles running unnecessarily.
- (i) park only in pre-determined or designated areas.
- (j) always use the parking brake (or wheel chocks) when leaving an unoccupied vehicle running.
- (k) prior to operation of a vehicle the driver must conduct a walk around of the vehicle to identify any obstacles, clearance restrictions, or adjacent vehicles that may interfere with executing a safe movement.
- (l) where safe and practicable, pull vehicles through or back into marked parking spaces to avoid reverse collisions when exiting.
- (m) If a passenger is present, he exit the vehicle prior to a reverse movement to provide guidance and direction to the driver during the reverse movement and applies to commercial vehicles and vehicles with restricted rear views.

16.4.2 All contractor personnel who will be operating a highway vehicle or mobile equipment in any CPKC intermodal facilities must complete a driver safety orientation program prior to first entry, and from time to time thereafter as directed by the Manager-in-Charge.

16.5 Seat Belts

- 16.5.1 Seat belts must always be worn while operating or riding in any equipped vehicle unless contractor personnel is actively engaged in inspections requiring said contractor personnel to be free of such restraint, and then only when the vehicle is operating at less than 15 mph (24.1 Km/h).

16.6 Loads

- 16.6.1 Contractor personnel shall ensure vehicles are loaded according to weight and dimensional requirements as authorized by state regulations and permits, and properly load and secure tools, material, equipment and freight to avoid shifting, falling, leaking or otherwise escaping from vehicles during operation.

16.7 Riding in CPKC Vehicles

- 16.7.1 Contractor personnel are prohibited from operating or riding in any CPKC vehicles unless authorized to do so, or in case of emergency.

17.0 Tools, Equipment and Machinery

17.1 General Safety Requirements Respecting All Tools, Equipment and Machinery

- 17.1.1 Contractor personnel shall ensure that all tools, equipment, and machinery used be:
- (a) in compliance with all applicable legislation.
 - (b) in good working order, properly serviced and maintained.
 - (c) safe for their proposed use and used only for purposes specified by the manufacturer.
 - (d) operated and maintained only by persons properly trained and qualified for that duty.
 - (e) seat belts (if present on equipment) must be worn while operating or riding any such equipped mobile equipment.
 - (f) if mobile, equipped with appropriate safety devices (e.g., lights, horns, back-up alarms, safety beacons), and
 - (g) be prevented from moving, through use of the hand brake, wheel blocking, wheel chocking and / or a derail, where applicable.
- 17.1.2 The contractor shall provide adequate lighting when performing work between sunset and sunrise.
- 17.1.3 Use of CPKC tools, equipment and machinery by contractor personnel is prohibited unless specifically authorized by local CPKC management.

17.2 Hazardous Energy Control- Lockout

- 17.2.1 Contractor personnel shall employ lockout / tagout procedures as required to eliminate the accidental or unexpected start-up, energizing, or release of stored (residual) energy during maintenance, repair and/or servicing activities.
- 17.2.2 All tools, equipment and machinery must be made safe and isolated from all energy sources rendering the machine, equipment, or process inoperative prior to performing maintenance, repair or servicing related tasks.
- 17.2.3 No contractor personnel can remove any CPKC applied lock or tag, including bad-order tag.
- 17.2.4 Notwithstanding the foregoing, if contractor's work may create an energy hazard to any CPKC.

Personnel, then all affected parties must follow the requirements set forth in CPKC's Lockout – Hazardous Energy Control Policy and Code of Practice.

- 17.2.5 If CPKC personnel and contractors are jointly performing maintenance, repair or servicing activities on the same machine, equipment or using the same energy source, then a multi-lock hasp must be applied with individual locks and tags affixed (as per CPKC's Lockout – Hazardous Energy Control Policy and Code of Practice).

17.3 Electrical Safety Requirements

- 17.3.1 In addition to the hazardous energy control lockout requirements above, all electrical work must comply with applicable legislation, National Electrical Code (NEC), and National Fire Protection Association (NFPA) requirements.

- 17.3.2 Contractor personnel working on electrical systems must:

- (a) if in proximity to CPKC Personnel, inform them of:
 - (i) existing or potential electrical hazards,
 - (ii) any specific additional personal protective equipment that may be required,
 - (iii) applicable safe work practices,
 - (iv) applicable emergency and evacuation procedures, and
 - (v) apply lock out procedures as per section above on Hazardous Energy Control- Lockout.
- (b) have practices, procedures and training that comply with:
 - (i) Applicable sections of the NEC and NFPA electrical safety standards.
 - (ii) Any other applicable legislation.
- (c) not operate or allow cranes or other mobile equipment to approach closer to any live electrical power line than is permitted by OSHA regulations (29 CFR 1910.333).

17.4 Lifting Devices

- 17.4.1 All lifting devices, including but not limited to jacks, cranes, cables, slings, chains, and hooks shall:

- (a) meet applicable legislation governing design, inspection, maintenance, and operation.
- (b) be safety certified and labeled or tagged with load capacity limits where required.
- (c) have sufficient capacity for the planned lift.
- (d) have sufficient footing or support area to properly distribute the load during a lift.

17.5 Welding and Torch Cutting

- 17.5.1 When welding or torch cutting, contractor personnel shall:

- (a) be properly trained and qualified.
- (b) ensure that all closed containers have been properly purged.
- (c) direct flame or sparks away from other workers, equipment and flammable material.
- (d) have a fire extinguisher readily available.
- (e) keep compressed gas and oxygen cylinders stored in a secure, vertical position, with regulators removed and caps applied, labeled properly, and located in vented cabinets or other designated locations.

17.6 Explosive Actuated Tools

- 17.6.1 Only contractor personnel who are qualified and licensed in accordance with applicable legislation, and authorized by CPKC, may use explosives or explosive actuated tools.

17.7 Unattended Equipment or Machinery

- 17.7.1 Tools, equipment and machinery shall not be left unattended at any time and shall not be stored on CPKC property, unless expressly permitted pursuant to a written agreement with CPKC or by the Manager-in-Charge in writing, and where so permitted, contractor shall ensure that:
- (a) storage shall be restricted to the designated area, or as otherwise specified by CPKC.
 - (b) all such tools, equipment and machinery shall be secured in a safe position well clear of all tracks to prevent accidental contact with trains and moving equipment and to not restrict train crew sightlines.
 - (c) as much as possible, tools, equipment and machinery shall be stored in locations out of public view.
 - (d) Machines must be secured in accordance with on-track machinery rules.

18.0 Emergency Response

18.1 Emergency Response Plan

- 18.1.1 The contractor must maintain a current emergency response plan and make it available to CPKC on request. Emergency response plans must include at a minimum:
- (a) contractor reporting procedures in the event of an incident or spill.
 - (b) emergency response contacts and phone numbers, including phone numbers for CPKC incident reporting and local CPKC managers (See Attachment A), and
 - (c) containment measures to be taken in the event of an incident or spill.

18.2 Initial Response

- 18.2.1 Initial response to any emergency condition must follow the following sequence:
- (a) Protect the safety and security of all individuals and communities.
 - (b) Provide environmental protection and mitigation.
 - (c) Conduct incident investigation and evidence preservation.
 - (d) Restore railroad operations.

18.3 First Aid

- 18.3.1 Contractor personnel must have sufficient First Aid qualified personnel and the required first aid kit and any other required first aid equipment at the work site, suitable for the crew size, nature of work being performed and location, all of which shall, at a minimum, comply with OSHA regulations (29 CFR 1910.266).

18.4 Fire Protection

- 18.4.1 The contractor must have appropriate fire extinguishers suitable (i.e., type, size and quantity) for nature of the work being done, in compliance with applicable legislation, and be always readily available on:

- (a) the work site, and
 - (b) all contractor equipment, machinery, and highway vehicles.
- 18.4.2 Contractor personnel shall ensure that all necessary precautions are taken to prevent fires, including the following:
- (a) storing flammable material (e.g., paper, rubbish, sawdust, oily or greasy rags, etc.) in proper containers,
 - (b) storing and transporting fuel, gasoline, or other flammable liquids in approved containers. Use of unapproved containers is prohibited,
 - (c) proper disposal of flammable material daily,
 - (d) preventing static electricity when dispensing or transferring flammable liquids by using proper grounding and bonding techniques,
 - (e) avoid using cutting or welding torches during the last one-half hour of shifts, if possible.
 - (f) taking special precautions with fusees, including:
 - (i) store and transport in approved containers.
 - (ii) do not allow fusees to come in contact with any combustible material, including railroad ties or wooden timbers, and
 - (iii) fully extinguish fusees before leaving the location where used.
 - (g) promptly advise CPKC management of any fire on CPKC property, and
 - (h) fully extinguish or provide protection for any fire prior to leaving the work site.
- 18.4.3 Contractors working on the CPKC right-of-way where a high risk of fire exists (e.g., during rail grinding, rail welding) must have:
- (a) appropriate fire prevention and suppression plans (including emergency numbers for CPKC, local firefighters and fire control districts), and
 - (b) additional firefighting equipment and trained contractor Personnel on site, as required by applicable legislation or the Manager-in-Charge.

19.0 Confined Space

19.1 Confined Space

- 19.1.1 Qualified and authorized contractor personnel must follow all required confined space entry procedures in accordance with applicable legislation and standards prior to entering into a confined space.
- 19.1.2 Rescue procedures and equipment must readily available when required to enter a confined space.

20.0 Reportable Accidents, Incidents, and Injuries

20.1 Reportable Injuries

- 20.1.1 Reportable injuries include any personal injury to:
- (a) Contractor personnel.
 - (b) any CPKC personnel, or
 - (c) to any third party on CPK property.

20.2 Reportable Accidents

20.2.1 Reportable accidents include any occurrence that results in:

- (a) damage to railroad tracks, right of way, buildings or other CPKC property,
- (b) damage to railroad equipment,
- (c) damage to CPKC highway vehicles,
- (d) release of hazardous material,
- (e) spill or loss of transported commodities, and
- (f) any threat to the environment.

20.3 Reportable Incidents

20.3.1 Reportable incidents include:

- (a) unintended movement of railroad equipment.
- (b) failure to provide track protection for workers when required.
- (c) movement of railroad equipment beyond authorized limits.
- (d) operation of railroad equipment by an unqualified person.
- (e) unauthorized handling of a track switch.
- (f) damage, vandalism or tampering with any railroad signals, structures or railroad safety device.
- (g) seepage, leakage, spills of, or other contamination from, hazardous materials.
- (h) actual, threaten or suspected security related incidents.
- (i) slides, washouts, or other on-track obstructions, or
- (j) any occurrence that may disrupt the movement of trains or affect safe rail operations.

21.0 Reporting

21.1 Emergency Reporting

21.1.1 In the case of an emergency, contractor personnel must call:

- (a) 911, where this emergency response system exists, or
- (b) the local police, fire or emergency department in all cases, and
- (c) CPKC Police Services Communication Center- 1-800-716-9132.

21.2 Accident, Incident, Injury Reporting

21.2.1 When an accident, incident or injury occurs on CPKC Property, the contractor must:

- (a) immediately report it to the
 - (i) CPKC U.S. North (north of Kansas City) 1-800-716-9132 or CPKC U.S. South (Kansas City and south of) 1-877-527-9464
 - (ii) CPKC Manager-in-Charge
- (b) follow all instructions given to protect the scene.

21.2.2 CPKC is obligated to report contractor personnel injuries occurring on CPKC property to the Federal Railroad Administration (FRA). Any state or required regulatory reporting remains the contractor's responsibility.

21.3 Information to Report

21.3.1 Information required with the initial report includes:

- (a) type of incident.
- (b) date and time of occurrence.
- (c) location (mileage, subdivision, building, yard, or other physical description).
- (d) identity of person(s) involved or injured (company & name).
- (e) description of any hazardous materials involved.
- (f) type & unit number of any railroad equipment or vehicle involved.
- (g) description of occurrence, damage and/or injury, and cause if known.
- (h) description of any emergency response.
- (i) name and contact information of person making the report, and
- (j) any such other information that CPKC may require.

21.4 Environmental Incidents and Spills

21.4.1 In the event of an environmental incident or spill that could have a negative impact on the environment, the contractor must immediately:

- (a) Report the incident to the Operations Center, the Manager-in-Charge, and the designated CPKC Contact as per the governing agreement relating to the work.
- (b) take all reasonable actions to contain the spill.
- (c) respond in accordance with its emergency response plan, and
- (d) provide CPKC with the following information:
 - (i) description of location and surrounding area, including any sensitive environmental areas nearby (e.g., rivers, parks, sewers).
 - (ii) type and quantity of substance released.
 - (iii) cause of spill or deposit, if known, and
 - (iv) details of any immediate action taken, or action proposed to be taken to contain spill and recover substance.

21.5 Additional Contractor Requirements

21.5.1 Contractor and Contractor Personnel must:

- (a) ensure an appropriate emergency response is initiated.
- (b) protect any evidence until released by the CPKC Manager-in-Charge.
- (c) cooperate fully with any CPKC investigation.
- (d) cooperate fully with any investigating government agency, and
- (e) notify CPKC if information is requested by any investigating government agency.

22.0 Contractor & Contractor Personnel Acknowledgement

Acknowledgement

- 20.1.1 Contractor and Contractor Personnel who Work on CPKC Property shall be deemed to have read and understood the content of these CPKC Safety Requirements for Contractors - United States, as amended from time to time, and to agree to be bound by them.
- 20.1.2 These CPKC Safety Requirements for Contractors - United States are subject to change without prior notice.



Home Safe is a commitment to be vigilant about personal safety and the safety of co-workers.

21.0 Attachment A – Emergency Information Sheet

Emergency Contact Information:		
Emergency Contacts:	Phone:	Location:
CPKC U.S. North (North of Kansas City):	1-800-716-9231	
CPKC Public Safety Communication Centre (PSCC)		
CPKC U.S. South (Kansas City and south of)	1-877-527-9464	
CPKC U.S. North Railroad Dispatcher Radio Channel:		
CPKC U.S. South Railroad Dispatcher Radio Channel:		
Manager-in-Charge (MIC):		
Local Emergency Services (EMS):		
Local Police Services:		
Local Fire Services:		
Hospital:		
Physician:		
Aircraft service, (if applicable):		
Watercraft service, (if applicable):		
Other Emergency Services:		
Emergency Evacuation Route: (Describe nearest evacuation assembly location or provide sketch on back)		

22.0 Attachment B – Work Site Information Sheet

Work Site Information:	Details:
Worksite Location Name:	
Worksite Location Address:	
Railroad Subdivision Name and Mileage:	
Nearest Town:	
Manager-in-Charge: (Name / Phone Number)	
Contractor Supervisor: (Name / Phone Number)	
Worksite Phone Number:	
Certified First Aid Attendant(s): (Name(s) / Phone Number(s))	
Location of First Aid Kit(s):	
Location of AED (if onsite):	
Location of Fire Extinguishing Equipment:	
Location of Safety Data Sheets (SDSs):	

Utility Information:		
Utilities Contact:	Phone:	Location:
Natural Gas:		
Water / Sewer:		
Electrical (Overhead):		
Electrical (Underground):		
Fiber Optic Line:		
Phone Lines:		
Cable Lines:		
Confined Space Entry, (if applicable)		
Equipment requirements for confined space entry / rescue, (if applicable):		
Fall Protection Plan Location, (if applicable):		
Other:		

Notes:

This image shows a full page of blank white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page, providing a guide for writing. There are no margins, text, or other markings on the paper.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

E-Ticketing (Mandatory)

PROJECT 6-081(120)175 - PCN 24107

DESCRIPTION

This work consists of providing electronic material tickets (E-Ticket) for all loads of, Hot Mix A delivered to the project. For materials under 2,000 tons, a paper ticket will be accepted according to Section 109.01 J, "Weighted Materials".

CONSTRUCTION REQUIREMENTS

A. General.

30 days before project start confirm that the material suppliers E-Tickets are compatible with the Department's Electronic Ticketing portal (Haulhub).

If necessary, create a programming interface to integrate with the Department's E-Ticketing Portal. Utilize the interface to provide electronic data from the load read-out weighing system at the material source in a manner that is readable by Haulhub. Haulhub will be available to coordinate the interface with the Contractor and Subcontractors.

As E-Tickets are generated, submit them to the Department using the Department's Electronic Ticketing Portal.

Payment for material weight delivered to the project will be based upon the eTickets marked "Delivered."

Do not reissue or reprint tickets that have been marked "Delivered," "Pending," or "Rejected" without first notifying the Engineer. The Engineer may reject a reissued or reprinted ticket at their discretion. When a reissued or reprinted ticket is rejected, payment will be based upon the original ticket. When a load is rejected, the Engineer will notify the Contractor that all or a portion of the load was rejected.

The Department will reject any load that does not have a corresponding E-Ticket unless the cause is beyond the Contractor's control. In such circumstances paper tickets may be permitted at the discretion of the Engineer.

B. Calibration and Testing.

Before beginning the project conduct a test of each supplier's integration with the Department's Electronic Ticketing Portal before shipping material. Complete the test at least 15 days before shipping material.

Provide at least 5 calibration E-Tickets from each supplier to be used for the project. The calibration E-Tickets must accurately record the ticket information found in the ticket information below. Mark all categories "TEST". After the Engineer confirms the calibration E-

Tickets are entered correctly into the Department's E-Ticketing Portal, void the E-Ticket with the reason being "Department Calibration Test".

C. Ticket Information.

1. General Information.

Provide the following information on each E-Ticket:

1. Ticket Number
2. DOT Project Number or DOT Project Control Number (PCN);
3. Date;
4. Name of Contractor or Subcontractor;
5. Time of loading;
6. Unique Truck ID;
7. Maximum Gross Vehicle Weight;
8. Material type identified by pay item name;
9. Unit of Measurement
10. Time of Delivery
11. A place for comments
12. A running total of the material placed that day.

2. Weighted Materials.

Provide the following information for each E-Ticket for weighted materials:

1. Gross weight (if not automatic weighed).
2. Tare weight (if not automatic weighed).
3. Net weight.
4. Mix design number.

Measurements of weighted material is to the 0.1 ton of the material.

D. Summary Sheet.

For material paid for by weigh, provided an electronic daily haul summary.

- (1) NDDOT project number or NDDOT PCN (whichever is used on the weigh tickets)
- (2) Delivery date
- (3) Contractor and Subcontractor if applicable
- (4) Pit location and owner
- (5) Identification number of truck
- (6) Each load's net weight and ticket number, with justification for out of sequence numbers
- (7) Material type identified by pay item name
- (8) Total weight of material delivered to the project
- (9) Weight of material voided or "rejected" for the day
- (10) Weight of the day's production
- (11) A signed statement from the Contractor attesting to the accuracy and completeness of the facts represented. A signed statement from a subcontractor or supplier attesting to the accuracy and completeness of the facts represented is required if they operate the scales. The statement shall consist of the following language: "I certify the Daily Haul Summary is true, accurate, and complete."
- (12) Blank for the Engineer's signature. Include the following language: "I certify the Daily Haul Summary has been reviewed, corrected as necessary, and approved."
- (13) Place for comments

METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Pay Item	Pay Unit
E-Ticketing	LSUM

Payment for E-Ticketing will be based on the following table:

Activity	Amount Earned
Completion of the Calibration and Testing	50%
Final Material Delivery	50%

Such payment is full compensation for furnishing all materials, equipment, labor, and incidentals to complete the work as specified.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
INTELLIGENT COMPACTION FOR HOT MIX ASPHALT (HMA)
PROJECT 6-081(120)175 – PCN 24107

DESCRIPTION

This work consists of compacting asphalt using Intelligent Compaction (IC) rollers Hot Mix Asphalt (HMA) permanently incorporated into the project. This Special Provision is in addition to the requirements of Section 430, "Hot Mix Asphalt (HMA)".

EQUIPMENT

A. Rollers.

1. General.

Provide breakdown, intermediate, and finish rollers that meet the requirements of Section 151, "Rollers" equipped with following:

- Noncontact temperature sensor mounted to measure pavement surface in the direction of travel;
- Global Navigation Satellite System (GNSS) with the ability to connect to RTK-GPS using either:
 - Local network;
 - Ground-based stations; or
 - VRS network (only if VRS network is available throughout the project limits);
 - Connect to a RTK-GPS.
- Provide GNSS equipment with the following components:
 - Receiver;
 - Antenna; and
 - Telemetry equipment;
- Modem or Wi-Fi;
- A color monitor that is capable of the following:
 - Displaying real time color coded map with the number of passes;
 - Roller speed;
 - Surface temperature;
 - Vibration frequency;
 - Vibration amplitude;
 - Data that is transferable by USB and cellular connection; and
 - Is easily visible to the operator without obstructing normal operations.

Provide instrumented roller accuracy shown in Table 1.

Table 1

Operating Parameter	Accuracy
Speed	± 0.5 mph
Frequency	± 2 Hz
Amplitude	± 0.008 in
Temperature	± 2.7 °F

2. Vibratory Rollers.

Equip vibratory rollers with accelerometers mounted according to the manufacturer's recommendations.

B. Global Positioning System (GPS).

1. General.

Provide a Global Navigation Satellite System (GNSS) that has a minimum of 90% coverage for the project site.

2. Roller GPS.

Provide GPS on the roller with an accuracy of ±0.2 ft in the X and Y direction.

3. Rover GPS.

Provide a rover with Real Time Kinematic (RTK) GPS with accuracy of ±0.1ft.

CONSTRUCTION REQUIREMENTS

A. General.

The Department does not guarantee the accuracy and compatibility of electronic or supplemental data provided by the Department. The Plan documents, originally provided with the Contract, remain the basis of the Contract. The Contractor is responsible for any necessary conversions of the provided electronic data.

If supplemental data is not provided by the Department, create the design files that are needed.

B. IC Work Plan:

In addition to the HMA quality control plan, submit an IC Work Plan at least 2 weeks before the preconstruction conference.

Include the following information in the IC Work Plan:

- Roller Type and make;
- Roller dimensions and weight;
- IC system type including:
 - Vendor;
 - Model Number; and
 - Data output;
- Data collection method including:
 - Sampling rates;
 - Intervals; and
 - Data file types
- Temperature measurement system manufacturer;

- Number of IC rollers; and
- List of personnel trained to work on IC system including the data analysis.

C. Training.

Provide an IC system's representative for approximately 4 to 8 hours of on-site training at a location that is suitable for the needs of the training.

Include the Contractor's and the Engineer's personnel in the training. During the training cover the following:

- Background information for the IC system;
- Setup and checks for the following:
 - IC system;
 - GPS receiver;
 - Base-station; and
 - Rovers;
- Operation of the IC system on the roller
- Transferring raw IC data;
- Operation of the Vendor's software to open and view raw IC data files and exporting all data files in Veta-compatible format;
- Operation of Veta software including:
 - Importation of files;
 - Creation of maps ; and
 - Interpretation of data.

D. GPS Calibration.

The Engineer will supply 2 control points at each end of the project on opposites sides of the roadway and 1 per mile for the project corridor. Provide notice to the Engineer a minimum of two weeks before the start of construction. The control points are under the North Dakota State Plane coordinates for the appropriate region with the horizontal datum based on NAD83(2011) and vertical datum based on NAVD 88 using GEOID 12A.

Complete site calibration and site setup of the IC according to the manufacturer's instruction before beginning paving operations.

Perform one GPS calibration check on the IC rollers and the rover daily at the beginning of each workday.

E. Roller Operations.

Provide an IC manufacturer's representative or a Contractor's representative who has experience on 5 projects performing IC for the first 2 days of paving.

Operate the IC roller according to the IC manufacturer's recommendations.

F. Equipment Malfunction.

Immediately contact the Engineer when a malfunction of any IC roller or a breakdown of an IC equipped roller occurs. Provide written documentation of the failure including the following:

- Date and time;
- Location;

- Brief description of failure;
- IC or roller equipment that failed;
- Method of repair; and
- Date and time the equipment was brought back into service.

A conventional roller may replace an IC roller, but IC mapping data will continue. A minimum of 80% of the plan quantity of HMA will be mapped using IC.

G. Data Submittal.

Upload all measurement data to the cloud storage at 15 minute intervals or once per day when no cellular coverage is available.

Transfer all IC data to the Engineer at the end of each working week. The Engineer may request data any time during compaction operations.

H. Data Format.

Distinctly identify the data lots for measurements passes using the format in Table 2 and 3. Ensure that the data lot designations are digitally stored with the associated measurement pass data.

Table 2
Standardized Naming Convention for Measurement Passes Data Lot

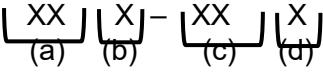
Standardized Format*	Definition
IC-ROUTE-MATL-L#-XXX-XXX	Undivided Highways (e.g., IC-TH83-HMA-L1-12L-CL)
IC-ROUTE-MATL-L#-XXX-XXX-DT	Divided Highways (e.g., IC-TH83-HMA-L1-12L-CL-NB)

* Add an additional designation behind the ROUTE for instances where more than one site calibration is needed within the project limits (e.g., a site calibration was completed for the northern and southern limits of the project – a “N” and “S” would be added immediately behind the ROUTE [TH83N-HMA-L1-12L-CL, TH83S-HMA-L1-12L-CL]).

Table 3
Standardized Abbreviations for Measurement Passes Data Lots

Standardized Abbreviations for Missouri County Census Data 2010		
Abbreviation	Definition	
ROUTE	ROUTE DESIGNATION. Replace “ROUTE” with the route system, as designated by the following acronyms or short form, immediately followed by the route number (e.g., TH12).	
	Acronym or Short Form	Full Name or Meaning
	TH	Trunk Highway (US or State Highway)
	CR	County Road
	MS	Municipal Street

Table 3
Standardized Abbreviations for Measurement Passes Data Lots

Abbreviation	Definition												
MATL	MATERIAL/ SURFACE TYPE. The material/surface type is designated by the following acronyms or short form: <table border="1" data-bbox="407 405 1382 552"> <thead> <tr> <th>Acronym or Short Form</th><th>Full Name or Meaning</th></tr> </thead> <tbody> <tr> <td>FDR</td><td>Full Depth Reclamation</td></tr> <tr> <td>HMA</td><td>Hot Mix Asphalt</td></tr> <tr> <td>SMA</td><td>Stone Matrix Asphalt</td></tr> </tbody> </table>	Acronym or Short Form	Full Name or Meaning	FDR	Full Depth Reclamation	HMA	Hot Mix Asphalt	SMA	Stone Matrix Asphalt				
Acronym or Short Form	Full Name or Meaning												
FDR	Full Depth Reclamation												
HMA	Hot Mix Asphalt												
SMA	Stone Matrix Asphalt												
L#	LIFT NUMBER. The lift number is designated by the following acronym or short form: <table border="1" data-bbox="407 657 1130 867"> <thead> <tr> <th>Acronym or Short Form</th><th>Full Name or Meaning</th></tr> </thead> <tbody> <tr> <td>L1</td><td>Lift 1</td></tr> <tr> <td>L2</td><td>Lift 2</td></tr> <tr> <td>L3</td><td>Lift 3</td></tr> <tr> <td>...</td><td>...</td></tr> <tr> <td>Ln</td><td>Lift n</td></tr> </tbody> </table>	Acronym or Short Form	Full Name or Meaning	L1	Lift 1	L2	Lift 2	L3	Lift 3	...	...	Ln	Lift n
Acronym or Short Form	Full Name or Meaning												
L1	Lift 1												
L2	Lift 2												
L3	Lift 3												
...	...												
Ln	Lift n												
XXX-XXX	CENTERLINE OFFSET. The location of the left and right edge of the production/compaction area with respect to the centerline, facing in the direction of increasing stationing. Stationing typically increases from West to East and South to North. Each character of the abbreviation is defined as the following:  (a) The offset distance (in feet rounded to the whole number) from the centerline to the left edge of the production area (e.g., CL, 12, 24). CL reflects the Center Line. (b) R or L, to reflect Right (R) or Left (L) of Centerline, in the direction of increasing station numbering. (c) The offset distance (in feet rounded to the whole number) from the centerline to the right edge of the production area (e.g., CL, 12, 24). CL reflects the Center Line. (d) R or L, to reflect Right (R) or Left (L) of Centerline, in the direction of increasing station numbering.												
DT	DIRECTION OF TRAVEL. The direction that traffic moves during non-construction conditions. The direction of travel is designated by the following acronyms or short form: <table border="1" data-bbox="407 1717 1146 1890"> <thead> <tr> <th>Acronym or Short Form</th><th>Full Name or Meaning</th></tr> </thead> <tbody> <tr> <td>NB</td><td>North Bound</td></tr> <tr> <td>SB</td><td>South Bound</td></tr> <tr> <td>EB</td><td>East Bound</td></tr> <tr> <td>WB</td><td>West Bound</td></tr> </tbody> </table>	Acronym or Short Form	Full Name or Meaning	NB	North Bound	SB	South Bound	EB	East Bound	WB	West Bound		
Acronym or Short Form	Full Name or Meaning												
NB	North Bound												
SB	South Bound												
EB	East Bound												
WB	West Bound												

I. Data Analysis Software.

Export all measurements into Veta which is available from the website: <http://www.intelligentconstruction.com>.

Provide the Engineer with user identification to access both the cloud storage, cloud computing, and the software being used.

Use Veta to create project files with the temperature, roller coverage, and reports of the HMA.

Use the Veta software to plot measurement pass data and to determine roller coverage. Produce *.VETAPROJ filenames in the **X-XXX(XXX)XXX ROUTE IC** standardized format shown in Table 4.

Table 4
Standardized Naming Convention for *.VETAPROJ Files * ||

Abbreviation	Definition								
X-XXX(XXX)XXX	STATE PROJECT NUMBER. Replace the “X’s” with the state project numbers. Do not use any of the Letters on the project number.								
ROUTE	ROUTE NUMBER. Replace “ROUTE” with the route system, as designated by the following acronyms or short form, immediately followed by the route number(s) mapped in the given Veta project. (e.g., TH94, TH94-34, TH94-34-56) <table border="1"> <thead> <tr> <th>Acronym or Short Form</th><th>Full Name or Meaning</th></tr> </thead> <tbody> <tr> <td>TH</td><td>Trunk Highway (US or State Highway)</td></tr> <tr> <td>CR</td><td>County Road</td></tr> <tr> <td>MS</td><td>Municipal Street</td></tr> </tbody> </table>	Acronym or Short Form	Full Name or Meaning	TH	Trunk Highway (US or State Highway)	CR	County Road	MS	Municipal Street
Acronym or Short Form	Full Name or Meaning								
TH	Trunk Highway (US or State Highway)								
CR	County Road								
MS	Municipal Street								
IC	IC reflects the intelligent compaction method, the data set contained within the Veta project file.								

* Example *.VETAPROJ filename: **1-234(567)890 TH94 IC**

|| Add the **county name** at the end of the Veta project file name for instances where design and alignment files were created for multiple counties. This requires creation of a Veta project per county (e.g., 1-234(567)890 TH94 IC **Barnes**; 1-234(567)890 TH94 IC **Cass**).

Provide Veta files that include the following:

1. Alignment (*.LandXML file[s]) and Design (*.kmz file[s])
2. Raw or Gridded All Passes Data (imported data)
3. Filter Groups (for all machines) per:
 - a. Data lot (e.g., 1-234(456)789 TH94-HMA-L1-12L-CL),
 - b. Lane and per lift (e.g., TH94-HMA-L1-12L-CL) and
 - c. Lift (e.g., TH94-HMA-L1)
4. Operation Filters (for all machines) per data lot (e.g., 1-234(456)789 TH94-HMA-L1-12L-CL)
5. Override Filters per Machine ID per:
 - a. Lift (e.g., TH94-HMA-L1 Machine ID) and

b. Lane and per lift (e.g., TH94-HMA-L1-12L-CL Machine ID)

Submit final Veta files to the Engineer 1 week after the paving is complete.

METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Pay Item	Pay Unit
Intelligent Compaction	Lump Sum

Payment for IC will be based on the percentage of the plan quantity HMA placed on each progressive estimate.

Delays due to GPS satellite reception issues or IC roller breakdowns will not be considered justification for contract modifications or contract extensions.

Such payment is full compensation for furnishing all equipment, labor, and incidentals to complete the work as specified.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

PAVER MOUNTED THERMAL PROFILER

PROJECT 6-081(120)175 – PCN 24107

DESCRIPTION

This work consists of using the Paver Mounted Thermal Profile (PMTP) Method to continually monitor the surface temperature of the Hot Mix Asphalt (HMA) mat immediately behind the trailing edge of the paver screed during placement operations on mainline paving.

DEFINITION

AUXILIARY LANE. This provision is required only on continuous left turn lanes and passing lanes (excluding turn lanes and tapers).

DRIVING LANE. See **traffic lane**.

PAVER MOUNTED THERMAL PROFILE (PMTP) METHOD. This method uses a system that continually monitors the surface temperature readings of the mat immediately behind the paver screed during placement operations.

STANDARD DEVIATION (StDev). The sample standard deviation of the surface temperature readings. This value reflects the overall spatial variability of surface temperature measurements within the data subplot.

SURFACE TEMPERATURE READINGS. The temperatures of the mat immediately behind the trailing edge of the screed plate during placement operations.

THERMAL COVERAGE (TC). The percent of the total paving area, for the given lift and material type, where surface temperature readings are collected and stored.

THERMAL PROFILES. The surface temperature readings and associated Global Navigation Satellite System (GNSS) coordinates and time stamps.

THERMAL SEGREGATION INDEX. A composite index equally reflecting the overall variability of surface temperature measurements (StDev) and the transverse variability of surface temperature measurements (presence of longitudinal thermal streaking [TSVI]) within the data subplot.

TRAFFIC LANE. This provision is required on all traffic lanes with the exception of traffic lane tapers and roundabouts (including the traffic lane between the roundabout and mainline transition prior to and after the radius point of the roundabout).

TRANSVERSE SEMIVARIOGRAM (TSV) INDEX. This value reflects the transverse variability in surface temperature measurements (presence of longitudinal thermal streaking).

VETA. A standardized intelligent construction data management (ICDM) software that stores, maps and analyzes geospatial data resulting from intelligent compaction, thermal profiling and spot test data (e.g., density, moisture). This software can perform standardized data processing, analysis and reporting to provide Project summary results quickly in the field from various intelligent compaction and thermal profiling manufacturers. In particular, the software can provide statistics, histograms, correlations for these measurements, document coverage area and evaluate the uniformity of compaction and surface temperature measurements as part of the Project quality control operations.

EQUIPMENT

A. General.

Provide a PMTP System supplier that will provide a representative for onsite technical assistance for the following:

- Initial setup;
- Preconstruction verification; and
- Data management and processing as needed.

Provide a technical support contract for the PMTP system for the duration of the project.

B. PMTP System.

Provide the Engineer with access to the PMTP system, including the cloud storage and cloud computing, 7 days before the start of paving that requires the PMTP method until 1 year after final acceptance according to Section 105.15, "Acceptance".

Use PMTP, capable of collecting, mapping, retaining and analyzing the mat temperature readings during placement and exporting thermal profile data meeting the requirements of this provision and supporting the following features:

- (1) Filtering by surface temperature reading location (items 8 through N of Table 3).
- (2) Display through a map/graph:
 - (2.1) Surface temperature readings across the required width and with respect to a user defined data subplot length,
 - (2.2) Paver speed and
 - (2.3) Paver stops (location and duration).
- (3) Provide the paving length and duration.

C. PMTP System.

1. System Requirements.

Use a PMTP system that only requires an operator to initiate the start of continuous data collection. After initializing the equipment, no operator attendance is required for continuous data collection

Calibrate and install the PMTP System according to the Manufacturers recommendations.

Provide a PMTP System that meets the requirements of Table 1 and is equipped with the following:

- Wireless method for transferring data to cloud storage.
- Onboard Documentation System with the following capabilities:

- Displays (in real-time) a map of the surface temperature readings.
- Displays the total distance, paver speed and location.
- Reports the surface temperature readings and GNSS status.
- Provides real-time statistical summaries of the surface temperature readings.
- Has the ability to manually export data using a removable media device.
- Allows the operator to define the data lot currently being placed.

Table 1
PMTP System Requirements

Parameter	Requirement
Longitudinal and Lateral Surface Temperature Readings	≤ 1-ft intervals at all paving speeds Tolerance: ± 1 in
Surface Temperature Readings Total Measurement Width	Traffic / Required Auxiliary lane(s) paved in 1 pass
Surface Temperature Readings	Range: 32°F to 480°F Accuracy: ± 3.6°F or 2.0% of the sensor reading, whichever is greater
GNSS	Accuracy better than ± 2 Inch in the X and Y direction

2. Thermal Profiling Data.

Encrypt and export the thermal profiling data into one of the following formats:

- As dbase ASCII or Text Format;
- Directly into Veta, if a file format compatible with Veta is available; or
- Through a direct transfer of data from cloud storage to Veta.

Verify the PMTP date and time stamp is correct for the local time zone for the mapped and exported data.

Include the information in Table 2 in the header of each data file or section. Include the fields in Table 3 with each data point.

Table 2
Required Information in Data Header

Item No.	Description	Example Data included in Header
1	State Project Number using only the numerical values	Highway 77
2	Machine Trade Name	ABC Company
3	Machine ID	1234AC78
4	Lateral Spacing between surface temperature measurements (inch)	12
5	Longitudinal Spacing between surface temperature measurements (inch)	12
6	Vertical Distance between the temperature sensor(s) and asphalt pavement mat (inch)	120

Table 2 Required Information in Data Header		
Item No.	Description	Example Data included in Header
7	Reporting resolution for independent surface temperature data – in the paver moving direction (inch)	13
8	Number of lateral surface temperature measurements/sensors	12
9	Number of surface temperature measurement data blocks	5000

Table 3
Required Fields for Each Data Block

Item No.	Date Field Name	Data Format Examples
1	Date Stamp	20080701 (YYYYMMDD)
2	Time Stamp	090504.0 (9 hr 5 min. 4.0 s.) (HHMMSS.S -military format)
3	Longitude (decimal degrees, with at least 6 significant digits)	94.859204
4	Latitude (decimal degrees, with at least 6 significant digits)	45.227773
5	Distance (feet)	1
6	Direction heading (degree angle, clockwise from the north); or calculated value, in Veta, using values from the other data blocks, ft/min	45
7	Speed (feet per minute or inches per minute)	30.0
8	Surface temperature Reading/Location 1 (°F)*	290
9	Surface temperature Reading/Location 2 (°F)*	295
...	...	...
N	Surface temperature Reading/Location N (°F)*	300

* Surface temperature readings/locations are numbered from 1 to N, left to right, in the direction of paving.

CONSTRUCTION REQUIREMENTS

A. General.

The Department does not guarantee the accuracy and compatibility of electronic or supplemental data provided by the Department. The Plan documents, originally provided with the Contract, remain the basis of the Contract. The Contractor is responsible for any necessary conversions of the provided electronic data.

If supplemental data is not provided by the Department, create the design files that are needed.

B. Field Stationing.

Match the centerline stationing from the design files to the field station markers.

C. PMTP System Setup on Paver(s).

Perform independent equipment checks on the PMTP System daily before the start of paving and verify the system is within the Tolerances shown in Table 4

Table4
Calibration of PMTP System Component

PMTP System Device	Tolerance
GNSS	± 2 Inches in the horizontal direction (XY)
Temperature	± 5 °F

If a distance measuring instrument (DMI) is utilized with the PMTP system, verify that the correct correction factor is set for accurate stationing according to the manufacturer's procedures.

Instrument all pavers that are paving the traffic and required auxiliary lanes with the PMTP System.

Ensure the installed PMTP System takes measurements within 10 ft of the trailing edge of the screed plate and does not restrict the accuracy and functionality of the GNSS.

Ensure that brackets used for pavement smoothness, that are located in the measurement area, do not affect more than 2 surface temperature readings recorded in the lateral direction (items number 8 through N in Table3). Ensure that other objects (e.g., umbrellas, lights, etc.) are not obstructing the measurements.

D. Definition of Data Lot and Data Sublot for Thermal Profiling.

1. Data Lot Establishment.

A lot for the PMTP System is all asphalt paving for a given day regardless of the following:

- Lift;
- Material type; and
- Centerline offsets.

Identify the data lots for thermal profile measurements using the standardized format shown in Tables 5 and 6.

Table 5 Standardized Naming Convention for Thermal Profile Data Lots	
Standardized Format	Definition
PMTP-ROUTE-MATL-L#-XXX-XXX	Undivided Highways (e.g., PMTP-TH83-HMA-L1-12L-CL)
PMTP-ROUTE-MATL-L#-XXX-XXX-DT	Divided Highways (e.g., PMTP-TH83-HMA-L1-12L-CL-NB)

Table 6 Standardized Abbreviations for Thermal Profile Data Lots		
Abbreviation	Definition	
ROUTE	ROUTE DESIGNATION	
	Acronym or Short Form	Full Name or Meaning
	TH	Trunk Highway (US or State Highway)
	CR	County Road
	MS	Municipal Street
MATL	MATERIAL/ SURFACE TYPE. The material/surface type is designated by the following acronyms or short form:	
	Acronym or Short Form	Full Name or Meaning
	HMA	Hot Mix Asphalt
	SMA	Stone Matrix Asphalt
	L#	LIFT NUMBER. The lift number is designated by the following acronym or short form:
Acronym or Short Form		Full Name or Meaning
L1		Lift 1
L2		Lift 2
L3		Lift 3
...		...
Ln		Lift n
XXX-XXX	CENTERLINE OFFSET. The location of the left and right edge of the production area with respect to the centerline, facing in the direction of increasing stationing. Stationing typically increases from West to East and South to North. Each character of the abbreviation is defined as the following:	
	XX X XX X (a) (b) (c) (d)	
	(a) The offset distance (in feet rounded to the whole number) from the centerline to the left edge of the production area (e.g., CL, 12, 24). CL reflects the Center Line .	
	(b) R or L, to reflect Right (R) or Left (L) of Centerline, in the direction of increasing station numbering.	
	(c) The offset distance (in feet rounded to the whole number) from the centerline to the right edge of the production area (e.g., CL, 12, 24). CL reflects the Center Line .	
(d) R or L, to reflect Right (R) or Left (L) of Centerline, in the direction of increasing station numbering.		

Table 6 Standardized Abbreviations for Thermal Profile Data Lots	
Abbreviation	Definition
DT	DIRECTION OF TRAVEL. The direction of travel is designated by the following acronyms or short form:

2. Data Sublot Establishment Using Veta.

A sublot is defined as 150 linear ft. The Engineer will include a partial lot less than or equal to 75 linear feet in the previous lot. Lots greater than 75 linear feet are treated as an independent lot.

Set the data sublot “start” and “end” location for the given data lot in Veta to correspond with the start and end of paving, respectively. Ensure that these locations are immediately adjacent to the beginning and end of the surface temperature readings for the paving operation.

E. Thermal Profile Measurements.

Collect thermal profiles for each lift on the following lanes:

- Traffic lanes
- Continuous left turn lanes; and
- Passing lanes.

Thermal profiles are not required on the following:

- Auxiliary lane tapers;
- Ramps;
- Shoulders;
- Cross-overs;
- Non-continuous turn lanes;
- Loops;
- Bypass lanes;
- Acceleration/deceleration lanes;
- Circular roadway of roundabouts;
- Splitter Islands or chicanes of roundabouts. and
- Intersecting streets.

Thermal profiles are required only for the lifts shown in the typical sections. Any lifts to bring subcuts to the same elevation as the surrounding surface is excluded from thermal profiles.

Ensure that the PMTP system is not capturing measurements outside of the traffic and required auxiliary lanes, as all of the recorded data is used in the thermal segregation analysis. Turn the data collection and recording off when collecting thermal profiling data is not required

F. PMTP System Failure.

PMTP System failure occurs when the data is not collected or stored.

Contact the Engineer when the PMTP System has a failure and after the PMTP system becomes operational.

When failures occur, provide the Engineer with a written notification of each failure including the following:

- Date and time;
- A brief description; and
- Areas affected by the failure.

The day of PMTP system failure notification and the following 2 working days are accepted as providing a daily thermal coverage of 100 percent, for each day of this grace period. The daily thermal coverage is considered zero during the subsequent days of PMTP system failure.

Price adjustments will not be made for thermal segregation when a PMTP System failure occurs.

G. Thermal Profile Analysis Software.

Use the Veta software to plot thermal profile measurements and to determine thermal segregation and coverage. Produce *.VETAPROJ filenames in the **X-XXX(XXX)XXX ROUTE PMTP** standardized format according to Table 7.

Table 7 Standardized Naming Convention for *.VETAPROJ Files *									
Abbreviation	Definition								
X-XXX(XXX)XXX	PROJECT NUMBER. Replace the “X’s” with the project numbers. Do not use any of the letters on the project number.								
ROUTE	ROUTE NUMBER. Replace “ROUTE” with the route system, as designated by the following acronyms or short form, immediately followed by the route number(s) mapped in the given Veta project. (e.g., TH94, TH94-34, TH94-34-56) <table border="1"> <thead> <tr> <th>Acronym or Short Form</th><th>Full Name or Meaning</th></tr> </thead> <tbody> <tr> <td>TH</td><td>Trunk Highway (US or State Highway)</td></tr> <tr> <td>CR</td><td>County Road</td></tr> <tr> <td>MS</td><td>Municipal Street</td></tr> </tbody> </table>	Acronym or Short Form	Full Name or Meaning	TH	Trunk Highway (US or State Highway)	CR	County Road	MS	Municipal Street
Acronym or Short Form	Full Name or Meaning								
TH	Trunk Highway (US or State Highway)								
CR	County Road								
MS	Municipal Street								
PMTP	PMTP reflects the paver mounted thermal profile method, the data set contained within the Veta project file.								
* Example *.VETAPROJ filename: 1-234(567)890 TH94 PMTP Add the county name at the end of the Veta project file name for instances where design and alignment files were created for multiple counties. This requires creation of a Veta project per county (e.g., 1-234(567)890 TH94 PMTP Barnes; 1-234(567)890 TH94 PMTP Cass).									

Create filter groups, operation filter and data subplot names using the **LOT# MMDDYY LOTNAME** standardized format per Table 8.

Table 8 Standardized Naming convention for Veta Filter Group, Operation Filter and Data Sublot Names *	
Abbreviation	Definition
LOT#	DATA LOT NUMBER. The data lot number is a two-digit number increasing sequentially (01, 02, 03, ..., n). Create filter groups, operation filters and data subplot names in sequential order with respect to the data lot dates. Data lots containing Exceptions and/or Temporary Exceptions: Include a capital letter, in alphabetical order (A, B, ...), immediately after the two-digit data lot number to designate the side of the exception, or temporary exception, that the thermal profile data reflects (e.g., 01A, 01B, 02A, 02B, ...).
MM	MONTH (include leading zeros)
DD	DAY (include leading zeros)
YY	TWO-DIGIT YEAR
LOTNAME	STANDARDIZED DATA LOT NAME per Table 3
* Example Filter Group/Operation Filter Name (data lot contains no exceptions): 01 070915 TH94-HMA-L1-CL-12R, 02 071015 TH94-HMA-L1-CL-12R, ... * Example Filter Group/Operation Filter Name (data lot contains an exception): 01A 070915 TH94-HMA-L1-CL-12R, 01B 070915 TH94-HMA-L1-CL-12R, 02A 071015 TH94-HMA-L1-CL-12R, 02B 071015 TH94-HMA-L1-CL-12R, ... Temporary exceptions are areas to be paved at a later date.	

Ensure Veta projects include the following:

- (1) **Alignment File (*.LandXML file) and Design (*.kmz file)**
- (2) **Surface Temperature Readings**
- (3) **Filter Groups** per:
 - (3.1) data lot (e.g., 01 090415 TH94-HMA-L1-12L-CL),
 - (3.2) lane and per lift (e.g., TH94-HMA-L1-12L-CL) and
 - (3.3) lift (e.g., TH94-HMA-L1)
- (4) **Operation Filters** per data lot (e.g., 01 090415 TH94-HMA-L1-12L-CL)
- (5) **Data Filter** (Temperature $\geq 180^{\circ}\text{F}$)
- (6) **Sublot Creation** per data lot (e.g., 01 090415 TH94-HMA-L1-12L-CL)
- (7) **Override Filters per Machine ID** per:
 - (7.1) lift (e.g., TH94-HMA-L1 Machine ID) and
 - (7.2) lane and per lift (e.g., TH94-HMA-L1-12L-CL Machine ID)

Note – the override filters are used for cases where more than one paver (paving in Echelon) is instrumented with the PMTP system.

H. Veta Software Operator Certification.

Provide a certified Veta software operator who has taken a hands on course in the use of Veta and provide the certification to the Engineer.

I. Calculations.

1. Thermal Segregation.

a. General.

Perform separate thermal segregation analysis on each side of an exception for lots that extend through exceptions. (Table 8 for the standardized labeling conventions using Veta).

b. Surface Temperature Readings.

Evaluate thermal segregation using 100 percent of the recorded data for each data subplot.

The following surface temperatures readings are excluded from each subplot:

- Surface temperature readings less than 180°F; and
- Surface temperature readings for paver stops that last longer than 1 minute within the following distance:
 - 2 ft before the stop; and
 - 8 ft after the stop.

c. Thermal Segregation Index (TSI).

Calculate the Thermal Segregation Index (TSI), reported to the nearest tenth, for each data subplot, use Equations 2016-1 (AMT) and 2016-2 (AMT). Record the TSI values for each data subplot into form AMT-102, which can be found at the following website: https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/Urlsearch?columns=docnumber,docname&folderid=15848128.

Equation 2016-1 (PMTP): $TSI_0 = 0.77 \left[C \times \left(\frac{StDev}{StDev_{Severe\ Start}} \right) + (100 - C) \times \left(\frac{TSV}{TSV_{Severe\ Start}} \right) \right]$

Equation 2016-2 (PMTP): $TSI = \begin{cases} TSI_0 & \text{when } TSI_0 < 100 \\ 100 & \text{when } TSI_0 \geq 100 \end{cases}$

Where:

- **TSI_0** = the thermal segregation index value prior to capping at the upper limits of 100 (rounded to nearest tenth);
- **TSI** = the thermal segregation index;
- **C** = the percent contribution of standard deviation to the transverse semivariogram (value ranges from 0 to 100, set $C = 50$);
- **$StDev$** = the standard deviation (rounded to the nearest hundredth degree);
- **$StDev_{Severe\ Start}$** = the standard deviation at the lower limits of the severe thermal segregation category (set **$StDev_{Severe\ Start} = 9$**);
- **TSV** = Transverse semivariogram index. As calculated in Veta rounded to the nearest hundredth; and
- **$TSV_{Severe\ Start}$** = transverse semivariogram index at the lower limits of the severe thermal segregation category (**$TSV_{Severe\ Start} = 25$**);

d. Thermal Segregation Category.

Categorize the surface temperature readings for each subplot according to Table 9.

Table 9 Data Sublot Thermal Segregation Index	
TSI Equation 2016-1 (PMTP)	Thermal Segregation Category
$TSI < 30.0$	Low
$30.0 \leq TSI < 70.0$	Moderate
$TSI \geq 70.0$	Severe

2. Thermal Coverage.

a. General.

Calculate thermal coverage for each lift and material type according to Equation 2016-4 (AMT) using form AMT-101 found at the following website: [MnDOT eDOCS Public Web - Url Search \(state.mn.us\)](http://www.mn.gov/transportation/programs-and-services/transportation-planning-and-program-management/transportation-planning-and-program-management-reports-and-publications/mn-dot-e-docs-public-web-url-search).

b. Thermal Profile Data Lot Length Calculation.

Equation 2016-3 (AMT): Thermal Profile Data Lot Length = $\sum_{i=1}^n \text{Data Sublot Length}_i$

Where:

- **Thermal Profile Data Lot Length** = the total linear length of the surface temperature readings used for the thermal segregation analysis for the given data lot, ft (reported to the nearest whole number);
- **n** = the total number of data sublots; and
- **Data Sublot Length** = the linear length of data subplot i , ft (reported to the nearest whole number).

c. Thermal Profile Lift Length Calculation.

Equation 2016-4 (AMT): Thermal Profile Lift Length = $\sum_{i=1}^n (\text{Thermal Profile Lot Length})_i$

Where:

- **Thermal Profile Lift Length** = the total linear length of the surface temperature readings used for the thermal segregation analysis for the entire lift, ft (reported to the nearest whole number);
- **n** = the total number of data lots for the entire *lift* and *material type*; and
- **$(\text{Thermal Profile Lot Length})_i$** = the total *linear* length of the surface temperature readings used for the thermal segregation analysis for the given data lot i and lift as calculated by Veta, ft (reported to the nearest whole number). (See Equation 2016-3 [PMTP])

d. Thermal Coverage Calculation.

Equation 2016-5 (AMT): Thermal Coverage = $\left(\frac{\text{Thermal Profile Lift Length}}{LM \times 5280} \right) \times 100$

Where:

- **Thermal Coverage** = % (reported to the nearest whole number);
- **Thermal Profile Lift Length** = see Equation 2016-4 (AMT), ft (reported to the nearest whole number); and
- **Lane Miles (LM)** = Total number of lane miles for the given lift and material type requiring thermal profiling, miles reported to the hundredth.

J. Submittals.

1. Thermal Profiling Data Submittal.

Upload the thermal profiling data from the PMTP System to cloud storage within 15 minutes of recording.

If cellular coverage is limited or unavailable, notify the Engineer. When cellular coverage is limited upload the thermal profiling data at least once per day. If there is no cellular coverage, transfer the thermal profiling data directly to the Engineer at the end of the days paving.

2. Veta Projects and Forms.

Submit the initial Veta project and forms PMTP-101 and PMTP-102 to the Engineer 3 days after the start of paving using PMTP System. Submit updated Veta project and forms PMTP-101 and PMTP-102 to the Engineer weekly. The Engineer may request data any time during compaction operations.

Submit the final version of Veta Project and forms AMT-101 and AMT-102 to the Engineer within 14 days of completion of paving that required usage of the PMTP System.

The Engineer will review the final versions of the submitted Veta projects and forms by following the Veta Projects and Forms Submittal Review Workflow and using form AMT-101-102-103 which can be found at the following website: [MnDOT eDOCS Public Web - Url Search](#).

The PMTP and AMT forms are for informational purposes only.

METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Interruptions in the availability of network and/or satellite signals to operate this system will not result in any reduction to the daily thermal coverage or adjustment to the "Basis of Payment" for any construction items or to Contract time.

Pay Item	Pay Unit
Paver Mounted Thermal Profiler	LSum

Payment for the Paver Mounted Thermal Profiler will be based on the percentage of the plan quantity HMA placed on each progressive estimate. Total payment for the Paver Mounted Thermal Profiler will not exceed 1.0.

No price adjustment will be made based on the information received on the forms.

Such payment is full compensation for furnishing all materials, equipment, labor, and incidentals to complete the work as specified.

Authored By: NDDOT ETS

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

FLEXIBLE PAVEMENT SURFACE TOLERANCE

PROJECT 6-081(120)175 – PCN 24107

DESCRIPTION

This provision details the surface tolerance requirements, corrective actions, performance incentives, and contract price adjustments for flexible pavement.

ATTACHMENTS

Appendix A – Existing IRI Data

CONSTRUCTION REQUIREMENTS

A. General.

Any lot with any amount of grinding done before the Engineer collects the initial profile is ineligible for incentive.

The Engineer will use the straight edge method described in Section 430.04 K, "Tolerances" with the Rolling Straightedge Module of Proval to determine the surface tolerance, including leave outs.

The Engineer will profile the finished surface to determine the pavement ride quality. All finished bituminous surfaces will be profiled with the following exceptions:

- 1) Bridge decks and/or approach slabs and 150 feet on either side;
- 2) Side roads and approaches;
- 3) Shoulders, ramps, and gore areas;
- 4) At grade railroad crossings and 150 feet on either side;
- 5) The beginning and end of the project and 50 feet on either side of these boundaries;
- 6) 50 feet from areas not receiving surfacing;
- 7) Areas with speed limit under 50 MPH;
- 8) Where safety and the roadway geometrics do not allow the proper operating speed for the profiler to collect data. The Engineer will determine the location of these areas. These locations may include, but are not limited to the following:
 - Signal controlled intersections;
 - Stop controlled intersections;
 - T intersections; and
 - Other situations that would be detrimental to safety of the traveling public or the profiler.

On surfaces exempt from the profile testing, the Engineer will determine the pavement smoothness according to section 430.04 K "Tolerances".

B. Profiler Limitations.

The Engineer will not test the roadway in the following conditions:

- Between November 30 to May 15;
- When the air or surface temperature is below 35 °F; or
- When the roadways surface is wet or under inclement weather conditions.

C. Profiler Inputs.

1. General.

The Engineer will:

- Measure the smoothness of the roadway using the International Roughness Index (IRI) to the nearest 0.1 inch;
- Use ProVal, <http://www.roadprofile.com>, to calculate the IRI for the Pavement Profile (PPF);
- Apply a 250 mm filter to generate the IRI in ProVal;
- Average the IRI of the two wheel paths to calculate the Mean Ride Index (MRI); and
- Use the MRI option in ProVal for evaluation

2. Fixed Interval (Lot Smoothness) Ride Quality Module.

The Engineer will identify lot smoothness using the following inputs:

- Set the Ride Quality Index to “MRI”
- Segment Length – 528 feet
- Threshold – 75.0 in/mile

3. Rolling Straightedge Module.

Identify areas of surface deviation using the Rolling Straightedge Module within the current version of ProVal. Use the following settings in the Rolling Straightedge Module:

- Straightedge Length – 16 feet
- Deviation Threshold – 3/16 inch

D. Lot Definition.

A lot is defined as a 528 foot road segment, one lane wide. The Engineer will include a partial lot less than or equal to 370.0 feet in the previous lot. The Engineer will treat a lot greater than 370.0 feet as an independent lot.

E. Profiling.

1. General.

a. Naming Convention and Collection Points.

Discuss with the Engineer the naming convention of the lanes before profiling as well as the beginning and end points for areas of collection.

b. Timing

Notify the Engineer that the road is ready for profiling. The Engineer will coordinate a time within 5 working days of receiving that notification.

c. Physical Surface Conditions.

Remove all debris that will inhibit collection of the road profile before the profiler arrives on site for collection. Keep the lanes clear of construction activity during the time of profiling.

The Engineer will collect the profile when the pavement is dry and at a time agreed upon between the Engineer and the Contractor.

d. Profiler Data Collection.

The Engineer will use an inertial profiler to collect the profile in each wheel path of each lane.

The Engineer will trace the profile at approximately 31 and 97 inches, measured from the left edge of the lane, as determined by the direction of traffic.

Provide traffic control for 500 feet beyond the ends of the collection area to facilitate the collection of profile data and for run in and run out.

2. Initial Profile.

The Engineer will complete an initial profile to determine the MRI.

The Engineer will collect a complete initial profile after the mainline paving is complete.

3. Additional Profiles.

The Engineer will collect any additional profiles after corrective action has taken place.

The Engineer will apply a liquidated damage of \$1,500 per trip for each profile collected after the second profile.

4. Final Acceptance Profile.

The Engineer will collect the final acceptance profile after the necessary corrective actions on the roadway are completed.

5. Reports.

The Engineer will provide the following information to the Contractor within 5 days of completing the profile:

- PPF files;
- The Viewer;
- The Ride Quality Report; and
- The Rolling Straightedge Report.

F. Lots With MRI Less Than 75.1

For lots with an MRI less than 75.1, the Engineer will process performance incentives and contract price adjustments for each lot as specified in Section B "Ride Quality- Lot Smoothness" of the Basis of Payment Section.

G. Lots with MRI Greater or Equal to 75.1

Lots with an MRI greater than or equal to 75.1 will require corrective action, as specified in Section H, "Corrective Action" of the Construction Requirements.

Areas that would result in a contract price adjustment may be ground to a lower MRI. If grinding occurs and results in an MRI of 48.0 or less, the Engineer will not apply a performance incentive to that lot. Only lots with an initial MRI of 48.0 or less will receive a performance incentive based on the initial readings, before grinding.

H. Corrective Action.

1. General.

Any grinding performed is considered corrective action.

Complete corrective action within 21 calendar days of final profile data collection.

2. Corrective Action Plan.

Confirm date and time, locations, equipment, and timeframes with Engineer.

Contractor may develop a detailed corrective action plan using the ProVal data. Generate grinding simulations in ProVal with multiple grinding depths, varying equipment, and multiple pass patterns. Include the grinding simulations with the corrective action plan.

Submit the plan three working days in advance of grinding.

The Engineer will review the corrective action plan.

3. Corrective Grinding.

a. General.

Grind lots to a maximum MRI of 75.0 in/mile.

Grind high shoulders to provide drainage and safety.

Grind the full width of the lane and a feather pass onto the shoulder to daylight the grinding.

Grind a minimum length of 30 feet. Join grind sections if the distance between grind sections is less than 60 feet.

b. Grinding Equipment.

Use diamond grinding head for lot corrective action that does not cause strain or damage to the underlying surface of the pavement. Do not cause excessive ravels, aggregate fractures, or spalling.

c. Grinding.

Perform grinding in the longitudinal direction so grinding begins and ends at lines normal to the pavement centerline. Do not overlap more than 2 inches between passes and ensure the depth variance between adjacent passes is less than 1/8 inch. Feather the grinding at the beginning and end of each pass.

Ensure the surface of the ground pavement has a texture consisting of grooves between 0.090 and 0.130 inches wide. Keep the peaks of the ridges approximately 1/32 inch higher than the bottom of the grooves.

d. Slurry Removal.

When grinding in areas with curb and gutter, and areas adjacent to waterways continuously collect all slurry or residue resulting from the grinding operation. Dispose of the slurry or residue as specified in Section 107.17, "Removed Material".

4. Profiling.

The Engineer will perform additional profiling according to Section E.3 "Additional Profiles" of the Construction Requirements. The Engineer will determine if additional Corrective Action is required based on the new profile. If additional Corrective Action is required, the Engineer will provide additional profile PPF and a new Corrective Action plan is required.

BASIS OF PAYMENT

A. Liquidated Damages

If the project would be considered substantially complete, as specified in Section 108.07 B, "Failure to Complete within the Contract Time" and corrective action is required, the Engineer may suspend time charges and the assessment of liquidated damages for up to 21 calendar days after the contract time has expired. If the corrective action is not complete within 21 calendar days after the contract time has expired, the Engineer will restart time charges and will assess liquidated damages.

B. Ride Quality.

The Engineer will pay a performance incentive for ride quality based on Table 1.

Table 1
Ride Quality Performance Incentives

MRI Range	Performance Incentive per Lot
≤ 34.0	\$300
34.1 to 39.0	\$225
39.1 to 44.0	\$150
44.1 to 48.0	\$75
48.1 to 56.0	\$0

The Engineer will process contract price adjustments for ride quality based on Table 2.

Table 2
Ride Quality Contract Price Adjustment

MRI Range	Contract Price Adjustment per Lot
48.1 to 56.0	\$0
56.1 to 62.0	(\$100)
62.1 to 69.0	(\$200)
69.1 to 75.0	(\$400)
75.1 ≥	Corrective Action

C. MISCELLANEOUS

Include costs necessary to prepare the roadway for testing in the contract unit price for asphalt pavement items.

Traffic control items, including flagging and pilot cars will be paid for according to Section 109.03, "Compensation for Contract Revisions".

Appendix A Existing IRI Data

IRI DATA FOR PCN 24107 PROJECT NO. NH-6-081(120)175
HWY 81, Northbound Survey Data Collection Date = 7/8/2025

HWY	Start-Mi	End-Mi	IRI_Left Wheel Path	Standard Deviation	IRI_Right Wheel Path	Standard Deviation	IRI_AVERAGE
81	175	175.1	132.4	79.2	239	256.3	185.7
81	175.1	175.2	127.4	128.4	183.4	145.2	155.4
81	175.2	175.3	149	134.2	126	86	137.5
81	175.3	175.4	112.7	111.6	218.8	264.8	165.8
81	175.4	175.5	102.8	130.8	183.4	221.3	143.1
81	175.5	175.6	98.9	112	122.4	129.8	110.6
81	175.6	175.7	142.6	141	148.6	165.1	145.6
81	175.7	175.8	130.9	118.6	186.8	184.7	158.8
81	175.8	175.9	77.4	71.8	99.3	102.5	88.4
81	175.9	176	78.6	50.9	82.5	68	80.5
81	176	176.1	89.4	78.5	88.8	79.1	89.1
81	176.1	176.2	69.1	53.2	79.4	61	74.3
81	176.2	176.3	96.9	99.6	97	79.3	97
81	176.3	176.4	67	71.6	73.9	68	70.4
81	176.4	176.5	65.1	61.1	60.5	51.2	62.8
81	176.5	176.6	72.3	62.5	130.6	100.3	101.5
81	176.6	176.7	71.4	65.6	89.6	103.4	80.5
81	176.7	176.8	74.6	74	76.2	62.4	75.4
81	176.8	176.9	76.1	72.8	72	62.9	74.1
81	176.9	177	82.1	89.1	85.7	85.8	83.9
81	177	177.1	76.2	83.1	69.8	66.7	73
81	177.1	177.2	81.1	86.7	67.9	69	74.5
81	177.2	177.3	60.8	69.2	65.4	67.4	63.1
81	177.3	177.4	69	66.3	73.7	60	71.4
81	177.4	177.5	71.4	78.3	81.3	98.9	76.3
81	177.5	177.6	67.2	59.4	85.2	64.8	76.2
81	177.6	177.7	66.7	72.1	91.7	105.1	79.2
81	177.7	177.8	64.7	68.2	92.5	107.1	78.6
81	177.8	177.9	69.2	76.9	90.2	91.4	79.7
81	177.9	178	75.9	84.2	87.5	100	81.7
81	178	178.1	67.5	61	102.3	119.6	84.9
81	178.1	178.2	112.7	109.4	151.4	140.2	132
81	178.2	178.3	73.1	71.1	105.7	142.9	89.4

HWY	Start-Mi	End-Mi	IRI_Left Wheel Path	Standard Deviation	IRI_Right Wheel Path	Standard Deviation	IRI_AVERAGE
81	178.3	178.4	73	89.9	85.2	97.4	79.1
81	178.4	178.5	64	73.7	79.8	100.9	71.9
81	178.5	178.6	73.4	78.9	107	130.5	90.2
81	178.6	178.7	74.1	65.9	117.9	121.5	96
81	178.7	178.8	66.4	74.3	125.3	126.3	95.8
81	178.8	178.9	59.5	64	67.1	76.8	63.3
81	178.9	179	81.6	71.1	120.8	142.1	101.2
81	179	179.1	60.3	55	85.2	73.9	72.7
81	179.1	179.2	75.6	66.8	101.4	128.9	88.5
81	179.2	179.3	85	95.4	104.5	100.2	94.8
81	179.3	179.4	78	87.4	112.7	130.3	95.3
81	179.4	179.5	83.6	94.9	102.7	98.4	93.1
81	179.5	179.6	67.9	64.3	117.1	119.9	92.5
81	179.6	179.7	75.7	75.1	89.1	85.8	82.4
81	179.7	179.8	79.6	79.8	85.4	83.6	82.5
81	179.8	179.9	71.9	69	76.6	88.1	74.3
81	179.9	180	74.7	81.6	89.4	107.4	82
81	180	180.1	69.5	57.9	92.3	71.1	80.9
81	180.1	180.2	74.6	61.3	66.1	52.7	70.3
81	180.2	180.3	74.2	79.8	80.6	83.3	77.4
81	180.3	180.4	80.6	79.4	88.4	73.5	84.5
81	180.4	180.5	73.2	82	81.9	72.3	77.5
81	180.5	180.6	77.5	57.5	73.1	52.1	75.3
81	180.6	180.7	91.6	91.2	87.9	61.6	89.8
81	180.7	180.8	64.3	66.7	79.3	74.8	71.8
81	180.8	180.9	84.8	82.6	84.8	81.4	84.8
81	180.9	181	107.2	139.6	102.5	91.9	104.8
81	181	181.1	87.5	106.9	94.2	78.8	90.8
81	181.1	181.2	132.6	137.8	136.7	115	134.6
81	181.2	181.3	107.2	62.9	113.4	66	110.3
81	181.3	181.4	114.1	77	123.3	89.9	118.7
81	181.4	181.5	106.6	66.4	119.3	62	112.9
81	181.5	181.6	77.9	46	87.9	79.1	82.9
81	181.6	181.7	71.9	48	84.1	55.4	78
81	181.7	181.8	88.9	70	101.4	75.7	95.1
81	181.8	181.9	73.2	55.6	107.3	89.3	90.3
81	181.9	182	80.7	52.6	84.4	58.7	82.5

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
PERCENT WITHIN LIMITS FOR HOT MIX ASPHALT PAVEMENTS
PROJECT # 6-081(120)175 – PCN 24107

DESCRIPTION

This provision describes the procedure for determining pavement density in the mat. This special provision modifies and adds to Section 430, "Hot Mix Asphalt (HMA)".

ATTACHMENTS

Appendix A – Calculation Procedure

CONSTRUCTION REQUIREMENTS

A. Mat Density.

1. General.

This portion of the SP replaces section 430.04 M.4, "Field Density".

The Engineer will base acceptance of the density of each lot of pavement through a comparison of the average field core density to the average maximum theoretical density and a percent within limits comparison of the field cores to the density specification range for uniformity.

The density specification range for the percent within limits determination is $\geq 92.0\%$ and $\leq 97.0\%$ of the daily average maximum theoretical density.

A lot is equal to one day's production, unless production is less than 2,700 tons. If production is under 2,700 tons for one day, it will be included in the previous day's lot. If this occurs on the first day of production, the material from the first day will be included in the subsequent day's lot.

Each lot will be divided into sublots of 900 tons of material. If a subplot is less than 450 tons, it will be included in the previous subplot.

The Engineer will designate two locations within each subplot for the acquisition of field cores.

The mix samples from each day included in a lot will be used to calculate the lot average maximum theoretical density.

2. Average Lot Density.

This metric is used to determine the general acceptability of the pavement. Quality is measured as specified in Section A.3, "Percent Within Limits – Density" of the Construction Requirements portion of this SP.

The density of a lot will be determined using the recorded average densities of the sublots contained within the lot. The recorded average densities of the sublots will be totaled and divided by the number of sublots within the lot to obtain the average density of the pavement.

If the average density of the pavement lot is at or below 88.0 percent of the average maximum theoretical density, remove and replace the pavement.

3. Percent Within Limits – Density.

This metric is used to determine the overall quality of the pavement density and is used to calculate the Compaction PWL pay factor.

For each lot of material, the Engineer will determine the Percent within Limits (PWL) for HMA in place density.

The Engineer will use the procedure in Appendix A of this special provision to determine the PWL of each lot.

BASIS OF PAYMENT

A. Contract Price Adjustment.

Replace Section 430.06 C, “Contract Price Adjustments with:

1. General

The Engineer will calculate the Combined Adjustment Factor for each lot of material placed and will use the corresponding tests and checks to determine each portion of the pay factor.

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

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

If the Combined Adjustment factor is less than 1.0, it will be subtracted from 1.0 to determine the Contract Price Adjustment Factor. This will be processed as a contract price reduction.

If the combined Adjustment Factor is greater than 1.0, 1.0 will be subtracted from it to determine the Contract Price Adjustment Factor. This will be processed as a contract price incentive.

The contract price adjustment will be determined by multiplying the Contract Price Adjustment Factor by the total tons of hot mix asphalt placed represented by the respective lot and the contract unit price for “Superpave, FAA ___” or “RAP Superpave, FAA ___”.

2. Aggregate Gradation Adjustment Factor.

The aggregate gradation adjustment factor will only be applied if two aggregate gradation tests in a single lot contain a sieve that is outside the Single Test Target Value Control

limits specified in Table 430-07. If different sieves fall outside the limits, the adjustment factor will be applied.

If more than one sieve exceeds the Single Test Value Control Limits, the Engineer will use the largest uniformity deviation (U) when determining the adjustment factor.

When the aggregate gradation factor is applied, the Engineer will calculate the adjustment factor using the largest deviation (U) to calculate the adjustment factor.

$$\text{Adjustment Factor} = \frac{100 - U}{100}$$

3. Asphalt Content Adjustment Factor.

For each lot, the Engineer will apply the lowest adjustment factor determined from the average or uniformity methods.

a. Average.

The Engineer will determine average asphalt content using SFN 9988, "Mix Bitumen Cut-off Report" and apply the appropriate adjustment factor specified in Table 430-11.

If the average asphalt content deviates from the mix design by 0.40 percentage points or more, the Engineer will determine the adjustment factor in accordance with Section 105.07, "Conformance with the Contract Requirements", or may reject the material.

Table 430-11
Average Asphalt Content

Deviation from Target (percentage points)	Adjustment Factor
0.00-0.24	1.00
0.25-0.29	0.98
0.30-0.34	0.95
0.35-0.39	0.92
≥ 0.40	Section 105.07

b. Uniformity.

The Engineer will determine the average asphalt cement content based on the totalizer readings specified in Section 430.04 E, "QC Testing" and SFN 18674, "Asphalt Content & Virgin Aggregate Determination Report".

If the asphalt content from any random reading varies from the lot average of the readings by more than 0.24 percentage points, the Engineer will calculate the adjustment factor according to SFN 18552 "Daily Report – Hot Bituminous Pavement – Quality Control".

$$\text{Adjustment Factor} = \frac{100 - [20(\text{Deviation} - 0.24)]}{100}$$

Appendix A – PF_{PWL} Calculation Procedure

1. Calculate the mean of the test values:

$$\bar{X} = \frac{\sum x}{n}$$

Where:

$\sum$ = Summation of

x = individual test values from a lot

n = total number of test values from the lot

2. Calculate the standard deviation:

$$S = \sqrt{\frac{n\sum(x^2) - (\sum x)^2}{n(n-1)}}$$

Where:

$\sum(x^2)$ = summation of the squares of the individual test values

$(\sum x)^2$ = summation of the individual test values squared

3. Calculate the Upper Quality Limit (Q_U) and Lower Quality Limit (Q_L):

$$Q_U = \frac{USL - \bar{X}}{S} \quad Q_L = \frac{\bar{X} - LSL}{S}$$

Where:

USL = Upper Specification Limit (97)

LSL = Lower Specification Limit (92)

4. Determine the P_U and P_L values using Q_U, Q_L, and n for the lot using Table 1.
5. Determine the Quality Level (QL)

$$QL = (P_U + P_L) - 100$$

6. Determine the PWL pay factor:

$$PF_{PWL} = 55 + 0.5(QL)$$

Appendix A – PF_{PWL} Calculation Procedure

TABLE 1 - QUALITY LEVELS
QUALITY LEVEL ANALYSIS BY STANDARD DEVIATION METHOD

P _U or P _L Percent Within Limits for Positive Values Of Q _U or Q _L	UPPER QUALITY INDEX Q _U OR LOWER QUALITY INDEX Q _L														
	n=3	n=4	n=5	n=6	n=7	n=8	n=9	n=10 to n=11	n=12 to n=14	n=15 to n=18	n=19 to n=25	n=26 to n=37	n=38 to n=69	n=70 to n=200	n=201 to n=∞
100	1.16	1.50	1.79	2.03	2.23	2.39	2.53	2.65	2.83	3.03	3.20	3.38	3.54	3.70	3.83
99		1.47	1.67	1.80	1.89	1.95	2.00	2.04	2.09	2.14	2.18	2.22	2.26	2.29	2.31
98	1.15	1.44	1.60	1.70	1.76	1.81	1.84	1.86	1.91	1.93	1.96	1.99	2.01	2.03	2.05
97		1.41	1.54	1.62	1.67	1.70	1.72	1.74	1.77	1.79	1.81	1.83	1.85	1.86	1.87
96	1.14	1.38	1.49	1.55	1.59	1.61	1.63	1.65	1.67	1.68	1.70	1.71	1.73	1.74	1.75
95		1.35	1.44	1.49	1.52	1.54	1.55	1.56	1.58	1.59	1.61	1.62	1.63	1.63	1.64
94	1.13	1.32	1.39	1.43	1.46	1.47	1.48	1.49	1.50	1.51	1.52	1.53	1.54	1.55	1.55
93		1.29	1.35	1.38	1.40	1.41	1.42	1.43	1.44	1.44	1.45	1.46	1.46	1.47	1.47
92	1.12	1.26	1.31	1.33	1.35	1.36	1.36	1.37	1.37	1.38	1.39	1.39	1.40	1.40	1.40
91	1.11	1.23	1.27	1.29	1.30	1.30	1.31	1.31	1.32	1.32	1.33	1.33	1.33	1.34	1.34
90	1.10	1.20	1.23	1.24	1.25	1.25	1.26	1.26	1.26	1.27	1.27	1.27	1.28	1.28	1.28
89	1.09	1.17	1.19	1.20	1.20	1.21	1.21	1.21	1.21	1.22	1.22	1.22	1.22	1.22	1.23
88	1.07	1.14	1.15	1.16	1.16	1.16	1.16	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17
87	1.06	1.11	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.13	1.13
86	1.04	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08
85	1.03	1.05	1.05	1.04	1.04	1.04	1.04	1.04	1.04	1.04	1.04	1.04	1.04	1.04	1.04
84	1.01	1.02	1.01	1.01	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.99	0.99	0.99
83	1.00	0.99	0.98	0.97	0.97	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.95	0.95	0.95
82	0.97	0.96	0.95	0.94	0.93	0.93	0.93	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
81	0.96	0.93	0.91	0.90	0.90	0.89	0.89	0.89	0.89	0.88	0.88	0.88	0.88	0.88	0.88
80	0.93	0.90	0.88	0.87	0.86	0.86	0.86	0.85	0.85	0.85	0.85	0.84	0.84	0.84	0.84
79	0.91	0.87	0.85	0.84	0.83	0.82	0.82	0.82	0.82	0.81	0.81	0.81	0.81	0.81	0.81
78	0.89	0.84	0.82	0.80	0.80	0.79	0.79	0.79	0.78	0.78	0.78	0.78	0.77	0.77	0.77
77	0.87	0.81	0.78	0.77	0.76	0.76	0.76	0.75	0.75	0.75	0.75	0.74	0.74	0.74	0.74
76	0.84	0.78	0.75	0.74	0.73	0.73	0.72	0.72	0.72	0.71	0.71	0.71	0.71	0.71	0.71
75	0.82	0.75	0.72	0.71	0.70	0.70	0.69	0.69	0.69	0.68	0.68	0.68	0.68	0.68	0.67
74	0.79	0.72	0.69	0.68	0.67	0.66	0.66	0.66	0.66	0.65	0.65	0.65	0.65	0.64	0.64
73	0.76	0.69	0.66	0.65	0.64	0.63	0.63	0.63	0.62	0.62	0.62	0.62	0.62	0.61	0.61
72	0.74	0.66	0.63	0.62	0.61	0.60	0.60	0.60	0.59	0.59	0.59	0.59	0.59	0.58	0.58
71	0.71	0.63	0.60	0.59	0.58	0.57	0.57	0.57	0.57	0.56	0.56	0.56	0.56	0.55	0.55
70	0.68	0.60	0.57	0.56	0.55	0.55	0.54	0.54	0.54	0.53	0.53	0.53	0.53	0.53	0.52
69	0.65	0.57	0.54	0.53	0.52	0.52	0.51	0.51	0.51	0.50	0.50	0.50	0.50	0.50	0.50
68	0.62	0.54	0.51	0.50	0.49	0.49	0.48	0.48	0.48	0.48	0.47	0.47	0.47	0.47	0.47
67	0.59	0.51	0.47	0.47	0.46	0.46	0.46	0.45	0.45	0.45	0.45	0.44	0.44	0.44	0.44
66	0.56	0.48	0.45	0.44	0.44	0.43	0.43	0.43	0.42	0.42	0.42	0.42	0.41	0.41	0.41
65	0.52	0.45	0.43	0.41	0.41	0.40	0.40	0.40	0.40	0.39	0.39	0.39	0.39	0.39	0.39
64	0.49	0.42	0.40	0.39	0.38	0.38	0.37	0.37	0.37	0.37	0.36	0.36	0.36	0.36	0.36
63	0.46	0.39	0.37	0.36	0.35	0.35	0.35	0.34	0.34	0.34	0.34	0.34	0.33	0.33	0.33
62	0.43	0.36	0.34	0.33	0.32	0.32	0.32	0.32	0.31	0.31	0.31	0.31	0.31	0.31	0.31
61	0.39	0.33	0.31	0.30	0.30	0.29	0.29	0.29	0.29	0.29	0.28	0.28	0.28	0.28	0.28
60	0.36	0.30	0.28	0.27	0.27	0.27	0.26	0.26	0.26	0.26	0.26	0.26	0.26	0.25	0.25
59	0.32	0.27	0.25	0.25	0.24	0.24	0.24	0.24	0.23	0.23	0.23	0.23	0.23	0.23	0.23
58	0.29	0.24	0.23	0.22	0.21	0.21	0.21	0.21	0.21	0.21	0.20	0.20	0.20	0.20	0.20
57	0.25	0.21	0.20	0.19	0.19	0.19	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18
56	0.22	0.18	0.17	0.16	0.16	0.16	0.16	0.16	0.16	0.15	0.15	0.15	0.15	0.15	0.15
55	0.18	0.15	0.14	0.14	0.13	0.13	0.13	0.13	0.13	0.13	0.13	0.13	0.13	0.13	0.13
54	0.14	0.12	0.11	0.11	0.11	0.11	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
53	0.11	0.09	0.08	0.08	0.08	0.08	0.08	0.08	0.08	0.08	0.08	0.08	0.08	0.08	0.08
52	0.07	0.06	0.06	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
51	0.04	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.02
50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

NOTE: For negative values of Q_U or Q_L, P_U or P_L is equal to 100 minus the table P_U or P_L. If the value of Q_U or Q_L does not correspond exactly to a figure in the table, use the next higher value.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

TEMPORARY PEDESTRIAN FACILITIES

PROJECT 6-081(120)175 – PCN 24107

DESCRIPTION

This work consists of constructing temporary pedestrian facilities for use while permanent facilities are impacted by the project work.

MATERIALS

A. Pedestrian Channelization.

Provide pedestrian channelization that meets the following requirements:

- Interlocked with a 1" maximum gap between devices;
- Upper rail with a smooth continuous guide handrail positioned 32 to 38 inches above the walkway;
- A smooth lower edge on the pedestrian side of the wall to allow sight impaired cane tapping positioned based on the following requirements:
 - The bottom edge is less than 2 inches above the walkway; and
 - The top edge a minimum of 8 inches above the walkway
- Openings in the bottom of the wall to allow for water passage;
- Support legs that do not impede the clear walkway;
- In compliance with NCHRP Report 350 or MASH Test Level 3 (TL3);
- Channelization portions are orange or white, or a combination of orange and white, in color.

B. Temporary Pedestrian Surfacing.

Compacted aggregate is not an acceptable surface.

CONSTRUCTION REQUIREMENTS

A. General.

Provide surfaces for temporary pedestrian facilities with the following characteristics:

- Stable;
- Firm;
- Weather resistant; and
- Non-slip.

B. Pedestrian Walkway.

1. General

Pedestrian walkways consist of two components; pedestrian channelization and temporary pedestrian surfacing.

Move and reset the pedestrian walkway as needed for multiple phases of construction.

2. Pedestrian Channelization.

Install pedestrian channelization as follows:

- Place pedestrian channelization to delineate a clear, temporary pedestrian walkway directing pedestrians through the work area;
- Provide a minimum, continuous, clear width of 48 inches;
- Where the clear width of a temporary pedestrian walkway is less than 60 inches, provide passing spaces at maximum intervals of 200 feet that have minimum dimension of 60 × 60 inches.

3. Temporary Pedestrian Surfacing.

Place temporary surfacing to match the widths detailed in Section 2, "Pedestrian Channelization" in the Construction Requirements portion of this special provision.

Place temporary surfacing with a maximum cross slope of 2 percent and maximum running slope of 5 percent. Construct and maintain the surface with no vertical discontinuities greater than 0.25 inches, and free of barriers to wheelchair use.

C. Temporary Curb Ramp.

Construct curb ramps with a clear width of 48 inches. Construct ramps with a slope of 12:1 or flatter. Maintain a clear turning platform above and below the ramp of at least 48 × 48 inches.

Maintain a maximum curb ramp and turning platform cross-slope of 50:1 (2%) on parallel curb ramps.

Maintain 0.5-inch maximum width lateral joints or gaps between surfaces and maximum 0.5-inch surface height changes.

Maintain water flow in the gutter system.

METHOD OF MEASUREMENT

A. Pedestrian Walkway.

The Engineer will measure "Pedestrian Walkway" along the centerline of the walkway and make 90 degree turns when measuring around corners. If multiple phases of construction cause the walkway to be moved or reset, the Engineer will pay for the greatest length of walkway used at one time.

B. Temporary Curb Ramp.

The Engineer will measure "Temporary Curb Ramp" based on each curb ramp installed and will pay for the maximum number of curb ramps in place at one time.

BASIS OF PAYMENT

The contract item "Temporary Curb Ramp" includes both parallel and perpendicular curb ramps.

Pay Item	Pay Unit
Pedestrian Walkway	Linear Foot
Temporary Curb Ramp	Each

Include all costs to furnish, install, maintain, relocate, replace, and remove pedestrian channelization and temporary pedestrian surfacing in the contract unit price for "Pedestrian Walkway."

Such payment is full compensation for furnishing all materials, equipment, labor, and incidentals to complete the work as specified.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
COMMERCIAL GRADE HOT MIX ASPHALT – WITHOUT DENSITY
PROJECT 6-081(120)175 – PCN 24107

DESCRIPTION

This work consists of supplying a Commercial Grade Hot Mix Asphalt that meets the requirements of Section 430, “Hot Mix Asphalt (HMA)”, with the following revisions.

MATERIALS

Add the following to the end of Section 430.03 “Materials”.

F. Commercial Grade Hot Mix Asphalt.

Provide commercial grade asphalt that meets the requirements of any of the FAA designations in Section 430.03 C, “Superpave Mix Properties”.

The requirements of the following sections will not be applied to commercial grade asphalt:

- Section 430.04 B, “Engineer’s Quality Assurance Plan”;
- Section 430.04 C.2, “Determination of Specific Gravity”; and
- Section 430.04 E, “QC Testing”.

Section 430.04 D “Mix Design” is replaced with the following requirements:

Submit a mix design that was previously approved under another Department contract. Include the project number and PCN of the previous project.

If using a stationary plant, use a mix design previously approved by the Department within the last year. Include the date that the mix design was approved.

If a previously approved mix design is not available, submit a new mix design to the Engineer at least 10 calendar days before placement of material for review

CONSTRUCTION REQUIREMENTS

A. Contractor Personnel.

Replace Section 430.04 A “Contractor Quality Control (QC)” with the following:

Provide personnel meeting the requirements of NDDOT Technical Certification Program for the following tests:

- ND T 2 – Sampling of Aggregates; and
- NDDOT 5 Sampling and Splitting Field Verification of Hot Mix Asphalt (HMA) Samples.

B. Engineer's Acceptance Testing:

Replace Section 430.04 M "Acceptance" with the following:

The Engineer will perform acceptance tests at the frequency shown in Table 1. At times directed by the Engineer, obtain aggregate samples from the cold feed belt according to ND T 2.

Table 1
Testing Frequencies

Test/Assessment	Minimum Testing Requirements
ND T 11 Materials Finer than No. 200 Sieve	Minimum 1 per project
ND T 27 Sieve Analysis of Fine and Coarse Aggregate	Minimum 1 per project
ND T 166 Bulk Specific Gravity of Compacted Asphalt Mixtures Using Saturated Surface-Dry Specimens	Minimum 1 per project
ND T 209 Theoretical Maximum Specific Gravity and Density of Hot Mix Asphalt	Minimum 1 per project
ND T 312 Preparing and Determining the Density of Hot Mix Asphalt Specimens by Means of Superpave Gyratory Compactor	Minimum 1 per project

If ND T 11 and/or ND T 27 tests result in a deviation from the specified gradation, immediately sample and test aggregate again. Halt paving operations if two consecutive tests deviate from the specified gradation. Restart paving operations after taking corrective actions and passing a gradation test.

The Engineer will target 3.0 percent air voids when determining the maximum theoretical density. Provide mix with between 1.5 and 5.0 percent air voids, when calculated on the Maximum Density Worksheet (SFN 50289).

METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Pay Item	Pay Unit
Commercial Grade Hot Mix Asphalt	Ton

Include the cost of aggregate, asphalt cement, and tack coat in the contract unit price for "Commercial Grade Asphalt."

Such payment is full compensation for furnishing all materials, equipment, labor, and incidentals to complete the work as specified.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

PERMITS AND ENVIRONMENTAL CONSIDERATIONS

PROJECT NUMBER: NH-6-081(120)175– PCN 24107

This Special Provision incorporates the Non-Building Floodplain Permit obtained by the North Dakota Department of Transportation (NDDOT) into the bidder's proposal.

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

- **Floodplain Permit**

The Non-Building Floodplain Permits issued by Walsh County and the City of Minto allows work within the FEMA mapped 100-yr floodplain. The Floodplain Permits and the Flood Insurance Rate Maps are attached.

The Contractor is responsible for preparing and submitting Permit(s) for any additional impacts not authorized by the attached Permit(s) obtained by the NDDOT. The Contractor is responsible for any delays associated with obtaining any additional Permit(s).

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION NON-BUILDING SITUATION

GENERAL INFORMATION

PERMIT APPLICATION # 2026-004 DATE: 02/02/2026

Applicant/Contact: *NDDOT/Steve Kessler* Telephone # *(701) 328-3736*

Address: *North Dakota Department of Transportation
Attn: Engineering and Environmental Services
608 East Boulevard Avenue
Bismarck, ND 58505-0700*

Brief project description - location of proposed development - legal description:
Sections 6, 18, 29 T155N, R52W

*Work will include a 2" mill and 2" overlay on ND highway 81 from Ardoch to Minto.
Work will be within FEMA mapped 100-yr floodplains.*

Contractor: *Contract Not Awarded*

Telephone #

Address:

Estimated Cost of project:

FLOODPLAIN DETERMINATION :

(Complete the appropriate information)

Project is located: 100-year floodplain? (Flood Fringe): *Yes*
Regulatory Floodway: *No*

Map information: FIRM Date: *November 2, 2012*

FIRM Zone: *Zone A*

BFE at Development Site:

Development will be elevated to:

DEVELOPMENT ACTIVITIES: (check all that apply and explain the activity)

- ☐ Fill placement (fill brought in from outside the floodplain)
- ☐ Excavation (where subgrade fill is removed from the floodplain)
- ☐ Landscaping (cut and fill, fill borrow and placement)
- ☐ Construction or maintenance of a dike/levee/floodwall

- ☐ Removal of fill, embankment, or dikes
- ☐ Watercourse alterations (river, stream, lake - channel modifications, rip-rap)
- ☐ Road, street or bridge construction (new, repair or replacement, realignment)
- ☐ Drainage improvements (including culvert work)
- ☐ Mining (removal of gravel, rock, fill or other natural materials)
- ☐ Installation of utilities (water, sewer, pipeline, gas, electric, communications)
- ☐ Well drilling (water, oil, natural gas etc.)
- ☐ Subdivision (new or expansion)
- ☒ Other (*2" mill and 2" overlay*)

ADDITIONAL INFORMATION REQUIRED (attach additional information):

- Comments or further explanation of work:
- Copies of project description, plans, blueprints, etc.
- Wetlands - will the activity impact identified wetlands? *No*
- Will the development aggravate flooding elsewhere? *Unknown*

OTHER NOTIFICATION OR PERMITS NECESSARY:

ELEVATION INFORMATION:

Attach information about the completed project elevations(s) with registered professional engineer or registered land surveyor certifications if part of the project:

ACTION / APPROVAL:

The proposed development is in conformance with applicable community floodplain standards subject to the following conditions with this approval.

PERMIT APPLICATION IS APPROVED

(Conditioned on the description provided. As-built information/certification will be available at the NDDOT District Office upon completion of construction.)

Signature (Floodplain Administrator): *Kristle Kjemhus*

Date: 02/02/2026

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The **community map repository** should be consulted for possible updated or additional flood hazard information.

Coastal Base Flood Elevations shown on this map apply only landward of 0.0 North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations table in the Flood Insurance Study Report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations table should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study Report for information on flood control structures for this jurisdiction.

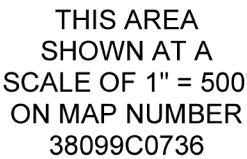
Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same **vertical datum**. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov>.

This map reflects more detailed and up-to-date **stream channel configurations** than those shown on the previous FIRM for this jurisdiction. The floodplains and floodways that were transferred from the previous FIRM may have been adjusted to conform to these new stream channel configurations. As a result, the Flood Profiles and Floodway Data tables for multiple streams in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels; community map repository addresses; and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

If you have **questions about this map**, how to order products, or the National Flood Insurance Program in general, please call the **FEMA Map Information eXchange (FMIX)** at **1-877-FEMA-MAP** (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov/business/fmip>.



NOTE: MAP AREA SHOWN ON THIS PANEL IS LOCATED WITHIN RANGE 52 WEST.

 SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD

The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.

 FLOODWAY AREAS IN ZONE AE

OTHER FLOOD AREAS

	OTHER AREAS
--	-------------

 COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS OTHERWISE PROTECTED AREAS (OPAs)

CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.

1% Annual Chance Floodplain Boundary

Flowchart boundaries

Zone D boundary

..... CBRS and OPA boundary

Boundary dividing Special Flood Hazard Area Zones and boundary

flood depths, or flood velocities.

573 Base Flood Elevation line and value; elevation in feet*

base flood elevation value where uniform within zone, elevation in feet*

*Referenced to the North American Vertical Datum of 1988

Cross section line

(23) - - - - (23) Transect line

45° 02' 08", 93° 02' 12" Geographic coordinates referenced to the North American Datum of 1983 (NAD 83), Western Hemisphere

3100000 FT 5000-foot ticks: North Dakota State Plane North Zone

1000-meter Universal Transverse Mercator grid values, zone 14

DX5510 Bench mark (see explanation in Notes to Users section of this FIRM)

* M1.5 River Mile

MAP REPOSITORIES
Refer to Map Repositories list on Map Index

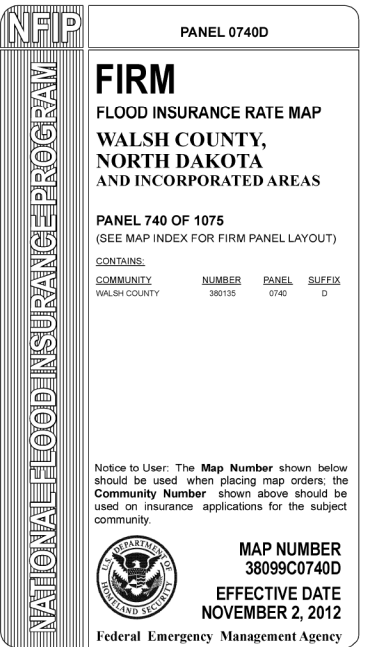
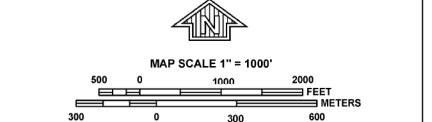
EFFECTIVE DATE OF COUNTYWIDE
FLOOD INSURANCE RATE MAP

November 2, 2012

EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.



NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The community map repository should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations (BFEs)** and/or **floodways** have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) Report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS Report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Coastal Base Flood Elevations shown on this map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations table in the Flood Insurance Study Report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations table should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Boundaries of the **floodways** were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study Report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study Report for information on flood control structures for this jurisdiction.

The **projection** used in the preparation of this map was Universal Transverse Mercator (UTM) zone 14. The **horizontal datum** was NAD 83, GRS 1980 spheroid. Differences in datum, spheroid, projection or UTM zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same **vertical datum**. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

NGS Information Services
NOAA, N/NGS12
National Geodetic Survey
SSMC-3, #9202
1315 East-West Highway
Silver Spring, Maryland 20910-3282
(301) 713-3242

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the information services branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov>.

Base map information shown on this FIRM was provided by the Walsh County Department of Emergency Management. These data are current as of 2005.

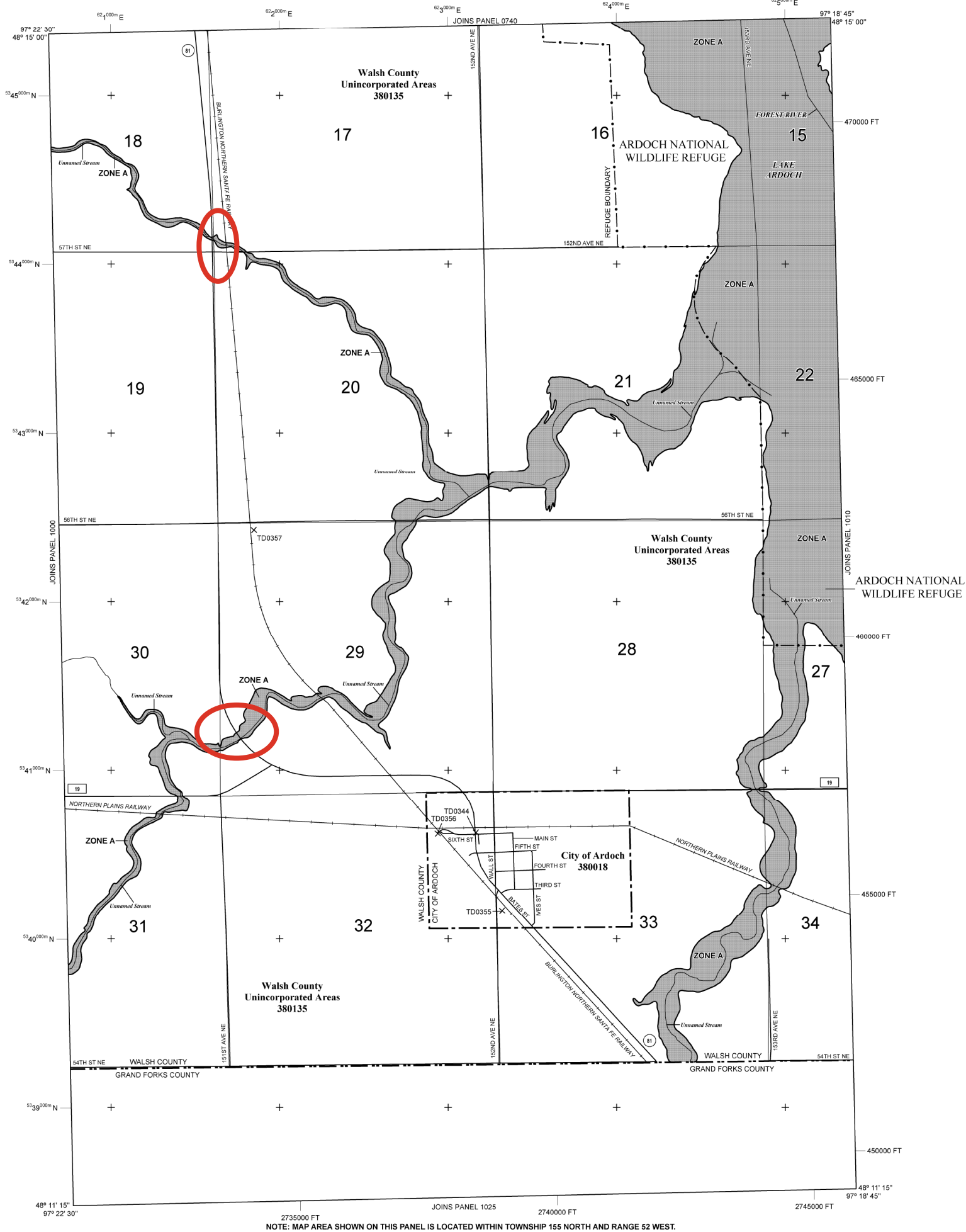
This map reflects more detailed and up-to-date **stream channel configurations** than those shown on the previous FIRM for this jurisdiction. The floodplains and floodways that were transferred from the previous FIRM may have been adjusted to conform to these new stream channel configurations. As a result, the Flood Profiles and Floodway Data tables for multiple streams in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map.

Corporate limits shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels, community map repository addresses, and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

For information on available products associated with this FIRM visit the **Map Service Center (MSC)** website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the MSC website.

If you have **questions about this map**, how to order products, or the National Flood Insurance Program in general, please call the **FEMA Map Information eXchange (FMIX)** at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov/business/mfp>.



LEGEND

SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD
The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of special flood hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.

- ZONE A** No Base Flood Elevations determined.
- ZONE AE** Base Flood Elevations determined.
- ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
- ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- ZONE AR** Special Flood Hazard Areas formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
- ZONE A99** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE V** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE** Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.

FLOODWAY AREAS IN ZONE AE

The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

OTHER FLOOD AREAS

ZONE X Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

OTHER AREAS

ZONE X Areas determined to be outside the 0.2% annual chance floodplain.

ZONE D Areas in which flood hazards are undetermined, but possible.

COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS

OTHERWISE PROTECTED AREAS (OPAs)

CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.

1% Annual Chance Floodplain Boundary

0.2% Annual Chance Floodplain Boundary

Floodway boundary

Zone D boundary

CBRS and OPA boundary

Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths, or flood velocities.

Base Flood Elevation line and value; elevation in feet*

Base Flood Elevation value where uniform within zone; elevation in feet*

*Referenced to the North American Vertical Datum of 1988

Cross section line

Transsect line

45° 02' 08", 93° 02' 12" Geographic coordinates referenced to the North American Datum of 1983 (NAD 83) Western Hemisphere

3100000 FT 5000-foot ticks: North Dakota State Plane North Zone (FIPS Zone 3301), Lambert Conformal Conic projection

4999999 FT 1000-meter Universal Transverse Mercator grid values, zone 14

DX5510 X Bench mark (see explanation in Notes to Users section of this FIRM panel)

*M1.5 River Mile

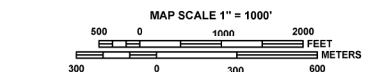
MAP REPOSITORIES
Refer to Map Repositories list on Map Index

EFFECTIVE DATE OF COUNTY-WIDE FLOOD INSURANCE RATE MAP
November 2, 2012

EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.



NFIP

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 1005D

FIRM

**FLOOD INSURANCE RATE MAP
WALSH COUNTY,
NORTH DAKOTA
AND INCORPORATED AREAS**

PANEL 1005 OF 1075
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
ARDOCH CITY OF	380118	1005	D
WALSH COUNTY	380135	1005	D

Notice to User: The **Map Number** shown below should be used when placing map orders, the **Community Number** shown above should be used on insurance applications for the subject community.



MAP NUMBER
38099C1005D

EFFECTIVE DATE
NOVEMBER 2, 2012

Federal Emergency Management Agency

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION NON-BUILDING SITUATION

GENERAL INFORMATION

PERMIT APPLICATION # 2025-002 DATE: 10/31/25

Applicant/Contact: *NDDOT/Steve Kessler* Telephone # *(701) 328-3736*

Address: *North Dakota Department of Transportation
Attn: Engineering and Environmental Services
608 East Boulevard Avenue
Bismarck, ND 58505-0700*

Brief project description - location of proposed development - legal description:
Section 31 T156N, R52W

*Work will include a 2" mill and 2" overlay on ND highway 81 from Ardoch to Minto.
Work will be within FEMA mapped 100-yr floodplain.*

Contractor: *Contract Not Awarded*
Telephone #
Address:
Estimated Cost of project:

FLOODPLAIN DETERMINATION :

(Complete the appropriate information)

Project is located: 100-year floodplain? (Flood Fringe): *Yes (flood fringe)*
Regulatory Floodway: *No*

Map information: FIRM Date: *November 2, 2012*
FIRM Zone: *Zone AE*
BFE at Development Site:
Development will be elevated to:

DEVELOPMENT ACTIVITIES: (check all that apply and explain the activity)

- ☐ Fill placement (fill brought in from outside the floodplain)
- ☐ Excavation (where subgrade fill is removed from the floodplain)
- ☐ Landscaping (cut and fill, fill borrow and placement)
- ☐ Construction or maintenance of a dike/levee/floodwall

- ☐ Removal of fill, embankment, or dikes
- ☐ Watercourse alterations (river, stream, lake - channel modifications, rip-rap)
- ☐ Road, street or bridge construction (new, repair or replacement, realignment)
- ☐ Drainage improvements (including culvert work)
- ☐ Mining (removal of gravel, rock, fill or other natural materials)
- ☐ Installation of utilities (water, sewer, pipeline, gas, electric, communications)
- ☐ Well drilling (water, oil, natural gas etc.)
- ☐ Subdivision (new or expansion)
- ☒ Other (2" mill and 2" overlay)

ADDITIONAL INFORMATION REQUIRED (attach additional information):

- Comments or further explanation of work:
- Copies of project description, plans, blueprints, etc.
- Wetlands - will the activity impact identified wetlands? *No*
- Will the development aggravate flooding elsewhere? *Unknown*

OTHER NOTIFICATION OR PERMITS NECESSARY:

ELEVATION INFORMATION:

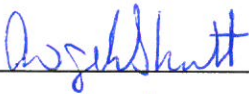
Attach information about the completed project elevations(s) with registered professional engineer or registered land surveyor certifications if part of the project:

ACTION / APPROVAL:

The proposed development is in conformance with applicable community floodplain standards subject to the following conditions with this approval.

PERMIT APPLICATION IS APPROVED

(Conditioned on the description provided. As-built information/certification will be available at the NDDOT District Office upon completion of construction.)

Signature (Floodplain Administrator): 

Date: 10/31/25

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION

FUEL COST ADJUSTMENT CLAUSE

DESCRIPTION

This special provision provides for contract price adjustments when changes to the cost of diesel fuel occur while completing the work. Participation in the fuel cost adjustment clause is voluntary, and notification is not required at the time the proposal is submitted.

ATTACHMENTS

SFN 58393 "Fuel Cost Adjustment Affidavit" is attached for informational purposes only.

CONTRACT REQUIREMENTS

A. Fuel Cost Adjustment Affidavit.

1. General.

The Department will include SFN 58393 "Fuel Cost Adjustment Affidavit" when submitting the Contract to the awarded Bidder. Return the completed Fuel Cost Adjustment Affidavit with the signed Contract as specified in Section 103.06, "Execution and Approval of the Contract". Return the affidavit regardless of the intent to enroll in the program.

Diesel fuel used in the operation of equipment and vehicles in the completion of contract work is the only fuel type eligible for participation in the fuel cost adjustment clause.

If the Contractor has contracted for diesel fuel or has a fixed price for diesel fuel planned for use in the completion of the work, the Contractor will be ineligible to participate in the fuel cost adjustment clause.

Identified costs must be reasonable and justifiable for the project. If the Engineer may request information and calculations used by participants to determine estimated diesel fuel costs. Failure to provide required information may result in the Engineer determining the Contractor is not eligible to participate in the fuel cost adjustment clause.

2. Contractor Does Not Participate.

If the prime Contractor does not participate, fuel cost adjustments will not be made for the prime contractor nor for any subcontractors.

3. Contractor Does Participate.

a. General.

The Engineer will determine compensation adjustments as described in Section B, "Fuel Cost Adjustment Calculations" of this special provision.

Once the form has been submitted, the quantity of fuel eligible for the adjustment clause cannot be adjusted.

b. Subcontractors.

If the prime Contractor chooses to participate in fuel cost adjustments include the estimated fuel costs for all subcontractors that also choose to participate.

If fuel cost adjustment payments are made, make payments to participating subcontractors in proportion to the percentage of work performed and the estimated fuel costs made by the participating subcontractors.

B. Fuel Cost Adjustment Calculations.

1. Definitions.

The following definitions apply when calculating the fuel cost adjustment:

Average Wholesale Price (AWP): The AWP for diesel fuel is the average daily rack price for a given month as reported by DTN Energy for Fargo, ND.

Base Fuel Index (BFI): The BFI for diesel fuel is the AWP for the full month preceding the bid opening.

Current Fuel Index (CFI): The CFI for diesel fuel is the AWP for diesel fuel from the full month preceding the month for which the adjustment is to be calculated.

Estimate: Monthly total of work performed based on progressive estimates issued in the month in which calculations are determined. This number excludes the following:

- Incentive/disincentive payments;
- Pay factor adjustments; and
- All work performed where the Department is able to assess Liquidated Damages.

Fuel Ratio (FR): The cost of diesel fuel included in the affidavit divided by the original contract amount. This number will remain constant for the duration of the contract, regardless of any changes made to the work. If this calculated ratio exceeds 10% of the original contract amount, the Engineer will cap the ratio at 10% and use that figure for the contract.

2. Cost Change Determination.

a. General

Each month the Engineer will determine the Cost Change (CC) for diesel fuel using the following calculation:

$$CC = CFI - BFI$$

When the CC is greater than $\pm\$0.10$, the Engineer will process a contract price adjustment for the price of diesel fuel for the portion of the cost change above \$0.10.

b. Cost Change is Positive.

When the Cost Change is greater a positive number, the Engineer will determine the Fuel Cost Adjustment (FCA) for the price of diesel fuel for the portion of the cost change, in excess of \$0.10, based on the following calculation:

$$FCA = FR \times Estimate \times (CC - \$0.10)$$

The Engineer will process this amount as a contract price adjustment in favor of the Contractor on the next progressive estimate.

c. Cost Change is Negative.

When the Cost Change is greater a positive number, the Engineer will determine the Fuel Cost Adjustment (FCA) for the price of diesel fuel for the portion of the cost change, in excess of \$0.10, based on the following calculation:

$$FCA = FR \times Estimate \times (CC + \$0.10)$$

The Engineer will process this amount as a contract price adjustment in favor of the Department on the next progressive estimate.

BASIS OF PAYMENT

The Engineer will utilize the following spec and code when processing contract price adjustments related to the fuel cost adjustment clause.

Spec	Code	Pay Item	Pay Unit
109	0100	Diesel Fuel Cost Adjustment	Lump Sum

FUEL COST ADJUSTMENT AFFIDAVIT

North Dakota Department of Transportation, Construction Services
SFN 58393 (7-2026)

SP Fuel Cost Adjustment Clause

Attachment A

PCN	Project Number
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.	
Does your company elect to participate in a fuel adjustment for this contract? (fixed price fuel is not eligible) ☐ Yes ☐ No	

If yes, provide the total estimated dollars for diesel:

Estimated Diesel Fuel Cost	Original Contract Amount	Estimated Diesel Fuel / Original Contract Amount
----------------------------	--------------------------	--

May not exceed 10% of the original contract amount.

Under the penalty of law for perjury of falsification, the undersigned,	
Name	Title
Contractor	
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.	
Identified costs must be reasonable and justifiable for the project. The Engineer may request information and calculations used by participants to determine estimated diesel fuel costs. Failure to provide required information may result in the Engineer determining the Contractor is not eligible to participate in the fuel cost adjustment clause.	
Legal Signature (sign before a Notary Public or Authorized Officer)	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)	