

**SANTA BARBARA COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT**



**NOTICE TO BIDDERS  
AND  
SPECIAL PROVISIONS**

**FOR**

**CIENEGUITAS CHANNEL REPAIR PROJECT**

**UNDER:**

---

**Bid Book dated July 18, 2024**

**Standard Specifications dated 2018**

**Standard Plans dated 2018**

---

**COUNTY PROJECT NO. 24STM1-SC13**

**BID OPENING LOCATIONS:**

**PlanetBids**

**<https://www.planetbids.com/portal/portal.cfm?CompanyID=43874>**

**BID OPENING TIME AND DATE:**

**2:00 PM on Thursday, August 8<sup>th</sup>, 2024**

**Electronic Advertising Contract**

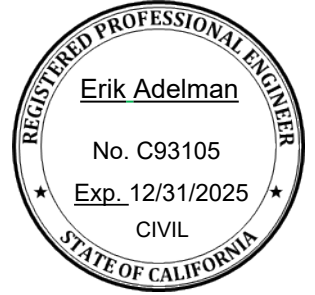
**CHRIS SNEDDON**

**DIRECTOR OF PUBLIC WORKS**

# NOTICE TO BIDDERS AND SPECIAL PROVISIONS

## Cieneguitas Channel Repair Project COUNTY PROJECT NO. 24STM1-SC13

The Special Provisions contained herein have been prepared under the direction of the following Registered Persons.



DocuSigned by:  
*Erik Adelman*  
B66C953EA8364F2...

7/18/2024 | 3:52 PM PDT

Erik Adelman, P.E.  
REGISTERED CIVIL ENGINEER

DATE

DocuSigned by:  
*Matt Griffin*  
2E185D56570A456...

7/18/2024 | 3:53 PM PDT

Matt Griffin, P.E.  
ENGINEERING MANAGER (*APPROVAL RECOMMENDED*)

DATE

DocuSigned by:  
*Walter Rubalcava*  
2745EDA75D27485...

7/22/2024 | 10:22 AM PDT

Walter Rubalcava, P.E.  
FLOOD CONTROL DEPUTY DIRECTOR (*APPROVED*)

DATE

Steve Lavagnino  
BOARD OF DIRECTORS, CHAIR (*APPROVED*)

DATE

# TABLE OF CONTENTS

NOTICE TO BIDDERS ..... 4

COPY OF BID ITEM LIST ..... 6

FLOOD CONTROL DISTRICT PROVISIONS ..... 7

    DIVISION I GENERAL PROVISIONS ..... 7

        1 GENERAL ..... 7

        2 BIDDING ..... 9

        3 CONTRACT AWARD AND EXECUTION ..... 13

        4 SCOPE OF WORK ..... 14

        5 CONTROL OF WORK ..... 14

        6 CONTROL OF MATERIALS ..... 17

        7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC ..... 18

        8 PROSECUTION AND PROGRESS ..... 39

        9 PAYMENT ..... 39

    DIVISION II GENERAL CONSTRUCTION ..... 41

        12 TEMPORARY TRAFFIC CONTROL ..... 41

        13 WATER POLLUTION CONTROL ..... 41

        14 ENVIRONMENTAL STEWARDSHIP ..... 42

        15 EXISTING FACILITIES ..... 42

TECHNICAL PROVISIONS ..... 43

    DIVISION I GENERAL PROVISIONS ..... 43

        1 GENERAL ..... 43

        2 BIDDING ..... 43

        4 SCOPE OF WORK ..... 44

        5 CONTROL OF WORK ..... 44

        7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC ..... 45

        9 PAYMENT ..... 45

    DIVISION II GENERAL CONSTRUCTION ..... 45

        10 GENERAL ..... 46

        12 TEMPORARY TRAFFIC CONTROL ..... 48

        13 WATER POLLUTION CONTROL ..... 48

        14 ENVIRONMENTAL STEWARDSHIP ..... 52

        15 EXISTING FACILITIES ..... 52

        16 TEMPORARY FACILITIES ..... 52

    DIVISION III EARTHWORK AND LANDSCAPE ..... 52

        17 GENERAL ..... 52

        19 EARTHWORK ..... 53

    DIVISION VI STRUCTURES ..... 54

        51 CONCRETE STRUCTURES ..... 54

    DIVISION VII DRAINAGE FACILITIES ..... 54

## NOTICE TO BIDDERS

Bids open at **2:00 PM on Thursday, August 8<sup>th</sup>, 2024** for:

### **Cieneguitas Channel Repair Project** COUNTY PROJECT NO. **24STM1-SC13**

General project work description: The Project generally consists of the removal and reconstruction of an existing concrete lined channel. The Project also includes water pollution control, water diversion, and salvaging existing rock rip rap.

Project location description: The WORK occurs within District owned easements in the unincorporated area of Santa Barbara County near Santa Barbara, California, west of Encore Drive, between the Union Pacific Railroad culvert and Modoc Road.

Plans, Specifications, and Bid Book are available at no charge at  
<https://www.planetbids.com/portal/portal.cfm?CompanyID=43874>

The County encourages the participation of DBEs as defined in 49 CFR 26. You are encouraged to employ craftsmen and other workers from the local labor market whenever possible to do so. Local labor market is defined as the labor market within the geographical confines of the County of Santa Barbara, State of California.

Submit bids to the web address below. Bids will be opened and available at the web address below immediately following the submittal deadline.

**PlanetBids**

<https://www.planetbids.com/portal/portal.cfm?CompanyID=43874>

Complete the project work within **45 Workings Days**.

The estimated cost of the project is **\$505,000.00**

A non-mandatory pre-bid job walk is scheduled for **Tuesday, July 30<sup>th</sup>, 2024 at 10:00 AM**. Bidders interested in attending are to meet at the project site located at Cieneguitas Channel at Modoc Road, between 4296 Encore Drive and 4296 Modoc Road.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

For each bid all forms must be filled out as indicated in the bid documents. The entire Bid Book must be submitted to PlanetBids when you bid.

Prevailing wages are required on this Contract. The Director of the California Department of Industrial Relations determines the general prevailing wage rates. Obtain the wage rates at the DIR website, <https://www.dir.ca.gov/>.

The Bidder shall possess a Class A General Engineering Contractor license or a combination of Class C licenses which constitute the majority of the work in accordance with the provisions of Chapter 9, Division III of the Business and Professions Code at the time that the Bid is submitted. Failure to possess the required license(s) shall render the Bid as non-responsive and shall act as a bar to award of the Contract to any bidder not possessing said license.

Inquiries or questions based on alleged patent ambiguity of the plans, specifications, or estimate must be

submitted as a bidder inquiry by **5:00 PM on Friday, August 2<sup>nd</sup>, 2024**. Submittals after this date will not be addressed. Questions pertaining to this Project prior to Award of the Contract must be submitted via PlanetBids Q&A tab.

Bidders (Plan Holders of Record) will be notified by electronic mail if addendums are issued. The addendums, if issued, will only be available on PlanetBids, <https://www.planetbids.com/portal/portal.cfm?CompanyID=43874>

The OWNER reserves the right to reject any or all bids, to waive any informalities and/or inconsistencies in a bid, and to make awards to the lowest responsive, responsible bidder as it may best serve the interest of the OWNER.

By order of the Board of Directors of the Santa Barbara County Flood Control & Water Conservation District this project was authorized to be advertised on June 4, 2024.

Walter Rubalcava, PE  
Deputy Director – Flood Control

## COPY OF BID ITEM LIST

Item No.	F <sup>1</sup>	Item Code	Description	Unit	Quantity	Unit Price	Item Total
1		999990	MOBILIZATION	LS	1	\$	\$
2		120100	TRAFFIC CONTROL SYSTEM	LS	1	\$	\$
3		130100	JOB SITE MANAGEMENT	LS	1	\$	\$
4		130200	PREPARE WATER POLLUTION CONTROL PROGRAM	LS	1	\$	\$
5		131201	TEMPORARY CREEK DIVERSION SYSTEMS	LS	1	\$	\$
6	F	153121	REMOVE CONCRETE	CY	60	\$	\$
7		170103	CLEARING AND GRUBBING	LS	1	\$	\$
8		190151	SALVAGE ROCK RIP RAP	CY	370	\$	\$
9		194001	CHANNEL EXCAVATION	LS	1	\$	\$
10		198050A	CHANNEL BACKFILL	LS	1	\$	\$
11	F	510501	MINOR CONCRETE (CHANNEL)	CY	160	\$	\$
12		682022	CLASS I PERMEABLE MATERIAL	CY	20	\$	\$
<b>CONTRACTOR'S BID ITEMS SUBTOTAL</b>							<b>\$</b>
13			SUPPLEMENTAL WORK (IMPORT/EXPORT)	LS	1	\$10,000	\$10,000
<b>SUPPLEMENTAL WORK BID ITEMS SUBTOTAL</b>							<b>\$10,000</b>
<b>TOTAL BID</b>							<b>\$</b>

<sup>1</sup> "F" denotes Final Pay Item

# FLOOD CONTROL DISTRICT PROVISIONS

The work provided herein must be performed in accordance with the *Caltrans Standard Specifications*, 2018 edition (*Standard Specifications*). The *Standard Specifications* are incorporated herein by reference.

## MODIFICATIONS TO STANDARD SPECIFICATIONS

### DIVISION I GENERAL PROVISIONS

#### 1 GENERAL

##### Add to section 1-1.01:

See sections 2 and 3 for contractors' DIR registration requirements.

For local material from (1) a noncommercial source or (2) a source not regulated under California jurisdiction, you must submit a local material plan and analytical test results for pH, lead, and other constituents for each site. See section 6-1.03B(1) for the specifications.

##### Replace or add the following terms to section 1-1.07B:

**Acceptance:** The formal written approval by the Agency of a project which has been completed in all respects in accordance with the plans and specifications and any modifications thereof.

**Agency:** The Santa Barbara County (CA) Flood Control and Water Conservation District.

**APWA Standard Plans:** Standard Plans for Public Works Construction, promulgated by the American Public Works Association (Southern California Chapter)/Associated General Contractors of California (Southern California Districts) Joint Cooperative Committee, published by Building News Inc., 3055 Overland Avenue, Los Angeles, California 90034, 2009 edition.

**Board:** The Governing Board of Directors of the Santa Barbara County (CA) Flood Control and Water Conservation District.

**Business day:** Day on the calendar except Saturday, Sunday, and a holiday.

**Caltrans:** State of California, Business & Transportation Agency, Department of Transportation

**County:** The County of Santa Barbara, a political subdivision of the State of California.

**County Clerk:** The County Clerk of the County of Santa Barbara.

**County Standard Details:** Standard Details of the County of Santa Barbara Department of Public Works Roads Division, dated September, 2011

**Department:** The Santa Barbara County Flood Control District acting by and through its Department of Public Works; its authorized representatives.

**Department of Transportation:** The Santa Barbara County (CA) Flood Control and Water Conservation District

**District:** The Santa Barbara County (CA) Flood Control and Water Conservation District

**District Office:** The Santa Barbara County (CA) Flood Control and Water Conservation District Office

**Director:** Director of Public Works of the County of Santa Barbara, or the Director's duly authorized representative.

**Engineer:** The Flood Control District Engineer acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

**Flood Control:** The Santa Barbara County (CA) Flood Control and Water Conservation District

**Green Book:** Standard Specifications for Public Works Construction, 2015 edition, including supplements published by Building News, Inc., Los Angeles, CA.

**Holiday:** Holidays are shown in the following table:

<b>Holidays</b>	
Holiday	Date observed
Every Sunday	Every Sunday
New Year's Day	January 1st
Birthday of Martin Luther King, Jr.	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 19th
Independence Day	July 4th
Labor Day	1st Monday in September
Veterans Day	November 11th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving Day	Day after Thanksgiving Day
Christmas Day	December 25th

If January 1st, July 4th, November 11th, or December 25th falls on a Sunday, the Monday following is a holiday. If January 1st, July 4th, November 11th, or December 25th falls on a Saturday, the preceding Friday is a holiday.

**Owner:** Same meaning as Agency

**Prompt:** The briefest interval of time required for a considered reply, including time required for approval by governing body

**State:** The State of California and its political subdivisions, including the Santa Barbara County (CA) Flood Control and Water Conservation District.

**State Standard Plans:** Standard plans prepared by State of California, Business & Transportation Agency, Department of Transportation (Caltrans)

**Supplemental Work:** Bid Item Work that is only performed if so directed by the Engineer in writing.

**Replace line “2.1” under item “2. working day” in section 1-1.07B with:**

2.1. Saturday, Sunday, and a holiday



**Add to section 1-1.11:**

**Websites, Addresses, and Telephone Numbers**

Reference or agency or department unit	Website	Address	Telephone number
Department of Industrial Relations Prevailing Wage Rates	<a href="https://www.dir.ca.gov/Public-Works/Prevailing-Wage.html">https://www.dir.ca.gov/Public-Works/Prevailing-Wage.html</a>		
Caltrans, Office of Construction Contract Standards	<a href="http://ppmoe.dot.ca.gov/des/oe/construction-contract-standards.html">http://ppmoe.dot.ca.gov/des/oe/construction-contract-standards.html</a>		
County PlanetBids Portal	<a href="https://www.planetbids.com/portal/portal.cfm?CompanyID=43874">https://www.planetbids.com/portal/portal.cfm?CompanyID=43874</a>		(805) 568-3440
County Municipal Code	<a href="https://www.municode.com/library/CA/Santa_Barbara_County">https://www.municode.com/library/CA/Santa_Barbara_County</a>		
County Project Manager		PROJECT MANAGER <b>Erik Adelman, PE</b>	<b>(805) 884-8074</b>

**Delete the row for Office Engineer in the table of section 1-1.11.**

**Replace section 1-1.12 with:**

**1-1.12 MISCELLANY**

Make checks and bonds payable to the Santa Barbara County Flood Control & Water Conservation District.

**2 BIDDING**

**Add to section 2-1.01:**

More than one Bid from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. If the OWNER has reasonable grounds for believing that any Bidder is interested in more than one Bid for the WORK contemplated, all Bids in which such Bidder is interested will be rejected. If the OWNER believes that collusion exists among the Bidders, all Bids will be rejected and collusion participants shall be restricted from submitting further proposals. A party who has quoted prices to a Bidder is not hereby disqualified from quoting prices to other Bidders, or from submitting a Bid directly for the WORK.

Each Bidder (including the Bidder's Superintendent assigned to the Project) shall be skilled, experienced, regularly engaged in and qualified to perform the type of work called for in the Bid documents.

If you are found to be not qualified to bid, your bid will be rejected.

**Replace 2-1.04 with:**

**2-1.04 PREBID OUTREACH MEETING**

Section 2-1.04 applies if a mandatory prebid meeting is shown on the *Notice to Bidders*.

Each bidder must attend the meeting. The bidder's representative must be a company officer, project superintendent, or project estimator. For a joint venture, one of the parties must attend the mandatory prebid meeting.

A sign-in sheet will be used to identify the attendees. Each bidder must include the name and title of the company representative attending the meeting. The sign-in sheet must be signed before the meeting start time.

The Department does not accept a bid from a bidder who did not sign the sign-in sheet before the meeting started.

The Department may hold a single prebid meeting for more than one contract. Sign the sign-in sheet for the contract you intend to bid on. If you are bidding on multiple contracts, sign each sign-in sheet for each contract you intend to bid on. The sign-in sheets, with the names of all companies in attendance at each prebid meeting, will be made available at the website shown on the *Notice to Bidders* for bidder inquiries.

**Replace section 2-1.06A with:**

**2-1.06A General**

The *Bid Book* includes bid forms and certifications.

The *Notice to Bidders and Special Provisions*, *Bid Book*, and project plans are available on the County's PlanetBids Portal.

Caltrans Standard Specifications, Revised Standard Specifications, Standard Plans and Revised Standard plans are available at State of California, Department of Transportation (Caltrans) Office of Construction Contract Standards website.

**Replace section 2-1.06B with:**

**2-1.06B Supplemental Project Information**

The Department makes supplemental information available as specified in the special provisions.

If an *Information Handout* or sections are available, you may view them at the County's PlanetBids Portal.

**Add to section 2-1.07:**

The failure or neglect of the Bidder to receive or examine any of the bid documents shall in no way relieve the Bidder from any obligations required by the bid documents. No claims for additional compensation will be allowed which is based upon lack of knowledge of any bid documents.

**Add to section 2-1.09:**

The Board of Directors reserves the right to waive technical errors and discrepancies if it determines it is in the public interest to do so.

**Add to section 2-1.10:**

On the Subcontractor List you may either submit the percentage of each bid item subcontracted with your bid or E-Mail the percentage to: [eadelman@countyofsb.org](mailto:eadelman@countyofsb.org) within 2 business days after bid opening. You are solely responsible for correcting any inadvertent errors in the license numbers within 2 business days of bid opening. Failure to correct the license numbers in compliance with instructions and Public Contract Code § 4104 will cause the bid to be nonresponsive.

If you make a clerical error in listing subcontractors, submit a written notice to the Director within 2 business days after the time of the bid opening. Send copies of the notice to the subcontractors involved.

**Delete sections 2-1.15 to 2-1.27.**

**Replace section 2-1.33A with:**

**2-1.33A General**

Complete the forms in the *Bid Book*.

Use the forms provided by the Department except as otherwise specified for a bidder's bond.

Submit *Bid Book* forms and your electronic bid as instructed in the *Notice to Bidders*. The original Bid Book must be submitted immediately upon request after the bid opening.

For Federal-Aid projects, submit *Bid Book* DBE forms in accordance to section 2-1.33B.

Failure to submit the forms and information as specified may result in a nonresponsive bid.

Include all applicable federal, state and local taxes in your bid amount.

Unauthorized conditions, limitations, or provisos attached to the Bid shall render it informal and may cause its rejection as being non-responsive. The Bid forms shall be completed without interlineations, alterations, or erasures in the printed text. Alternative Bids will not be considered unless called for.

The Board of Directors reserves the right to waive technical errors and discrepancies if it determines it is in the public interest to do so.

**Replace section 2-1.33B(2)(b) of the RSS with:**

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

For a contract with a DBE goal, as shown on the Notice to Bidders, submit the bid forms according to the schedule shown in the following table:

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

Form	Submittal deadline
Bid to the Department	Time of bid except for the public works contractor registration number
Copy of the Bid to the Department as submitted at the time of bid with the public works contractor registration number	10 days after bid opening
Subcontractor List	Time of bid except for the public works contractor registration number
Copy of the Subcontractor List as submitted at the time of bid with the public works contractor registration number	10 days after bid opening
Opt Out of Payment Adjustments for Price Index Fluctuations <sup>a</sup>	Time of bid
DBE Commitment ( <b>Exhibit 15-G</b> )	No later than 4 p.m. on the 5th day after bid opening <sup>b</sup>
DBE Confirmation ( <b>Written confirmation of each listed DBE is required</b> )	No later than 4 p.m. on the 5th day after bid opening <sup>b</sup>
DBE Good Faith Efforts Documentation ( <b>Exhibit 15-H</b> )	No later than 4 p.m. on the 5th day after bid opening <sup>b</sup>

<sup>a</sup> Submit only if you choose the option.

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

**Replace section 2-1.33B(2)(c) of the RSS with:**

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

For a contract without a DBE goal, as shown on the Notice to Bidders, submit the bid forms according to the schedule shown in the following table:

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

Form	Submittal deadline
Bid to the Department	Time of bid except for the public works contractor registration number

Copy of the Bid to the Department as submitted at the time of bid with the public works contractor registration number	10 days after bid opening
Subcontractor List	Time of bid except for the public works contractor registration number
Copy of the Subcontractor List as submitted at the time of bid with the public works contractor registration numbers	10 days after bid opening
Opt Out of Payment Adjustments for Price Index Fluctuations <sup>a</sup>	Time of bid

<sup>a</sup> Submit only if you choose the option.

**Replace section 2-1.33B(3) of the RSS with:**

**2-1.33B(3) Non-Federal-Aid Contracts**

For a non-federal-aid contract, submit the bid forms according to the schedule shown in the following table:

**Bid Form Submittal Schedule for a Non-Federal-Aid Contract**

Form	Submittal deadline
Bid to the Department	Time of bid except for the public works contractor registration number
Copy of the Bid to the Department as submitted at the time of bid with the public works contractor registration number	10 days after bid opening
Subcontractor List	Time of bid except for the public works contractor registration number
Copy of the Subcontractor List as submitted at the time of bid with the public works contractor registration number	10 days after bid opening
Opt Out Payment Adjustment for Price Index Fluctuations <sup>a</sup>	Time of bid

<sup>a</sup> Submit only if you choose the option.

**Replace section 2-1.34 with:**

**2-1.34 BIDDER'S SECURITY (PUB CONTRACT CODE § 20129(a))**

Submit one of the following forms of bidder's security equal to at least 10 percent of the bid:

1. Cash
2. Cashier's check made payable to the Santa Barbara County Flood Control & Water Conservation District
3. Certified check made payable to the Santa Barbara County Flood Control & Water Conservation District
4. Signed bidder's bond by an admitted surety insurer made payable to the Santa Barbara County Flood Control & Water Conservation District

Submit bidder's security with the *Bid Book* before the bid opening time.

If using a bidder's bond, you may use the form in the *Bid Book*.

If the bid schedule includes alternative or additive items or additive groups, the bid bond must equal at least 10% of the bid plus all alternatives and additives.

**Replace the 2nd paragraph of section 2-1.40 with:**

A bidder may withdraw or revise a bid after it has been submitted to the office if this is done before the bid opening date and time.

**Replace the first paragraph in section 2-1.50 with:**

If reasonable cause exists to believe collusion exists among bidders, or that prices bid are unbalanced between bid items, any or all proposals may be rejected.

### **3 CONTRACT AWARD AND EXECUTION**

**Replace section 3-1.02B with:**

The Department breaks a tied bid with a coin toss.

**Replace section 3-1.04 with:**

**3-1.04 CONTRACT AWARD**

Submit any bid protest before 5:00 p.m. of the 10th business day following bid opening to the Department. Include the name, address, and telephone number of your designated representative with a complete statement for grounds of the protest. The protest must refer to the specific portion of the document that forms the basis for the protest.

If the County awards the contract including additive items or additive groups, total bid shall include Total Base Bid plus those additive items or Total Base Bid plus those additive groups used in determining the lowest responsible bidder.

In its discretion, the Santa Barbara County Flood Control District may accept or reject any bids. The decision of the Board of Directors shall be final in accepting or rejecting the bid protest, awarding the bid to the next lowest responsive, responsible bidder, or rejecting any or all bids.

If the District awards the contract, the award is made to the lowest responsible bidder within 65 days. If the lowest responsible bidder refuses or fails to execute the contract, the Director may award the contract to the second lowest responsible bidder. Such award, if made, will be made within 80 days after the opening of bids. If the second lowest responsible bidder refuses or fails to execute the contract, the Director may award the contract to the third lowest responsible bidder. Such award, if made, will be made within 95 days after the opening of bids. The periods of time specified above within which the award of contract may be made shall be subject to a time extension as may be agreed upon in writing between the Department and the bidder concerned.

**Replace section 3-1.05 with:**

**3-1.05 CONTRACT BONDS (PUB CONT CODE § 20129(b) AND CIV CODE § 9554)**

The successful bidder must furnish 2 bonds:

1. Payment bond to secure the claim payments of laborers, workers, mechanics, or materialmen providing goods, labor, or services under the Contract. This bond must be equal to at least 100 percent of the total bid. The payment bond must also contain provisions which automatically increase amounts thereof and/or time of completion or both for all change orders, extensions and additions to the work provided pursuant to this Agreement.
2. Performance bond to guarantee the faithful performance of the Contract. This bond must be equal to at least 100 percent of the total bid.

You may provide alternative securities for monies withheld to ensure performance per the terms of Public Contract Code § 22300.

The District furnishes the successful bidder with bond forms.

Both the payment and performance bonds must be executed by one and only one surety. That Surety must be admitted and listed in the Insurance Organizations Authorized By The Insurance Commissioner To Transact Business Of Insurance In The State Of California for the current year, and must be further authorized by the commissioner to issue surety insurance.

**Delete section 3-1.08.**

**Delete section 3-1.11.**

**Replace section 3-1.18 with:**

**3-1.18 CONTRACT EXECUTION**

The successful bidder must sign the District Agreement (Contract) and deliver to the District the following

documents:

1. Three (3) copies of the District Agreement (Contract) bearing your original signatures.
2. Two (2) copies of the Performance and Payment Bonds.
3. Insurance Certificates.
4. Executed Taxpayer Identification Number and Certification (IRS Form W-9) and Withholding Exemption Certificate (CA Form 590).
5. A copy of your Injury and Illness Prevention Program.
6. A copy of your policy on drugs and alcohol.

The District must receive these documents by 4:00 pm on the 8th business day after the bidder receives the unexecuted Contract.

The bidder's security may be forfeited, and a successful bidder may be prohibited from participating in future bidding on the project, for failure to execute the contract within the time specified.

**Add to section 3-1.19 with:**

**3-1.19 BIDDERS SECURITIES**

In accordance with Public Contract Code § 20129, upon an award to the lowest bidder(s), the security of an unsuccessful bidder must be returned in a reasonable period of time, but in no event will that security be held by the County beyond sixty (60) days from the time the award is made.

The person to whom the contract is awarded must execute a bond to be approved by the board for the faithful performance of the contract.

## 4 SCOPE OF WORK

**Add to list in the 1st paragraph of section 4-1.06B:**

3. Material differing from that represented in the Contract which you believe may be hazardous waste;
4. Subsurface or latent physical conditions at the site differing from those described by and shown in information available to bidders prior to submitting bids;

**Add to end of section 4-1.06B:**

The local public entity will promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in your cost of, or the time required for performance of any part of the work will issue a change order under the procedures described in the Contract.

## 5 CONTROL OF WORK

**Replace last paragraph of section 5-1.01 with:**

Contract administration forms are available at the State's website for your use.

Before starting Work, you must contact all jurisdictional agencies and determine from each: 1) scope of work to be inspected and by whom, 2) scope of testing, and 3) advance notice required.

During the course of work, you must be responsible for calling for testing and inspection as required by the jurisdictional agencies. Work not properly tested and inspected will be subject to rejection.

If any work that is to be inspected, tested or approved is covered by you without written concurrence of the Engineer, it must, if requested by the Engineer, be uncovered for observation. Uncovering work will be at your expense unless you have given Engineer timely notice of your intention to cover the same and Engineer has not acted with reasonable promptness to such notice.

Any plan or method of work suggested by the Owner or the Engineer to you but not specified or required, if adopted or followed by you in whole or in part, must be used at the risk and responsibility of you. The Owner and the Engineer must assume no responsibility therefor and in no way be held liable for any defects in the work which may result from

or be caused by use of such plan or method of work.

**Replace the 2nd paragraph of section 5-1.02 with:**

If a discrepancy exists:

1. The governing ranking of Contract parts in descending order is:
  - 1.1 Permits from other agencies as may be required by law
  - 1.2 Addendums
  - 1.3 Notice to Bidders and Special Provisions (Technical Provisions supersede Flood Control District Provisions)
  - 1.4 Project plans
  - 1.5 Revised standard specifications
  - 1.6 Standard specifications
  - 1.7 Revised standard plans
  - 1.8 Standard plans
  - 1.9 Supplemental project information
2. Written numbers and notes on a drawing govern over graphics
3. A detail drawing governs over a general drawing
4. A detail specification governs over a general specification
5. A specification in a section governs over a specification referenced by that section

Except, when there is a conflict of working hours the more stringent requirement will apply. Change Orders, Supplemental Agreements, and approved revisions to Plans and Specifications will take precedence over Items 2) through 5) above. Detailed plans will have precedence over general plans.

**Add to section 5-1.03**

If you and the District are unable to reach agreement on disputed work, the District may order you to proceed with the work, and you may submit a claim.

Although not to be construed as proceeding under extra work provisions, you must proceed as provided in Section 9-1.04, Force Account.

**Add to section 5-1.09:**

Section 5-1.09 applies if there is a bid item for *Partnering*.

**Delete section 5-1.13C.**

**Delete section 5-1.13D.**

**Add to section 5-1.16:**

You must notify the Owner, in writing, when you desire to change the Project Manager and Superintendent, and must provide in writing the name, qualifications, and experience statements of the personnel you propose to use

**Add to section 5-1.17:**

You must implement a policy on drugs and alcohol conforming to 49 CFR Part 40.

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

Materials must not be furnished or fabricated, nor any work done for which shop drawings or submittals are required, before those shop drawings or submittals have been reviewed, as provided herein. Neither review nor approval of shop drawings or submittals by the Engineer will relieve you from responsibility for errors, omissions, or deviations from the Bid Documents, unless such deviations were specifically called to the attention of the Engineer in the letter of transmittal. You will be responsible for the correctness of the submittals and shop drawings, including shop fits, field connections, and results obtained by use of such drawings.

You must pay Flood Control for review of any submission that varies from what the plans and specifications have called for, and/or for the review of any submission that is redundant (for example, submitting similar portland cement concrete mix designs from more than one supplier).

**Add to list under the 4th paragraph of section 5-1.23A:**

4. Federal Project Number, if any.

**Add section 5-1.23B(2)(a):**

**5-1.23B(2)(a) Record Drawings**

You must maintain a complete and accurate record of all changes of construction from that shown in these plans and specifications for the purpose of providing a basis for construction record drawings. No changes must be made without prior written approval of the Engineer.

Upon completion of the project, you must deliver a reproducible print record of all of the approved construction changes to the Engineer along with a separate letter certifying that other than the noted changes on this record, the project was constructed in conformance with the Bid Documents. Failure to submit the final record drawing may result in final payment request not being processed.

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

Where the manufacturer of any material or equipment provides written recommendations or instructions for its use or method in installation (including labels, tags, manuals, or trade literature), such recommendations or instructions must be complied with except where the contract documents specifically require deviations. Copies of such manufacturer's recommendations must be provided by you to the Engineer.

**Replace "3" in the second paragraph of section 5-1.27B with "4"**

**Replace section 5-1.27C with:**

Make your records available for inspection, copying, and auditing by District representatives for the same time frame specified under section 5-1.27B. The records of subcontractors and suppliers must be made available for inspection, copying, and auditing by District representatives for the same period. Before Contract acceptance, the District representative notifies the Contractor, subcontractor(s), or supplier(s) five (5) business days before inspection, copying, or auditing.

If an audit is to start more than 30 days after Contract acceptance, the District representative notifies the Contractor, subcontractor(s), or supplier(s) of the date when the audit is to start.

**Replace the 2nd through 4th paragraphs of section 5-1.27E with:**

Submit change order bills to Engineer.

**Add to section 5-1.30**

The Agency will not be precluded or stopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefor from showing the true quantity and character of the work performed and materials furnished by you, nor from showing that any such measurement, estimate, or certificate is untrue or is incorrectly made, nor that the work or materials do not in fact conform to the contract.

The Agency will not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from you, your surety, or both, such damages as it may sustain by reason of your failure to comply with the terms of the contract.

The failure of the Engineer to observe or to notify you of deviations from the approved plans and specifications, whether or not such deviations could have been corrected if such notification had been given, will in no way relieve you of any responsibility or liability for your failure to complete, and you will be required to repair and complete the work covered by this contract in exact accordance with the approved plans and specifications and all applicable laws and regulations; and the Agency will not be estopped or be deemed to have waived its right to insist on exact compliance by you with the plans and specifications and other terms of the contract because of such failure to observe or notify you of such defects or because of any progress or final payments made to you pursuant to the terms of this contract or the issuance of any inspection reports or any certificates of partial or final completion.

Neither the acceptance by the Engineer or by his representative nor any payment for or acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Engineer will operate as a waiver of any portion of the contract or of any right to damages.

A waiver of any breach of the contract will not be held to be a waiver of any other or subsequent breach.



**Add to section 5-1.32:**

Any agreement between you and a third party for use of private property for staging of equipment and storage of materials associated with this project must conform to any and all applicable land use ordinances and laws.

If you use private property for staging and storage of materials associated with this project, you must submit a written agreement from the property owner per Section 5-1.20B(4). Sample property-owner agreements are available on the Caltrans website.

**Add to section 5-1.36A:**

You must provide the regional notification center “Inquiry Identification” number to the District prior to the commencement of excavation or other work close to any underground facility. You are responsible for keeping the Inquiry Identification number valid throughout the duration of the construction contract.

**Replace section 5-1.43 with:**

You must follow Pub Cont Code § 9204 to pursue a potential claim.

**Add to section 5-1.46**

Neither the final certificate of payment nor any provision in the bid documents, nor partial or entire use of the improvements by the owner, will constitute an acceptance of work not done in accordance with the bid documents or relieve you of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

You must attend the Final Job Walkthrough Meeting to be held prior to final payment at a time designated by the Engineer. Your representative must be present at all times during the final job walkthrough.

**6 CONTROL OF MATERIALS**

**Delete the 2nd sentence of the 3rd paragraph of section 6-1.02.**

**Replace the 2nd paragraph of section 6-1.05 with:**

Submit a substitution request no later than the 4th business day following bid opening.

**Replace the 7th paragraph of section 6-2.01A with:**

For a material specified to comply with a property shown in the following table, the County tests under the corresponding test shown:

Property	Test
Relative compaction	ANSI/ASTM D 1557 or California Tests 2016 or 231
Sand equivalent	California Test 217
Resistance (R-value)	California Test 301
Grading (sieve analysis)	California Test 202
Durability Index	California Test 229
Soil moisture content	ASTM D 3017
In place soil density	ASTM D 2922 or D 1556 or D 2922 or D 2937 or D 3017
Max/min soil index density	ASTM D 4253 and D 4254

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

The Engineer will perform compaction tests to ascertain conformance with the specifications. The number of tests and their locations and depths will be determined by the Engineer. You must, as directed by the Engineer, make all excavations and subsequent backfill and compaction, required to perform the compaction tests. No additional compensation will be provided therefor.

You are responsible for any costs for materials testing services if you cancel the request less than 8 hours prior to the scheduled testing.

**Replace the 1<sup>st</sup> paragraph of section 6-2.03C:**

No materials must be incorporated into the project without first presenting evidence of testing, and complying with release procedures, or without first submitting a Certificate of Compliance with the delivered materials. The Project Number, Item Number, and Statement of Compliance with the Project Specification must appear on all Certificates of

Compliance.

Any attempts to incorporate material without certified release tags, or acceptable Certificates of Compliance, must be just cause for immediate suspension of the construction operation involved. All materials that are untagged or do not have Certificates of Compliance, that are placed or installed in the Project by you or your subcontractor must be considered as placed or installed at your own expense and the District must not be charged therefor.

Materials incorporated into the Project without the required release tags or Certificates of Compliance must be removed, if directed by the Engineer, at no cost to the District.

## 7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

**Replace section 7-1.02I(1) with:**

**7-1.02I(1) Santa Barbara County Code, Chapter 2, Article XIII**

**Sec. 2-94. - Exceptions.**

The provisions of this article shall not apply to contracts or agreements for the acquisition, exchange or disposition of real property or interests therein, nor to contracts or agreements with the State of California, or its political subdivisions, or with the United States of America.

**Sec. 2-95. - Prohibition of unlawful discrimination in employment practices.**

The County of Santa Barbara reserves the right to terminate forthwith each and every written contract and agreement (except purchase orders) respecting real property, goods and/or services entered into by the County of Santa Barbara including but not limited to concessions, franchises, construction agreements, leases, whether now in effect or hereinafter made if the County finds that the Contractor is discriminating or has discriminated against any person in violation of any applicable state or federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex, color, national origin, physical or mental disability, Vietnam era veteran/disabled, age, medical condition, marital status, ancestry, sexual orientation, or other legally protected status. This right of termination extends to contracts entered into by the County of Santa Barbara or by its joint powers, agencies or agents so long as the County obtains the consent of those parties.

Such finding may only be made after Contractor has had a full and fair hearing on notice of thirty days before an impartial hearing officer at which hearing Contractor may introduce evidence, produce witnesses and have the opportunity to cross-examine witnesses produced by the County. Further, any finding of discrimination must be fully supported by the facts developed at such hearing and set forth in a written opinion; and in addition, Contractor may move in the appropriate court of law for damages and/or to compel specific performance of a Contractor or agreement if any of the above procedures are not afforded to the Contractor. If Contractor is not found to have engaged in unlawful discriminatory practices, County shall pay all costs and expenses of such hearing, including reasonable attorneys' fees, to Contractor in accordance with current Santa Barbara County Superior Court schedule of attorneys' fees for civil trials. If Contractor is found to have engaged in such unlawful discriminatory employment practices, Contractor shall pay all such costs, expenses and attorneys' fees.

Whether or not a contract or agreement is still in existence at the time of final determination of such unlawful discrimination, the Contractor shall forthwith reimburse the County for all damages directly stemming from such discrimination; however, those damages shall not exceed and are not reimbursable in an amount which exceeds amounts paid to Contractor under the terms of the contract or agreement.

Nothing in this section 2-95 shall directly or by interpretation give a private cause of action to any third party (not a signatory to the contract or agreement) including employees past or present, or applicants for employment to Contractor, it being the sole purpose of this clause to administratively assure compliance with the nondiscrimination clauses contained herein.

With respect to employment discrimination, employment practices shall include, but are not limited to, employment, promotion, demotion, transfer, recruitment and advertising for recruitment,

layoff or other termination, rate of pay, employee benefits and all other forms of compensation or selection for training and apprenticeship and probationary periods.

Contractor shall permit access at all reasonable times and places to all of its records of employment, advertising, application forms, tests and all other pertinent employment data and records, to the County of Santa Barbara, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced, provided that such records are relevant to a complaint of an unlawful discriminatory practice which has been forwarded to Contractor reasonably prior to the time Contractor is asked to make such records available. In addition, all such records shall be deemed "Confidential" by the officers, employees and agents of the County. No records or copies of such records may be removed from the premises of Contractor, and no disclosure, oral or written, of such record may be made to third parties except as provided within the agreement. Provided, however, that in the event of a hearing to determine whether or not Contractor is engaging in unlawful discrimination in employment practices as defined herein, the Board of Supervisors of Santa Barbara County may issue subpoenas to require that certified copies of such records be made available to the hearing.

Failure to fully comply with any of the foregoing provisions shall be deemed to be a material breach of any contract or agreement with the County of Santa Barbara. All persons contracting with or who have contracts for goods or services with the County shall be notified that this chapter applies to their contract or agreement with the County of Santa Barbara.

**Sec. 2-95.5. - Exceptions.**

Notwithstanding any other provisions in this article, any party contracting with the County of Santa Barbara having an affirmative action program which has been approved within twelve months from the date of the contract by an agency of the federal government shall be deemed to be in compliance with the provisions of this article upon furnishing documentary evidence of such approval satisfactory to the County Affirmative Action Officer. Loss of such approval shall be immediately reported by such party to the County Affirmative Action Officer.

**Sec. 2-96. - Purchase orders.**

Purchase orders shall contain the following clause as grounds for termination of such purchase order.

"If complaint is made that seller is engaging in discriminatory employment practices made unlawful by applicable state and federal laws, rules or regulations, and the State Fair Employment Practice Commission or the Federal Equal Employment Opportunities Commission determines that such unlawful discrimination exists, then the County of Santa Barbara may forthwith terminate this order."

**Sec. 2-97. - Affirmative Action Officer.**

At the discretion of the County Affirmative Action Officer, he or she shall promptly and thoroughly investigate, or cause to be investigated reports and complaints from whatever source, that any party contracting with the County of Santa Barbara is engaging, or during the term of a contract or agreement with the County of Santa Barbara has engaged, in any unlawful discriminatory employment practices as described in section 2-95 of this Code. If the investigation discloses reason to believe such unlawful discrimination does exist or has existed and the conditions giving rise thereto have not been changed so as to prevent further such unlawful discrimination, and the said party shall not forthwith terminate such unlawful discrimination, take all appropriate steps to prevent a recurrence of such or other unlawful practices, and compensate the person or persons unlawfully discriminated against for any and all loss incurred by reason of such unlawful discrimination, all to the satisfaction of the Affirmative Action Officer, then the Affirmative Action Officer shall cause the matter to be presented for action to the State Fair Employment Practices Commission or the Federal Equal Employment Opportunities Commission, or both, and to any other concerned state or federal agencies or officers.

If and when it has been finally determined by the Affirmative Action Officer, County Counsel, or state or federal regulatory agencies that such unlawful discriminatory employment practice has in fact so occurred or are being carried on, then the Affirmative Action Officer shall forthwith present the entire matter to the Board of Supervisors of the County, together with all damages, costs and expenses related thereto and incurred by County, for appropriate action by the Board of Supervisors

in accord with the intent and purposes of this article and of the affirmative action program of the County of Santa Barbara.

**Sec. 2-98. - Youth group anti-discrimination.**

- (a) Neither the County of Santa Barbara, nor any of its agencies, departments, affiliates, or political subdivisions over which it exercises jurisdiction, shall:
  - (1) Deny any youth group equal access to, or fair opportunity to conduct meetings or other events at, or otherwise utilize any public facility;
  - (2) Deny any youth group use permits or licenses regarding, or otherwise withhold from any youth group permission to use, any public facility; or
  - (3) Otherwise discriminate against any youth group; on the basis of the membership or leadership criteria of such youth group.
- (b) For purposes of this section, a public facility shall include any public forum, limited public forum, public property, or public area including any public building, park, beach, campground, or any other area controlled or operated by the County of Santa Barbara.
- (c) For purposes of this section, a youth group means any group or organization intended to serve young people under the age of twenty-one.

**Add to section 7-1.02K(1):**

**7-1.02K(1)(a) Joint Labor Compliance Monitoring Program**

The Joint Labor Compliance Monitoring Program monitors labor compliance by conducting interviews with construction workers at the job site. You, and all subcontractors, must cooperate in allowing approved Compliance Group Representatives along with a County employee access to the project employees and work site for the purpose of conducting worker interview to ensure compliance with the requirement to pay prevailing wages on County projects. This will be done in order to comply with the Board of Supervisors July 10, 2012 adoption of a Joint Labor Compliance Monitoring Program.

Each Compliance Group Representative will always be accompanied with a County employee for a joint contractor worker interview. The Compliance Group Representative will be issued an identification card by the County at the job site. Compliance Group Representatives must restrict their actions to interviewing workers employed on the project. A copy of the Joint Labor Compliance Monitoring Program and Board Letter adoption from July 10, 2012 is available on request.

**7-1.02K(1)(b) Compliance Monitoring by the Department of Industrial Relations**

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (Labor Code § 1771.4).

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

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

**Replace the 6th through 10th paragraphs of section 7-1.02K(3) with:**

Submit certified payroll by mail to the Department.

Each submission must:

- 1. Include a signed Statement of Compliance form with each weekly record.
- 2. Be received by the Department by close of business on the 15th day of the month for the prior month's work.

**Add to section 7-1.02K(5):**

Working hours on working days will be between the hours of 7:00 a.m. and 5:00 p.m. No work will be done or noise generated outside these hours except such work as is necessary for the proper care and protection of the work already performed or in case of an emergency.

If the Contractor desires to work during periods other than above, the Contractor must make a request to the Engineer three (3) working days in advance. If District inspection forces are reasonably available, the Engineer may authorize the Contractor to perform work during periods other than normal working hours/days. However, if District inspectors are required to perform in excess of their normal working hours/days solely for the benefit of the Contractor, the actual cost of inspection at overtime rates will be charged to the Contractor as actual costs

deducted from your payment. If certain operations require extended or non-standard working hours, those operations and hours will be specified in the 'Technical Provisions' of the Contract.

**Add to section 7-1.02K(6)(a):**

Your Injury and Illness Prevention Program must include:

1. Safety manual
2. Jobsite checklist
3. Equipment safety checklist
4. Tailgate safety meetings
5. Permit application and job notification form (Construction, Demolition, Trenches, Excavation, Building, Structures, Falsework, Scaffolding) Form Cal/OSHA S-691, latest edition

**Add to section 7-1.02K(6)(b):**

You must obtain a State Division of Industrial Safety Permit for excavations and trenches prior to commencement of any excavation or trench of 5 feet or more in depth per California Code of Regulations, Title 8, Division 1, Chapter 3.2, Subchapter 2, Article 2, Section 341 and Title 8, Division 1, Chapter 4, Subchapter 4 of the California Occupational Safety and Health Regulations (Cal/OSHA). A copy of the permit must be submitted to the Engineer. All excavations must be completed and maintained in a safe and stable condition throughout the total construction phase in order to protect persons, property, trees and improvements. Structure and trench excavations must be completed to the specified elevations and to the length and width required to safely install, adjust, and remove any forms, bracing, or supports necessary for the installation of the work and/or protection of existing features. Excavations outside of the lines and limits shown on the drawings or specified herein required to meet safety requirements must be your responsibility in constructing and maintaining a safe and stable excavation.

**Replace section 7-1.02M(4) Reserved with:**

**7-1.02M(4) American Medical Response, Santa Barbara County**

For all temporary road closure activities, contact the nearest emergency medical response company for the area, American Medical Response, and provide the project location(s) and road closure schedule. Please see contact information below:

**American Medical Response, Santa Barbara County Contact Information**

	Name	Phone	Email
AMR Main Office	Santa Barbara County	(805) 688-6550	<a href="mailto:amr.santa.barbara@amr.net">amr.santa.barbara@amr.net</a>

**Replace section 7-1.02M(5) Reserved with:**

**7-1.02M(5) Sheriff, Santa Barbara County**

For all temporary road closure activities, contact the County of Santa Barbara Sheriff's office at [dispatchstaff@sbsheriff.org](mailto:dispatchstaff@sbsheriff.org) and the City of Santa Barbara Police Department at [dispatchers@sbpd.com](mailto:dispatchers@sbpd.com) and provide the project location(s) and road closure schedule.

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

**7-1.02P County Ordinance**

**7-1.02P(1) General**

Comply with County Ordinances.

County Ordinances are available at the County Municipal Code website and at County offices located at 123 East Anapamu Street, Santa Barbara, CA 93101.

Any references in State Standard Specifications to statutory provisions applicable only to state contracts or which are inconsistent with statutory provisions applicable to County or local agency contracts, will not prevail over, and will be superseded by, any statutory provisions applicable to County or local agency contracts.

**7-1.02P(2) Grading**

Comply with section 13, 17, and 19.

Santa Barbara County Ordinance No. 4766 and Ordinance No. 691 prohibits the dumping of debris or other materials in a watercourse so as to obstruct or impede normal flow of water therein.

**7-1.02P(3) Preservation of Monuments**

Comply with Ordinance 1491, Sec. 28-49.

**Delete last sentence of Section 7-1.03 paragraph 15**

**Delete last sentence of Section 7-1.04 paragraph 7**

**Add to section 7-1.05:**

**7-1.05 INDEMNIFICATION**

**7-1.05A General**

You must indemnify, defend (with counsel reasonably approved by County and District) and hold harmless County and District and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by County and District on account of any claim except where such indemnification is caused by the active negligence, sole negligence, or willful misconduct of the County and District.

**7-1.05B Notification of Accidents and Survival of Indemnification Provisions**

You must notify County and District immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions must survive any expiration or termination of this Agreement.

**7-1.05C Responsibility to Other Entities**

You are responsible for any liability imposed by law and for injuries to or death of any person, including workers and the public, or damage to property. Indemnify and save harmless any county, city or district and its officers and employees connected with the work, within the limits of which county, city, or district the work is being performed, all in the same manner and to the same extent specified for the protection of the County and District.

**Replace section 7-1.06 with:**

**7-1.06 INSURANCE**

**7-1.06A General**

You must procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of your work, your agents, representatives, employees or subcontractors.

**7-1.06B Minimum Scope and Limit of Insurance**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence and **\$2,000,000** in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), with limit no less than **\$2,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

**Umbrella Liability Insurance:** An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall follow form or be at least as broad as the primary coverage. The coverage shall also apply to automobile liability.

If you maintain higher limits than the minimums shown above, the County and the District require and shall be entitled to coverage for the higher limits you maintain. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County and the District.

### 7-1.06C Other Insurance Provisions

The insurance policies must contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy and Builder’s Risk policy with respect to liability arising out of work or operations performed by you or on your behalf including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to your insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this Agreement, your insurance coverage shall be primary insurance at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR’s your insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.
4. **Waiver of Subrogation Rights** –You agree to waive rights of subrogation which any of your insurer may acquire from you by virtue of the payment of any loss. You agree to obtain any endorsement that may be necessary to effect this waiver of subrogation. **The Workers’ Compensation policy shall be endorsed with a waiver of subrogation** in favor of the County for all work performed by you, your employees, agents and subcontractors. This provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the County. At County’s option, either: cause the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, agents and volunteers; or provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.
7. **Verification of Coverage** –You must furnish proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements must be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive your obligation to provide them. You must furnish evidence of renewal of coverage throughout the term of the Agreement. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, County has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by County as a material breach of contract.
9. **Subcontractors** –You must require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and you must ensure that County is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, you must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. You agree to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of County to monitor or enforce compliance with any of the insurance

and indemnification requirements will not be deemed as a waiver of any rights on the part of County.

**7-1.06D Enforcement**

The Department may assure your compliance with your insurance obligations. Ten days before an insurance policy lapses or is canceled during the Contract period you must submit to the Department evidence of renewal or replacement of the policy.

If you fail to maintain any required insurance coverage, the Department may maintain this coverage and withhold or charge the expense to you or terminate your control of the work.

You are not relieved of your duties and responsibilities to indemnify, defend, and hold harmless the County, its officers, agents, and employees by the Department's acceptance of insurance policies and certificates.

The minimum insurance coverage amounts do not relieve you for liability in excess of such coverage, nor do they preclude the County from taking other actions available to it, including the withholding of funds under this Contract.

**7-1.06E Self-Insurance**

Self-insurance programs and self-insured retentions in insurance policies are subject to separate annual review and approval by the County.

If you use a self-insurance program or self-insured retention, you must provide the County with the same protection from liability and defense of suits as would be afforded by first-dollar insurance. Execution of the Contract is your acknowledgment that you will be bound by all laws as if you were an insurer as defined under Ins Code § 23 and that the self-insurance program or self-insured retention shall operate as insurance as defined under Ins Code § 22.

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



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

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

**ATTACHMENTS**

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

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

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

**II. NONDISCRIMINATION** (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurances Required:**

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

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

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

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

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

#### 1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

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

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov). The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

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

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

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

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

**2. Withholding (29 CFR 5.5)**

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

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its reprocurement 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/AWHD/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 journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

- a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
- b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
- c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
- d. Informing any other person about their rights under CWHSSA or this part.

**VI. SUBLETTING OR ASSIGNING THE CONTRACT**

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

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

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

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

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

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

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

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

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

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

**VII. SAFETY: ACCIDENT PREVENTION**

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

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

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

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

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

**VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\*\*\*\*\*

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

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

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

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

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

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

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

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

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

\*\*\*\*\*

**3. Instructions for Certification - Lower Tier Participants:**

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

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

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

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

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

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

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

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

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

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

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

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

\*\*\*\*\*

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

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

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

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

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

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

\*\*\*\*\*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 8 PROSECUTION AND PROGRESS

### Replace the 1st and 2nd paragraphs of section 8-1.04B with:

The District will issue you a Notice to Proceed after the Contract has been awarded, and establish the first Contract Working Day with you. The Notice to Proceed will list the first Contract Working Day, which must not be more than **14** calendar days past the date on which the contract was awarded.

Start jobsite activities only after the WPCP or SWPPP is authorized.

Failure to start jobsite activities within **15** calendar days of the First Working Day listed on the Notice to Proceed may be considered as failure by you to supply an adequate workforce.

### Replace the 1st paragraph of section 8-1.05 with:

Contract time starts on the day specified as the first Working Day in the Notice to Proceed. Working days will not be postponed if you do not start work on the first Working Day.

### Add to section 8-1.06:

When existing conditions are encountered which, in the opinion of the Engineer, require temporary suspension of work for design modifications or for other determinations to be made, you must move to other areas of work until such determinations are made. No additional compensation will be allowed by reason of such temporary suspension of work when you can reasonably reschedule work at a different location.

You must notify the District 24 hours minimum in advance if you decide to suspend work for one day or more. You must notify the District a minimum of 24 hours in advance of recommencing work on the project.

The days during a suspension related to your performance are working days.

### Add to section 8-1.10A:

Liquidated damages are listed on the table in this section of the Standard Specifications.

### Add to end of section 8-1.13:

Any control exercised by the Surety towards the completion of the Project will be subject to the Bid documents, and review and approval of the District

## 9 PAYMENT

### Add to section 9-1.06A:

Section 9-1.06 does NOT apply to supplemental work.

The District does not pay for eliminated supplemental work.

### Add to section 9-1.16A:

Submit support data with application for progress payment. Support data must include:

1. Data required by Engineer
2. Copies of requisitions from Subcontractors and material suppliers

Include the County of Santa Barbara Auditor-Controller contract number as shown on executed Agreement.

Submit the following certification with each application for progress payment:

I, the undersigned, declare under penalty of perjury under the laws of the State of California that this Application for Payment is made in good faith, that the documents substantiating this application are accurate and complete and that the foregoing is true and correct.

BY: \_\_\_\_\_

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

\_\_\_\_\_  
(TYPE OR PRINT NAME AND TITLE OF  
PERSON SIGNING APPLICATION)

Any progress payment made after the scheduled completion date will not constitute a waiver of any liquidated damages heretofore agreed upon as part of this Contract.

**Add to first paragraph of section 9-1.16B:**

Submit a schedule of values for any lump sum bid item requested by the Engineer.

**Replace section 9-1.16F with:**

**9-1.16F Prompt Payment of Funds Withheld to Subcontractors**

The District shall hold five (5) percent retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the District, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

Pursuant to Section 22300 of the Public Contract Code, and the project specifications, the Contractor may substitute securities for monies withheld to ensure contract performance.

Upon your request, the District will make payment of funds withheld to ensure performance of the Contract if you deposit in escrow with the Santa Barbara County Treasurer, or with a bank acceptable to the District, securities eligible for investment under Government Code Section 16430, or bank or savings and loan certificates of deposits, upon the following conditions;

1. You must bear the expense of the District and the escrow agent, either the County Treasurer or the bank, in connection with the escrow deposit made.
2. Securities or certificates of deposit to be placed in escrow will be of a value at least equivalent to the quantities of retention to be paid to you pursuant to this Section.
3. You must enter into an escrow agreement satisfactory to the District, which agreement must include provisions governing inter alia:
  - 1.1. The quantity of securities to be deposited.
  - 1.2. The providing of powers of attorney, or other documents necessary for the transfer of the securities to be deposited
  - 1.3. Conversion to cash to provide funds to meet defaults by you, including but not limited to the termination of your control over the work, stop notices filed pursuant to law, assessment of liquidated damages, or other quantities to be kept or retained under the provisions of the contract
  - 1.4. Decrease in value of securities on deposit.
  - 1.5. The termination of the escrow upon completion of the contract.
4. You must obtain the written consent of the surety to such agreement

**Add to section 9-1.17C:**

Submit all outstanding extra work billing no later than 15 days after acceptance by the Department.

**Replace section 9-1.17D(3) with:**

**9-1.17D(3) Determination of Claims**

The Department reviews and resolves claims pursuant to Public Contract Code § 9204, which is summarized



within this section.

The Contractor shall furnish reasonable documentation to support the claim.

The Department's costs in reviewing or auditing a claim not supported by the Contractor's accounting or other records are damages incurred by the Department within the meaning of the California False Claims Act.

The Department will review the claim and provide a written statement of findings identifying what portions are disputed and undisputed within 45 days from receipt of claim when action by the Department Board of Directors is not required. This may be extended by mutual agreement.

For claims requiring action by the Department Board of Directors, a written statement will be provided within three days following the next duly publicly noticed meeting of the Board, or 45 days from receipt of claim, whichever is later.

The Contractor may request in writing by registered or certified mail, return receipt requested, a meet and confer conference if the Contractor disputes the Department's written response, or if the Department fails to respond to a claim within the time prescribed. The Department shall schedule a meet and confer conference within 30 days of receipt of the request for settlement of the dispute. Within 10 days following the meet and confer conference, the Department shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed.

Any disputed portion of the claim shall be submitted to nonbinding mediation, with the Department and the Contractor sharing the associated costs equally. The Department and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select and pay the cost for a mediator and those mediators shall select a qualified neutral third party to mediate. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

The Department will make payment of undisputed portion of claim within 60 days of written statement of findings. After 60 days of written statement of findings, the Department pays 7 percent annual interest for unpaid and undisputed portions of claims.

If a subcontractor lacks legal standing to assert a claim due to lack of privity, the Contractor may present a claim on behalf of the subcontractor, and the subcontractor may request in writing that the Contractor present the claim on its behalf, provided that the subcontractor furnishes reasonable document supporting the claim to the Department. Within 45 days of the subcontractor's request, the Contractor shall notify the subcontractor in writing of whether the claim was submitted and state the reasons why it was not submitted if the claim was not submitted.

**Delete section 9-1.22.**

## **DIVISION II GENERAL CONSTRUCTION**

### **12 TEMPORARY TRAFFIC CONTROL**

**Replace section 12-1.04 with:**

You must pay for all costs associated with flagging.

### **13 WATER POLLUTION CONTROL**

**Add to section 13-1.01A:**

Water Pollution Control work including implantation, maintenance, monitoring and repair tasks are included in the various items of work involved, unless the Bid Item List includes additional specific Water Pollution Control payment items, or unless work is specified as change order work.

Comply with the National Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2012-0006-DWQ NPDES NO. CAS000002) referred

to herein as Permit. The Permit governs stormwater and non-stormwater discharges from construction sites. The Permit may be viewed at the State Water Recourses Control Board website.

**Add to list in the 1st paragraph of section 13-1.01A:**

5. California Stormwater Quality Association (CASQA) Construction BMP Handbook/Portal at <https://www.casqa.org/>

**Replace fourth paragraph in section 13-1.01A with the following:**

A SWPPP must comply with the California Stormwater Quality Association (CASQA) Construction BMP Handbook/Portal at <http://www.cabmphandbooks.com/>. A WPCP must comply with the Department's Water Pollution Control Program (WPCP) Preparation Manual and must be prepared using the latest template posted on the Construction stormwater website.

**Revise the following definitions in section 13-1.01B:**

**qualifying rain event:** Any weather pattern that is forecast to have a 50 percent or greater Probability of Precipitation (PoP) and a Quantitative Precipitation Forecast (QPF) of 0.5 inches or more within a 24-hour period. The event begins with the 24-hour period when 0.5 inches has been forecast and continues on subsequent 24-hour periods when 0.25 inches of precipitation or more is forecast.

**Storm event:** Storm that is forecasted to have a 50% or greater probability of producing precipitation.

## 14 ENVIRONMENTAL STEWARDSHIP

**Add to Section 14-1.01:**

You must notify the Engineer immediately upon request from the regulatory agencies to enter, inspect, sample, monitor, or otherwise access the project site or your records pertaining to water pollution control work. You and the Department must provide copies of correspondence, notices of violation, enforcement actions, or proposed fines by regulatory agencies to the requesting regulatory agency.

## 15 EXISTING FACILITIES

**Delete the last paragraph in Section 15-1.03B**

# TECHNICAL PROVISIONS

## ORGANIZATION

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

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

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

## DIVISION I GENERAL PROVISIONS

**Add prior to section 1:**

### Bid Items and Applicable Sections

Item code	Item description	Applicable section
999990	MOBILIZATION	9

### 1 GENERAL

**Add to section 1-1.01:**

See section 2 for submittal requirements for DBE quotes, DVBE quotes, and Non–Small Business Subcontractor Preference.

### 2 BIDDING

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

The Department makes the following supplemental project information available:

#### Supplemental Project Information

Means	Description
Included in the <i>Information Handout</i>	Environmental Permits, Licenses, Agreements, and Certificates (PLACs)
	1995 Cieneguitas Channel Repair Plans (Upstream)
	Standard Plans

**Replace section 2-1.04 with:**

A non-mandatory pre-bid job walk is scheduled for **Tuesday, July 30<sup>th</sup>, 2024 at 10:00 AM**. Bidders interested in attending are to meet at the project site located at Cieneguitas Channel at Modoc Road, between 4296 Encore Drive and 4296 Modoc Road.

## 4 SCOPE OF WORK

### Add to Section 4-1.03

Santa Barbara County requests a proposal for work to be undertaken at a Santa Barbara County Flood Control facility.

The work shall generally include the following elements:

- Removal of approximately 310 feet of an existing concrete lined channel
- Removal and salvage of temporary rock rip rap
- Excavation and grading of subgrade
- Water diversion as needed
- Construction of reinforced concrete channel

## 5 CONTROL OF WORK

### Add section 5-1.01A:

#### 5-1.01A WORKING HOURS

Working hours must only occur between **8:00 a.m.** and **5:00 p.m.**, on Working Days.

If you desire to work outside of this time frame, you must receive consent from the District. If consent is given, you will be responsible for payment of construction manager and/or inspector's overtime costs.

You must comply with Section 7-102K(5) regarding Labor Code requirements.

### Add to section 5-1.20B(1):

Comply with conditions outlined in the PLACs applicable to this project. Available PLACs are included in the Information Handout and additional PLACs will be provided to Contractor prior to construction.

### Revise section 5-1.32 to read:

The Contractor may utilize portions of the County's easement on which the Cieneguitas Channel is located. This includes the area within the channel itself and the area between the Right of Way Fence. In addition, the County has executed a Temporary Entry Permit (TEP) with the adjacent property owner for access to the Project site. Use of this property must be coordinated with the Engineer.

Defend, indemnify, and hold the County harmless to the same extent as under Section 7-1.05.

### Add to section 5-1.36C(1):

You must provide the regional notification center "Inquiry Identification" number to the District prior to the commencement of excavation or other work close to any underground facility. You are responsible for keeping the Inquiry Identification number valid throughout the duration of the construction contract.

### Replace *Reserved* in Section 5-1.36C(2) with:

There are no known utilities that may interfere with the work. Several utilities are located within Modoc Road and shall be protected in place. There are overhead utility lines along the project site of which shall be protected in place. An existing RCP that outlets to the channel is located within the project limits and shall be protected in place as detailed in the plans.

### Replace 1<sup>st</sup> sentence of 1<sup>st</sup> paragraph of Section 5-1.36E

If you damage or must remove plants for construction:

## 7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

**Add section 7-1.03A:**

### 7-1.03A STANDARD NOTIFICATIONS

You must deliver notices to each residence adjacent to the Work two weeks minimum prior to commencement of project activities. The format and content of each notice must be approved by the Engineer (see example below).

Such notice must at minimum give the name of the Project, the duration of the Contract period, daily work hours for the proposed work, typical parking and access restrictions anticipated for the work the Contractor's representative and phone number, the County representative and phone number, along with any other information requested by the Engineer. All notices shall be approved by the Engineer for content and delivery schedule prior to actual delivery.

All notices must be in the format of door hangers (14 inches by 4 inches, 110 Springhill Index or approved equal) and be hung at the main door of each residence or business affected. The text of such notices must have one side printed in English with the reverse side printed in Spanish.

The following is an example of language required:

---

**NOTICE  
TO AREA RESIDENCES**

The Santa Barbara County Flood Control District hereby informs you that (Contractor) will be constructing the Cieneguitas Channel Repair Project. The contract period is from (date) to (date).

Work on the Project will typically be performed between the hours of **8:00 AM** and **5:00 PM**.

We appreciate your patience and cooperation during this Project. If you have any questions, or require additional information please contact the following:

Contractor, Contact's Name and Telephone Number

Santa Barbara County Flood Control District, Contact's Name and Telephone Number

---

Maintain a log of all notifications. The log is to include the following information:

1. Property owner
2. Person of contact (If applicable)
3. Date of notification
4. Time of notification
5. Method of notification.

At a minimum, notifications must be made to the houses and apartments within 200' of the channel.

## 9 PAYMENT

### DIVISION II GENERAL CONSTRUCTION

**Add prior to section 10:**

**Bid Items and Applicable Sections**

Item code	Item description	Applicable section
120100	TRAFFIC CONTROL SYSTEM	12
130100	JOB SITE MANAGEMENT	13
130200	PREPARE WATER POLLUTION CONTROL PROGRAM	13
131201	TEMPORARY CREEK DIVERSION SYSTEMS	13
153121	REMOVE CONCRETE	15

**10 GENERAL**

**Replace "Reserved" in section 10-1.01 of the RSS for section 10-1 with:**

The Project Plans consist of one plan set, for the **Cieneguitas Channel Repair Project** (5 Sheets).

The following is a general description of the type of work for each bid item listed in the Bid Schedule, and is not intended to be all-inclusive. Comply with the contract documents for the work.

Bid items quantified as lump sum items are required to submit a schedule of values according to section 9-1.16B. The schedule of values must be authorized by the Engineer prior to progress payments.

Bid items of work shown on the plans or indicated in the specifications which are not specifically identified in the bid item descriptions are included in lump sum items of work and must be identified in the Schedule of Values submittal by the Contractor and no additional payment will be made.

Summary of Bid Item Descriptions:

**MOBILIZATION**

As defined in Section 9-1.16D of the Caltrans Standard Specifications and the Special Provisions supplemented herein. The Contractor is responsible for all costs associated with insurance, bonds, permits and fees, submittals, moving onto the job, establishment of staging area, moving off the job, removal, clean up and restoration of road conditions, project phasing, supervision, coordination of concurrent work with other contractors, meetings and other work indicated in the Contract Documents. Mobilization will be paid for as lump sum (LS) based on invoices for mobilization and startup costs in the first payment and then based on percentage of construction completed for all following payments.

**2. TRAFFIC CONTROL SYSTEM**

Comply with Section 12 of the Caltrans Standard Specifications, the project plans and Special Provisions supplemented herein, and Section 7-1.03 of the Special Provisions. The lump sum (LS) bid item Temporary Traffic Control is intended to be all-inclusive and shall include the preparation of Traffic Control Plans, implementation and maintenance of the Traffic Control System during the project. Implementation of the Traffic Control System includes all items listed in the authorized Traffic Control Plan including but not limited to construction area signs, detour signs, barricades and any other required traffic appurtenances. Traffic Control Plan is to be approved by the County Transportation Division.

**3. JOB SITE MANAGEMENT**

Comply with Section 13-4 of the Caltrans Standard Specification and these Special Provisions. Job Site Management includes specifications for performing job site management including spill prevention control, material management, waste management, and non-stormwater management activities. Implement effective handling, storage, usage, and disposal practices to control material pollution and manage waste and non-stormwater at the job site before they enter the storm drain systems and receiving waters.

Compliance with mitigation measures, in the permits, licenses, agreements, and the conditions of approval appended to the specifications is the responsibility of the contractor to understand and implement. Payment for compliance and implementation of mitigation measures is considered included in Job Site Management and no separate payment will be included.

The lump sum (LS) bid item Job Site Management also includes providing appropriate control of the work

as described in Section 5, 6, 7, and 8 of the Caltrans Specifications, Flood Control District Provisions, and Technical Specifications.

4. **PREPARE WATER POLLUTION CONTROL PROGRAM**

Comply with Section 13-2 of the Caltrans Standard Specifications and the Special Provisions supplemented herein. Prepare Water Pollution Control Program includes developing and implementing the WPCP, providing a water pollution control manager, conducting water pollution control training, and monitoring, inspecting and correcting water pollution control practices.

5. **TEMPORARY CREEK DIVERSION SYSTEMS**

Comply with Section 13-12 of the special provisions supplemented herein and all PLACs. The lump sum (LS) bid item price includes all labor, materials and equipment and incidentals for the installation, maintenance and removal of the creek diversion and to ensure that no construction activities occur in flowing water.

The Contractor is responsible for all dewatering necessary to keep the construction and work areas dry. The Contractor must design, install, operate, and maintain an adequate system. The system must be of sufficient size and capacity to maintain a dry condition without delays to construction operations.

6. **REMOVE CONCRETE (F)**

Comply with Sections 15, 60, and 71 of the Caltrans Standard Specifications and the Special Provisions. The Final Pay cubic yard (CY) bid item price includes all labor, tools, equipment, materials, and incidentals necessary to remove the existing concrete channel as shown on the plans. This material shall be disposed of offsite. This item is designated as a Final Pay Item.

7. **CLEARING AND GRUBBING**

Comply with Section 17-2 of the Caltrans Standard Specifications and the Special Provisions supplemented herein. The lump sum (LS) bid item price includes all labor, equipment and material necessary to clear and grub the project site to the limits as indicated on the plans and as indicated in Section 17-2. This bid item also includes removing the existing rock from the parkway on Modoc Road between the sidewalk and the curb adjacent to the channel. This work shall be coordinated with the Engineer.

8. **SALVAGE ROCK RIP RAP**

Comply with Section 19 of the Caltrans Standard Specifications and the Special Provisions supplemented herein. The cubic yard (CY) bid item price includes all labor, materials, tools, equipment, and incidentals, and for doing all of the work involved in removing the rock, including loading and hauling the rock as directed on the plans and by the Engineer.

9. **CHANNEL EXCAVATION**

Comply with Section 19 of the Caltrans Standard Specifications and the Special Provisions. This lump sum item includes all work necessary to excavate, overexcavate, and grade as necessary to achieve the necessary excavation depth for the new channel structure and backfill. Excess material is covered under the SUPPLEMENTAL WORK (EXPORT/IMPORT) bid item.

10. **CHANNEL BACKFILL**

Comply with Sections 19-2, 68-2, and 72 of the Caltrans Standard Specifications and the Special Provisions. The lump sum bid item price includes payment for backfill, as indicated on the plans and as defined in Section 19-3.04 of the Caltrans Standard Specifications. This item also includes all labor, materials, tools, equipment, and incidentals for doing all of the work involved in furnishing, handling, placement, compacting, and finishing in place as shown on the plans and specified in these Special Provisions. Any Imported Borrow necessary to complete this item will be covered under the SUPPLEMENTAL WORK (EXPORT/IMPORT) bid item

11. **MINOR CONCRETE (CHANNEL) (F)**

Comply with Sections 51 and 90 of the Caltrans Standard Specifications. This Final Pay Item includes all material, labor, and equipment necessary for the completion of the concrete channel as shown on the plans and the technical specifications included herein. This bid item also includes all materials and labor required for installation of weepholes and associated permeable material, and filter fabric. The quantities of bar reinforcing steel required for the concrete channel lining will not be paid for as a separate item, full

compensation therefore will be considered as included in the Final Pay cubic yard (CY) price of MINOR CONCRETE (CHANNEL). This item is designated as a Final Pay Item.

#### 12. CLASS I PERMEABLE MATERIAL

Comply with Section 68-2 of the Caltrans Standard Specifications and the Special Provisions. The cubic yard (CY) bid item price includes all material, labor, and equipment necessary for the installation CLASS I PERMEABLE MATERIAL subsurface drainage system beneath the flowline of the channel, including filter fabric, as indicated on the plans.

#### 13. SUPPLEMENTAL WORK (EXPORT/IMPORT)

If there is supplemental export or import from the excavation and backfill of the channel that is deemed unsuitable to be reincorporated into the work, additional export or import may be directed by the Engineer. This would be supplemental work paid for in accordance with Section 9-1.04. In no case will this be paid for unless the work has been explicitly directed by the Engineer. The Contractor is responsible under other Bid Items of work to accomplish the excavation, stockpiling, mixing, handling, and placing of soil and subgrade materials. If the Contractor at their own convenience chooses to import material instead of these operations, there will be no additional payment made under this item or others for the import or export of material due to Contractor convenience.

## 12 TEMPORARY TRAFFIC CONTROL

### Add to section 12-1.01:

Traffic Control System includes the development of a Traffic Control Plan and maintaining traffic in accordance with Section 12-4. Contractor must submit the Traffic Control Plan for approval from the County of Santa Barbara Transportation Division and shall schedule all work impacting traffic in the roadway right of way (including bicycles and pedestrians). Contractor shall obtain an encroachment permit for Traffic Control from the Transportation Division.

### Add section 12-1.04A:

#### 12-1.04A PARKING RESTRICTIONS AND POSTING FOR TOW AWAY

All Contractor parking must be within the confines of the project site, and no additional parking will be allowed. It is not anticipated that additional areas will be necessary to post for "No Parking" and/or tow away. Should this be necessary, post "No Parking" signs as needed to perform the work and in accordance with the County of Santa Barbara Public Works approval. "No Parking" limits and timing must be reviewed and approved by the Engineer prior to posting. Contractor must make written request to the County and comply with all posting restrictions required

## 13 WATER POLLUTION CONTROL

### Add section 13-1.03A(1):

#### 13-1.03A(1) Drainage Control

The proposed project is located within a concrete trapezoid channel between the UPRR railroad and Modoc Road. Cieneguitas Creek originates in the foothills of the Santa Ynez Mountains and drains a 1,340-acre watershed. You are fully responsible for continually accepting and discharging water from any source in a manner that causes no damage to existing or partially completed proposed improvements, in a manner that causes no ponded water to accumulate at low points, and in a manner which poses no potential hazard to persons or property and is conformance with all permits required for this project. You will not be allowed to divert stormwater to surface streets. Damage to existing or partially completed proposed improvements caused by lack of drainage control shall be repaired, or removed and replaced, at your expense.

It shall be understood and agreed that you must hold the Owner and the Engineer harmless from legal action taken by any third party with respect to construction and operation of temporary drainage control works.

You must submit your proposed methods for storm water and erosion control to the Engineer.



**Add to section 13-4.03G:**

**13-4.03G Dewatering**

If dewatering activities are needed by you in order to perform channel improvements, a dewatering plan shall be submitted to the District for review and coordination with District staff. Dewatering discharge must conform to the Water Quality Control Plan for the Central Coast Basin – September 2017, Section 3.3.2 ‘OBJECTIVES FOR ALL INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES.’ Below is a link to the Basin Plan:

[https://www.waterboards.ca.gov/centralcoast/publications\\_forms/publications/basin\\_plan/docs2017/2017\\_basin\\_plan\\_r3\\_complete.pdf](https://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan/docs2017/2017_basin_plan_r3_complete.pdf)

Comply with Section 5-1.20B(1).

Contractor shall submit dewatering plan to the County for approval prior to implementation.

**Replace Section 13-12 with:**

**13-12 TEMPORARY CREEK DIVERSION SYSTEMS**

**13-12.01 GENERAL**

**13-12.01A Summary**

Section 13-12 includes specifications for constructing, maintaining, reconstructing, and removing temporary culvert and clear water diversion creek diversion. The temporary diversion system is used to divert upstream water flows into a temporary pipe to allow construction activities. Install temporary pipe and clear water diversion in accordance with Caltrans Construction Site BMP Manual BMP NS-5 and these Special Provisions. Temporary diversion pipe must comply with Section 13-12.02.

No construction shall occur in the flowing water. Construction of water diversion shall be part of the mobilization on the project and first items of work prior to work being performed in the channel. Temporary water diversion pipe and cofferdams must be furnished, installed, maintained, and later removed as necessary to complete the proposed improvements, as specified in these Special Provisions and as directed by the Engineer.

The creek channel upstream of construction activity shall be dammed temporarily to prevent water from entering the area under construction. A diversion pipe shall be installed in the creek to convey any creek water around the construction area for discharge downstream of the construction activity.

Prior to installing temporary clear water diversion pipe, you must submit to the Engineer for review and approval a shop drawing which details the materials, sizes and specific locations of the contractor’s proposed temporary clear water diversion pipe and cofferdams as well staging and sequencing of the proposed project work, per Section 13-12.01C.

Comply with permits, licenses, agreements and certificates, including date restrictions in the PLACs provided in the Information Handout.

**13-12.01B Definitions**

**FHWA:** Federal Highway Administration

**HY-8:** A culvert hydraulic analysis software designed to automate FHWA culvert design methods

**MSDS:** Material Safety Data Sheet

**TCDSP:** Temporary Creek Diversion System Plan

**13-12.01C Submittals**

**13-12.01C(1) Temporary Creek Diversion System Plan**

Proposed Temporary Creek Diversion System Plan (TCDSP) must be submitted for approval at least 21 days in advance of construction for review and approval by Flood Control and the permitting agencies. The TCDSP may be required to include:

1. Installation and removal process, including equipment, platforms for equipment, and access locations.
2. Anticipated flow rates.
3. Calculations supporting the sizing of piping, channels, pumps, or other conveyance by using FHWA HY-8 or other equivalent method. Calculate the discharge water flow rate and velocity anticipated where it discharges on any erodible surface, so its conveyance does not cause erosion within the Project or at the discharge to the water body. Temporary culverts attached to banks, walls, or other locations must be designed to hold the full weight of the culvert at capacity and restrain the culvert for any expected hydraulic forces.
4. Plans showing locations of diversion, including layouts, cross sections, and elevations.
5. Materials proposed for use, including MSDS if applicable.
6. Operation and maintenance procedures for the TCDS.
7. Restoration plans showing before and after conditions, including photos of existing conditions for areas disturbed during the installation, operation, and removal of the TCDS.
8. The TCDS design must demonstrate how it will comply with Section 13-12.03A, water tightness, and prevent seepage.
9. Include noise abatement methods for any pumps, generators, or other equipment that may operate outside of standard work hours as part of the dewatering/diversion system and plan. Methods must reduce pump, generator, or other equipment noise to 50 dBa at 150 feet from the source. If there is excess noise beyond the stated threshold, additional noise abatement may be required. Compliance with Santa Barbara County Code of Ordinances section 40-2 required.

The water diversion plan needs to be submitted to the District so they can review and submit to the regulatory agencies for approval and regulatory agencies require a 30-day review period. If revisions are required, the Engineer notifies you of the date when the review stopped and provides comments. Submit a revised TCDS within 5 days of receiving the comments. The Department's review resumes when a complete TCDS has been resubmitted.

Submit an electronic copy of the authorized TCDS.

### **13-12.02 MATERIALS**

#### **13-12.02A General**

Used materials may be installed provided the used materials are good, sound and are suitable for the purpose intended, as determined by the Engineer.

#### **13-12.02A Gravel**

Gravel must:

1. Be river run gravel obtained from a river or creek bed with gradation of 100 percent passing a 3/4 inch sieve and 0% passing a 3/8 inch sieve
2. Be clean, hard, sound, durable, uniform in quality, and free of any detrimental quantity of soft, thin, elongated or laminated pieces, disintegrated material, organic matter, or other deleterious substances
3. Be composed entirely of particles that have no more than 1 fractured face
4. Have a cleanliness value of at least 85, as determined by California Test 227

#### **13-12.02B Impermeable Plastic Membrane**

Impermeable plastic membrane must be:

1. Single ply, commercial quality, polyethylene with a minimum thickness of 10 mils complying with ASTM D2103. You must use stronger plastic membrane if required as part of design to resist hydraulic forces.
2. Free of holes, punctures, tears or other defects that compromise the impermeability of the material.
3. Suitable for use as an impermeable membrane.
4. Resistant to UV light, retaining a minimum grab breaking load of 70 percent after 500 hours under ASTM D4355.

#### **13-12.02C Gravel-Filled Bags**

Gravel filled bags must use material per Section 13-12.02A of these technical provisions. Upon removal of bags, material will not be emptied into the project area unless approved by the District.

#### **13-12.02D Plastic Pipes**

Plastic pipe must comply with Section 61-3.01 and must:

1. Be clean, uncoated, in good condition free of rust, paint oil dirt or other residues that could potentially contribute to water pollution
2. Be adequately supported for planned loads

3. Use watertight joints under Section 61-2.01.
4. Be made of a material or combination of materials that are suitable for clean water and which do not contain banned, hazardous or unlawful substances
5. For temporary pipes not reused on the project you may use the following materials:
  - 5.1. PVC closed-profile wall pipe must comply with ASTM F1803
  - 5.2. PVC solid wall pipe must comply with ASTM D3034, ASTM F679, AWWA C900, AWWA C905, or ASTM D2241 and cell class 12454 defined by ASTM D1784
  - 5.3. HDPE solid wall pipe must comply with AASHTO M 326 and ASTM F714
  - 5.4. Polyethylene large-diameter-profile wall sewer and drain pipe must comply with ASTM F894

#### **13-12.02E Block Netting**

Block netting used in the prevention of fish and aquatic wildlife from entering the Project site during creek diversion practices and construction shall have a square mesh dimension of 1/4-inch max.

### **13-12.03 CONSTRUCTION**

#### **13-12.03A General**

Construction, use and removal of the TCDS is restricted to the driest months. Wetted channel work should be completed no later than November 30<sup>th</sup>. If the work cannot be completed during the initial restricted time period, remove TCDS, and restore the creek to original flow condition.

Do not construct or reconstruct TCDS if the 72-hour forecasts predict a 50 percent or greater chance of rain in the project area.

Stop all work and remove all material and equipment from the creek between upstream and downstream cofferdams if the 72-hour forecasts predict a 50 percent or greater chance of rain in the project area and the predicted rainfall is estimated to produce a flow rate exceeding the design capacity of the TCDS. If the required freeboard cannot be maintained and overtopping may occur, implement contingency plan to remove all workers, equipment, and potential sources of pollution from the dry working area of the creek bed.

The creek channel upstream of construction activity shall be dammed temporarily to prevent water from entering the area under construction. A diversion pipe shall be installed in the creek to convey any creek water around the construction area for discharge downstream of the construction activity. It is the responsibility of the contractor to estimate the flow rate that their diversion system can handle.

#### **13-11.03B Excavation & Backfill**

Excavation and backfill for temporary diversion pipe shall be performed in a manner that will provide adequate support for the pipe with a firm, non-settling foundation.

#### **13-12.03C Removal**

When no longer required for the work as determined by the Engineer, temporary diversion pipes and coffer dams shall be removed. Removed facilities shall become the property of the Contractor and shall be removed from the site of the work.

Trenches and pits caused by the removal of temporary diversion pipes and cofferdams shall be backfilled in conformance with the Standard Specifications.

### **13-12.04 PAYMENT**

Temporary Creek Diversion Systems are paid for by lump sum (LS) as full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved in temporary diversion pipe and cofferdams, including the development and submittal of the "Temporary Water Diversion Plan," as specified in the Standard Specifications and these special provisions, and as directed by the Engineer and no additional compensation will be allowed therefor.

Temporary diversion pipe and cofferdams that are damaged from any cause during the progress of the work shall be repaired or replaced by the Contractor at the Contractor's expense.

All costs for dewatering the work area as required to construct the improvements and compliance with PLACs for dewatering and diversion plans, installation, construction, maintenance, removal, and disposal shall be included in this item and no additional payment made therefor.

Damages to the work area, partially constructed improvements, public or private property caused by inadequate diversion pipe or cofferdams shall be repaired by the contractor and no additional compensation will be allowed

therefor.

In the event anticipated creek flows caused by forecasted storm events would exceed the diversion capacity of the temporary diversion pipe, removal and reconstruction of the Temporary Creek Diversion System will be performed by the Contractor will no additional payment made therefor.

In the event that you and the District agree that installation of the Temporary Creek Diversion System is not needed, the District will work with the Contractor to adjust the bid item accordingly. Your schedule of values for this bid must designate costs for both plan development submittal and installation.

## 14 ENVIRONMENTAL STEWARDSHIP

**Add to the end of section 14-2.01:**

The Project site is within a known Cultural Resources site. The County will provide a Cultural Resources and Archaeological monitor to be on site during construction activities as needed. Contractor shall work cooperatively with the County and the County’s monitor(s) to adjust to field conditions and field direction as necessary. If the monitor stops work due to a discovery within or near the construction limits, the County will work with the Contractor to suspend the contract appropriately. If resources are discovered, do not disturb the resources and contact the County and the County’s monitor(s).

**Replace section 14-6.01C with:**

### **14-6.01C CONSTRUCTION**

The District will provide a biologist for this project as needed to comply with Section 5-1.20B(1). You must coordinate and accommodate the work of the biologist. The District Environmental Manager is **Andrew Raaf, (805) 722-7250**.

## 15 EXISTING FACILITIES

**Replace the 1st paragraph of section 15-1.03B with:**

Remove the existing concrete channel within the project limits identified on the plans. The excavated concrete channel and reinforcing bars may not be reincorporated into the work and are the responsibility of the Contractor to legally dispose of.

**Delete the 7th paragraph of section 15-1.03B.**

## 16 TEMPORARY FACILITIES

### DIVISION III EARTHWORK AND LANDSCAPE

**Add prior to section 17:**

**Bid Items and Applicable Sections**

Item code	Item description	Applicable section
170103	CLEARING AND GRUBBING	17
190151	SALVAGE ROCK RIP RAP	19
194001	CHANNEL EXCAVATION	19
198050A	CHANNEL BACKFILL	19

## 17 GENERAL

**Add to section 17-2.01:**

Clearing and Grubbing consists of removing all vegetation, trees, and tree stumps from within the limits of grading and excavation, as shown on the plans. All vegetation and tree removals require prior approval by the Engineer.

Some trees shown on the plans to be within the limits of grading and excavation may have been removed by others prior to the start of work. You are responsible for removing remaining stumps or downed vegetation from the jobsite that conflicts with the proposed work.

Vegetation and trees located beyond the limits of grading and excavation must be protected in place. You must coordinate your activities with the Engineer when working near trees specifically designated on the plans as 'Protect in Place.' You may be directed to modify grading slopes in these locations.

In addition to the work outlined in Section 16 of the Standard Specifications, the following items of work are included under Clearing and Grubbing unless otherwise covered by a specific bid item.

- (1) Maintain dust control at all times by watering; including developing a water supply and furnishing and placing all water required for work done in the Contract, including water used for extra work.
- (2) Protection of utilities, trees, fences, gates, walls, and other facilities within the construction zone, except those shown on the plans and those specifically directed by the Engineer to be removed or relocated.

**Replace the 4th paragraph in section 17-2.03A with:**

Clear and grub vegetation only within the excavation and embankment slope lines.

The payment quantity includes all work for clearing and grubbing within the Project site. Payment also includes all required disposal of the clearing and grubbing.

## 19 EARTHWORK

### Add to the end of the 2<sup>nd</sup> paragraph of Section 19-1.01A:

The Project site is located within an existing channel. Soil and stream channel deposits are expected to be in the excavation area. Excavation, removal, and disposal will be required.

Ensure enough material is available to complete the grading required before disposing. All excess material is property of Contractor to remove from site and legally dispose of. The excavated concrete channel and reinforcing bars may not be reincorporated into the work and are the responsibility of the Contractor to legally dispose of.

Salvaged rock rip rap shall be hauled to the County's Hospital Basin facility located near 4540 Hollister Avenue, Santa Barbara, CA 93110 and stockpiled. Coordinate with the Engineer as needed.

### Add to Section 19-1.04:

CHANNEL EXCAVATION must comply with the requirements for Roadway Excavation and Ditch Excavation. The following items of work are included under CHANNEL EXCAVATION unless otherwise covered by a specific bid item:

- (1) Maintain dust control as directed by the Engineer; including developing a water supply and furnishing and placing all water required for work done in the Contract, including water used for extra work.
- (2) Protection of utilities, trees, fence, gates, walls, culverts, and other facilities within the construction zone, except for those specifically directed by the Engineer to be removed or relocated.
- (3) Overexcavation of material as required to provide adequate subgrade conditions for backfill and compaction

Material recovered from CHANNEL EXCAVATION may be used for CHANNEL BACKFILL, or the Contractor may choose to import material if they choose not to sort of use onsite material, and no additional payment will be made.

### Add to the end of Section 19-6.01A:

CHANNEL BACKFILL must comply with the requirements for Embankment Construction. CHANNEL BACKFILL includes all material, labor, and equipment needed for the necessary backfill.

Process and use Channel Excavation Material for Channel Backfill to the maximum extent feasible.

Any voids or depressions left from excavation or past erosion should be filled with compacted fill as detailed on the plans. The subgrade below the channel should be scarified, moisture conditioned, and compacted in place to at least 90 percent relative compaction prior to placing weepholes, gravel, or reinforcing steel.

Fill for filling voids shall consist of imported or onsite soil that is free of organics, debris, material greater than 3 inches, and other deleterious materials. Fill shall have a classification and quality similar to on site soil, clayey

sand and sandy clay. Imported material to be used as fill should be reviewed by the Engineer prior to being brought on site.

**Add to the end of the 4th paragraph of Section 19-6.03A:**

Limit horizontal cut distances as directed by the Cultural Resources and Archaeological monitor, see Section 14.

**Add to Section 19-6.04:**

All material, labor, and equipment necessary for completion of subgrade preparation including backfill and compaction, will be paid for under CHANNEL BACKFILL.

**DIVISION VI STRUCTURES**

**Add prior to section 45:**

**Bid Items and Applicable Sections**

Item code	Item description	Applicable section
510501	MINOR CONCRETE (CHANNEL)	51

**51 CONCRETE STRUCTURES**

**Replace Section 51-1.03A with:**

Contractor may propose to place MINOR CONCRETE (CHANNEL) in accordance with Section 53 of the Standard Specifications. Contractor shall submit means and methods to the District for review and approval.

**Add to Section 51-2.01A(1):**

The location of construction joints and weakened plane joints shall be subject to the approval of the Engineer. Placement of concrete channel lining shall be scheduled so that the work, including placement, finishing, and application of curing, is completed in any section bounded by permissible construction joints on the same day that the work is started in that section.

Expansion and weakened plane joints in the concrete channel lining must be sealed in conformance with the details shown on the plans, Section 51 of the Standard Specifications, and these Special Provisions.

Control joints shall be sawcut, scored by dragging a finishing tool over the struck surface or by any other means that will result in a joint conforming to the details shown on the plans.

Full compensation for sealing joints shall be considered as included in the contract price paid per cubic yard for MINOR CONCRETE (CHANNEL) and no separate payment will be made. The Final Pay Item MINOR CONCRETE (CHANNEL) also includes the work, placing, and finishing of transverse joints, longitudinal joints, expansion joint fillers, waterstops, and conform details as shown on the plans.

**DIVISION VII DRAINAGE FACILITIES**

**Add prior to section 61:**

**Bid Items and Applicable Sections**

Item code	Item description	Applicable section
682022	CLASS I PERMEABLE MATERIAL	68

**Add to the end of Section 71-1.01:**

There is an existing 18" RCP on the west side of the channel as shown in the plans. The RCP shall be protected in place and incorporated into the new channel design as detailed in the plans.

## STANDARD DETAILS AND PLANS LIST

<u>Description</u>	<u>Standard Number</u>
--------------------	------------------------

**STATE DEPARTMENT OF TRANSPORTATION**

The Standard Plan sheets (dated 2018) applicable to this contract include, but are not limited to those indicated below.

Abbreviations	A3A-A3C
Legend – Lines and Symbols	A10A - A10E
Joint Seals	P20
Bridge Details	B01-B03