

CITY OF CLAYTON, OHIO

MOT SR 48 20.61 Sidewalk

PID 119822

Federal Project: E240457

2026

City of Clayton

City Manager

Elaine Wittman

Bid Proposal

MOT SR 48 20.61 Sidewalk

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CITY OF CLAYTON, OHIO

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SBE Goal = 7%

2026

Advertisement, Information for Bidders, Bid, Contract, Bonds, Specifications,
Documents

City of Clayton City Manager
Elaine Wittman

THIS IS A COMPLETE SET OF DOCUMENTS
-----DO NOT SEPARATE-----

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City of Clayton
Clayton Government Center, Clayton, Ohio
NOTICE TO BIDDERS
Section 307.86 of the Ohio Revised Code

Sealed proposals will be received at the Clayton Government Center, 6996 Taywood Rd., Englewood, OH 45322, **until April 7, 2026 at 9:00am**, for the **MOT SR 48 20.61 Sidewalk** construction in accordance with the plans and specifications now on file in the City of Clayton Government Center. The Bidding documents may be reviewed and obtained at the Clayton Government Center located at 6996 Taywood Rd., Englewood, OH 45322 or on the City of Clayton's website, www.clayton.oh.us.

Each proposal must contain the full name of the party or parties submitting the proposal and all persons interested therein. Proposals shall be submitted on the forms furnished by the City and must be enclosed in sealed envelopes endorsed by the Bidder and marked:

"MOT SR 48 20.61 Sidewalk"

Bids may be submitted by mail or in person to the Clayton Government Center located at 6996 Taywood Rd., Englewood, OH 45322. The City intends to award the project on March 12, 2026, and requires that this project be started on July 1, 2026, and be completed by October 15, 2027.

All federal rules and requirements with respect to Equal Employment Opportunity (EEO) shall be in force with respect to this contract.

Bidders must comply with current Davis-Bacon Prevailing Wage Rates for Public Improvements in Montgomery County, Ohio as determined by the United States Department of Labor, Wage, and Hour Division.

Bidders must be prequalified with the Ohio Department of Transportation for appropriate work types.

Each Bidder is required to furnish, with his/her proposal, a Bid Guaranty in accordance with Section 153.54 of the Ohio Revised Code as a guarantee that if the proposal is accepted a Contract will be entered. The Bid Guaranty shall be in one of the following forms:

1. A certified check, cashiers' check or letter of credit in an amount equal to 10% of the total Bid amount, payable to the City of Clayton and the Ohio Department of Transportation, or;
2. A Bid bond in the amount of 100% of the Bid amount, payable to the City of Clayton and the Ohio Department of Transportation.

If the Bid Guaranty is furnished in Bond form, it shall be issued by a Surety Company or Corporation licensed in the State of Ohio to provide said surety.

The City of Clayton reserves the right to reject any or all Bids, to waive any irregularities in the Bids and to award the contract to the bidder, or bidders, who, in their opinion, offer the lowest and/or best proposal.

CITY OF CLAYTON ACTING CITY MANAGER
Elaine Wittman

INSTRUCTIONS TO BIDDERS AND GENERAL CONTRACT CONDITIONS

1. EXAMINATION OF DOCUMENTS AND SITE CONDITIONS

- a. Bidders are cautioned to carefully review the site and all parts of the Contract Documents including, but not limited to, Instructions to Bidders and General Conditions, General Construction Provisions, Additional Provisions, Detailed Construction Specifications, Form of Proposal, Other Bid Documents, Sample Contract Documents, Prevailing Wage Rates, Plans, Drawings and all other codes, specifications and orders contained or cited herein.
- b. No allowance will be made subsequently for any error, oversight or negligence of the Bidder.
- c. Submission of a proposal represents that the Bidder has based his Bid upon materials, systems and equipment required by the Contract Documents without exception. Submission of a proposal will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of these "Instructions to Bidders" and associated documents.

2. BIDDING DOCUMENTS

- a. Copies
 - i. Bidders shall obtain complete set of Bidding Documents from City of Clayton at the physical address or the City's website and within the guidelines designated in the Notice to Bidders.
 - ii. Bidders shall use complete sets of Bidding Documents in preparing Bids. The City of Clayton does not assume any responsibility for errors or misrepresentations resulting from the use of incomplete sets of Bidding Documents.
- b. Interpretations
 - i. All questions about the meaning or intent of Bidding Documents or discovery of any ambiguities, inconsistencies, errors or omissions in the Bidding Documents shall be submitted in writing to the City.
 - ii. Replies will be issued by Addendum, if warranted, and will be emailed, mailed or delivered to all parties recorded by the City as having received the Bidding Documents.
 - iii. Questions received less than 5 days prior to the date for opening Bids will not be answered.
 - iv. Only questions answered by formal written Addenda will be binding. Oral or other interpretations will be without legal effect.

3. PREPARATION OF BIDS

- a. All Bids must be submitted on the "Form of Proposal" furnished with the Contract Documents and submitted with all required attachments.
- b. All blank spaces shall be filled in, in ink or typewritten, in words and figures, or in figures only where no space is provided for words and signed by the Bidder. The wording of the Form of Proposal shall be used without change, alteration or addition. Any change in the wording or any omission of specified accompanying documents may be cause for the proposal to be rejected.
- c. Bidders shall note receipt of any and all Addenda in the appropriate place on the Form of Proposal.
- d. Bids shall be enclosed in a sealed opaque envelope endorsed with the Bidder's name and the Title of the Project, and addressed to: **City of Clayton, 6996 Taywood Rd., Englewood, OH 45322.**

- e. All Bids shall contain the following:
 - i. Signed "ODOT's Required Contract Provisions"
 - ii. The completed Form of Proposal
 - iii. Bid Guaranty (as outlined below)
 - iv. Ohio Equal Employment Opportunity Certificate of Compliance
 - v. Non-Collusion Affidavit
 - vi. Other required documentation
- f. The Bidder shall take the following precautions in preparing Proposals:
 - i. Sign the Proposal and check to ensure that all blank spaces have been filled in with requested information and that the specified accompanying documents (per Section e, above) have been included in a sealed opaque envelope and addressed (per Section d, above).
- g. Where the Form of Proposal provides for quoting a unit price, the Bidder shall insert the unit price and extended price.
 - i. When applicable, make sure the Bid Guaranty is for the proper amount and is properly executed and signed, on all lines where signatures are required, by (1) the Bidder and (2) the Surety or Sureties.
 - ii. Bids by Corporations must be executed in the corporate name by president or vice president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be as shown below the signature.
 - iii. Bids by partnerships must be executed in the partnership name and signed by a partner, his title must appear under his signature and the official address of the partnership must be shown below the signature.
 - iv. All names must be typed or printed below the signature.
- h. Bonds and Guarantees
 - i. Bid Guaranty: The Bidder shall furnish a Bid Guaranty as prescribed in Section 153.54, 153.57 and 153.571 of the Ohio Revised Code, in the form of either:
 - 1. A bond for the full amount of the Bid in the form of a Bid Guaranty and Performance Bond or a Bid Bond included in the Bid Documents, or;
 - 2. A Certified Check, Cashier's Check or Letter of Credit in an amount equal to 10% of the Bid.
 - ii. If the successful Bidder submits a Bid Bond, Certified Check, Cashier's Check or Letter of Credit (per i above), then before a Contract is executed, he shall submit a Performance and Payment Bond in an amount equal to 100% of the Contract Price.
 - iii. All bonds and guarantees shall be issued by a Surety Company or Corporation licensed in the State of Ohio to provide said surety and shall be to the satisfaction of the City.
 - iv. All bonds shall be signed and sealed by an authorized agent of an acceptable Surety Bonding Company and signed by the Bidder.
 - v. Surety Bonding Company bonds shall be supported by credentials showing the Power of Attorney of agent and a certificate showing the legal right of the Bonding Company to do business in the State of Ohio and a financial statement of the Surety.
 - vi. The Bid Guaranty, as applicable, shall be in the name of, or payable to the order of, the City of Clayton and the Ohio Department of Transportation. The name and address of the Surety and the name and address of the Surety's Agent should be typed or printed on each bond.
 - vii. After a Contract is executed between the successful Bidder and the City, the certified checks or letters of credit of the unsuccessful Bidders will be

- returned. Bonds will be returned to unsuccessful Bidders upon request.
- viii. If, at any time during the continuance of the work, any surety shall, in the opinion of the City become irresponsible or insolvent, the City shall have the right to require additional and sufficient surety or sureties which the Contractor shall furnish to the satisfaction of the City within ten (10) days after notice and, if in default thereof, the work may be suspended by the City.
 - i. Submission of Bid
 - i. The Bidder shall assume full responsibility for delivery of the bid at the time, date and location designated for the receipt of Bids
 - ii. Oral, telephonic, telegraphic or facsimile Bids are invalid and will not receive consideration.
 - iii. Bids received after the time and date for receipt of Bids will be considered invalid and will be returned unopened.
 - iv. Bids shall be submitted prior to the time and date listed, at the location designated in the advertisement.
 - j. Modification or Withdraw of Bid
 - i. Prior to the time and date designated for receipt of Bids, any Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for the receipt of Bids. Such notice shall be in writing with the signature of the Bidder.
 - ii. Withdrawn Bids may be resubmitted, up to the time designated for the receipt of Bids, if they are then fully in conformance with these Instructions to Bidders.
 - iii. Bid Guaranty shall be in an amount sufficient for the Bid as modified or resubmitted.
 - k. Addenda
 - i. Each Bidder shall carefully read and review the Bid Documents and immediately bring to the attention of the City any error, omission, inconsistency or ambiguity therein.
 - ii. Bidders should submit questions to the City in advance to allow sufficient time for consideration and response. All Addenda will be issued, except as hereafter provided, and emailed or otherwise furnished to persons who have obtained Bid Documents for the Project, at least seventy-two (72) hours prior to the published time for the opening of Bids, excluding Saturdays, Sundays, and legal holidays. If any Addendum is issued within such seventy-two (72) hour period, then the time for opening Bids may be extended one (1) week with no further advertising for Bids required.
 - iii. Any explanation, interpretation, correction or modification of the Bid Documents will be issued in writing in the form of an addendum, which shall be the only means considered binding. Explanations, interpretations, etc. made by any other means shall NOT be legally binding. All Addenda shall become a part of the Contract Documents.
 - iv. Copies of each Addendum will be sent only to Bidders to whom Bid Documents have been issued. The Bidder shall indicate the receipt of all Addenda in the space provided on the Form of Proposal.
4. METHOD OF AWARD
- a. The City reserves the right to reject any or all the Bids and to waive any formalities or irregularities in the Bids when of advantage to the City.
 - b. Subject to the right of the City to reject all Bids and as provided above, the City will award the Contract to the lowest and best bidder.
 - c. The City will receive Bids for the Work in accordance with the Contract Documents. Bidders must furnish all information requested on or to accompany the Form of Proposal. Failure to do so may result in disqualification of the Bid.

- d. If a Contract is awarded, the City will, upon request, supply the successful Bidder with a "Notice of Award" within thirty (30) days following the day of the Bid opening.
 - e. Simultaneously with delivery of executed counterparts of the Contract to the City, the successful Bidder shall deliver to the City the required Contract Bond, Hold Harmless Agreement, and other required documentation, including but not limited to, specific insurance documentation (per Section K, below).
 - f. If the successful Bidder is a corporation, the secretary of said corporation shall execute an Affidavit, stating that the officer or agent of said corporation was authorized to do so by either provision of corporation bylaws or by the adoption of a resolution of the Board of Directors of the corporation, whichever the case may be.
 - g. If the Bidder to whom the award is made fails to enter into a Contract as herein provided, the award may be annulled, and the Contract let to the next lowest and best Bidder in the opinion of the City; and such Bidder shall fulfill every stipulation embraced herein, as if he were the original party to whom the award was made.
5. EXECUTION OF CONTRACT
- a. The successful Bidder shall execute and return to the City the signed Contract within ten (10) days (Saturdays, Sundays, and legal holidays excluded) after receipt of the Contract. The form of the Contract is included in these Bid Documents, as an example and is not to be completed as part of this bid.
6. UNIT PRICES
- a. Where unit prices are requested in the Form of Proposal for a division of work on which the Bidder submits a Bid, the Bidder shall quote a unit price. Unless otherwise expressly provided in the Contract Documents, such unit prices shall include all labor, materials and services necessary for the storage, delivery and installation of the item and/or equipment used for such activity, or service for which the unit prices are requested. The unit prices quoted in the Form of Proposal shall be the basis for any change orders issued under the Contract except where such unit prices would cause substantial inequity to the City or the Contractor, in which case, unit prices shall be equitably adjusted by the City.
7. SUBCONTRACTORS
- a. The Contractor may utilize the services of specialty Subcontractors on those parts of work which, under normal construction practices, are not performed by a general Contractor, provided:
 - i. The Prime Contractor directly performs not less than 30% of the Work (dollar amount) provided by the contract.
 - ii. The Contractor and/or his surety shall be fully responsible to the City for the act of his Subcontractors, and of persons either directly or indirectly employed by them.
 - iii. Nothing contained in these Contract documents shall create any contractual relation between the City and the Subcontractor.
 - iv. Any assignment of this Contract will not release the Contractor or his surety from the faithful performance of the Contract.
8. PLANS
- a. After awarding of a Contract, a sufficient number of sets of working drawings and specifications will be supplied to the Contractor without charge.
9. INSURANCE
- a. Workers Compensation Insurance (State of Ohio Statutory Limit)
 - i. The Successful Bidder shall be required to submit a copy of the Workers Compensation certificate with each signed copy of the City-Contractor Agreement and prior to work commencing. A current certificate must be kept on file with the City during the duration of the Contract.
 - b. Commercial General Liability Insurance
 - i. The Successful Bidder shall secure Commercial General Liability Insurance

naming the City of Clayton, Ohio, as additional insured. This must include endorsements for Contractual liability and independent Contractor's coverage (including, but not limited to, Premises- Operations; Independent Contractor's Protective; Products and Completed Operations; Broad Form Property Damage):

1. Bodily Injury and Property Damage, Combined Single Limits (CSL) of:
 - a. \$1,000,000 Each Occurrence
 - b. \$1,000,000 General Aggregate
 - c. \$1,000,000 Products Completed Aggregate
 - d. \$1,000,000 Personal and Advertising Injury Limit
- ii. Products and Completed Operations Insurance shall be maintained for one year after final payment.
- iii. Stop Gap Employers Liability Insurance shall also be required.
- c. Commercial Automobile Liability Insurance
 - i. The successful Bidder shall procure Commercial Automobile Liability Insurance which shall include all owned vehicles, non-owned vehicles and all hired vehicles, naming the City of Clayton, as additional insured, with limits of:
 1. \$1,000,000 Combined Single Limits
- d. Umbrella Excess Liability Insurance
 - i. The Successful Bidder shall procure Umbrella Excess Liability Insurance, with limits of:
 1. \$5,000,000 for Each Occurrence
 2. \$5,000,000 Aggregate when applicable
 - ii. Such Insurance shall follow the form of the primary insurance coverage.
- e. Basis
 - i. All coverage shall be written on an occurrence basis.
- f. Insurance Company Rating
 - i. The insurance company must have an AM BEST rating of A- or better.
- g. City and ODOT Named as Additional Insured
 - i. On these coverages, the additional insured shall be listed as "City of Clayton, Ohio, and the Ohio Department of Transportation its elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. Coverage shall be primary to the Additional Insureds and not contributing with any other insurance or similar protection available to the Additional Insureds whether other available coverage be primary, contributing or excess."
- h. Cancellation Notice
 - i. The Contractor shall provide, during the life of the Contract, or for a longer period as stipulated herein, the coverages as described above, which shall include an endorsement stating the following: "Thirty (30) days advance written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to: The City of Clayton, Ohio, 6996 Taywood Rd., Englewood, OH 45322."
- i. Coverage Expiration
 - i. If any of the above coverages expire during the term of this Contract, the Contractor shall deliver renewal certificates and/or policies to the City, at least ten (10) days prior to said expiration date.
- j. Submission of Documents
 - i. At a minimum, original signed certificates of insurance, as required herein, must be filed with the City at the time the Contract Documents are submitted and work will not begin until such certificates, completed as required, are received by the City. The City reserves the right to request facsimile or

certified copies of all insurance policies.

k. Indemnification

- i. To the extent permitted by law, the Contractor agrees to indemnify, hold harmless and defend all work on all claims suits, loss, including costs for any damages which may be asserted, claimed or recovered against the City of Clayton, and the Ohio Department of Transportation its elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members including employees and volunteers thereof, by reason of personal injury, including bodily injury or death, and/or property damage which arises out of or is any way connected or associated with this Contract.

10. WORK SCHEDULE

- a. The Contractor shall furnish a Contractors Progress Schedule (Ghant Chart preferred) showing the percent of major components of the project to be completed within specified times. The Contractor shall prosecute the work in a vigorous and efficient manner, to ensure completion of the project within the time limit set and will keep the area of his operation in a neat and orderly condition. This shall include, but is not limited to, dust control.

11. FAILURE TO COMPLETE ON TIME

- a. The provisions of ODOT Item 108.07 shall be in force.

12. PAYMENTS

- a. Pay estimates shall be submitted monthly at intervals to provide for expedient handling and processing by the City. Payment will be paid directly to the Contractor by ODOT.
- b. The unit or lump sum prices stated in the Contract shall be used to determine the amount to be paid and shall constitute full and final compensation for the work. Payment shall be based upon plan quantities unless otherwise approved by the City.
- c. The City reserves the right to increase or decrease quantities or to not perform all or any portion of the items Bid.

13. RELEASE OF LIEN

- a. Before final payment of this Contract is made, the City will require the Contractor to submit an affidavit from all Subcontractors and dealers in materials who have furnished labor or materials for this Contract, showing that all claims and obligations arising in connection with the performance of their portion of the Contract have been satisfactorily settled.

14. ACCEPTANCE

- a. No acceptance will be made for a portion of the project prior to final completion. The project will be accepted as a whole, and it is the Contractor's responsibility to maintain such portions completed until final acceptance.

15. NONPERFORMANCE

- a. If at any time the City, or the designated representative thereof, is of the opinion that the work to be done under this Contract is being improperly performed, and if the Contractor, upon notice, does not take the proper measures to remedy the situation, the City may proceed to place upon the project site the required tools, labor, equipment, and materials to complete the required work in accordance with the plans and specifications, which work and all cost incident thereto shall be charged to the Contractor and his bond.

16. DISPUTES AND CLAIMS RESOLUTION

- a. The Dispute or Claim shall be made in writing to the Clayton Public Service Director.
- b. If the Contractor disagrees with the resolution of Public Service Director, he may appeal to the City Manager.
- c. The decision of the City Manager is final.

17. CHANGE ORDERS

- a. Contractor shall submit all change orders in writing to Clayton Public Service Director.
- b. Public Service Director shall evaluate change order for validity and authorize payment of all change orders.
- c. If Public Service Director disagrees with change order submitted by contractor, he may refer change order to the Clayton City Manager.
- d. The decision of the City Manager is final.

GENERAL CONSTRUCTION PROVISIONS

1. GENERAL CONSTRUCTION SPECIFICATIONS

- a. Except as noted herein, the 2023 State of Ohio Department of Transportation Construction and Material Specifications shall govern the making of this improvement.
- b. See ODOT's Required Contract Provisions

2. PROTECTION OF PROPERTY

- a. Bidders are required to inform themselves fully of the conditions relating to the construction and labor under which the work will be performed. If awarded the Contract, they must also employ so far as possible such methods and means in carrying out this work as will cause the least amount of interruption or interference to traffic on adjacent highways and residents or businesses adjacent to the project. The successful bidder shall inform adjacent property owners of work schedules and major interruptions to them, schedules for such work and how they will be individually affected.

3. UTILITY NOTIFICATION

- a. The Contractor shall be responsible for all utility notification and coordinating his work with and around them.
- b. The Contractor shall be responsible for all expenses relating to any damage to any utility because of actions taken in connection with this contract.

4. SAFETY

- a. It shall be the duty of the Contractor to erect and maintain adequate lights, signs and barricades to ensure the safety of the public during the progress of the work, and until final acceptance by the City.
- b. All signs and devices used in maintaining traffic shall conform to the latest edition of the "Manual of Uniform Traffic Control Devices" and it shall also be used as a direct reference when any unforeseen traffic situations arise during the project.
- c. It shall be the duty of the Contractor to follow, and have all persons on the job site follow, all applicable rules and regulations regarding worker safety including but not limited to those as provided by the State of Ohio Occupation Safety and Health Administration (OSHA).

DETAILED CONSTRUCTION SPECIFICATIONS

Also, see plans for Detailed Construction Specifications

MOT Hoke Road Widening Phase 1

1. All materials furnished and work performed shall conform to the 2023 State of Ohio Department of Transportation Construction and Material Specifications, except as modified herein.
 - a. The successful bidder shall provide the City of Clayton Public Service Director a copy of the 441 job mix formula (data sheets) for each plant that provides asphalt for this project. All mixes shall follow the job mix formula for medium traffic.
 - b. Recycled asphalt shall not exceed 10% of any mix produced.
 - c. An asphalt sample from each 750-ton batch of 441 (4 samples per 3,000-ton lot) shall be taken throughout the project. The City will supply the sample containers. Samples will be taken from the paver hopper and the contractor will be responsible for taking the sample and coordinating the collection of the sample with the city representative. Sample size will be approximately 8 pounds. The contractor shall obtain samples from alternate sides of the hopper to insure representative samples are obtained. All testing shall be performed by a laboratory selected by the City of Clayton, utilizing the reflux titration method. All cost of this initial testing shall be the responsibility of ODOT and/or the City. All load slips from the plant shall show the percent of AC asphalt contained in said load.
 - d. The 441 job mix formula shall be used as a basis for acceptance and for determining partial payment for deviations in bitumen content. The following chart will be used by the City in determining the pay factor to be applied to the unit price. Pay factors will be calculated from this chart, not the pay factors as shown in the ODOT Construction and Materials Specifications.

<u>Pay Factor</u>	<u>MEAN DEVIATION IN 4 TESTS FROM JOB MIX FORMULA BITUMEN CONTENT</u>
1.00	±0.30
0.98	±0.31 to 0.35
0.94	±0.36 to 0.40
0.84	±0.41 to 0.45
0.70	±0.46 to 0.50

As indicated above, the Contractor will be taking one test out of each 750-ton batch applied throughout the project and payment shall be made on the 4 tests per 3,000-ton quantity. Payments will be made on the entire 3000 tons based upon the corresponding average of the four test results.

- e. It shall be the responsibility of the Contractor to adjust monument boxes, valve boxes, and manholes to grade at the time of the resurfacing. Cost of this work shall be included in the appropriate bid item. The Contractor shall be responsible for the material and installation for any adjustments to manholes, water valve boxes, and monument boxes.
2. The Asphaltic Concrete for intersections shall be placed at the same time as the adjacent mainline pavement as directed by the Clayton Public Service Director.
3. Traffic shall be maintained at all times to the satisfaction of the Clayton Public Service Director. The item of maintaining traffic shall be in accordance with the Ohio Manual of Uniform Traffic Control Devices (OMUTCD) and include the furnishing of lights, signs,

barricades, cones, and flagmen equipped with "Walkie-Talkie" radio gear that will ensure constant communication between the flagmen at all times in order to provide unimpeded flow of traffic twenty-four (24) hours daily.

4. All work done under these specifications shall be under the supervision of the Clayton Public Service Director, acting either directly or through his properly authorized agent.
5. Payment for the work required for completion of this project shall be made for actual quantities of material furnished in accordance with these specifications and after inspection and final approval of the Clayton Public Service Director.
6. In any controversy arising between the parties to this contract, regarding an interpretation of these specifications and the method of application, the decision of the City of Clayton shall be final.
7. If at any time the City of Clayton is of the opinion that the work to be done under this contract is being improperly performed and if the supplier upon notice shall not take the proper measures to remedy same, the City may proceed to place upon the road to be marked the required tools, labor, equipment and materials to complete the required work in accordance with the specifications, which work and all costs incidental thereto shall be charged to the supplier and his bond.
8. Prior to commencing work on this project, the successful bidder shall schedule a preconstruction conference with the City. This meeting will be held at the Clayton Government Center, 6996 Taywood Rd., Englewood, OH 45322.

ODOT's REQUIRED CONTRACT PROVISIONS **(ODOT Spec Book and LPA Spec Book)**

ODOT's 2023 Construction and Material Specifications (C&MS) and its Supplements

ODOT's Construction and Material Specifications (C&MS) and its supplements are fully incorporated by reference, as if they were rewritten here. This incorporation does not affect the order of precedence outlined in Section 105.04 of the C&MS Manual.

When bidding on this project, the Prime Contractor should replace the terms "the department," "the engineer," "the DCE," and "the DCA" with "the Local Public Agency (LPA)." Additionally, this document does not change the LPA's duty to comply with the Ohio Revised Code (O.R.C.), local ordinances, and/or other applicable requirements.

PN (Proposal Note) 100 for LPA Projects

LPAs have the option to incorporate [PN 100](#) into their contracts to include specific preferences.

PN 100 Inclusion Options (Check One):

- **PN 100 is included in the contract**

- **PN 100 is not included in the contract**

If PN 100 is included, it must be edited and added to the contract.

PN 133 – 07/18/2025 – Products Produced in the United States

The requirements of this note replace the domestic material requirements in 106.09 of the C&MS.

Furnish products that are produced in the United States according to the applicable provisions of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, which includes the Build America, Buy America Act (BABA) Pub. L. 117-58, §§ 70901-27, and 23 CFR 635.410.

A. Federal Requirements. All steel or iron products incorporated permanently into the work must be made of steel or iron produced in the United States and all subsequent manufacturing must be performed in the United States. "Manufacturing" is any process that modifies the chemical content; physical shape or size; or final finish of a product. Manufacturing as it relates to steel or iron products begins with the initial melting and mixing and continues through the bending and coating stages.

"Manufactured products" means articles, materials, or supplies that have been processed into a specific form and shape, or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. If a domestic product is taken out of the United States for any process, it becomes a foreign source material. All manufactured products used in the project must be manufactured in the United States ("final assembly requirement") and have greater than 55 percent of the manufactured product's components, by cost, be mined, produced, or manufactured in the United States ("55 percent requirement"). "Component" means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into a manufactured product or, where applicable, an iron or steel product. If a manufactured product is predominately iron, steel or a combination of both it must meet the above requirements for steel or iron products. Predominately iron or steel or a combination of both means the total cost of the iron and steel content exceeds 50 percent of the total cost of all its components. Manufactured products on projects that receive Federal authorization on or after October 1, 2025 must meet the final assembly requirement.

Manufactured products on projects that receive Federal authorization on or after October 1, 2026 must meet the final assembly requirement and the 55 percent requirement.

All construction materials must be manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

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

To provide clarity to item, product, and material manufacturers and processors, we note that items that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.

Construction materials brought on site and combined with other materials are not considered manufactured products.

Precast concrete products that are classified as manufactured products must have their predominantly iron or steel components meet the above requirements for iron and steel. The cabinets or other enclosures of intelligent transportation systems and other electronic hardware systems that are installed in the highway right of way and classified as manufactured products must comply with the above requirements for iron and steel if the cabinet or enclosure is predominately iron or steel.

B. Exceptions. The Director may grant specific written permission to use non-domestic steel or iron products in any type of construction in accordance with 23 CFR 635.410(b)(4). The Director may grant such exceptions under the following condition:

- The cost of products to be used does not exceed 0.1 percent of the total contract cost, or \$2,500, whichever is greater. The cost is the value of the product as delivered to the project.

The Director may grant specific written permission to use non-domestic construction materials or manufactured products in any type of construction in accordance with 2 CFR Part 184. The Director may grant such exceptions under the following conditions:

- The total value of the non-compliant products is no more than the lesser of \$1,000,000 or 5% of total applicable costs for the project; or
 - applicable costs are defined as the cost of materials (including the cost of any manufactured products) used in the project that are subject to a domestic preference requirement
 - the actual cost of the materials, not the anticipated cost of those materials.
- The total amount of the federal financial applied to the project, through awards or subawards, is below \$500,000;

The Prime Contractor may request an exception on forms provided by the Department. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

C. Proof of Domestic Origin. Furnish certification to the engineer showing the domestic origin of all products covered by this section before they are incorporated into the work. The Daily Source Report form itself is not acceptable certification of domestic origin. Acceptable documentation could be a specification sheet or cut sheet with the country of origin identified on the sheet. Non-domestic product(s) incorporated into the work does not relieve the Prime Contractor of any responsibility to correct the work up to and including removal and replacement of the non-domestic product(s). Products without a traceable domestic origin will be treated as a non-domestic product.

Prequalification

Only ODOT-prequalified contractors are eligible to submit bids for this project. Prequalification status must be in force at the time of bid, at the time of award, and through the life of the construction contract. For work types that ODOT does not prequalify, the LPA must still select a qualified contractor. Subcontractors are not subject to the prequalification requirement. **The Prime Contractor must perform no less than 30 percent of the total original contract price.**

Federally Required Equal Employment Opportunity Certification Form

The bidder hereby certifies that he or she **has**, **has not**, participated in a previous contract or subcontract subject to the equal opportunity clause, and that he or she **has**, **has not**, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity ("EEO"), all reports due under the applicable filing requirements. **The bidder must circle the appropriate "has" or "has not" above.**

PN 017 - 10/15/2004 - FEDERALLY REQUIRED EEO CERTIFICATION CLAUSE

The EEO Certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)) and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause (41 CFR 60-1.4). Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5.

Currently, Standard Form 100 (EEO-1) is the only report required by the implementing regulations.

Proposed Prime Contractors and subcontractors who have participated in a previous contract or subcontract and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration (FHWA) or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

PN 059 - 10/15/2004 - WAGE DETERMINATION APPEALS PROCESS

1. Has there been an initial decision in the matter? This can be:
 - a. An existing published wage determination
 - b. A survey underlying a wage determination
 - c. A Wage and Hour Division letter setting forth a position on a wage determination matter
 - d. A conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those regional offices have responsibility for the Davis-Bacon survey program. If the response for this initial contact is not satisfactory, the process described in Subsections 2. and 3. should be followed.

Regarding any other matter not yet ready for the formal process described within this section, initial contact should be made with the Branch of Construction Wage

Determinations by writing to:

Branch of Construction Wage Determinations
Wage and Hour Division
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D. C. 20210

2. If the answer to the question in Subsection 1. is yes, an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (see 29 CFR 1.8 and 29 CFR Part 7) by writing to:

Wage and Hour Administrator
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D. C. 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requester considers relevant to the issue.

3. If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board) by writing to:

Administrative Review Board
U. S. Department of Labor
200 Constitution Avenue, N. W.
Washington, D. C. 20210

4. All decisions by the Administrative Review Board are final.

PN 061 – 01/20/2016 -WAGE SCALE ON ALL FEDERAL-AID PROJECTS

The wage rates for this project were determined by the Secretary of Labor in accordance with Federal-Aid requirements.

Contractors shall use only the classifications and wage rates set forth in the United States Department of Labor (USDOL) wage decision found at the website noted below on

payrolls submitted to the District Office. Additionally, please note that the wage modification in effect at the time of the project sale date, shall be used by all contractors.

This USDOL wage decision may be viewed at <https://sam.gov/wage-determinations>.

This contract requires the payment of the total of the basic hourly rates plus the fringe benefits payments for each classification in accordance with the following regulations, which by reference are made part of this contract:

- 1) The USDOL Regulations, 29 CFR 5.5, 5.31, and 5.32, most recent revision at contract execution.
- 2) Form FHWA-1273 (most recent revision at contract execution) Part IV. Payment of Predetermined Minimum Wage and Part V. Statements and Payrolls.

The failure to pay prevailing wages to all laborers and mechanics employed on this project shall be considered a breach of contract. Such a failure may result in the termination of the contract and debarment.

The Prime Contractor and all subcontractors shall pay all wages and fringe benefits by company check. All payroll records and canceled pay checks shall be maintained for at least three years after final acceptance as defined in Section 109.12 of the C&MS. The Prime Contractor's and all subcontractor's payroll records and canceled pay checks shall be made available for inspection by ODOT and USDOL, upon request, anytime during the life of the contract, and for three years thereafter by USDOL. Additionally, the Prime Contractor and all subcontractors shall permit such representatives to interview any employees during working hours while the employee is on the job.

The wage and fringe rates determined for this project shall be posted by the Prime Contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers.

The Prime Contractor and subcontractors shall submit certified payrolls each week beginning three weeks after the start of work. These payrolls shall include but not limited to the following:

1. Employee name, address, social security number, classification, and hours worked.
2. The basic hourly and overtime rate paid, total pay, and the manner in which fringe benefit payments have been irrevocably made.
3. The contract ID and pay week dates.
4. Signature of an authorized company representative.

Additionally, a copy of the "Apprentice Certification" obtained from the Ohio State Apprenticeship Council, must accompany all certified payrolls submitted for all apprentices working on this project.

Please be aware that it is ultimately the responsibility of the Prime Contractor to ensure that all laws relating to prevailing wages in the USDOL Regulations, 29 CFR Parts 1 and 5, are strictly adhered to by all subcontractors on the project.

If the Prime Contractor or any subcontractor fails to comply with any of the provisions contained in this proposal note, ODOT may terminate the contract, debar the Prime Contractor or subcontractor and/or withhold or suspend pay estimates after written notice and a reasonable opportunity to comply has been provided.

Limitation on Use of Contract Funds for Lobbying

- A. The prospective bidder certifies, by signing and submitting this bid proposal, to the best of his or her knowledge and belief that:
- i. 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.
 - ii. 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.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. 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 civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. The prospective bidder also agrees by submitting his or her bid proposal that he or she shall require the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subcontractors shall certify and disclose accordingly.

PN 045 - 10/15/2004 - NON -COLLUSION AFFIDAVIT

In accordance with 23 U.S.C. 112 and O.R.C. Chapter 1331 *et. seq.* and Sections 2921.11 and 2921.13, the bidder hereby states, under penalty of perjury and under other such penalties as the law provides, that he/she or his/her agents or employees have not entered, either directly or indirectly, into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. Execution of this proposal on the signature portion thereof shall also constitute signature of this Non-Collusion Affidavit as permitted by 28 U.S.C. 1746.

REPORTING BID RIGGING

To report bid rigging activities call:
1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Standard Time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT

Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

Knowledge of possible bid rigging, bidder collusion, or other fraudulent activities can also be reported via e-mail (hotline@oig.dot.gov) or through their website [Report Fraud Hotline | DOT OIG](#)

Drug Free Safety Program

During the life of this project, the Prime Contractor, and all its subcontractors that provide labor on the project site, must be enrolled in and remain in good standing in the Ohio Bureau of Worker's Compensation (OBWC) Drug-Free Safety Program (DFSP) or a comparable program approved by the OBWC.

In addition to being enrolled in and in good standing in the OBWC DFSP or a comparable program approved by the OBWC, ODOT requires each Prime Contractor and subcontractor that provides labor, to subject its employees who perform labor on the project site to random drug testing of 5 percent of its employees. The random drug testing percentage must also include the on-site supervisors of the Prime Contractors and subcontractors. Upon request, the Prime Contractor and subcontractor shall provide evidence of required testing to ODOT.

Each subcontractor shall require all lower-tier subcontractors that provide labor on the project site with whom the subcontractor is in contract with for the work to be enrolled in and be in good standing in the OBWC DFSP or a comparable program approved by the OBWC prior to a lower-tier subcontractor providing labor at the site.

ODOT will declare a bid non-responsive and ineligible for award if the Prime Contractor is not enrolled and in good standing in the OBWC DFSP Discount Program or a similar program approved by OBWC within 8 days of the bid opening. Furthermore, ODOT will deny all requests to sublet when the subcontractor does not comply with the provisions of this section.

Failure of the Prime Contractor to require a subcontractor to be enrolled in and be in good standing in the OBWC DFSP or a comparable program approved by the OBWC prior to the time that the subcontractor provides labor at the site, shall result in the Prime Contractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that Prime Contractor, or the subcontractor who was not enrolled in a program, for future contracts with the state for five years after the date of the breach.

Ohio Workers' Compensation Coverage

The Prime Contractor must secure and maintain valid Ohio workers' compensation coverage until the project has been finally accepted by ODOT. A certificate of coverage evidencing valid workers' compensation coverage must be submitted to the LPA before the contract is executed by the LPA.

The Prime Contractor must immediately notify the LPA in writing if it or any subcontractor fails or refuses to renew their workers' compensation coverage. Furthermore, the Prime Contractor must notify the LPA in writing if it's or any of it's subcontractor's workers' compensation policies are canceled, terminated, or lapse.

The failure to maintain valid workers' compensation coverage shall be considered a breach of contract which may result in the Prime Contractor or subcontractor being removed from the project, withholding of pay estimates, and/or termination of the contract.

PN 038 - 10/15/2004 - UNRESOLVED FINDING FOR RECOVERY

The Prime Contractor affirmatively represents to the LPA that it is not subject to a finding for recovery under O.R.C. 9.24, or that it has taken the appropriate remedial steps required under O.R.C. 9.24 or otherwise qualifies under that section. The Prime Contractor agrees that if this representation is deemed to be false, the contract shall be void ab initio as between the parties to this contract, and any funds paid by the state hereunder shall be immediately repaid to the LPA, or an action for recovery may be immediately commenced by the LPA and/or for recovery of said funds.

PN 039 - 10/15/2004 - ASSIGNMENT OF ANTITRUST CLAIMS IN STATE CONTRACT LANGUAGE

The Prime Contractor should recognize that in actual economic practice, overcharges resulting from antitrust violations are usually borne by ODOT and/or the LPA. As consideration for the award of the contract and intent to be legally bound, the Prime Contractor acting herein by and through the person signing this contract on behalf of the contractor as a duly authorized agent, hereby assigns, sells, conveys, and transfers to ODOT and/or the LPA any and all right, title, and interest to any and all claims and causes of action the Prime Contractor now has or hereafter requires under state or federal antitrust laws provided the claims or causes of action related to the goods or services are the subject to the contract. In addition, the Prime Contractor warrants and represents that it will require all of its subcontractors and first-tier suppliers to assign all federal and state antitrust claims and causes of action to ODOT and/or the LPA. The provisions of this article shall become effective at the time the LPA executes this contract without further acknowledgment by any of the parties.

All contracting entities shall assign their rights and responsibilities to ODOT and/or the LPA for all antitrust claims and causes of action regarding subcontractors.

PN 024 – 04/21/2006 – US ARMY CORPS OF ENGINEERS AND OHIO ENVIRONMENTAL PROTECTION AGENCY PERMITS

The above-referenced permits are incorporated and made a part of this contract as special provisions incorporated herein. Therefore, in the event the contractor or its agents refuse or fail to adhere to the requirements of the US Army Corps of Engineers 404 Permit and/or the Ohio Environmental Protection Agency's 401 Water Quality Certification and an assessment or fine is made or levied against ODOT and/or the LPA, the Prime Contractor shall reimburse ODOT and/or the LPA within 30 calendar days of the notice of assessment or fine, or ODOT may withhold the amount of the fine from the Prime Contractor's next pay estimate. All money collected or withheld from the Prime Contractor shall be delivered to the permitting agencies issuing the assessment or fine.

These fines are not to be construed as a penalty but are liquidated damages to recover costs assessed against ODOT due to the Prime Contractor's refusal or failure to comply with the permits.

PN 008 – 11/7/2025 – SMALL BUSINESS ENTERPRISE (SBE) TRUCKING; SBE SUPPLIERS

COUNTING SBE TRUCKING TOWARDS SBE CONTRACT GOALS

The Apparent Low Bidder/Awarded Contractor may meet a Small Business Enterprise (SBE) contract goal using SBE trucking firms, but only when such firms perform a commercially useful

function (CUF). The Bidder/Apparent Low Bidder/Awarded Contractor must not include an SBE trucking firm on its SBE Utilization Plan if it is aware that the firm will not be performing a CUF. Even if an SBE trucking firm will be performing a CUF, the dollar amount of trucking services it provides may not be fully countable towards the SBE contract goal. When including an SBE trucking firm that will be performing a CUF on its SBE Utilization Plan, the Bidder/Apparent Low Bidder/Awarded Contractor must only include the portion of the dollar amount of which it is aware will count towards the SBE contract goal. The Apparent Low Bidder/Awarded Contractor becomes aware (or is made aware) the SBE trucking firm is subcontracting out duties, PN 015, PN 031, & PN 032 still apply. The SBE trucking firm must follow PN 061 for work on site above de minimus. All Proposal Notes are the Apparent Low Bidder/Awarded Contractor's ultimate responsibility on the project. The Apparent Low Bidder/Awarded Contractor is responsible for performing any Good Faith Efforts (GFEs) that may be necessary if it includes, in good faith, an SBE trucking firm on its SBE Utilization Plan and the Apparent Low Bidder/Awarded Contractor becomes aware (or is made aware) that the SBE trucking firm is not performing a CUF or that the trucking services provided by the SBE trucking firm are not countable to the extent previously believed.

An SBE trucking firm performs a CUF *only when*:

- It provided the Bidder/Apparent Low Bidder/Awarded Contractor with a quote. The SBE trucking firm must be given the opportunity to negotiate its rates.
- It is responsible for the management and supervision of its entire trucking operation, including any valid arrangement(s) (as described below) in which its services are countable towards the SBE contract goal. The extent of the SBE trucking firm's management and supervision are considered on a case-by-case basis. The existence of a contract between the Awarded Contractor and the SBE trucking firm or an SBE trucking firm and a 2nd tier subcontractor is not in and of itself an indicator that the SBE trucking firm is performing a CUF, especially if the contract exists for the mere purpose of creating the appearance of SBE participation.
- It must own and operate at least one fully licensed, properly insured, and operational truck used on the contract.

When an SBE trucking firm performs a CUF, the dollar amount of trucking services it provides counts towards the SBE contract goal *only in instances meeting at least one of the following criteria*:

- It provides trucking services using trucks it owns, properly insures, and operates using drivers it employs (*i.e.*, that are not 1099 "employees"/independent contractors).
- It provides trucking services with trucks that are leased on a long-term basis (*i.e.*, one year or more) from a non-SBE truck leasing company, properly insured, and operated by drivers it employs.

The dollar amount of trucking services provided using leased trucks will only be countable in cases where all the following circumstances apply:

- The SBE trucking firm's lease indicates that the SBE trucking firm has exclusive use of and control over the leased truck(s), including responsibility for maintenance and insurance. This does not preclude the leased truck(s) from working for others during the term of the lease with the SBE trucking firm's consent, as long as the lease gives the SBE trucking firm absolute priority for use of the leased truck(s).
- The leased trucks display the SBE trucking firm's name and federal identification number.

- The leased truck(s), when onsite, carry a copy of the lease agreement.
- PN 015 has been followed

SBE TRUCKING DISCLOSURE AFFIDAVITS

In order to ensure that Prime Contractors are monitoring SBE trucking/hauling operations on projects with federal funding, Prime Contractors must complete a monthly SBE Trucking Disclosure Affidavit (“Affidavit”). An Affidavit must be completed for all SBE trucking/hauling operations, regardless of whether the work is counting towards an SBE contract goal. The Affidavit will be completed by the Prime Contractor and emailed to the Local Public Agency (LPA) by the 10th of each month. This information will be used to affirm SBE and non-SBE trucking utilized by each SBE firm performing those duties during the previous month.

The LPA will monitor trucking with the following requirements for all Local-let projects:

1. The LPA will require Prime Contractors to provide it with a master list of trucks for all anticipated 1st and 2nd Tier SBE trucking firms at the time of the pre-construction meeting. Prime Contractors must use the LPA Project DBE/SBE Trucking Information form for this purpose, which is available at [7 Construction Contract Administration | Ohio Department of Transportation](#).

Note: If SBE trucking/hauling does occur, the Prime Contractor must notify the LPA within 24 hours of the SBE trucking activity. The Prime Contractor will then complete the Affidavits as required below on each Prompt Payment Spreadsheet.

2. The LPA will require Prime Contractors to complete the Affidavit disclosing the SBE trucking operations during the previous month when completing the Prompt Payment Spreadsheet in GoFormz. The Prime Contractor will complete the Trucking Affidavit section on the Prompt Payment Spreadsheet on each reimbursement submittal. The Prime Contractor will select one of the following options on the Trucking Affidavit section of the form:
 - The SBE firm performed trucking by utilizing its own equipment and workforce and/or work was subcontracted to another SBE (*i.e.* only trucking that can be counted for SBE participation was utilized).
 - The SBE firm utilized SBE & Non-SBE trucking.

Note: If selected, the Prime will provide a list of Non-SBE trucking that was utilized (*i.e.*, not all trucking will earn SBE credit).

- No trucking was performed.

Note: No other information is required. The Prime will sign and submit the Affidavit.

3. The LPA will perform a check of the Affidavit when reviewing the Prompt Payment Spreadsheet. The LPA will follow up on any red flags, for example, if the LPA compares information collected during the CUF process with the affidavit and sees any discrepancies.

Opening Prompt Payment (PP) Spreadsheet (Trucking Affidavit Section on PP Spreadsheet) through GoFormz:

1. Obtain a MyODOT account at <https://myodot.dot.state.oh.us/>
2. Send an email to GoFormz.Help@dot.ohio.gov with *Create GoFormz Account* in the subject line.
3. GoFormz account information will be emailed back.
4. Access GoFormz at <https://www.goformz.com/>

Additional guidance can be found in the [GoFormz LPA/Prime Contractor Contract Compliance End User Guide](#) (Word).

SANCTIONS AND ADMINISTRATIVE REMEDIES

Failure by the Prime Contractor to follow the Affidavit requirements may result in the imposition of sanctions as follows:

- 1st Level Occurrence: The LPA will issue a Letter of Reprimand to the contractor if:
 - there is a failure to submit the Affidavit and/or the Affidavit is not submitted timely; or
 - the Prime Contractor completes the No Anticipated SBE Trucking Affidavit, utilizes 1st or 2nd tier SBE trucking and does not notify the LPA within 24 hours of the activity.
- 2nd Level Occurrence: The LPA may withhold an estimate in the amount due to the SBE trucking firm(s) that the Affidavit was not submitted for if:
 - there is a failure to submit the Affidavit and/or the Affidavit is not submitted timely; or
 - the Prime Contractor completes the No Anticipated SBE Trucking Affidavit, utilizes SBE trucking and does not notify the LPA within 24 hours of the activity.
- 3rd Level Occurrence: If a pattern of not submitting the Affidavit persists or the Prime Contractor has falsified, misrepresented or withheld information, the LPA and/or ODOT can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- The Prime Contractor's past project practices;
- the magnitude and the type of offense;
- the degree of the Prime Contractor's culpability;
- any steps taken to rectify;
- the Prime Contractor's record of performance on other projects; and
- the number of times the Prime Contractor has been previously sanctioned by the LPA and/or ODOT in the previous three (3) years.

COUNTING MATERIALS AND SUPPLIES PURCHASES FROM SBE SUPPLIERS

The Bidder/Awarded Contractor may meet a Small Business Enterprise (SBE) contract goal using SBE suppliers. The dollar amount of materials purchased from an SBE supplier will not be fully countable towards the SBE contract goal unless the SBE supplier manufactures the materials. When the SBE supplier does not manufacture the materials, the percentage that is countable towards the SBE contract goal will be either 60 percent or 40 percent if the SBE supplier meets certain conditions, or else only the SBE supplier's reasonable fees or commissions will be countable. When including an SBE supplier on its SBE Utilization Plan and Affirmations, the Apparent Low Bidder/Awarded Contractor must specify both the transaction amount and the participation amount (*i.e.*, the portion of the transaction amount of which it is aware will count towards the SBE contract goal).

The Apparent Low Bidder/Awarded Contractor is responsible for performing any GFEs that may be necessary if it includes, in good faith, an SBE supplier on its SBE Utilization Plan and the

Apparent Low Bidder/Awarded Contractor becomes aware, or is made aware, that the materials purchased from the SBE supplier are not countable to the extent previously believed. The Bidder/Apparent Low Bidder/Awarded Contractor must seek information from SBE suppliers to allow it to be sufficiently informed about the nature of the transaction and which scenario listed below applies. The Apparent Low Bidder/Awarded Contractor must document this information on the SBE Affirmation Form at [Affirmation Form | Ohio Department of Transportation](#).

SBE SUPPLIER COUNTING SCENARIOS

- The purchase price of materials obtained from an SBE supplier may be **fully countable** only if the SBE supplier:
 - Manufactures the materials, as indicated by the information provided by the SBE supplier, subject to verification by the Department. A manufacturer SBE supplier is a firm that owns, or leases, and operates a factory or establishment that produces on site the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications. Manufacturing includes blending or modifying raw materials or assembling components to create the product to meet contract specifications. When an SBE makes minor modifications to the materials, supplies, articles, or equipment, the SBE is not a manufacturer. Minor modifications are additional changes to a manufactured product that are small in scope and add minimal value to the final product; and
 - Is identified by ODOT as having the demonstrated capacity to manufacture the materials.
- The purchase price (including transportation costs) of materials obtained from an SBE supplier may be **countable at 60%** only if the SBE supplier:
 - Does not manufacture the item(s);
 - Owns, or leases, and operates a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in sufficient quantities, and regularly sold or leased to the public in the usual course of business, as indicated by the information provided by the SBE supplier, subject to verification by the Department. (See below for an exception for materials that are considered bulk materials.);
 - Is an established business that engages, as its principal business and under its own name, in the purchase and sale or lease of the materials;
 - Is identified by ODOT as, over a reasonable period, keeping sufficient quantities and regularly selling the materials;
 - Provides all the materials from inventory **or** provides at least 51 percent of the materials from inventory, with the remainder being of the general character as those provided from inventory; and
 - Does not drop-ship the materials.

Note: If a material is not typically stocked due to its unique characteristics (e.g., limited shelf life) or because it must be ordered to specification, it is treated as a

bulk item. The inventory requirement does not apply, but the SBE supplier must deliver the materials using its owned-and-operated distribution equipment. See below.

- The purchase price (including transportation costs) of materials and supplies that are considered bulk materials (petroleum products, steel, concrete or concrete products, gravel, stone, asphalt, and others that ODOT may consider to be bulk materials, plus materials that are not typically stocked due to their unique characteristics (*e.g.*, limited shelf life) or because the material must be ordered to specification) and are obtained from an SBE supplier may be **countable at 60%** only if the SBE supplier:
 - Delivers the materials using distribution equipment that it both owns (or for which it has a long-term (one (1) year or more) lease) and operates with its regular (not ad hoc) employees, as indicated by the information provided by the SBE supplier (subject to verification by the LPA);
 - Is an established business that engages, as its principal business and under its own name, in the purchase and sale of the materials;
 - Is identified by the LPA as owning/leasing and operating distribution equipment that is suitable for the materials; and
 - Does not drop-ship the materials.
- The purchase price (including transportation costs) of materials and supplies that are obtained from a distributor SBE supplier that neither maintains sufficient inventory nor uses its own distribution equipment may be **countable at 40%** only if the distributor SBE supplier:
 - Is an established business that engages in the regular sale or lease of the materials;
 - Takes ownership of the materials from the point of origin to the destination;
 - Ships the materials using a third-party carrier unaffiliated with the originator (*i.e.*, the materials' manufacturer or wholesaler); and
 - Assumes responsibility (*i.e.*, all risk for loss or damage) for the materials once those materials leave the point of origin, making it liable for any and all loss or damage during transportation not covered by the carrier's insurance.
- The purchase price of materials and supplies obtained from an SBE supplier but not in accordance with any of the above scenarios is **not countable**, but the fees or commissions charged by the SBE supplier are countable if ODOT deems such fees to be reasonable and if the SBE supplier convincingly explains how the Bidder/Apparent Low Bidder/Awarded Contractor benefits by transacting business with it rather than directly with the non-SBE vendor from which the SBE supplier is re-selling.

All credit toward SBE contract goals is conditional. Actual credit will be determined based upon invoices, receipts, and/or transportation documents/bills of lading, which must be submitted to the LPA as they are received throughout the course of the project.

PN 014 – 11/7/2025 SMALL BUSINESS ENTERPRISE UTILIZATION PLAN AND GOOD FAITH EFFORTS – LPA PROJECTS

Definition of days

Unless otherwise noted, *days* means calendar days, but in computing any period of time described in this proposal note, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or federal or state holiday, the period extends to the next day that is not a Saturday, Sunday, or federal or state holiday.

See <https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays> for a list of federal holidays. State holidays are those designated in O.R.C. 124.19(A), <https://codes.ohio.gov/ohio-revised-code/section-124.19>, with modifications as designated in the first two sentences of O.R.C. 124.18(B)(4), <https://codes.ohio.gov/ohio-revised-code/section-124.18>. State holidays are generally the same as federal holidays.

SBE Utilization Plan, SBE Affirmation Forms, and SBE Good Faith Efforts documentation

Within 2 hours following the bid opening, each bidder submits a basic SBE Utilization Plan, which is the list of SBEs, and dollar amounts put forth by the bidder to meet the SBE contract goal. Each bidder must be prepared so that if they are identified as the Apparent Low Bidder (ALB), they will be ready to submit SBE Affirmation Forms and/or GFE documentation with much more detail than the SBE Utilization Plan shows. GFE documentation consists of all efforts undertaken by the bidder to meet the SBE contract goal. ODOT strongly suggests each bidder document all pre-award GFEs on the template located at <https://www.transportation.ohio.gov/working/external-workforce/forms/gfe-contractors>, since the successful bidder must submit GFEs if the SBE contract goal is not met.

SBE Utilization Plan

All Bidders shall submit an SBE Utilization Plan within 2 hours following the bid opening, setting forth specific information demonstrating how the bidder will achieve the SBE contract goal. By submitting an SBE Utilization Plan, the Bidder is affirming they will be using the SBE firms identified in the Utilization Plan to meet the SBE contract goal.

The SBE Utilization Plan **must be submitted by the bidder within 2 hours following the bid opening to:** https://odot.formstack.com/forms/sbeplan_local. Unless the bidder is a certified SBE firm, **any bids received without electronic submission of the SBE Utilization Plan after 2 hours following bid opening will be deemed unresponsive.**

The SBE Utilization Plan shall include the following information:

- 1) The names of the certified SBE firm(s) that will be used to meet the SBE contract goal;
- 2) The activity (subcontractor, regular dealer, distributor, manufacturer, consultant, trucking, etc.) that each SBE will perform; and
- 3) The dollar amount of the participation of each SBE firm used to meet the SBE contract goal. (*Note: The participation amount will be less than the dollar amount that must be paid to the SBE if the SBE is acting as a regular dealer, distributor, or broker (see Proposal Note 008) and/or the SBE elects not to perform all activities with its own forces. Ultimately, to be compliant with PN 014, the Awarded Contractor must pay the SBE not less than the transaction amount for the performance of the specific activities described on the SBE Affirmation Form. (See SBE Affirmation section for more details on SBE Affirmation Forms.)*)

Bidders cannot modify their SBE Utilization Plans between submission and contract award except at ODOT's discretion.

For supplier SBEs, the bidder must have received the supplier SBE's Material Supply Form to understand the expected SBE participation credit they will receive based on whether the SBE is acting as a manufacturer, regular dealer, distributor, or broker for each type of material to be supplied (see Proposal Note 008).

Projects Awarded on Alternates

In the event the project will be awarded on alternates that increase or decrease the total dollar amount of the bid, a revision to the SBE Utilization Plan and SBE Affirmation Form(s) shall be submitted to and approved by the Office of Contractor Compliance within five (5) days after the notification of the alternates.

SBE Affirmations Prior to Award

The Apparent Low Bidder shall ensure **all** SBE firms listed on the SBE Utilization Plan affirm their participation in the bid within five (5) days after the bid opening to ODOT. However, **ODOT strongly recommends that the ALB submit SBE Affirmation Forms as soon as possible** rather than waiting until the 5th day after the bid opening. For each SBE, the dollar amount shown on the SBE Affirmation Form must be equal to (or greater than) the dollar amount shown on the Apparent Low Bidder's SBE Utilization Plan. SBE Affirmation Forms cannot be modified beyond the 5th day after the bid opening except to correct errors, omissions, etc., that are deemed by ODOT to be immaterial and that do not reduce the participation amount, or in response to an award on alternates (see above).

For each SBE listed on the SBE Utilization Plan, the Apparent Low Bidder and SBE must complete the SBE Affirmation Form located at [Affirmation Form | Ohio Department of Transportation](#). The SBE Affirmation Form will be utilized as written confirmation from each listed SBE firm that is participating in the contract for the dollar amount of activities listed in the Bidder's SBE Utilization Plan. The description of each SBE's activity must be sufficiently detailed to allow ODOT to understand the firm's scope of work. Each SBE listed to perform as a regular dealer or distributor must have completed the Material Supply Form relevant to demonstrating the SBE's capacity and intent and must affirm that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The SBE's responses must be included on the SBE Affirmation Form. The Apparent Low Bidder shall submit a separate SBE Affirmation Form for each SBE it is utilizing for the SBE contract goal, as well as its GFEs package (see Good Faith Efforts) if it was not able to attain the SBE contract goal via SBE participation.

All other Bidders shall submit SBE Affirmation Forms if notified that the information is required in order for ODOT to complete its bid assessment. Bidders shall have five (5) days from the date of notification to submit all required SBE Affirmation Forms to ODOT. Notification will be sent via email.

Determination of SBE Contract Goal Participation

ODOT will adjust SBE Affirmation Form amounts downward if needed because:

- An SBE supplier does not affirm that its participation will meet the specific requirements of either a regular dealer or distributor; or
- An SBE will not be self-performing all the activities listed on the form; or
- Other information that indicates the amount on the form was miscalculated or incorrect.

The adjusted SBE Affirmation Form amounts will be used to determine if the SBE

contract goal was met. This means that the ALB may not have met the SBE contract goal even if the SBE Utilization Plan shows the contract goal was met. If the SBE contract goal is not met and the ALB does not submit Good Faith Efforts documentation by the 5th day after the bid opening, the bid will be considered non-responsive. ODOT strongly recommends the ALB submit SBE Affirmation Forms as soon as possible rather than waiting until the 5th day after the bid opening.

Non-Responsiveness

See the Sanctions and Administrative Remedies section.

If an SBE Cannot Be Reached

In the event an SBE firm fails to confirm the information contained in the SBE Affirmation Form within five (5) days of bid opening, the Apparent Low Bidder shall submit a Request for Consent to Terminate/Reduce an SBE Commitment, as set forth herein. The Request for Consent to Terminate/Reduce an SBE Commitment form shall be submitted within five (5) days after bid opening in order for the Apparent Low Bidder to still be considered for contract award. The Apparent Low Bidder shall include as its reason for termination the SBE firm's failure to provide a timely affirmation and should include all efforts the Apparent Low Bidder made to obtain the affirmation from the SBE firm and shall attach proof of these efforts. If the Apparent Low Bidder intends to replace the SBE Firm, it shall include the replacement firm's information on the form. In the event the Apparent Low Bidder is unable to affirm an SBE firm included in its original SBE Utilization Plan at bid submission and it results in a contract goal shortfall, GFEs must be submitted by the fifth day after bid opening. All GFE documentation submitted for consideration should demonstrate the efforts the Bidder made prior to the time of bid submission to secure sufficient SBE participation on the project to meet the SBE contract goal although the Bidder was unable to do so. An SBE firm's failure to timely confirm information contained in the SBE Affirmation Form will be considered as good cause to terminate the SBE firm and will also be considered a part of the Apparent Low Bidder's Good Faith Efforts in meeting the contract goal.

SBE Bidders

If the Bidder is a certified SBE firm, the Bidder is not required to complete an SBE Utilization Plan as set forth above and would not need to submit an SBE Affirmation Form for the work it is planning to self-perform in order to meet the contract goal.

Joint Ventures

If the Bidder is a Joint Venture, the Joint Venture will only be considered a Certified SBE firm if the Joint Venture itself has been certified. The Joint Venture may, however, utilize a Certified SBE firm that is also a partner in the Joint Venture as part of its SBE Utilization Plan. The Certified SBE Firm/Joint Venture Partner, however, does not need to submit an SBE Affirmation Form for any work that the Certified SBE Firm/Joint Venture Partner is going to perform to meet the contract goal. ODOT will consider submission of the Joint Venture's bid as the Certified SBE Firm/Joint Venture Partner's confirmation that it is participating in the contract.

Good Faith Efforts (GFEs)

If the SBE contract goal established by ODOT is not met, the Apparent Low Bidder shall demonstrate that it made adequate GFEs to meet the contract goal, even though it did not succeed in obtaining enough SBE participation to do so.

If the Apparent Low Bidder does not meet the contract goal at bid time, the Apparent Low Bidder shall submit its GFE documentation no later than five (5) days after the bid opening. Submission of SBE affirmation(s) with additional participation sufficient to meet the SBE contract goal does not cure the Apparent Low Bidder's failure to meet the contract goal at bid time or eliminate the Apparent Low Bidder's responsibility of submitting GFEs within five (5) days of the bid opening.

The Apparent Low Bidder has the burden of proof to clearly demonstrate its GFEs by submitting detailed information within five (5) days after the bid opening, such as:

- 1) All written quotes received from certified SBE firms;
- 2) All written (including email) communications between the Apparent Low Bidder and SBE firms;
- 3) All written solicitations to SBE firms, even if unsuccessful;
- 4) Copies of each non-SBE quote when a non-SBE was selected over an SBE for work on the contract;
- 5) Phone logs of communications with SBE firms.

The Apparent Low Bidder shall utilize the GFE Contractor Template located at <https://www.transportation.ohio.gov/working/external-workforce/forms/gfe-contractors> to document their GFEs. This template and supporting documentation shall be sent along with any SBE Affirmation Forms within 5 days of bid opening. ODOT has provided Good Faith Efforts Guidance located at <https://www.transportation.ohio.gov/working/external-workforce/forms/gfe-contractors>. All other Bidders that failed to meet the SBE contract goal at bid time shall submit documentation of GFEs if notified that the information is required in order for ODOT to complete its bid assessment. Bidders shall have five (5) days from the date of notification to submit all required GFE documentation. Notification will be sent by email.

ODOT shall utilize the guidance set forth in 49 CFR 26.53 Appendix A in determining whether the Bidder has made adequate GFEs to meet the contract goal.

Administrative Reconsideration

ODOT will review the GFE documentation and issue a written determination on whether adequate GFEs have been demonstrated prior to contract award. If ODOT determines the Apparent Low Bidder has failed to demonstrate adequate GFEs to meet the contract goal, the Apparent Low Bidder will have an opportunity for administrative reconsideration prior to the contract being awarded.

As part of this reconsideration, the Apparent Low Bidder may provide written documentation or argument concerning the issue of whether it met the contract goal or made adequate GFEs to do so. However, this written documentation or argument must not include or propose any new SBE participation not already included in the Apparent Low Bidder's initial GFE documentation. Such written documentation or argument must be received by ODOT, attention: Division of Chief Legal Counsel, 1980 West Broad Street, MS 1500, Columbus, Ohio 43223, within two (2) business days of ODOT's written determination that GFEs were not adequately demonstrated. The Apparent Low Bidder may also include in its written documentation a request for an in-person meeting to discuss the issue of whether it met the contract goal or made adequate GFEs to do so. ODOT's Division of Chief Legal Counsel will respond to the Apparent Low Bidder within five (5) business days of receiving written documentation or holding the in-person meeting.

ODOT will send the Apparent Low Bidder a written decision on reconsideration explaining the basis for finding that the Apparent Low Bidder did or did not meet the contract goal or make adequate GFEs to do so. The result of the reconsideration process is not administratively appealable to the United States Department of Transportation.

Termination of an SBE or Any Portion of Its Work

In this section, *SBE activities* are those activities, as listed on an SBE Affirmation Form, the

performance of which the Awarded Contractor committed to the specific SBE listed on the SBE Affirmation Form for the specific compensation shown. *SBE activities* can be used interchangeably with *SBE commitment*.

The Awarded Contractor must ensure that it pays the SBE not less than the dollar amount for the performance of the specific activities described on the SBE Affirmation Form. If a change in circumstances makes this unlikely, the Awarded Contractor must take action as described herein.

If the Awarded Contractor will not be paying an SBE the entire dollar amount shown on the SBE Affirmation Form, and this is not connected to a change in circumstances driven by the Local Public Agency (LPA), then the Awarded Contractor must submit a Request for Consent to Terminate/Reduce.

Reductions Caused by the LPA

Any reduction or underrun in SBE activities caused by the LPA is considered a termination for which ODOT's prior written consent is not required. For such reductions or underruns, the Awarded Contractor must notify the SBE via email (with a copy to dot.contractslettingmgr@dot.ohio.gov) to inform the SBE of the change and so that ODOT can update the SBE Commitment amount. The Awarded Contractor does not submit a formal Request for Consent to Terminate/Reduce.

Request for Consent to Terminate/Reduce an SBE Commitment

For any reduction or underrun in SBE activities not caused by the LPA, and in all other cases, the Awarded Contractor must continue to utilize the specific SBEs to perform the activities as described on SBE Affirmation Forms unless the Awarded Contractor obtains ODOT's written consent. Consent requests must be submitted utilizing the Request for Consent to Terminate/Reduce SBE Form located at: <https://www.transportation.ohio.gov/working/external-workforce/forms/pn-014-termination>.

Absent ODOT's prior written consent, the Awarded Contractor is not entitled to any payment for work or material unless it is performed or supplied by the specific SBE indicated on approved SBE Affirmation Forms.

Requests for Consent to Terminate/Reduce an SBE Commitment must be submitted within two (2) weeks of the Awarded Contractor becoming aware of the change in circumstances that is preventing the SBE from fully performing the activities listed on the SBE Affirmation Form. Requests submitted significantly outside the two-week timeframe may subject the Awarded Contractor to the sanctions listed at the end of this proposal note.

Good Cause to Terminate an SBE or Any Portion of Its Work

ODOT can only provide written consent to terminate an SBE or any portion of its work if it agrees, for reasons stated in its concurrence document, that the Apparent Low Bidder/Awarded Contractor has good cause to terminate the SBE firm or any portion of its agreed-upon activities as listed on SBE Affirmation Forms.

Good cause does not exist if the Awarded Contractor seeks to terminate an SBE or any portion of its work that it relied upon to obtain the contract so that the Awarded Contractor can self-perform the activity for which the SBE contractor was engaged, or so that the Awarded Contractor can substitute another SBE or non-SBE participant after contract award.

Good cause to terminate an SBE includes the following circumstances:

- 1) The SBE firm fails or refuses to execute (*i.e.*, sign) a written contract;

- 2) The SBE firm fails or refuses to perform the activities listed on its SBE Affirmation Form in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the SBE firm to perform the activities results from the bad faith or discriminatory action of the Awarded Contractor. The Awarded Contractor must provide justification to support its assertion that industry standards are not being met;
- 3) The SBE firm fails or refuses to meet the Awarded Contractor's reasonable, nondiscriminatory bond requirements.
- 4) The SBE firm becomes bankrupt, insolvent, or exhibits credit unworthiness;
- 5) The SBE firm is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215, and 1200 or applicable state law;
- 6) ODOT has determined that the SBE firm is not a responsible contractor;
- 7) The SBE firm voluntarily withdraws from the project and provides written notice of its withdrawal;
- 8) The SBE firm is ineligible to receive SBE credit for the type of activity required;
- 9) An SBE owner dies or becomes disabled, with the result that the SBE firm is unable to complete its activity on the contract; and
- 10) Other documented good cause that ODOT determines compels the termination of the SBE firm.

Replacement

When an SBE firm or any portion of its work is terminated by the Awarded Contractor, the Awarded Contractor must use GFEs to include additional SBE participation to the extent needed to meet the SBE contract goal. The GFEs shall be documented by the Awarded Contractor. If ODOT requests documentation under this provision, the Awarded Contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the contractor, and ODOT shall provide a written determination to the contractor stating whether GFEs have been demonstrated.

Between the bid opening and award, any added SBE participation credit that was not listed on the Bidder's original SBE Utilization Plan will not count toward the SBE contract goal.

Post-Award SBE Additions

In the event additional SBE participation is required for the project, the Awarded Contractor must submit the SBE Affirmation Form located at [Affirmation Form | Ohio Department of Transportation](#). The SBE Affirmation Form will be utilized as written confirmation from the added SBE firm that it is participating in the contract in the type and amount of work on the project. SBE participation credit toward the SBE contract goal will only be approved for work performed after review and approval of the SBE Affirmation Form.

Exceeding the Amount Shown on an SBE Affirmation Form

ODOT will count, towards the SBE contract goal, amounts paid to an SBE that are above the amount shown on the SBE Affirmation Form as long as there is no change to the scope of the SBE's activities. However, ODOT will not count, towards the SBE contract goal, any amount paid to a SBE that is not part of the originally approved scope. If the Awarded Contractor wants

or needs such additional participation to count towards the SBE contract goal, the Awarded Contractor must submit an amended SBE Affirmation Form listing the additional activities to be performed by the SBE and the revised participation amount. ODOT will review the amended SBE Affirmation Form and make a determination on whether the proposed additional activity will count towards the SBE contract goal. SBE participation credit toward the SBE contract goal will only be approved for work performed after review and approval of the SBE Affirmation Form.

WRITTEN NOTICE TO SBE RELATED TO REQUESTS FOR CONSENT TO TERMINATE/REDUCE

The Apparent Low Bidder/Awarded Contractor must submit Requests for Consent to Terminate/Reduce an SBE using the specific form available at <https://www.transportation.ohio.gov/working/external-workforce/forms/pn-014-termination>. Part 1 of this form constitutes the Apparent Low Bidder/Awarded Contractor's notice in writing to the SBE firm of the Apparent Low Bidder/Awarded Contractor's intent to request to terminate and the reason for the proposed request. Upon completion of Part 1, the SBE has five (5) days to respond by completing Part 2, advising ODOT and the Apparent Low Bidder/Awarded Contractor of the reasons, if any, why it objects to the proposed termination and why ODOT should not approve the Apparent Low Bidder/Awarded Contractor's request. If required in a particular case as a matter of public necessity (e.g., safety), ODOT may provide a response period shorter than five (5) days. (Urgent requests may be made over the phone by contacting Goal Attainment staff, with the caveat that the associated written request be submitted by 5:00 pm that day.) Part 3 of the form constitutes the Apparent Low Bidder/Awarded Contractor's official request, while Part 4 is ODOT's consent decision and explanation for it.

Goal Attainment Post Award

The Awarded Contractor shall ensure that all subcontracts or agreements with any SBEs meet or exceed conformity with all applicable state and federal laws and regulations. Furthermore, the Awarded Contractor shall require that any subcontractor agreement with all lower-tier subcontractors be performed per this Proposal Note.

The Awarded Contractor shall submit via email to the ODOT District Contract Compliance Officer all 1st and 2nd tier SBE subcontract agreements and PN 032 C92's before allowing the SBE to start performing work or supplying materials. Said subcontract agreement(s) will be reviewed and approved by the District Contract Compliance Officer via email only if it meets or exceeds the conformity with all applicable state and federal laws and regulations. Failure to obtain said approval might result in some or all SBE participation credit for said SBE withheld according to ORC §5525.061 and/or 23 CFR part 633.102.

The Awarded Contractor shall ensure that said 1st and 2nd tier subcontract agreement(s) shall contain at least the following information:

- 1) Award Contractor name;
- 2) Subcontractor name and/or Lower Tier Contractor Name;
- 3) Identification of said project;
- 4) The amount to be contracted is equal to or greater than the amount provided on its Utilization Plan;
- 5) Meets or exceeds the prompt payment requirements of the Federal Bid Document's Proposal Note 031;
- 6) Signatures of both parties; and
- 7) FHWA 1273 form.

Approval of an SBE Utilization Plan does not ensure approval of C-92 Requests to Sublet, nor

does approval of an SBE Utilization Plan indicate the SBE contract goal has been met. ODOT & LPA will monitor contract goal attainment throughout the life of the project. It is the responsibility of the Awarded Contractor to advise ODOT of any changes to the SBE Utilization plan throughout the life of the project. The SBE contract goal of a project is stated as a percentage of the contract amount. When the contract amount increases or decreases, the actual dollar amount of the SBE contract goal for the project will increase or decrease accordingly.

Impact of SBE Decertification

When the Awarded Contractor makes a commitment to use an SBE that is decertified PRIOR TO the full execution (*i.e.*, signing) of that SBE's subcontract, the decertified firm DOES NOT COUNT toward the SBE contract goal. The Awarded Contractor's SBE commitment is null and void since the SBE is no longer certified. The Awarded Contractor must make good faith efforts to find additional SBE participation to replace the decertified firm.

When the Awarded Contractor makes a commitment to use an SBE that is decertified AFTER the full execution of that SBE's subcontract, the decertified firm COUNTS toward the SBE contract goal UNLESS the SBE was decertified because it was acquired by or merged with a non-SBE, in which case only the amount paid for work performed by the SBE prior to its decertification counts.

For purposes of this section, a subcontract is deemed to have been signed not before the full execution date of the prime contract.

Sanctions and Administrative Remedies Pre-Award

Failure by the Apparent Low Bidder to do any of the following may result in the bid being rejected as non-responsive in accordance with O.R.C. 5525.08:

- 1) Failure to submit a complete SBE Utilization Plan at the time of bid;
- 2) Failure to submit SBE Affirmation Form(s) and/or failure to submit Requests for Consent to Terminate/Reduce a SBE Commitment as required by this Proposal Note; or
- 3) Failure to meet the contract goal and/or failure to demonstrate GFEs to meet the contract goal as required by this Proposal Note;
- 4) Failure to follow the terms of this Proposal Note.
- 5) The as-submitted SBE Utilization Plan shows the SBE contract goal was met, and the Apparent Low Bidder does not submit all completed and signed SBE affirmations—that are for amounts greater than or equal to the amounts on the SBE Utilization Plan — within five (5) days of the bid opening;
- 6) The as-submitted SBE Utilization Plan shows the SBE contract goal was met, and the Apparent Low Bidder submits all completed and signed SBE affirmations within five (5) days of the bid opening, but adjustments are needed, and after ODOT makes the adjustments, the SBE contract goal is no longer met and the Apparent Low Bidder does not submit its GFEs documentation within five (5) days of the bid opening; or
- 7) The as-submitted SBE Utilization Plan shows the SBE contract goal was NOT met, and the Apparent Low Bidder does not submit all completed and signed SBE affirmations AND its GFE documentation within five (5) days of the bid opening; or
- 8) An SBE Utilization Plan was not submitted, and the Apparent Low Bidder does not submit its GFE documentation within five (5) days of the bid opening; or

- 9) The SBE Affirmation Forms submitted are not complete and/or accurate and have not been made complete and accurate within five (5) days of the bid opening.

Post-Award

Failure by the Awarded Contractor to carry out the requirements of this Proposal Note, including, but not limited to, the failure of the Awarded Contractor to pay an SBE the dollar amount for the performance of the specific activities described on the SBE Affirmation Form, the failure of the Awarded Contractor to submit SBE change orders and/or Requests for Consent to Terminate/Reduce SBE Commitment forms, and the submission of inadequate post-award good faith efforts to include additional SBE participation to the extent needed to meet the SBE contract goal, is a material breach of the contract and may result in the issuance of sanctions as follows:

- 1st Tier: Letter of reprimand
- 2nd Tier: Damages equivalent to the SBE shortfall
- 3rd Tier: If a pattern of paying damages persists or the Contractor has falsified, misrepresented or withheld information, ODOT can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- the magnitude and type of offense
- the Contractor's unwillingness to provide information and documentation
- the degree of the Contractor's culpability
- any steps taken to rectify
- the Contractor's record of performance on other projects including, but not limited to:
 - annual SBE participation
 - annual SBE participation on projects without contract goals
 - the number of complaints ODOT has received regarding the Contractor
 - the number of times the Contractor has been previously sanctioned by ODOT in the previous three (3) years

Note: Absent ODOT's consent, the Awarded Contractor is not entitled to any payment for work or material unless it is performed or supplied by the specific SBE indicated on approved SBE Affirmation Forms, regardless of the presence or absence of any of the above sanctions.

PN 031 - 7/21/2023 – PROMPT PAYMENT - LOCAL-LET CONSTRUCTION PROJECTS

Prompt payment requirements apply to ODOT and, by extension, its Prime Contractors and subcontractors (including traditional subcontractors as well as material suppliers and trucking firms, collectively referred to herein as subcontractors). The state of Ohio's laws related to prompt payment are published in O.R.C. 4113.61. O.R.C. 4113.61 applies to all contracts. The Prime Contractor must comply with this Proposal Note, O.R.C. 4113.61, C&MS 107.21 and, for contracts with USDOT financial assistance (*i.e.*, federally funded contracts), 49 CFR 26.29.

The Department will monitor payments made by prime contractors and subcontractors for compliance with this Proposal Note, C&MS 107.21 and, where applicable, 49 CFR 26.29. To facilitate this monitoring, the Department requires both prime **and** subcontractors to report their payments to all subcontractors/second-tier subcontractors with the submission of each invoice. The payment data reported must include any retainage withheld (*when allowable under the Department's [Retainage Policy dated 4/14/21](#)*) and any previously withheld retainage released. All such reporting must take place through a web-based submission on GoFormz. Please note: submission through GoFormz is required for all Local-let projects. Invoices will not be approved and processed for payment unless this reporting form has been submitted and received by the Department.

The prime/subcontractor must report the following information:

- The name of the payee
- The dollar amount of the payment to the payee
- The date the payee was paid
- The amount of retainage withheld (if any)

Ohio's 10-day prompt payment requirement is based on the payer's payment issuance date and NOT the payee's payment receipt date.

The prime/subcontractor must sign each reported payment and submit to ODOT via the GoFormz website.

The second-tier subcontractor is responsible for completing the affirmation of payment form in GoFormz.

The prime contractor is responsible for ensuring that all subcontractors and second-tier subcontractors are correctly completing all prompt payment forms via the GoFormz website. If the prime or subcontractor(s) fail to submit the aforementioned documentation with each invoice, they will be determined to be non-compliant, and invoices will not be processed for payment.

Payees must verify each payment reported by the payer within thirty (30) days of the payment being signed by the payer. This verification must include:

- Whether the payment was received, and if so, whether it was or was not as expected
- The dollar amount of the payment received
- The date the payment was received

The prime contractor shall fully complete the last prompt payment form upon receipt of final payment.

SANCTIONS AND ADMINISTRATIVE REMEDIES

Failure by the prime contractor and/or subcontractor(s) to follow Prompt Payment requirements may result in the issuance of sanctions as follows:

1st Tier: Notice of Violation via a Letter of Reprimand

2nd Tier: If corrective actions are not taken within the specified three (3) business days, a pay estimate in the amount due to the subcontractor(s) that was not reported or paid may be withheld.

3rd Tier: If a pattern of paying damages persists or the contractor or subcontractor(s) has falsified, misrepresented, or withheld information, ODOT can pursue other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- the Prime Contractor's past project practices;
- the magnitude and the type of offense;
- the degree of the Prime Contractor's culpability;
- any steps taken to rectify;
- the Prime Contractor's record of performance on other projects; and
- the number of times the Prime Contractor has been previously sanctioned by ODOT.

ODOT as Obligee on Bond

The Prime Contractor shall furnish a performance and payment bond in an amount at least equal to 100 percent of the estimate as security for the faithful performance of its contract. In addition to the project owner, ODOT shall be named as an obligee.

PN 015 - 04/17/2020 - CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS

The required contract provisions for federal-aid construction contracts are hereby incorporated by reference as if rewritten herein. The current version of Form FHWA-1273 (available at <https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>) shall be physically incorporated in all contracts, subcontracts, and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreement for supplies or services related to a construction contract). The Prime Contractor shall be responsible for ensuring that the FHWA-1273 is physically incorporated into all lower-tier subcontracts.

SANCTIONS AND ADMINISTRATIVE REMEDIES

Failure by the Prime Contractor to include the provisions of FHWA-1273 in their contract or in their lower-tier subcontracts may result in the issuance of sanctions as follows:

- | | |
|-----------|--|
| 1st Tier: | Letter of Reprimand |
| 2nd Tier: | Damages equivalent to the daily liquidated damages amount found in C&MS section 108.07 for each incident of non-compliance |
| 3rd Tier: | If a pattern of paying damages persists or the Prime Contractor has falsified, misrepresented, or withheld information, the LPA can pursue other remedies available by law including suspension, revocation, and/or debarment. |

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- the magnitude and the type of offense
- the degree of the Prime Contractor's culpability
- any steps taken to rectify
- the Prime Contractor's record of performance on other projects; and
- the number of times the Prime Contractor has been previously sanctioned by the LPA.

PN 032 – 01/31/2021 – C92's REQUIRED ON LOCAL-LET CONSTRUCTION PROJECTS

State and federal law requires that all Prime Contractors and subcontractors participating on state or federally funded projects be evidenced in writing and in conformity with all applicable state and federal laws and regulations.

Effective immediately, all projects advertising after February 1, 2021 will require that a Request to Sublet (C92) form is completed for each subcontractor working on the project prior to the start of work.

A template for this form may be found at, and submitted via, the GoFormz website located at www.goformz.com.

**REQUIRED CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION
CONTRACTS (Electronic Form FHWA 1273 – October 23, 2023)**

**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 Appendices A and E are incorporated by reference. 49 CFR Part 21.

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

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

1. Minimum wages (29 CFR 5.5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. *Fringe benefits not expressed as an hourly rate.*

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

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

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

2. Withholding (29 CFR 5.5)

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

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

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

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

3. Records and certified payrolls (29 CFR 5.5)

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

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

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

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

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/AHD/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 journeymen shall not be greater than permitted by the terms of the particular program.

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

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

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

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

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

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

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

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

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

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

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

3. Withholding for unpaid wages and liquidated damages

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

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

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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

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

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

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.

CERTIFICATION OF COMPLIANCE WITH SECTION 3517.13 OF THE OHIO REVISED CODE

THE CITY OF CLAYTON (the "Subdivision") has entered into a contract for the provision of goods and/or services with _____ (the "Provider"), an individual, partnership, unincorporated business, an association, a professional association, estate, trust, corporation, or business trust, the situs of the principal office and place of operations of which is located at _____. The undersigned authorized agent of the Provider certifies on behalf of the Provider that all of the following persons, if applicable, are in compliance with Divisions (I) and (J) of Section 3517.13 of the Ohio Revised Code with respect to all public officials who have or had authority to award that contract and all public officials who may authorize or receive goods and/or services under that contract:

- A. Myself;
- B. Each partner or owner of the partnership or association;
- C. Each shareholder of the association;
- D. Each executor of administrator of the estate;
- E. Each trustee of the trust;
- F. Each owner of more than twenty percent (20%) of the corporation or business trust;
- G. Each spouse of any of the above listed persons;
- H. Each child, between seven (7) and seventeen (17) years of age, of any of the above listed persons;
- I. Any political action committee associated with the partnership, the unincorporated business, the estate, the trust, the corporation, or the business trust; and,
- J. Any combination of the persons and entities identified in (A) through (I) above.

The undersigned certifies such compliance on and since _____ (and on the date the Subdivision and the Provider entered into the Contract referenced above if it has not been entered into fully by them). This certification shall be a part of the above-referenced Contract between the Subdivision and the Provider.

By: _____ Date Signed: _____
AUTHORIZED REPRESENTATIVE

WARNING

By signing this Certification of Compliance with Ohio Revised Code Section 3517.13, you are making a representation as to the truth of the statements contained herein. Making a false certification is a felony crime punishable by up to eighteen months in prison, and/or up to \$2,500.00 for an individual or \$7,500.00 for an organization. R.C. § 3517.992(R)(3).

THIS DOCUMENT SHOULD BE RETAINED FOR RECORD PURPOSES.

HOLD HARMLESS AGREEMENT CLAUSE

To the maximum extent permitted by law, the contractor _____ agrees to indemnify and hold harmless and defend The City of Clayton, its officials, agents, servants, and employees from payment of any sum or sums of money to any persons whomsoever, on account of all claims, actions, or suits growing out of injuries to persons, including death, or property damage caused by the contractor, his employees, agents or subcontractors for any negligent act, error or omission in the performance and prosecution of the work herein contracted for including (but without limiting the generality of the foregoing) all claims for service, labor performed, materials furnished, provisions and supplies, injuries to persons, including death, or damaged property, claims, suits, costs, attorney's fees, cost of investigation and of defense.

It is further the intent of this agreement to hold the contractor responsible for the payment of any and all claims, suits, or liens due to any negligent act, error or omission in any way attributable to or asserted against The City of Clayton and/or its officials, agents, servants or employees as a result of the performance of this contract or asserted against both the City of Clayton and the contractors.

In addition to holding the City of Clayton harmless, the contractor will provide defense for the City of Clayton, its officials, agents, servants and/or employees and will pay the costs of that defense.

COMPANY: _____

SIGNED: _____

PRINT: _____

TITLE: _____

ADDRESS: _____

DATE: _____

For the construction of
MOT SR 48 20.61 Sidewalk
in Montgomery County Ohio

The signer of this Proposal as Bidder declares that he/she has examined the Contract documents including, but not limited to, Instructions to Bidders and General Conditions, General Construction Provisions, Additional Provisions, Detailed Construction Specifications, Form of Proposal, Other Bid Documents, Sample Contract Documents, Plans, Drawings and all other codes, specifications and orders contained or cited herein.

The Bidder further declares that he/she has examined the site of work, and that he proposes to do all the work and furnish all the materials called for by said Plans and Specifications, in the manner and on the conditions required for the following prices:

Base Bid QUANTITIES WORKSHEET						
Item	Item No.	Description	Quant.	Unit	Unit Price	Amount
1	201E11000	Clearing & Grubbing	1	LS		
2	202E23000	Pavement Removed	2,514	SY		
3	202E30000	Walk Removed	2,019	SF		
4	202E32000	Curb Removed	2,051	FT		
5	202E35100	Pipe Removed, 24" and Under	69	FT		
6	202E35200	Pipe Removed, Over 24"	15	FT		
7	202E38000	Guardrail Removed	418	FT		
8	202E58100	Catch Basin Removed	4	EA		
9	202E98200	Removal Misc.: Conduit	25	FT		
10	203E10000	Excavation	1,786	CY		
11	203E20000	Embankment	800	CY		
12	204E10000	Subgrade Compaction	3,953	SY		
13	204E13000	Excavation of Subgrade	400	CY		
14	204E30010	Granular Material, Type B	400	CY		
15	607E98000	Fence Misc.: 42" Wood Fence	458	FT		
16	608E10000	4" Concrete Walk	23,564	SF		
17	608E52000	Curb Ramp	2,503	SF		
18	900E11000	Special: Mailbox Removed and Reset	7	EA		
19	659E00300	Topsoil	485	CY		
20	659E00500	Seeding and Mulching, Class 1	4,300	SY		
21	659E14000	Repair Seeding and Mulching	270	SY		
22	659E20000	Commercial Fertilizer	.600	TON		
23	659E31000	Lime	.100	ACRE		
24	659E35000	Water	24	MGAL		
25	832E15000	Storm Water Pollution Prevention Plan	1	LS		
26	832E15002	Storm Water Pollution Prevention Inspections	1	LS		
27	832E15010	Storm Water Pollution Prevention Inspection Software	1	LS		
28	832E30000	Erosion Control	35,000	EACH		
29	302E20000	Concrete Masonry	.300	CY		
30	605E06000	4" Base Pipe Underdrains	2,551	FT		
31	611E00410	4" Conduit, Type F for Underdrain Outlet	110	FT		

Item	Item No.	Description	Quant.	Unit	Unit Price	Amount
32	611E04400	12" Conduit, Type B	2,257	FT		
33	611E13400	30" Conduit, Type B	15	FT		
34	611E97400	Conduit, Misc.: Type B for Drainage Discharge	20	FT		
35	611E97400	Conduit, Misc.: Type C for Drainage Discharge	20	FT		
36	611E97400	Conduit, Misc.: Type E for Drainage Discharge	20	FT		
37	611E97400	Conduit, Misc.: Type F for Drainage Discharge	20	FT		
38	611E98471	Catch Basin, No. 2-2B, as per plan	2	EA		
39	611E98690	Catch Basin, Misc.: Yard Drain	2	EA		
40	611E98690	Catch Basin, Misc.: Type 1A	4	EA		
41	611E98690	Catch Basin, Misc.: Type 1	14	EA		
42	611E99574	Manhole, No. 3	5	EA		
43	611E99580	Manhole, No. 3 with 84" Base I.D. and 6" Weir	1	EA		
44	611E99654	Manhole Adjusted to Grade	7	EA		
45	611E99720	Inspection Well	1	EA		
46	895E10010	Manufactures Water Quality Structure, Type 1	1	EA		
47	900E11000	Special: Core into Existing Box Culvert	3	EA		
48	301E56000	Asphalt Concrete Base, PG64-22, (449)	301	CY		
49	304E20000	Aggregate Base	824	CY		
50	407E20000	Non-Tracking Tack Coat	220	GAL		
51	411E10000	Stabilized Crushed Aggregate	242	CY		
52	411E70500	Asphalt Concrete Surface Course, Type 1, (449), (Driveways)	2	CY		
53	441E70600	Asphalt Concrete Intermediate Course, Type 1, (449), (Driveways)	3	CY		
54	442E22100	Asphalt Concrete Surface Course, 12.5 MM, Type A (449)	76	CY		
55	442E22400	Asphalt Concrete Intermediate Course, 19 MM, Type A (449)	126	CY		
56	452E10010	6" Non-Reinforcement Concrete Pavement, Class QC 1P	354	SY		
57	452E13010	9" Non-Reinforced Concrete Pavement, Class QC 1P	283	SY		
58	609E12001	Combination Curb and Gutter, Type 2, as per plan	4,299	FT		
59	609E26000	Curb, Type 6	163	FT		
60	609E54000	6" Concrete Traffic Island	55	SY		
61	638E10500	Fire Hydrant Removed and Reset	1	EA		
62	638E10900	Service Box Adjusted to Grade	2	EA		
63	611E00400	4" Conduit, Type E	100	FT		
64	625E00451	Connection, Fused Pull Apart, as per plan	108	EA		
65	625E00460	Connection, Unfused Pull Apart	36	EA		
66	625E00480	Connection, Unfused Permanent	24	EA		
67	625E14000	Light Pole Foundation, 24" x 6' Deep	34	EA		
68	625E14001	Light Pole Foundation, 24" x 6' Deep, as per plan	2	EA		
69	625E22990	No. 6 AWG 600 Volt Distribution Cable	14,112	FT		
70	625E23306	No. 10 AWG 600 Volt Distribution Cable	14,112	FT		
71	625E23410	No. 12 AWG Pole and Bracket Cable	6,912	FT		
72	625E25408	Conduit, 2", 725.051	3,394	FT		
73	625E25504	Conduit, 3", 725.051	20	FT		
74	625E25909	Conduit, Jacked or Drilled, 725.052, as per plan 2"	830	FT		
75	625E29000	Trench	3,414	FT		
76	625E30700	Pull Box, 725.08, 18"				

Item	Item No.	Description	Quant.	Unit	Unit Price	Amount
77	625E30706	Pull Box, 725.08, 24"	2	EA		
78	625E32000	Ground Rod	38	EA		
79	625E34001	Power Service, as per plan	2	EA		
80	625E36010	Underground Warning/Marking Tape	3,414	FT		
81	625E76000	Arc Flash Calculation and Label, Lighting Power Service	2	EACH		
82	632E69320	Power Cable, 3 Conductor, No. 2 AWG	79	FT		
83	625E10481	Light Pole, Aesthetic, as per plan, (Spring City)	36	EA		
84	625E27600	Luminaire, Misc.: (Spring City)	36	EA		
85	630E03100	Ground Mounted Support, No. 3 Post	294	FT		
86	630E08600	Sign Post Reflector	2	EA		
87	630E79101	Sign Hanger Assembly, Mast Arm, as per plan	8	EA		
88	630E80100	Sign, Flat Sheet	109	SF		
89	630E80511	Sign, Street Name, as per plan	4	EA		
90	630E84900	Removal of Ground Mounted Sign and Disposal	13	EA		
91	630E85100	Removal of Ground Mounted Sign and Reerection	7	EA		
92	630E86002	Removal of Ground Mounted Post Support and Disposal	11	EA		
93	644E00100	Edge Line, 4"	.630	MILE		
94	644E00300	Center Line	.080	MILE		
95	644E00400	Channelizing, Line 8"	80	FT		
96	644E00500	Stop Line	302	FT		
97	644E00630	Crosswalk Line, 24"	955	FT		
98	644E00700	Transverse/Diagonal Line	94	FT		
99	644E01300	Lane Arrow	2	EA		
100	644E30000	Removal of Pavement Marking	2,125	FT		
101	611E00400	4" Conduit, Type E	80	FT		
102	625E18201	Bracket Arm, 15', as per plan	4	EA		
103	625E25104	Conduit, 1", 725.051	57	FT		
104	625E25408	Conduit, 2", 725.051	124	FT		
105	625E25504	Conduit, 3", 725.051	48	FT		
106	625E25604	Conduit, 4", 725.051	18	FT		
107	625E25909	Conduit, Jacked or Drilled, 725.052, as per plan, 4"	122	FT		
108	625E25909	Conduit, Jacked or Drilled, 725.052, as per plan, 3"	162	FT		
109	625E25909	Conduit, Jacked or Drilled, 725.052, as per plan, 2"	372	FT		
110	625E29000	Trench	181	Ft		
111	625E30706	Pull Box, 725.08, 24"	4	EA		
112	625E32000	Ground Rod	9	EA		
113	625E36010	Underground Warning/Marking Tape	181	FT		
114	625E76000	Arc Flash Calculations and Label, Signal Power Service	1	EA		
115	632E05007	Vehicular Signal Head, (LED), 3-Section, 12" Lens, 1-Way, Polycarbonate, as per plan, Yellow	7	EA		
116	632E05087	Vehicular Signal Head, (LED), 5-Section, 12" Lens, 1-Way, Polycarbonate, as per plan, Yellow	5	EA		
117	632E20731	Pedestrian Signal Head (LED), Type D2, Countdown, as per plan	16	EA		
118	632E20751	Accessible Pedestrian Push Button, as per plan	16	EA		
119	632E25000	Covering of Vehicular Signal Head	12	EA		

Item	Item No.	Description	Quant.	Unit	Unit Price	Amount
120	632E25010	Covering of Pedestrian Signal Head	16	EA		
121	632E40500	Signal Cable, 5 Conductor, No. 14 AWG	2,861	FT		
122	632E40700	Signal Cabel, 7 Conductor, No. 14 AWG	1,194	FT		
123	632E42300	Signal Cabel, 3 Conductor, No. 12 AWG	781	FT		
124	632E64011	Signal Support Foundation, as per plan	4	EA		
125	632E64020	Pedestal Foundation	4	EA		
126	632E65400	Loop Detector Lead-In Cable, 2 Conductor, No. 120 AWG	2,485	FT		
127	632E68300	Power Cable, 3 Conductor, No. 6 AWG	114	FT		
128	632E70001	Power Service, as per plan	1	EA		
129	632E79111	Combination Signal Support, Type TC-81.22, Design 4, as per plan	2	EA		
130	632E79141	Combination Signal Support, Type TC-81.22, Design 13, as per plan	2	EA		
131	632E90103	Removal of Traffic Signal Installation for Storage, as per plan	2	EA		
132	633E65511	Cabinet, Type TS-2, as per plan	1	EA		
133	633E67100	Cabinet Foundation	1	EA		
134	633E67201	Controller Work Pad, as per plan	1	EA		
135	633E75001	Uninterruptible Power Supply (UPS), 1000 Watt, as per plan	1	EA		
136	633E99000	Controller Item, Misc.: Rewire/Program Controller Cabinet	1	EA		
137	804E30000	Fan-Out Kit, 6 Fiber	1	EA		
138	804E32021	Drop Cable, 6 Fiber, as per plan	403	FT		
139	804E34000	Fiber Termination Panel, 6 Fiber	1	EA		
140	804E35000	Fusion Splice	6	EA		
141	804E69001	Advanced Radar Detection, as per plan	2	EA		
142	809E69101	Stop Line Radar Detection, as per plan	4	EA		
143	809E69123	ATC Controller, as per plan	1	EA		
144	625E27600	Luminaire, Misc.: (Spring City)	4	EA		
145	632E90010	Pedestal, Misc.: 8' Decorative Pedestal	4	EA		
146	614E11111	Law Enforcement Officer with Patrol Car for Assistance, as per plan	16	HR		
147	616E10000	Water	15	MGAL		
148	614E11000	Maintaining Traffic	1	LS		
149	619E16010	Field Office, Type B	4	MNTH		
150	623E10000	Construction Layout Steaks and Surveying	1	LS		
151	623E50000	Preconstruction Survey Monument Verification and Report	1	LS		
152	623E51000	Post Construction Survey Monument Verification and Report	1	LS		
153	624E10000	Mobilization	1	LS		

QUANTITIES TOTAL: _____

QUANTITIES TOTAL IN WORDS: _____

FORM OF PROPOSAL

Page 1

Submitted By: _____ this _____ day of _____, 2026.
Contracting Firm

To: The City of Clayton, Ohio, 6996 Taywood Rd., Englewood, OH 45322

Having read and examined the specifications and drawings for the:

MOT SR 48 20.61 Sidewalk

and having also received, read and taken into account Addenda and likewise having inspected the site and the conditions affecting and governing this Project, the undersigned hereby proposes to furnish all materials and to perform all labor, as specified and described in the said Specifications and/or shown on said Drawings for all work necessary to complete the Project on a timely manner and in accordance with the Contract Documents regardless of whether expressly provided for in such Specifications and Drawings.

Before completing the Form of Proposal, the Undersigned represents that it has carefully reviewed the Notice to Bidders, Instructions to Bidders and General Conditions, City-Contractor Agreement, Supplementary Construction Specifications, Prevailing Wage Rates, Equal Employment Opportunity Provisions, and all other documentation related to this Project. The Undersigned further agrees that if this proposal is accepted such undersigned will comply with all such documents and the requirements therein. Failure to comply with provisions of the Bid Documents may be cause for disqualification of Bid.

The Undersigned agrees that, if the Proposal is accepted, such undersigned will furnish the required Bonds, Insurance Certificates, and other Contract Documents as will be required and as is noted in the Instructions to Bidders and General Conditions.

In submitting this Bid, the undersigned agrees to execute and complete the Contract in the form included in the Contract Documents and to complete its work within a period of consecutive calendar days after the receipt of the "Notice to Proceed".

Having completed and compiled a Material Quantities total, for materials and labor, based upon the unit prices provided, have:

Base Bid

Written Words

\$ _____
Figures

FORM OF PROPOSAL

Page 2

Check one of the following:

The Undersigned is signing as sole proprietor or is his authorized representative. The name of the sole proprietor must be shown below.

The Undersigned is signing as a partner in a partnership or is his authorized representative.

The Undersigned is signing for a corporation and is the president, vice president or other authorized representative; or he must show his authority, by affidavit, to bind the corporation.

The Undersigned is signing for some other legal entity and shows, by affidavit, his authority to bind such entity.

Name of Contracting Firm: _____

Address of Contracting Firm _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Phone: _____

Fax: _____

If the Bidder is a partnership or Joint Venture, state the Name and Address of each Partner or Participant in the Joint Venture below:

herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of said Contract or in or to the plans or specifications therefore shall in any way affect the obligations of said surety on its bond.

Sealed and signed this ____ day of _____, 2026.

PRINCIPAL:

Name of Contracting Firm: _____

Address of Contracting Firm: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Phone: _____

Fax: _____

Witness to Signature: _____

SURETY:

Name of Surety Company: _____

Address of Surety Company: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Phone: _____

Fax: _____

Witness to Signature: _____

**NON-COLLUSION AFFIDAVIT
MOT SR 48 20.61 Sidewalk**

State of _____

County of _____ ss:

_____, being first duly sworn, deposes and says that they are

_____ of _____
(Title) (Company)

the party making the foregoing proposal or Bid; that such Bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation; that such Bid is genuine and not collusive or sham; that said Bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any Bidder or person, to put in a sham Bid, or that such other person shall refrain from Bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the Bid price of affiant or any other Bidder, or to fix any overhead, profit or cost element of said Bid price, or of that of any other Bidder, or to secure any advantage against the owner, any company or any person or persons interested in the proposed Contract; and that all statements contained in said proposal or Bid are true; and further that such Bidder has not, directly or indirectly, submitted this Bid, or the contents thereof, or divulged information or data relative thereto to any corporation, partnership, company, association or organization, or to any member or agent thereof.

Affiant Signature

Affiant Print or Type

Sworn to and subscribed before me this _____ day of _____, 2026.

Notary Signature

Notary Print or Type

A Notary Public in and for _____ County in the State of Ohio.

My commission expires: _____ (Seal)