

## **AGENDA**

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Approval of Minutes**
  - a. Minutes of the September 23, 2024 Board of Aldermen Meeting
  - b. Minutes of the September 23, 2024 Board of Aldermen Closed Meeting
  - c. Minutes of the September 23, 2024 Board of Aldermen Budget Workshop
- 5. Citizen Comments**
- 6. Legislation**
  - a. Bill 5002 – Mi Lupita SUE
  - b. Resolution – Land and Water Conservation Fund Grant for Playground at the Pointe
- 7. Consent Items**
  - a. Administration – Geotechnical Bid Award for Public Works Facility Renovations
  - b. Public Works – Temporary Labor for Leaf Collection
- 8. Mayor’s Report**
- 9. City Administrator’s Report**
- 10. City Attorney’s Report**
- 11. Staff Reports**
  - a. Public Works – Leaf Collection by Contractor
  - b. Public Works – Ries Road Bid Award
- 12. Aldermanic Comments**
- 13. Closed Session**
  - a. Pursuant to Section 610.022 RSMo., the Board may vote to move to closed session to discuss legal, real estate, and personnel matters under Section 610.021 (1), (2) and (3).
- 14. Adjourn**

**NOTE:** Due to ongoing City business, all meeting agendas should be considered tentative. Additional issues may be introduced during the course of the meeting.

**CLOSED SESSION:** Pursuant to Section 610.022 RSMo., The Board of Aldermen could, at any time during the meeting, vote to close the public meeting and move to closed session to discuss legal matters, personnel/employee matters, and/or real estate, as provided under Sections 610.021(1) RSMo., 610.021(2) RSMo., 610.021(3) RSMo.

**ADA NOTICE:** Residents of Ballwin are afforded an equal opportunity to participate in the programs and services of the City of Ballwin regardless of race, color, religion, sex, age, disability, familial status, national origin or political affiliation. If one requires an accommodation, please call (636) 227-8580 V or (636) 527-9200 TDD or 1-800-735-2466 (Relay Missouri) no later than 5:00 p.m. on the third business day preceding the hearing. Offices are open between 8:00 a.m. and 5:00 p.m. Monday through Friday.



**BOARD OF ALDERMEN  
Meeting Minutes**

SEPTEMBER 23, 2024

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

THE MINUTES ARE PREPARED IN SUMMARY TO REFLECT THE OVERALL DISCUSSIONS, NOT VERBATIM QUOTES.

The meeting was called to order by Board President Frank Fleming at 7:11 p.m.

**ROLL CALL**

Present

- Alderman Mike Utt
- Alderman Michael Finley
  
- Alderman Mark Stallmann
- Alderman Frank Fleming
- Alderman Mark Weaver
- Alderman David Siegel
- Alderman Jim Lehmkuhl
- City Administrator Eric Sterman
- City Attorney Robert Jones

Absent

Mayor Tim Pogue

Alderman Pamela Haug

The Pledge of Allegiance was recited.

**MINUTES**

The minutes from the September 9, 2024 Board of Aldermen meeting were submitted for approval. A motion to approve as submitted was made by Alderman Michael Finley and seconded by Alderman Mark Stallmann. A voice vote was taken with unanimous affirmative result and the motion passed.

**CITIZEN COMMENTS**

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None.



**BOARD OF ALDERMEN  
Meeting Minutes**

SEPTEMBER 23, 2024

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

**LEGISLATION**

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**Bill 5000- AN ORDINANCE REVISING PROHIBITIONS ON COMMERCIAL VEHICLES**

A motion was made by Alderman Mark Stallmann and seconded by Alderman David Siegel for a first reading of Bill 5000, title only. A voice vote was taken with unanimous affirmative result and the motion passed. Alderman Mark Stallmann read Bill 5000, title only.

*Discussion:*

City Attorney Bob Jones clarified the bill would correct a typo in Section 15-486, replacing “Claymont Drive” and replacing it with “Clayworth Drive” and adding Ballpark Drive from Manchester Road north to Kehrs Mill Road. The signs have been in place restricting commercial vehicles on Ballpark Drive already for years, this just codifies the prohibition.

A motion was made by Alderman Michael Finley and seconded by Alderman Mike Utt for a second reading of Bill 5000, title only. A voice vote was taken with unanimous affirmative result and the motion passed. Alderman Michael Finley read Bill 5000, title only.

A roll call vote was taken for passage and approval of Bill 5000 with the following results:  
Aye: Aldermen Utt, Finley, Stallmann, Fleming, Weaver, Siegel, Lehmkuhl  
Nay: None

Aldermen Utt, Finley, Haug, Stallmann, Fleming, Weaver, Lehmkuhl, Siegel

Bill No. 5000 was approved and became Ordinance No. 24-16.

**Bill 5001 - AN ORDINANCE REVISING MUNICIPAL COURT COSTS.**

A motion was made by Alderman Mark Stallmann and seconded by Alderman David Siegel for a first reading of Bill 5001, title only. A voice vote was taken with unanimous affirmative result and the motion passed. Alderman Mark Stallmann read Bill 5001, title only.

*Discussion:*

City Attorney Bob Jones noted there has been legislation passed statewide that affected municipal courts that was not reflected in City Code. This bill rectifies that issue and also removes costs that are in City Code that the City has not collected since the law was passed.



**BOARD OF ALDERMEN**  
**Meeting Minutes**

SEPTEMBER 23, 2024

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

A motion was made by Alderman David Siegel and seconded by Alderman Mike Utt for a second reading of Bill 5001, title only. A voice vote was taken with unanimous affirmative result and the motion passed.

Alderman David Siegel read Bill 5001, title only.

A roll call vote was taken for passage and approval of Bill 5001 with the following results:

Aye: Aldermen Utt, Finley, Stallmann, Fleming, Weaver, Siegel, Lehmkuhl

Nay: None

Bill No. 5001 was approved and became Ordinance No. 24-17.

**MAYOR'S REPORT**

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None.

**CITY ADMINISTRATOR'S REPORT**

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City Administrator Eric Sterman gave an update on the contract with the City of Winchester. He noted the renewal for policing, court, and building inspections will be separate contracts running concurrently. There is a proposed three year term with one year extensions and no penalties for either side ending the contract. Both the City of Ballwin and City of Winchester's Board of Aldermen will need to approve the contract. Alderman David Siegel asked whether Winchester had contacted St. Louis County Police regarding a proposal from them. Police Chief John Bergfeld noted the City of Winchester had not mentioned that to him. City Administrator Sterman asked for a motion from the Board to draft legislation on the contracts. Alderman Mark Stallmann made a motion with Alderman Michael Finley seconding that motion. A voice vote was taken with unanimous affirmative result and the motion passed.

**CITY ATTORNEY'S REPORT**

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None.

**ALDERMANIC COMMENTS**

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Alderman Michael Finley asked about the time table for leaf collection. Public Works Director Jim Link noted leaf pickup will begin October 28th.

Alderman Mark Stallmann thanked the Ballwin Police Department for their participation in the Whispering Oakwood 500. Officers were running radar for the bicycle races and Alderman Stallmann thanked Chief Bergfeld for allowing his officers to be out in the community participating.

**CLOSED SESSION**

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**BOARD OF ALDERMEN  
Meeting Minutes**

SEPTEMBER 23, 2024

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

A motion was made by Alderman Mike Utt and seconded by Alderman Michael Finley to move to closed session.

A roll call vote was taken on the move to closed session with the following results:

Aye: Aldermen Utt, Finley, Stallmann, Fleming, Weaver, Siegel, Lehmkuhl

Nay: None

The meeting moved to closed session at 7:29 p.m.

**ADJOURNMENT**

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When the Board returned to the chambers, a motion was made by Alderman Mark Stallmann to reconvene in open session. The motion was seconded by Alderman Mike Utt and passed by a unanimous voice vote at 8:01 p.m.

A motion was made by Alderman Michael Finley and seconded by Alderman Mike Utt to adjourn. The motion was passed by unanimous affirmative voice vote and the meeting adjourned at 8:02 p.m.

\_\_\_\_\_ TIM POGUE, MAYOR

ATTEST:

\_\_\_\_\_ MEGAN FREEMAN, CITY CLERK



WORKSHOP Meeting Minutes

SEPTEMBER 23, 2024

5:30 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

THE MINUTES ARE PREPARED IN SUMMARY TO REFLECT THE OVERALL DISCUSSIONS, NOT VERBATIM QUOTES.

The meeting was called to order by Frank Fleming at 5:36 p.m.

ROLL CALL

Present

Absent

Mayor Tim Pogue

- Alderman Mike Utt
Alderman Michael Finley
Alderman Pamela Haug via videoconference
Alderman Mark Stallmann
Alderman Frank Fleming
Alderman Mark Weaver
Alderman Jim Lehmkuhl
Alderman David Siegel
City Administrator Eric Sterman
City Attorney Robert Jones

AGENDA

City Finance Officer Denise Keller discussed employee compensation. The Board of Aldermen had a discussion regarding increasing the pay rate for Public Works employees to attract more workers. City Finance Officer Denise Keller discussed the upcoming budget year's projects and Capital Improvement Plan for the next several years along with the General Fund Revenue. Parks & Recreation Director Chris Conway noted there will be an increase in Non-Resident golf fees and increases for birthday parties, swim lessons, and day camp pricing. The increase is due to higher costs and payroll expenses. The meeting adjourned at 7:05 p.m.



INTRODUCED BY  
ALDERMEN UTT, FINLEY, STALLMANN, HAUG, FLEMING, WEAVER, SIEGEL, LEHMKUHL

**AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO DAVID SANCHEZ FOR MI LUPITA, FOR OPERATION OF A RESTAURANT WITH OUTSIDE SEATING, SALE OF ALCOHOLIC BEVERAGES AND FRONT YARD PARKING.**

WHEREAS, a petition has been received from David Sanchez for Mi Lupita, requesting the use of certain property at 100 Holloway Road for operation of a restaurant with outside seating, sale of alcoholic beverages and front yard parking; and

WHEREAS, said petition was duly referred to the Planning and Zoning Commission for its investigation and report; and

WHEREAS, due notice of a public hearing before the Planning and Zoning Commission upon said petition was published and posted according to law and ordinance; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on October 7, 2024, upon said petition; and

WHEREAS, the Planning and Zoning Commission has submitted its report recommending approval to the Board of Aldermen; and

WHEREAS, the Board of Aldermen has determined that an establishment for the purposes disclosed above, under certain conditions, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and

WHEREAS, all applicable matters in Section 2 of Article XIV of Appendix A, "The Zoning Ordinance," have been adequately provided for:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. A special use exception, subject to the conditions hereinafter specifically set forth, is hereby granted to David Sanchez for Mi Lupita, to use the premises in the City of Ballwin, Missouri, known as 100 Holloway Road, Ballwin, Missouri 63011 for operation of a restaurant with outside seating, sale of alcoholic beverages and front yard parking in a C-1 commercial district, as is made and provided for in Article IX of Appendix A.

Section 2. The special use exception hereby issued, and referred to in Section 1, is issued to the named permittee only and shall not be assigned or transferred, without the permission of the Board of Aldermen of the City of Ballwin.



Section 6, Item a.

Bill No. 5002

Ordinance No. \_\_\_\_\_

Section 3. The special use exception hereby issued and referred to in Section 1, shall be valid only if the conditions set forth in the Addendum, attached hereto as Exhibit 1 and made a part hereof, are observed by permittee.

Section 4. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
*TIM POGUE, MAYOR*

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
*TIM POGUE, MAYOR*

ATTEST: \_\_\_\_\_

*ERIC STERMAN, CITY ADMINISTRATOR*

EXHIBIT ONE

The permittee granted a Special Use Exception per the ordinance hereby appended to, their assignees and successors, as authorized and approved by the Board of Aldermen of the City of Ballwin, agree to abide by the following provisions, the provisions of all ordinances of the City of Ballwin, and all applicable laws of St. Louis County, the State of Missouri and of the United States of America and to require all licensees, franchisees, and lessees to similarly abide by said ordinances, laws and provisions, as appropriate to such special use exception. In addition, the following provisions, as appropriate, shall apply:

1. There is no outdoor storage, display or sale of any merchandise, equipment, vehicle, supplies or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin.

2. There is no servicing, repair, cleaning, maintenance or other work on any merchandise, equipment, vehicle, materials, supplies, or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin, except within a fully enclosed building which shall not include carports, porte-cocheres, accessory structures or temporary coverings and/or enclosures such as tents, tarpaulins, flies, or other similar structures.

3. No food or beverage of any kind is delivered outside of a building shown on the accompanying site plan by the permittee, its agents, servants or employees except for purposes of off-site delivery.

4. No food or beverage of any kind is served or dispensed to persons inside of automobiles or other vehicles by the permittee, its agents, servants or employees except from a drive-through window and/or designated waiting spaces specified on the accompanying site plan. Under no circumstances is drive-in curb service permitted.

5. Any violation of the laws, statutes, ordinances, codes, policies and regulations of the City of Ballwin, St. Louis County, the State of Missouri, or the United States of America by the permittee, its agents, servants or employees shall be cause for the revocation of the Special Use Exception hereby granted.

6. That the site, premises and/or land use described by the permittee in the application and subsequently approved by this ordinance is developed and operated in accordance with the final approved development plan and the provisions of this ordinance, and any failure to do so shall be cause for the revocation of the Special Use Exception hereby granted.

7. All new utility and other service laterals and connections on the site and/or premises, and all connections to site improvements and fixtures installed outside of a fully enclosed building shall be installed underground.

8. All sign illumination and other lighting is selected and arranged so as not to cast light upon, and/or be a nuisance, to any right-of-way or any other property.

9. The permittee and their approved assignees or successors, if any, shall preserve, maintain and care for all plantings, and landscaped and planted areas on the site and/or premises, in accordance with the landscape and site plans of this ordinance. Such maintenance, preservation and care shall include all planted and landscaped rights-of-way adjacent to the site and/or premises



addressed and approved by the Special Use Exception hereby granted.

10. Trash and debris shall not be allowed to accumulate and the site/premises shall at all times be kept clean and free of all refuse, debris, leakage and recyclable material accumulation.

11. All trash dumpsters and recyclable material storage areas shall be screened with a 100% opaque screen which shall totally obscure any visibility of the dumpster and recyclables container. Such screening shall be permanent in nature and architecturally compatible with the associated development. Said enclosure and screening may not be located within any front yard and shall not interfere with driver visibility or any loading, parking or vehicular circulation.

12. Unless otherwise provided by this Special Use Exception or other ordinances of the City of Ballwin, no vehicles, equipment or property may be parked or stored on the premises for which this permit is issued except non-commercial vehicles as defined by the Ballwin Ordinances and one fully operational and licensed delivery/service vehicle per business or tenant or use operated on the premises.

13. No changes or departures from the approved final development plan may be made without the approval of the Board of Aldermen in accordance with the provisions of Article XIV, Section 3, of the Ballwin Zoning Ordinance.

14. This Special Use Exception shall terminate three months following the non-renewal of the business license for the business associated with the location for which the Exception is granted.

# Resolution

## City of Ballwin, Missouri

INTRODUCED BY

ALDERMEN FINLEY, UTT, STALLMANN, HAUG, FLEMING, WEAVER, SIEGEL, LEHMKUHL

A RESOLUTION SUPPORTING AN APPLICATION TO THE LAND AND WATER CONSERVATION FUND FOR A GRANT TO RENOVATE GREENFIELD COMMONS PLAYGROUND AT THE POINTE.

WHEREAS, the City of Ballwin is applying for federal assistance from the Land & Water Conservation Fund program for the purpose of updating and renovating Greenfield Commons Playground at the Pointe,

THEREFORE, BE IT RESOLVED BY THE City of Ballwin, that

- 1. The City Administrator of the City of Ballwin is authorized to sign the application for Federal assistance and any other official project documents that are necessary to obtain such assistance, including any agreements, contracts or other documents that are required by the State of Missouri or the U.S. Department of the Interior, National Park Service.
- 2. The City of Ballwin will commit to the minimum 50% matching share for the project elements that are identified in the application and will allocate the necessary funds to complete the project.
- 3. In the event a grant is awarded, the City of Ballwin will commit the necessary financial resources to operate and maintain the completed project in a safe and attractive manner for public access in perpetuity.
- 4. In the event a grant is awarded, the City of Ballwin is prepared to complete the project within the time period identified on the signed project agreement.
- 5. In the event a grant is awarded, the City of Ballwin will comply with all rules and regulations of the Land & Water Conservation Fund program, applicable Executive Orders and all federal and state laws that govern the grant applicant during the performance of the project.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2024. \_\_\_\_\_ *TIM POGUE, MAYOR*

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2024. \_\_\_\_\_ *TIM POGUE, MAYOR*

ATTEST: \_\_\_\_\_  
*ERIC STERMAN, CITY ADMINISTRATOR*



## **Consent Item**

**RE: Geotechnical Services for Public Works Facility Renovations**

**Department/Program: Administration**

**Explanation:** The City recently posted a Request for Qualifications (RFQ) for geotechnical services for the public works facility renovation project. The selected vendor will serve throughout the project, but the immediate need is to have boring and core samples done on the site to ensure that the areas that are getting new structures are suitable to build on.

Four responses were received from the following firms:

Intertek

SCI Engineering

TSi

Terracon

City staff and the City's owner's representative, Navigate, have reviewed the RFQ responses and determined that SCI Engineering is the most qualified firm for this project. The ultimate cost of the contract will depend on the hours worked and services performed, based on the attached cost sheet. It is anticipated that the initial cost of the boring work will be \$13,700, which is under the Board threshold for approval, but the overall cost of the contract through construction will be approximately \$20-25,000.

**Recommendation:**

Award the contract for geotechnical services for the public works renovations to SCI Engineering

**Submitted By: Eric Sterman**

**Date: 10/8/24**





September 19, 2024

Office of the City Administrator  
City of Ballwin, Missouri  
1 Government Center  
Ballwin, Missouri 63011

c/o Navigate Building Solutions, LLC  
Attn: Joe Sweitzer, Jr. AIA, NCARB, CDT, LEED AP  
8419 Manchester Road  
Brentwood, Missouri 63144

RE: Geotechnical Services Proposal  
Ballwin Public Works  
Ballwin, Missouri  
SCI No. 2024-1657.10, .G0, .G2

To Whom it may Concern:

At your request, SCI Engineering, Inc. (SCI) is providing this Geotechnical Services proposal for the referenced project. The purpose of our geotechnical services will be to explore the subsurface conditions and develop design and construction recommendations for the foundations and earth-related phases of the project.

### PROJECT DESCRIPTION

The City of Ballwin is planning improvements for the existing Public Works facility at 200 Park Drive in Ballwin, Missouri. The site features a two-story, concrete block and frame maintenance shed, and a one-story, concrete block and frame building in the northern portion of the site with paved parking between the buildings and south of the buildings; additionally, there is an existing domed salt shed in the southern portion of the site, which is surrounded by the pavement. Development is also planned for the adjacent property to the north at 300 Park Drive which is developed with an existing two-story brick building, carport canopy, and associated pavement and parking. Topography across the entire development slopes from the southwest down towards the northeast with approximately 50 feet of relief.

Review of historical aerial photographs indicates that the existing buildings in the north were constructed between 1985 and 1986, and the salt dome was constructed between 2004 and 2005. Information regarding the foundation types or structural performance of the existing building was not provided at the time of this proposal.

The planned improvements include three new pre-engineered metal buildings, ranging from approximately 5,000 square feet (sf) to 15,000 sf. Associated parking/drive lanes are planned for the two northernmost buildings. Preliminary structural loads indicate column loads on the order of 30,000 pounds (lbs) with sustained column loads of 15,000 lbs. Slab on grade loading will be approximately 8000 lbs or 350 pounds per square foot. Grading plans were not provided at the time of this proposal; however, we assume cuts and fills on the order of 5 feet or less will be required. Further, we have assumed that there will be no retaining walls. **SCI should be notified if retaining walls are proposed.**

## **SCOPE OF SERVICES**

### **Geotechnical Exploration**

Nine borings have been requested, as shown on the site plan in the RFP. We will then locate the borings in the field using a handheld global positioning system, and we will interpolate surface elevations at the boring locations using the most recent topographic plan made available to us. If more accurate data are required, we recommend that you retain the project surveyor to stake the boring locations and provide surface elevations.

We will then explore the subsurface conditions by drilling the requested borings to depths of 20 feet each, unless auger refusal terminates drilling at a shallower depth. SCI personnel will be on site to log the borings and direct the sampling during drilling. The borings will be sampled with Standard Penetration Tests (SPTs) at 2½-foot intervals in the upper 10 feet and at 5-foot intervals thereafter. Relatively undisturbed Shelby tube samples will be obtained at selected locations in lieu of the SPTs. Groundwater readings will be recorded during drilling.

The boreholes will be backfilled with soil cuttings and the pavement patched. It should be noted that some settlement of the boreholes will likely occur following completion of the fieldwork and additional pavement patching may be required. We assume monitoring of the borehole backfill after drilling is completed and placement of additional pavement patch will be provided by others. Alternately, the boreholes may be backfilled with sand, gravel or grout which are less prone to settlement; however, additional fees will apply and a suitable area for spoils disposal would need to be coordinated with the owner.

### **Laboratory Testing Program**

Upon completion of the field exploration, the samples will be transported to our laboratory for classification and characterization. We will measure the moisture content of each cohesive sample. Hand penetrometer values, which provide an indication of strength, will be obtained for each apparently intact cohesive sample. Atterberg limits and grain size analysis tests will be performed on selected samples to aid in classification and assess the volume change characteristics of the subgrade soils. Natural density tests, and/or unconfined compression tests to provide additional strength information, will be performed on selected Shelby tube samples.

### **Geotechnical Report**

Our findings and recommendations, along with supporting data, will be presented in a formal report, which will address each of the following:

- Allowable bearing pressures and depths for shallow, spread footing, foundation support;
- Seismic coefficients for building design according to the International Building Code based on the soil encountered in the borings;
- Review of published maps and literature to identify the potential impact of past underground or surface mining or karst activity near the site;
- Anticipated total and differential settlement based on general soil characteristics;
- Shrink/swell potential of subgrade soils;

- Floor slab design criteria;
- Lateral earth pressures as well as surcharge, backfill, and drainage recommendations for the design of temporary shoring, below-grade walls, and retaining walls;
- Pavement design recommendations, based on local experience;
- Drainage considerations for the planned structure and improvements;
- General location, description, and disposition of existing fill materials, if encountered;
- Influence of groundwater and/or bedrock, if encountered, on design and construction;
- Structural fill considerations, including the suitability of on-site soils for use and engineering criteria for placement;
- Site development and geotechnical construction recommendations; and
- Observation and testing recommendations during construction.

#### **Advanced Seismic Analysis (Optional)**

Shear wave velocity testing may be beneficial to the project team in order to potentially improve the seismic design criteria for the site. The reduction in design loading due to an improvement in the seismic design criteria can help significantly reduce project costs. We have performed shear wave velocity testing and Site-Specific Seismic Hazard Analyses (SSSHA) on nearby projects and resulted in more favorable seismic design parameters than could be calculated from soil borings alone, which have resulted in significant project savings. This work could be initiated in conjunction with the subsurface exploration to expedite determination of seismic design parameters and allow the structural design to progress.

#### ***Phase I: Shear Wave Velocity Data Collection***

We will collect shear wave velocity data on the site to evaluate the profile of the subsurface soils to a maximum depth of 100 feet. Our geotechnical engineer will interpret the results of the field testing and generate a shear wave velocity profile of the subsurface with respect to depth. The interpreted shear wave velocity profile will be used to determine the Seismic Site Class. The results of the shear wave velocity testing will initially be emailed to you and then presented in the geotechnical report.

#### ***Phase II: Site-Specific Seismic Hazard Analyses (SSSHA, if required)***

If no improvement of the Site Class is possible, we will perform Site-Specific Seismic Hazard Analyses in an attempt to improve the Seismic Design Category. The shear wave velocity data collected in Phase I will be used to estimate dynamic soil properties needed for the SSSHA. The SSSHA will then be performed utilizing synthetic earthquake input provided by the USGS website and a commercially available program ProShake<sup>1</sup> to develop a Site-Specific Response Spectrum. The Design Response Spectrum is a composite curve developed following the procedures presented in Section 1613 of the IBC code and Chapter 21 of ASCE 7-16. The results of the SSSHA, including revised seismic parameters and the resulting SDC will be presented in the geotechnical report.

<sup>1</sup> ProShake, Ground Response Analysis Program, Version 1.12, EduPro Civil Systems, Inc., Sammamish, WA.

**Private Utility Locate (if needed)**

Private utilities, which will not be marked by Missouri One Call (811), may be present near the proposed boring locations. A private utility locate may be required if the Owner cannot mark the location of these utilities or provide plans showing their location. SCI can provide a private utility locate for the fee in Table 1. The private utility locate fee includes scanning the area within a perimeter around each test location and marking identified underground features with spray paint or flags. No other documentation is included in the fee. If the locations of identified underground features are required, we recommend that the project surveyor be retained to document the locations.

**Geotechnical Engineer of Record Services**

Following issuance of the final geotechnical report, additional services are anticipated as summarized below:

- Review of construction documents to verify compliance of the final plans and specifications with the recommendations in our geotechnical report;
- Provide a sealed geotechnical certification for the project plans; and
- Additional consultation or meetings during bidding and construction, including review and response to Requests for Information (RFIs). We have assumed two meetings in the estimated fee for this service.

The value of these services is to ensure understanding and alignment of the geotechnical recommendations and client-directed approaches, improve the quality and levelness of construction bids received, and streamline construction implementation.

**COST AND SCHEDULE**

SCI will provide these geotechnical services for the fees shown in Table 1.

**Table 1 – Task and Fees**

<b>Task</b>	<b>Lump-Sum Fee (\$)</b>
<b>Geotechnical Exploration and Report Preparation</b>	13,700.00
<b>Advanced Seismic Analysis</b>	
Phase I: Shear Wave Velocity Collection and Analysis	3,500.00
Phase II: Site-Specific Hazard Analysis (if needed)	3,500.00
<b>Private Utility Locate (if needed)</b>	2,900.00
<b>Geotechnical Engineer of Record Services</b>	Hourly, per the attached <i>Rate Schedule</i> with an estimated fee of \$3,000.00

You will be invoiced for these fees upon project completion and payment is due upon receipt of the invoice. To facilitate prompt payment, SCI accepts Visa and MasterCard in addition to normal payment methods. If you wish to pay via credit card, please contact the undersigned for specific instructions.

We have tentatively scheduled the fieldwork, weather permitting, on October 21, 2024. This assumes we have notice to proceed no later than 4 pm on October 15, 2024. We anticipate that the private utility locate will require one day and drilling will be completed in two days at the site; however, we cannot mobilize the

drill rig unless formal authorization has been received. Laboratory testing and report preparation will require approximately three weeks following the field explorations, with a target submission date of November 22, 2024, per the RFP. Verbal findings should be available within a few days after completion of the exploration. Completion of the Phase II SSSHA, if needed, will add approximately one to two weeks to the report submittal timeframe.

Our estimated schedule assumes our personnel will be allowed access to the site within five working days from formal authorization.

### Conditions and Considerations

- The above fee is based on a maximum of 180 feet of soil drilling. If the encountered subsurface conditions indicate that more than the planned total of soil drilling would be beneficial, and you authorize additional exploration, it would be provided for \$45.00 per foot. Our fee includes field exploration, laboratory testing, engineering analysis, and report preparation. Our fees do not include the additional cost of union operators or laborers. Should they be required by the local jurisdiction, you will be immediately advised of any additional cost.
- This proposal assumes that you will provide site access authorization, including access to the proposed boring locations for a conventional, rubber-tired, all-terrain mounted, drill rig. No clearing, grading, or other removal of site obstacles has been included in this proposal. It also assumes that you will provide marked locations of privately owned, below-grade, utility lines within the project area, prior to mobilization of the drill rig. **SCI can provide a private utility locate for the fee shown in Table 1.**
- We routinely contact the Missouri One-Call system to have the locations of public utilities marked; however, we will only be responsible for utilities brought to our attention prior to drilling.
- SCI performs the subsurface utility locating services using geophysical tools in general accordance with the Standard Guideline for Investigating and Documenting Existing Utilities (ASCE/UES/CI 38-22), and in general accordance with the standard of care and the accepted industry principals. However, SCI cannot and does not guarantee the accuracy of the utility locations reported for the following reasons. The geophysical methods are non-invasive and have limitations. The effectiveness of the geophysical instruments used for subsurface utility locating depends on multiple factors such as, but not limited, to utility size, depth, condition, composition (e.g., metal, PVC), congestion, general site conditions (clayey soils, reinforced concrete, subsurface material moisture content), overhead power lines and access to exposed utilities. Not all utilities present within a survey area may be imaged due to these limitations. Some utilities, such as non-metal (e.g., clay and plastics) pipes and fiber optic cables without tracer wires, may not be imaged by the geophysical tools.
- Our fee, which is valid for up to 30 days from the date of this proposal, does not include out-of-scope services that might be added during the course of our work; nor does it include additional services that might be requested following completion of our report, such as attendance at project meetings; subsequent consultation; or review, signing, and sealing of project plans. Such services will be provided in accordance with the enclosed *Acceptance of Proposal for Professional Services*, and billed at our then-current hourly rates, or as otherwise agreed.

**CLIENT RESPONSIBILITIES AND AUTHORIZATION**

If the scope outlined herein is acceptable, please provide formal authorization to proceed by completing, signing, and returning the enclosed *Acceptance of Proposal for Professional Services* sheet. This sheet provides important information regarding report distribution and invoicing. Formal authorization is necessary prior to initiation of the activities outlined herein. SCI services will be performed for the signatory of the enclosed form. Written consent must be provided by SCI should anyone other than the client (signatory) wish to excerpt, or rely on, the results of our activities. The enclosed *General Terms and Conditions* will also apply to any future services you authorize for this project.

Thank you for the opportunity to submit this proposal. Tim Barrett, P.E., will be your primary point of contact for the services outlined above, please do not hesitate to contact him with any questions. Tim can be reached at 636-757-1065 or [tbarrett@sciengineering.com](mailto:tbarrett@sciengineering.com).

Respectfully,

**SCI ENGINEERING, INC.**



Gabrielle M. Kowalik  
Staff Engineer

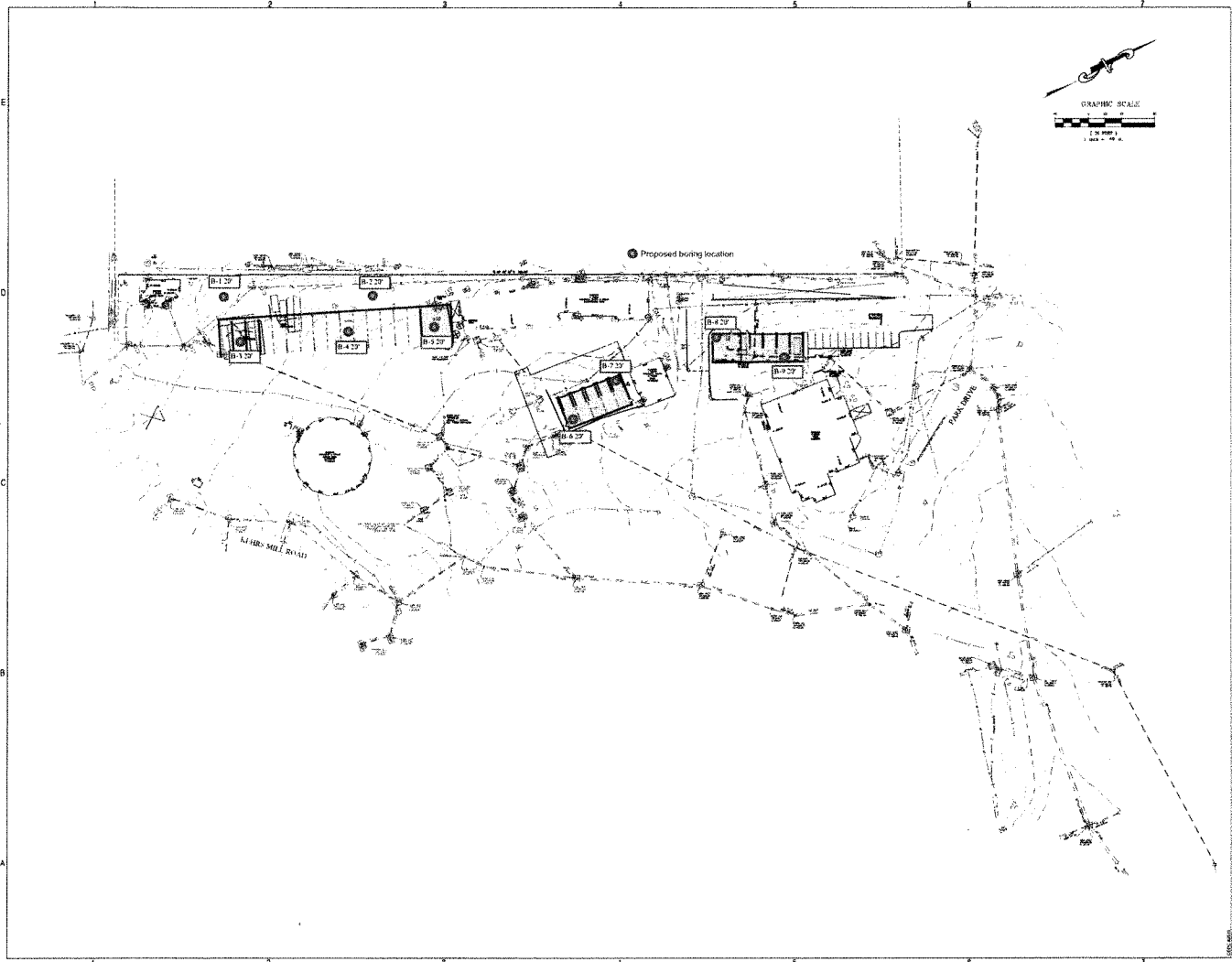


Timothy J. Barrett, P.E., CFM  
Geotechnical Services Manager

GMK/TJB/snp

**Enclosures**

- Boring Location Plan
- Rate Schedule
- Price List
- Acceptance of Proposal for Professional Services
- General Terms and Conditions



GRAPHIC SCALE  
1" = 40'

Proposed boring location

LAUREL HILL ROAD

BALLWIN PUBLIC WORKS

DRAFT - NOT FOR CONSTRUCTION

C3.0

Architects | Interiors  
CEDC  
BALLWIN PUBLIC WORKS

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2024 BALLWIN, MO. 63010

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**RATE SCHEDULE**

City of Ballwin  
 Ballwin Public Works

September 19, 2024  
 SCI No. 2024-1657

<b>Labor Description</b>	<b>Rate</b>
Senior Engineer/Scientist III	280.00 /hour
Senior Engineer/Scientist II	235.00 /hour
Senior Engineer/Scientist I	185.00 /hour
Project Engineer/Scientist II	165.00 /hour
Project Engineer/Scientist I	145.00 /hour
Staff Engineer/Scientist II	130.00 /hour
Staff Engineer/Scientist I	115.00 /hour
Senior Geophysicist	200.00 /hour
Project Manager	150.00 /hour
Field Manager I	95.00 /hour
Structural Steel - NDT	150.00 /hour
Special Inspection (Structural Steel)	135.00 /hour
Special Inspection (SFRM/Post-Tension)	110.00 /hour
Special Inspection (Foundation Bearing)	95.00 /hour
Special Inspection (Concrete/Masonry)	95.00 /hour
Construction Material Testing Technician	78.00 /hour
Geologist II	130.00 /hour
Geologist I	110.00 /hour
Field Scientist II	100.00 /hour
Field Scientist I	88.00 /hour
Environmental Technician	80.00 /hour
Senior Archaeologist II	180.00 /hour
Senior Archaeologist I	145.00 /hour
Archaeologist	110.00 /hour
Archaeological Crew Chief	95.00 /hour
Archaeological Technician	80.00 /hour
GIS Specialist	115.00 /hour
GIS Analyst	145.00 /hour
Project Assistant	100.00 /hour
Administrative Assistant	75.00 /hour
<b>Expenses</b>	
Vehicle Mileage	0.80 /mile
Transportation, Meals/Per Diem, lodging, subcontractors, subconsultants, etc.	Cost + 15 percent

**Overtime/Night-Time Differential**

Overtime is applies for hours worked per individual employee in excess of 8 hours per day, or work performed on Saturdays, Sundays, or SCI Holidays. Overtime for SCI employees will be billed at 1½ times our regular hourly rates. A 10 percent premium, and a minimum of 8 hours, will apply for all services performed during a Night Shift, which includes shifts starting between 6:00pm and 4:00am. An additional fee of \$200 will apply for all material testing/inspection services that are requested or modified the day scheduled.

**Expert Testimony**

Expert witness testimony for deposition, arbitration, mediation and trial proceeding will be billed at 1½ times the applicable hourly rate.

**Field and Lab Services**

We require a 24-hour notice to schedule field services but will always try to work within the time constraints provided. Coordination and report review will be invoiced at engineering rates. Site testing and inspection services will be invoiced in one hour increments and a minimum charge of 4 hours per site visit will apply. A minimum charge of 2 hours per trip will apply for pickup of test specimens. A fuel surcharge of \$5.00/trip will be applied when the National Average Price for regular unleaded is above \$4.00/gallon and an additional \$5.00/trip will apply for each dollar over \$4.00/gallon thereafter.

SCI Engineering, Inc. is a multi-discipline firm offering services during all phases of projects – from development and design through final construction. Labor Rates for all of our services will be furnished upon request.





City of Ballwin, Missouri  
Ballwin Public Works

**SCI ENGINEERING**  
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St. Charles, Missouri 63301  
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Section 7, Item a.

September 19, 2024  
SCI No. 2024-1657

SOIL TESTING		ASTM/AASHTO	Price	Unit
<b>Laboratory Tests</b>				
<b>1 Compaction Control</b>				
	Moisture-Density Relationship			
	TXDOT 113E/114E	TxDOT 113E/114E	360.00/310.00	Ea
	Standard Proctor	D698/T99	310.00	Ea
	Modified Proctor	D1557/T180	340.00	Ea
	California Bearing Ratio (CBR) (moisture-density relationship additional)			
	Single-Point (unsoaked)	D1883/T193	210.00	Ea
	Single-Point (soaked)		220.00	Ea
	3-Point Single Moisture (soaked)		495.00	Ea
	Relative Density - Minimum and maximum density	D4253/4254	Upon Request	Ea
<b>2 Material Characterization</b>				
	Manual/Visual Description	D2488	36.00	Ea
	TxDOT 104E, 105E, 106E Atterberg Limits	TxDOT 104E,105E,106E	99.00	Ea
	Atterberg Limits - Method A or B	D4318/T89,90	89.00	Ea
	Liquid Limit Only	T89	70.00	Ea
	Unit Weight Determination	D7263	62.00	Ea
	Grain Size Analysis			
	Sieve Analysis (includes percent finer than No. 200)	D6913/T88	105.00	Ea
	Sieve Analysis with Hydrometer	D7928	195.00	Ea
	Percent finer than No. 200 (washed)	D1140	70.00	Ea
	Specific Gravity of Soil	D854/T100	168.00	Ea
	Moisture Content	D2216/T265	15.00	Ea
	Organic Content	D2974/T267	78.00	Ea
	Organic Classification Using Atterberg Method	D2487	170.00	Ea
	Wet Organic Content	T194	156.00	Ea
	TxDOT 121E pH Lime Series Curve	TxDOT 121E	260.00	Ea
	TxDOT 128E pH Determination	TxDOT 128E	52.00	Ea
	pH	D4972/T289	52.00	Ea
	pH	G51	42.00	Ea
	Soil Resistivity	T288	220.00	Ea
<b>3 Strength and Behavioral Properties</b>				
	One Dimensional Consolidation Test - Includes laboratory e-log and p-curve	D2435/T216	640.00	Ea
	Swell Test	D4546	360.00	Ea
	Unconfined Compression Test			
	Undisturbed Samples (includes dry density)	D2166/T208	120.00	Ea
	Using Rimac on ss samples		20.00	Ea
	Triaxial Strength Testing			
	TxDOT 117E Texas Triaxial	TxDOT 117E	1,800.00	Ea
	Unconsolidated, Undrained (UU) (Q)	D2850/T296	178.00	Pt
	Consolidated, Undrained (CU) (R)	D4767/T297		
	Per Point		495.00	Ea
	Additional Multi-Stage Points		285.00	Ea
	Consolidated, Drained (CD)	D7181		
	Per Point		675.00	Ea
	Additional Multi-Stage Points		285.00	Ea
	Direct Shear	D3080/T236		
	Non-cohesive		275.00	per point
	Cohesive		375.00	per point
	Hydraulic Conductivity Tests			
	Triaxial Flexible Wall	D5084	395.00	Ea
	Rigid Wall	D2434/T215	310.00	Ea
	Thermal Conductivity			
	5-pt Curve	D5334	935.00	Ea
	Single Point		168.00	per point
	Rock Core			
	Description/photo		88.00	Box
	Unconfined Compression Test	D7012 Method C	95.00	Ea
	Direct Shear	D3080	285.00	Ea
	Remolding Samples	D3080		
	Samples for Consolidation, Swell, or Direct Shear		65.00	Ea
	Samples for QU, UU, CU, or Hydraulic Conductivity		95.00	Ea
<b>4 Chemical Testing</b>				
	Total Sulfates	C1580/T290	58.00	Ea
	Chlorides	T291	58.00	Ea
<b>Field Services</b>				
	Nuclear Density Equipment	D2922/T130	80.00	Day
	Sand Cone Equipment & Materials per Test	D1556/T191	52.00	Test
	Drive Tube Equipment	D2937	28.00	Day
	Settlement Plates	D6598	375.00	Ea



City of Ballwin, Missouri  
Ballwin Public Works

**SCI ENGINEERING**  
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Section 7, Item a.

September 19, 2024  
SCI No. 2024-1657

GPS Unit	ASTM/AASHTO	50.00	Day
CONCRETE TESTING		Price	Unit
<b>Laboratory Services</b>			
<b>1 Compressive Strength</b>			
Cylinders - 4"x8", 3"x6" (Cast by SCI, Tested or held in reserve)	C39/T22	22.00	Ea
Cylinders - 6"x12" (Cast by SCI, Tested or held in reserve)	C39/T22	30.00	Ea
Cylinders - Cast by Others (Tested or held in reserve)	C39/T22	38.00	Ea
2" x 4" Cylinder	C780	22.00	Ea
2" x 2" Cube	C109/T106	22.00	Ea
Drilled Cores (including sawcutting one end)	C42/T24	68.00	Ea
CLSM w/Density	D4832	98.00	Ea
Sawcut Cylinders (If ends are not in compliance with ASTM standards)	C39	30.00	Ea
Nominal 4" x 4" x 8" Grout Sample	C39	48.00	Ea
Concrete Masonry Unit	C140	116.00	Ea
<b>2 Cylinder Molds Purchased Separately (4x8 or 6x12)</b>		2.00	Ea
<b>3 Flexural Strength - 6" x 6" x 21" or 24" beam</b>	C78/T97	98.00	Ea
<b>4 Shrinkage/Length Change of Hardened Concrete (Set of 3)</b>	C157/C490	560.00	Ea
<b>Alkali-Silica Reactivity - Accelerated Mortar-Bar Method</b>	C1260/C1567	1,560.00	Ea
<b>5 Mix Design/Verification (does not include aggregate tests)</b>			
Trial Mix Verification (1-point, includes 6 cylinders)	C192	1,800.00	Ea
Trial Mix (includes 3-point w/c ratio relationship & 18 cylinders)		4,200.00	Ea
<b>6 Masonry Mortar Mix Test</b>		635.00	Ea
<b>7 Aggregate Characteristics</b>			
TxDOT 110E Gradation	TxDOT 110E	98.00	Ea
Sieve Analysis	C136/T27	75.00	Ea
Washed Sieve Analysis (includes percent finer than No. 200)		105.00	Ea
Washed Sieve Analysis (percent finer than No. 200 only)	C117/T11	70.00	Ea
Rapid Turnaround (Stove drying)		50.00	Add
Add for samples with nominal maximum sizes greater than 1"		30.00	Add
Unit Weight and Voids in Aggregate	C29/T19	95.00	Ea
Specific Gravity and Absorption of Coarse Aggregate	C127/T85	130.00	Ea
Specific Gravity and Absorption of Fine Aggregate	C128/T84	165.00	Ea
Clay Lumps and Friable Particles in Aggregate	C142/T112	138.00	Ea
MoDOT Deleterious Determination	TM71	85.00	Ea
Surface Moisture in Fine Aggregate	C70	33.00	Ea
Soundness (sodium sulfate)	C88/T104	610.00	Ea
Soundness (magnesium sulfate)	C88/T104	510.00	Ea
TxDOT 116E Wet Ball Mill	TxDOT 116E	480.00	Ea
Resistance to Abrasion	C131	660.00	Ea
Flat & Longated, Flat or Elongated	D4791	65.00	Ea
Lightweight Particle	C123/T113		
Fine Aggregate (2.0SG)		120.00	Ea
Coarse Aggregate (2.0SG)		188.00	Ea
Coarse Aggregate (2.4SG)		338.00	Ea
Organic Impurities in Fine Aggregate for Concrete	C40/T21	140.00	Ea
Sand Equivalent	D2419/T176	85.00	Ea
<b>8 Concrete Core Thickness</b>	C174/T148	26.00	Ea
<b>9 Potential Alkali Reactivity of Aggregates (Mortar-Bar Method)</b>	C1260/C1587/C1105	990.00	Ea
<b>Field Services</b>			
<b>1 Quality Control (includes determination of slump and air content, making cylinders and retrieval)</b>			
Field Testing	C31/T23	Per Rate Schedule	Hr
<b>2 Concrete Batch Plant Inspection by Registered Professional Engineer (NRMCA Certification)</b>		Upon request	
<b>3 Climate Controlled Site Initial Curing Box</b>		950.00	Month
<b>In-Place Testing</b>			
<b>1 Rebound Hammer Tests</b>	C805	Per Rate Schedule	Hr
<b>2 Windsor Probe Penetration Tests</b>	C803		
Field Testing		Per Rate Schedule	Hr
Equipment		160.00	Day
Probes (set of three)		100.00	Ea
<b>3 Coring (350.00 minimum)</b>			
Field Testing		Per Rate Schedule	Hr
Bit Wear		6.00	Inch
Coring Machine		125.00	Day
<b>4 Floor Flatness</b>	E1155		
Field Testing		Per Rate Schedule	Hr
Dipstick Floor Profiler		200.00	Day
<b>5 Vapor Emission Test</b>	F1869	75.00	Ea
Field Testing		Per Rate Schedule	Hr
<b>6 Relative Humidity Loggers in Floor Slab</b>	F2170	82.00	Ea



City of Ballwin, Missouri  
Ballwin Public Works

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September 19, 2024  
SCI No. 2024-1657

			Per Rate Schedule	Hr
	Field Testing			
7	Ground Penetrating Radar-Concrete Scanning (4 hour minimum charge)		300.00	Hr
<b>ASPHALTIC CONCRETE TESTING</b>		<b>ASTM/AASHTO</b>	<b>Price</b>	<b>Unit</b>
<b>Laboratory Services</b>				
1	Bitumen Content			
2	Extraction	D2172/T164		
	Asphalt Content		325.00	Ea
	Asphalt Content and Gradation		375.00	Ea
3	Ignition Oven			
	Asphalt Content	D6307/T308	225.00	Ea
	Asphalt Content and Gradation	D6307/D5444	285.00	Ea
4	Bulk Specific Gravity	D2726/T166	50.00	Ea
5	Maximum Theoretical Specific Gravity	D2041/T209	150.00	Ea
6	Aggregate Correction Factor Determination for Asphalt Ignition Oven	D6307	875.00	Ea
7	Asphalt Core Thickness	D3549	22.00	Ea
<b>Field Services</b>				
1	Commercial Placement Observation (includes determining maximum density of field mix, monitoring density, estimating thickness, and recording temperature)			
	Field Testing	D2950	Per Rate Schedule	Hr
	Nuclear Density Equipment		80.00	Day
2	Coring (350.00 minimum)			
	Field Testing		Per Rate Schedule	Hr
	Bit Wear		4.00	Inch
	Coring Machine		125.00	Day
<b>SPECIAL INSPECTIONS TESTING</b>				
1	Structural Steel Observations (includes visual weld inspection, bolt torque determination, and Skidmore-Wilhem bolt tension calibrator)			
	Field Inspection	AWS D1.1	Per Rate Schedule	Hr
	Equipment		65.00	Day
2	Nondestructive Testing			
	Ultrasonic Inspection			
	Field Testing	AWS D1.1	Per Rate Schedule	Hr
	Equipment		175.00	Day
3	Magnetic Particle Inspection			
	Field Testing	E1444/E709	Per Rate Schedule	Hr
	Equipment		90.00	Day
4	Dye Penetrant Inspection	E165	Upon Request	
5	Welding Operator Qualifications And Inspection (includes welder performance verification and guided bend test)	AWS D1.1	Upon Request	
6	Adhesion testing of epoxied items into concrete and masonry (includes pullout testing of epoxied anchor bolts and reinforcing steel)			
	Field Testing	IBC	Per Rate Schedule	Hr
	Testing Equipment		130.00	Day
7	Bond or Tensile Strength Testing (Pull-off Method)			
	Field Testing	C1583/D4541/D7234	Per Rate Schedule	Hr
	Testing Equipment		130.00	Day
8	Spray-applied Fireproofing Density Testing			
	Field Testing	IBC/E605	Per Rate Schedule	Hr
	Lab Testing		45.00	Ea
9	Spray-applied Fireproofing Cohesion/Adhesion Testing			
	Field Testing	IBC/E736	Per Rate Schedule	Hr
	Testing Equipment		38.00	Ea
10	Intumescent Coating Dry Film Thickness (DFT) Testing			
	Field Testing	IBC	Per Rate Schedule	Hr
	Testing Equipment		90.00	Day
<b>MILEAGE FOR ALL SERVICES</b>			0.80	per mile

This price list is not inclusive of all tests and services: prices for additional tests and services will be provided upon request.



SCI ENGINEERING, INC.
130 Point West Boulevard
St. Charles, Missouri 63301
636-949-8200
www.sciengineering.com

ACCEPTANCE OF PROPOSAL FOR PROFESSIONAL SERVICES

Project Name: Ballwin Public Works Improvements – Geotechnical Services

Project Number: 2024-1657.10, .G0, .G2 / GMK, EVT

Date: September 22, 2024

Fee: Please indicate your selection by placing a check mark in the appropriate box below:

Table with 2 columns: Service Description and Fee/Amount. Rows include Geotechnical Exploration and Report Preparation (\$13,700.00), Advanced Seismic Analysis (Phase I: \$3,500.00, Phase II: \$3,500.00), Private Utility Locate (if needed) (\$2,900.00), and Geotechnical Engineer of Record Services (Hourly, estimated fee of \$3,000.00).

Please provide formal authorization to proceed by completing, signing, and returning this form. The attached terms and conditions will apply to the services outlined in the accompanying proposal.

Accepted By:

Name and Title: Address:

Signature: City, State, Zip:

Company Name: Telephone:

Date: Email:

Party responsible for payment: (if different than Accepted By)

Name and Title: Address:

Signature: City, State, Zip:

Company Name: Telephone:

Date: Email:

Report Distribution (Note: Additional printed report copies after final submittal will be billed at \$25.00 each)

Company and Contact Name: Address (Printed) or Email (Electronic): No. Printed Reports

Blank lines for reporting company name, address, and number of printed reports.

NOTICE TO OWNER: (FOR SITES IN MISSOURI ONLY)

FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429.RSMo. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOU PAYING FOR LABOR AND MATERIAL TWICE.



SCI ENGINEERING, INC.  
130 Point West Boulevard  
St. Charles, Missouri 63301  
636-949-8200  
www.sciengineering.com

GENERAL TERMS AND CONDITIONS

1. **ACCEPTANCE OF AGREEMENT** The terms and conditions of the agreement between the client and SCI ENGINEERING, INC. (hereinafter called SCI) are detailed below and have been established to allocate risks between both. For the purposes of convenience, the client may choose to orally authorize our service, in which case the client agrees that the verbal agreement constitutes formal acceptance of the terms and conditions detailed below. Subsequent to an agreement by both parties to perform the services, modifications to the terms and conditions are prohibited.

2. **SITE ENTRY** You, the Client, will provide for right of entry of SCI or employees of firms working under the direction of SCI, and all necessary equipment, in order to perform the work. Although SCI will exercise reasonable care in performing its services, the Client understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this agreement. The client agrees, to the fullest extent permitted by law, to indemnify and hold harmless SCI and its subconsultants against any damages, liabilities, or costs, arising or allegedly arising from procedures associated with testing or investigative activities to the fullest extent permitted by law. If you desire or require us to restore the site to its former condition, upon written request, we will perform such additional work as is necessary and you agree to pay all costs incurred.

3. **SUBSURFACE STRUCTURES OR UTILITIES** The Client will furnish to SCI information identifying the type and location of utility lines and other man-made objects beneath the site's surface. SCI will take reasonable precautions to avoid damaging these man-made objects. You agree to waive any claim against SCI, and to defend, indemnify and hold SCI harmless from any claim or liability for injury or loss allegedly arising from SCI's damaging underground utilities or other man-made objects that were not called to SCI's attention, or which were not properly located on plans furnished to SCI.

4. **SAMPLES** Soil, rock, water, or other samples obtained from the project site are your property. SCI shall preserve such samples for no longer than thirty (30) calendar days after the issuance of any document that includes the data obtained from them, unless other mutually agreed arrangements are documented.

Concrete test specimens will be discarded after testing. If project specification strengths are met, "hold" cylinders will be discarded at that time.

If in SCI's opinion any of the samples collected may be affected by regulated contaminants, SCI shall package such samples in accordance with applicable law and client shall arrange for lawful disposal procedures. SCI shall not, under this agreement, arrange for or be responsible for the disposal of substances affected by regulated contaminants. Furthermore, unless detailed in a specific work scope, SCI is not responsible for any soil cuttings or produced groundwater generated for the purpose of sample collection that may be affected by regulated contaminants that are left at a job site and were generated for the collection of soil and groundwater samples. SCI will, at the client's request, help the client identify appropriate alternatives for the off-site treatment, storage, or disposal of these materials, for additional fees.

5. **GENERAL LIABILITY AND LIMITATION** SCI agrees to hold you harmless and to indemnify you on account of any liability due to bodily injury or property damage to the extent directly caused by our negligent operational acts, but such hold harmless and indemnity will be limited to that covered by our comprehensive general liability insurance. At your request, SCI will provide certificates evidencing such coverage and will purchase additional limits of liability that you may require as a separate cost item to be borne by you.

You shall not be liable to SCI and SCI shall not be liable to you for any consequential damages incurred by either due to the fault of the other, regardless of the nature of this fault, or whether it was committed by you or SCI, their employees, agents, or subcontractors. Consequential damages include, but are not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damage that any party may have incurred from any cause of action, including, but not limited to negligence, strict liability, breach of contract, or breach of warranty.

6. **SHARED RISK ALLOCATION** The Client and SCI agree to allocate certain of the risks so that, to the fullest extent permitted by law, SCI's total aggregate liability to the Client is limited to \$50,000.00 for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's and expert witness' fees) arising out of this AGREEMENT from any cause or causes. Such causes include, but are not limited to, SCI's negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or other acts giving rise to liability based upon contract, tort, or statute. Higher limits may be available upon request and additional negotiated fee.

Limitations on liability, waivers and indemnities in this Agreement are business understandings between the parties and shall apply to all legal theories of recovery, including breach of contract or warranty, breach of fiduciary duty, tort (including negligence), strict or statutory liability, or any other cause of action. You agree that you will not seek damages in excess of the contractually agreed-upon limitation directly or indirectly through suits against other parties who may join the Consultant as third-party defendant. None of the insurance or indemnity obligations under this agreement shall be deemed to be with a waiver of this limitation of liability provision.

7. **INVOICES** You will make all payments in accordance with SCI's invoices, and payment is due upon receipt of invoice. A fee of 1½ percent per month will be payable on any amounts not paid within thirty (30) days, payment thereafter to be applied first to accrued interest and then to your unpaid amount. You agree to pay invoices under these terms and to bear collection fees, court costs, or any other reasonable expense involved in the collection of amounts not paid.

8. **HAZARDOUS MATERIALS; NOTIFICATION OF AND DISCOVERY OF** When hazardous materials are known, assumed, or suspected to exist at a site, SCI is required to take appropriate precautions to protect the health and safety of its personnel, to comply with applicable laws and regulations, and to follow procedures that SCI deems prudent to help minimize physical risks to employees and the public. You warrant that you have provided to SCI all available information about type and location of known and suspected hazardous materials on, under, or adjacent to the project site.

The discovery of unanticipated hazardous or suspected hazardous materials will constitute a changed condition mandating termination of services if SCI and you are unable to renegotiate the scope of service in a timely manner. SCI will notify you as soon as practically possible should SCI encounter unanticipated hazardous or suspected hazardous materials.

The discovery of unanticipated hazardous or suspected hazardous materials may make it necessary for SCI to take measures that in SCI's professional opinion are needed to help preserve and protect the health and safety of SCI's personnel and of the public, and/or to preserve and protect the environment. As a condition precedent to the provision of service for this project, you agree to

compensate SCI for the additional fees and costs associated with any such measures and further agree to defend, indemnify, and hold harmless from any claim or liability for injury or loss arising from SCI's encountering unanticipated hazardous or suspected hazardous materials.

**9. CONTAMINATION OF AN AQUIFER**

Unavoidable contamination of soil or groundwater may occur during subsurface exploration, as when drilling or sampling tools penetrate a contaminated area, linking it to an aquifer, underground stream, or other hydrous body not previously contaminated and capable of spreading contaminants. Because subsurface exploration is an essential aspect of the services that SCI will provide on your behalf, you shall indemnify, defend, and hold SCI harmless from any claim or liability for injury or loss which may arise as a result of contamination allegedly caused by subsurface exploration to the fullest extent permitted by law.

**10. SITE SAFETY**

With respect to project site safety, SCI shall be responsible only for the on-site activities of its employees and subcontractors, and this responsibility shall not be construed to relieve you or the general contractor from your obligation to maintain a safe project site. Neither the professional activities of SCI, nor the presence of SCI's employees or subcontractors shall be construed to imply that SCI has any responsibility for any methods of work performance, procedures, superintendence, sequencing of operations, or safety in, on, or about the project site other than SCI's and SCI's subconsultants. You agree that the general contractor is responsible for project site safety and warrant that this intent shall be made evident in your agreement with the general contractor.

**11. CONSTRUCTION COST ESTIMATES**

An opinion of construction cost prepared by SCI represents our judgment as a design professional and is supplied for your general guidance only. Since we have no control over the cost of labor and material, nor over competitive bidding or market conditions, we do not guarantee the accuracy of our opinion as compared to other sources, such as, contractor bids of actual cost to the owner.

**12. DEFECTS IN SERVICE**

You and your personnel, contractors, and subcontractors shall promptly report to SCI any defects or suspected defects in SCI's work, in order that SCI may take prompt effective measures which in SCI's opinion will minimize the consequences of any such defect.

**13. TERMINATION**

Any or all services being provided for you by SCI under these General Terms and Conditions or under separate contract may be terminated by either party upon seven (7) days prior written notice. In the event of termination, SCI shall be compensated by you for all services performed up to and including the termination date, including reimbursable expenses.

**14. FORCE MAJEURE**

Any delays or failure of performance by SCI shall not constitute a default under this Agreement, if such delays or failures of performance are caused by occurrences beyond the reasonable control of SCI. Performance under this Agreement shall resume promptly once the cause or delay or failure ceases and SCI's schedule for performance shall be extended to the extent of such delay. Each party shall take reasonable steps to mitigate the impact of any such delay or failure.

**15. ENVIRONMENTAL SITE ASSESSMENT**

An Environmental Site Assessment is conducted to render an opinion about the possibility of regulated contaminants being present on, in, or beneath the site specifically at the time services were conducted. Client understands that no matter how thorough an Environmental Site Assessment is, SCI cannot know or state factually that a site is unaffected by reportable quantities of regulated contaminants. Furthermore, even if SCI believes that reportable quantities are not present, the client bears the risk that such contaminants may be present or may migrate to the site after the study is complete. Likewise, the client agrees to hold SCI harmless from any claim or liability for injury or loss arising from the unanticipated discovery of hazardous materials or suspected hazardous materials to the fullest extent permitted by law.

**16. FAILURE TO FOLLOW RECOMMENDATIONS**

SCI disclaims any and all responsibility and liability for problems that may occur during implementation of SCI's plans, specifications, or recommendations when SCI is not retained to observe such implementation.

**17. ALTERATION OF INSTRUMENTS OF SERVICE**

Client agrees that designs, plans, specifications, reports, proposals, and similar documents prepared by SCI are instruments of professional service, and as such, they may not under any circumstances be altered by any party except SCI. Client warrants that SCI's instruments of service will be used only and exactly as submitted by SCI. Accordingly, Client shall waive any claim against SCI and shall, to the fullest extent permitted by law, indemnify, defend, and hold SCI harmless of any claim or liability for injury or loss arising from unauthorized alteration of SCI's instruments of service.

**18. MOLD DISCLAIMER**

The services performed by SCI, unless specifically addressed in our scope of services, are not intended to take into account indoor amplification of mold. SCI's services may comment on depth to groundwater and site drainage, but in no instance is this to be interpreted that we were specifically intending to reduce moisture contents and/or humidity measurements within the structure as they may relate to mold. Client understands our services, unless specifically expressed in our work scope, are in no way intended to address the potential for mold infestation, and, as such, agrees to indemnify and hold SCI harmless from any claim alleging that SCI's services caused or aggravated a mold infestation to the fullest extent permitted by law.

**19. OTHER PROVISIONS**

You agree that this contract is entered into by the parties for the sole benefit of the parties to the contract, and that nothing in the contract shall be construed to create a right or benefit for any third party.

a. You agree that any and all limitations of SCI's liability and indemnifications by you shall include and extend to those individuals and entities SCI retains for performance of the services under this Agreement, including but not limited to SCI's officers, directors, and employees and their heirs and assigns, and SCI's subconsultants.

b. In an effort to resolve any conflicts that arise during or following completion of the project, you and SCI agree that all disputes between us arising out of or related to this Agreement shall be submitted to non-binding mediation as a condition precedent to institution of any formal legal proceeding, unless the parties mutually agree otherwise in writing.

c. THE PARTIES TO THIS CONTRACT HEREBY AGREE TO SUBMIT ANY SUCH DISPUTE TO THE CIRCUIT COURT OF ST. CHARLES COUNTY, STATE OF MISSOURI.

d. Test borings and test pits are an accepted and informative means of subsurface exploration. However, in the nature of things, they cannot indicate with absolute certainty the nature of the subsurface conditions between and sample locations of the exploration and below the termination of the borings or pits. Therefore, a report based on test borings, test pits, or other exploration method cannot ascertain the nature of the subsurface conditions between and beyond the specific sample locations. If conditions different than are indicated in our report come to your attention after you receive the report, it is recommended that you contact SCI immediately to inform SCI completely of what you have discovered and to authorize further evaluation, if appropriate.

e. Any recommendations provided in any correspondence, reports, plans, etc. from SCI are for the exclusive use of our client and are specific to the project covered by this contract. Recommendations provided by SCI are not meant to supersede more stringent requirements of local ordinances.

f. You may not assign this agreement to any other person or entity without the prior written consent of SCI. Any transfer of fifty percent or more of your equity interest or voting interest shall be deemed to be an assignment for this purpose.

g. SCI will perform all services under this agreement using the standard of care ordinarily used by firms performing such services in the locale where the services are being rendered. However, many factors influence the results from those services. As such, SCI expressly disclaims any warranty or guaranty as to the accuracy of such results. SCI's performance shall be solely judged against the foregoing standard of care.

# Important Information about This

# Geotechnical Engineering Proposal

**Subsurface problems are a principal cause of construction delays, cost overruns, claims, and disputes.**

**While you cannot eliminate all such risks, you can manage them. The following information is provided to help.**

### **Participate in Development of the Subsurface Exploration Plan**

Geotechnical engineering begins with the creation of an effective subsurface exploration plan. This proposal starts the process by presenting an initial plan. While that plan may consider the unique physical attributes of the site and the improvements you have in mind, it probably does not consider your unique goals, objectives, and risk management preferences. Subsurface exploration plans that are finalized without considering such factors presuppose that clients' needs are unimportant, or that all clients have the same needs. *Avoid the problems that can stem from such assumptions* by finalizing the plan and other scope elements directly with the geotechnical engineer you feel is best qualified for the project, along with the other project professionals whose plans are affected by the geotechnical engineer's findings and recommendations. If you have been told that this step is unnecessary; that client preferences do not influence the scope of geotechnical engineering service or that someone else can articulate your needs as well as you, you have been told wrong. No one else can discuss your geotechnical options better than an experienced geotechnical engineer, and no one else can provide the input you can. Thus, while you certainly are at liberty to accept a proposed scope "as is," recognize that it could be a unilateral scope developed without direct client/engineer discussion; that authorizing a unilateral scope will force the geotechnical engineer to accept all assumptions it contains; that assumptions create risk. *Manage your risk. Get involved.*

### **Expect the Unexpected**

The nature of geotechnical engineering is such that planning needs to *anticipate the unexpected*. During the design phase of a project, more or deeper borings may be required, additional tests may become necessary, or someone associated with your organization may request a service that was not included in the final scope. During the construction phase, additional services may be needed to respond quickly to unanticipated conditions. In the past, geotechnical engineers commonly did whatever was required to oblige their clients' representatives and safeguard their clients' interests, taking it on faith that their clients wanted them to do so. But some, evidently, did not, and refused to pay for legitimate extras on the ground that the engineer proceeded without proper authorization, or failed to submit notice in a timely manner, or failed to provide proper documentation. *What are your preferences? Who is permitted to authorize additional geotechnical services on your project? What type of documentation do you require? To whom should it be sent? When? How?* By addressing these and similar issues sooner rather than later, you and your geotechnical engineer will be prepared for the unexpected, to help prevent molehills from growing into mountains.

### **Have Realistic Expectations; Apply Appropriate Preventives**

The recommendations included in a geotechnical engineering report are *not final*, because they are based on opinions that can be verified only during construction. For that reason, most geotechnical engineering proposals offer the construction observation services that permit the geotechnical engineer of record to confirm that subsurface conditions are what they were expected to be, or to modify recommendations when actual conditions were not anticipated. *An offer to provide construction observation*

is an offer to better manage your risk. Clients who do not take advantage of such an offer; clients who retain a second firm to observe construction, can create a high-risk “Catch-22” situation for themselves. *The geotechnical engineer of record cannot assume responsibility or liability for a report’s recommendations when another firm performs the services needed to evaluate the recommendations’ adequacy.* The second firm is also likely to disavow liability for the recommendations, because of the substantial and possibly uninsurable risk of assuming responsibility for services it did not perform. Recognize, too, that no firm other than the geotechnical engineer of record can possibly have as intimate an understanding of your project’s geotechnical issues. As such, reliance on a second firm to perform construction observation can elevate risk still more, because its personnel may not have the wherewithal to recognize subtle, but sometimes critically important unanticipated conditions, or to respond to them in a manner consistent with your goals, objectives, and risk management preferences.

**Realize That Geoenvironmental Issues Have Not Been Covered**

The equipment, techniques, and personnel used to perform a geoenvironmental study differ significantly from those used to perform a geotechnical study. *Geoenvironmental services are not being offered in this proposal. The report that results will not relate any geoenvironmental findings, conclusions, or recommendations.* Unanticipated environmental problems have led to numerous project failures. If you have not yet obtained your own geoenvironmental information, ask your geotechnical consultant for risk management guidance. *Do not rely on an environmental report prepared for someone else.*

**Obtain Professional Assistance To Deal with Mold**

Diverse strategies can be applied during building design, construction, operation, and maintenance to prevent significant amounts of mold from growing on indoor surfaces. To be effective, all such strategies should be devised for the express purpose of mold prevention, integrated into a comprehensive plan, and executed with diligent oversight by a professional mold prevention consultant. Because just a small amount of water or moisture can lead to the development of severe mold infestations, a number of mold prevention strategies focus on keeping building surfaces dry. While groundwater, water infiltration, and similar issues may be addressed as part of the geotechnical engineering study described in this proposal, the geotechnical engineer who would lead this project *is not* a mold prevention consultant; *none of the services being offered have been designed or proposed for the purpose of mold prevention.*

**Have the Geotechnical Engineer Work with Other Design Professionals and Constructors**

Other design team members’ misinterpretation of a geotechnical engineering report has resulted in costly problems. Manage that risk by having your geotechnical engineer confer with appropriate members of the design team before finalizing the scope of geotechnical service (as suggested above), and, again, after submitting the report. *Also retain your geotechnical engineer to review pertinent elements of the design team members’ plans and specifications.*

Reduce the risk of unanticipated conditions claims that can occur when constructors misinterpret or misunderstand the purposes of a geotechnical engineering report. Use appropriate language in your contract documents. Retain your geotechnical engineer to participate in prebid and preconstruction conferences, and to perform construction observation.



**Read Responsibility Provisions Closely**

Clients, design professionals, and constructors who do not recognize that geotechnical engineering is far less exact than other engineering disciplines can develop unrealistic expectations. Unrealistic expectations can lead to disappointments, claims, and disputes. To help reduce the risk of such outcomes, geotechnical engineers commonly include a variety of explanatory provisions in their proposals. Sometimes labeled “limitations,” many of these provisions indicate where geotechnical engineers’ responsibilities begin and end, to help others recognize their own responsibilities and risks, thus to encourage more effective scopes of service. *Read this proposal’s provisions closely.* Ask questions. Your geotechnical engineer should respond fully and frankly.

**Rely on Your Geotechnical Engineer for Additional Assistance**

Membership in the Geoprofessional Business Association (GBA) exposes geotechnical engineers to a wide array of risk management techniques that can be of genuine benefit to everyone involved with a construction project. Confer with a GBA-member geotechnical engineer for more information. Confirm a firm’s membership in GBA by contacting GBA directly or at its website.



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Telephone: 301/565-2733 Facsimile: 301/589-2017  
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## Consent Item

RE: Temporary Labor

Department/Program: Public Works/Leaf Collection

**Explanation:** The City of Ballwin solicited proposals for temporary laborers for a six (6) week period beginning October 28<sup>th</sup>. The City received 3 proposals. The results are on file in the Public Works Department. The laborers will be required to work outdoors in a dusty environment and in all types of weather including rain and severe heat and cold. The work consists of raking leaves that were placed at the curb by homeowners to be picked up by the City’s vacuum. Each laborer will be required to work 7:00 am to 3:30 pm, Monday through Friday with a 30 minute unpaid lunch break.

	Hourly Rate	Budget
People Ready	\$30.70	
Westside Personnel	\$22.88	
Labor Finders	\$25.64	<b>\$45,000.00</b>

**Recommendation:** To award the contract to Westside Personnel for the Unit price of \$22.88 per Hour. In the event that Westside Personnel cannot supply all 6 people, we also recommend using the next lowest bidder to ensure we have enough laborers for leaf collection.

Submitted By: Jim Link

Date: 09/28/2024



## Staff Report

Subject: Leaf Collection-Contractual

Department/Program: Public Works / Leaf Collection

**Explanation:** We advertised for bids and received one bid. The contractor will collect leaves in Meadowbrook Country Club and Claymont subdivision as well as other areas as needed and deliver them to the Public Works yard for disposal. The contract is for leaf collection for approximately 6 weeks from October 28<sup>th</sup> to December 6<sup>th</sup>.

We opened bids on 9-27-2024 and received one bid for a unit price of \$37.70 per cubic yard and \$99,905.00 for the entirety of the bid.

	Unit Price 2021	Unit Price 2022	Unit Price 2023	TOTAL BID
<i>West County Landscaping</i>	\$36.00/cy	\$38.60/cy	\$36.17	
Leaves collected	1997 cy	2149 cy	2019 cy	
<b>BUDGET</b>				<b>\$73,000.00</b>

Information from the 2021-2023 leaf collection indicated that approximately 2000 cubic yards of leaves were collected in Meadowbrook Country Club and the Claymont subdivision. In 2023 we collected 1662 cubic yards in Claymont and Meadowbrook Country Club and a total of 2019 cubic yards of leaves throughout the city from the contractor.

We would like to also make you aware that although we are proposing to go over budget in this account, we will offset that cost with the savings captured from unfilled positions due to labor shortages this year.

**Recommendation:** We recommend awarding the unit price contract to West County Landscaping not to exceed \$99,905.00.

Submitted By: Jim Link

Date: 09/28/2024



# Staff Report

**Subject:** Ries Road STP-4939(610)

**Department/Program:** Public Works/Pavement/Streets

**Explanation:** The 2024 budget provides for the resurfacing of Ries Road through an 80/20 STP project. Sidewalk replacement, and upgrading of some curb ramps to current ADA standards will be done by city crews in house.

Requests for bid notices were sent to several contractors and advertised in the St. Louis Business Journal, ePlan, and on the City’s website and on Modot’s website. Bids were opened on September 19<sup>th</sup>, 2024. Bid specifications are on file at the Public Works Department.

The table below summarizes the bids received on September 19<sup>th</sup>, 2024.

	TOTAL BID
Raineri Construction LLC	\$1,471,490.73
NB West	\$2,898,527.00
<b>TOTAL PROJECT BUDGET</b>	<b>\$855,773.00</b>

After bid openings staff applied for a request for additional funding through the East-West Gateway Council of Governments and received an additional \$205,385.00. for this project. While the low bid is still above budget, the additional funding will get us closer to the low bid amount.

Project Low Bid Total = \$1,471,490.73

Federal Share Before Additional funding \$684,618.00  
Ballwin Share Before Additional funding \$786,872.73

Federal Share After Additional funding \$890,003.00  
Ballwin Share After Additional funding \$581,488.00

Original Federal Share \$684,618.00  
Original Ballwin Share \$212,231.60

**Recommendation:** We recommend accepting the Bid received on September 19<sup>th</sup>, 2024 from Raineri Construction LLC. not to exceed the amount of \$1,471,490.73.

Submitted By: Jim Link  
Date: October 7<sup>th</sup>, 2024



September 30, 2024

Missouri Department of Transportation, Design Division  
LPA Bid Concurrence Request  
105 West Capitol Avenue  
Jefferson City, Missouri 65102

Re: **Request for Concurrence of Award**  
**Ries Road Improvements**  
**Project No. STP-4939(610)**  
**Ballwin, Missouri**

Dear Sir/Madam:

**Summary**

Enclosed please find the bid information for the Ballwin, Ries Road Improvements opened on September 19, 2024. We have received and reviewed two (2) bids. As stated in the bid documents, the basis for determining the lowest responsive bidder was the bidder that submitted a responsive bid with the lowest sum of the Base Bid. There were no alternates. We are recommending that the contract be awarded to the low bidder, which is Raineri Construction, LLC for the amount of the Base Bid totaling \$1,471,490.73. The City contacted the East-West Gateway Council of Governments to request additional funding through the Inflationary Adjustment Request Form and received approval for an additional \$205,385.00. The approved form is attached to this letter. The City has budgeted for this work and is prepared to fund all costs beyond the available Federal Funds.

**DBE Goal**

The DBE goal was set at 7%. The low bidders appear to have met the goal with a reported DBE participation as follows:

- Raineri Construction, LLC: ..... 8.7%
- Platin Creek Excavating, dba PCX Construction: ..... 10.6%

The breakdown of these percentages can be seen in the attached DBE forms. The DBE information from PCX Construction had an error in the calculations for Gerstner Electric, which resulted in a DBE percentage of 10.6%. This error did not affect the selection of the low bidder. As stated in the bid documents, the DBE percentages were based upon the total of the Base Bid.

**Contractor Prequalification**

The Contractors were required to be on the MoDOT Approved Contractor List for this project. The low and second low bidders are shown to be on the MoDOT Qualified Contractor.

**Bid Irregularities**

There were no bid irregularities.

**Miscellaneous Required Submittals**

As part of the bidding requirements, the Project Manual required the bidder to submit a Subcontractor Approval Form. Submittals from all bidders were received in the appropriate timeframe.

**Documentation**

As requested, I have enclosed one (1) copy of the following for your review:

- Inflationary Adjustment Request Form
- Bid Tabulation
- DBE Forms of the two low bidders
- Itemized Bid Proposal of the two low bidders
- Copy of Advertisement. Posted: MoDOT – 7/22/24, The St. Louis Countian –7/25/24  
Directly sent to 51 local construction contacts via email – 7/22/24,  
Placed in four plan rooms (Southern Illinois Builders Association, ePlan, Prime Vendor and Construct Connect)
- Signed E-Verify Affidavit and Memo of Understanding from two low bidders
- Bid bonds from two low bidders
- Executed Anti-Collusion Statements of the two low bidders (NTC-4)
- Signed documentation from all bidders acknowledging the receipt of all addendums (NTC-4)

**Conclusion**

The number of bids received is typical for an ultrathin bonded asphalt wearing surface project (2). Overall interest in the project was high as evidenced by the number of plan holders (19). The low bidder total base bid is approximately 68% above the engineer’s estimate. Analysis of the Raineri unit prices reveal that the majority of the increased costs are in the line items involving concrete construction and the ultrathin bonded asphalt wearing surface. Contractors are reporting that concrete prices have increased in the area. Otherwise, unit prices seem appropriate. From past experiences, we do not believe rebidding the project will result in lower unit prices and the City has adjusted the budget to be able to fund all costs over the Federal funds available, with the additional funding provided by the East West Gateway Council of Governments, and is willing to continue with the project.

We ask for your concurrence in awarding the contract to Raineri Construction, LLC. The City will not be seeking federal reimbursement for Construction Engineering (CE) services. If you have any questions or need any additional information, please contact me at (636) 227-8580.

Sincerely,

Jim Link  
Public Works Superintendent

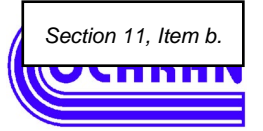
Cc: Jaclyn Miller, MoDOT  
file

## Inflationary Adjustment Request Form

Date:	9-23-2024						
Project contact - -							
Name:	Jim Link			Title:	Director of Public Works		
Street address:	200 Park Drive						
City:	Ballwin	State:	Missouri	County:	St. Louis	Zip code:	63011
Phone number:	636-227-9000						
Email address:	Jlink@ballwin.mo.us						
Project information - -							
Sponsoring agency:	City of Ballwin						
Project title:	Ries Road Improvements						
TIP number:	7173-24						
Federal ID number:	STP-4939(610)						
Funding category:	<input checked="" type="checkbox"/> STP-S <input type="checkbox"/> CMAQ <input type="checkbox"/> TAP						
Funding award in TIP (construction only; not construction engineering) - -							
	Federal:	\$684,618.40					
	Local:	\$171,154.60					
	Total:	\$855,773.00					
Federal matching percent in TIP application (construction only; not construction engineering):							
Bid opening date:	9-19-2024						
Number of bids received:	2						
Low bid amount:	\$1,471,490.73						
If bid includes non-federally participating work, complete the following - -							
	Federally participating costs:						
	Non-federally participating costs:						

<b>EWG Internal Use Only</b>	
EWG Action - -	
Federal Increase:	\$205,385
<input checked="" type="checkbox"/> Pre-Approval <input type="checkbox"/> Denied	
Date:	09/24/2024
Lowest, responsive bid:	
<input type="checkbox"/> Final Approval	
Date:	
<i>Note: Pre-approval is based on bids and final approval is based on MoDOT Bid Concurrence.</i>	

Project Name: **Ries Road Improvements**  
 Sponsor: **City of Ballwin, Missouri**  
 Federal #: **STP-4939(610)**  
 Cochran #: **SC19-1061**  
 Bid Date: **September 19, 2024, 2:00 p.m.**



Bid No.	Spec. No.	Description	Unit	Quantity	Engineer		Raineri Construction		PCX Construction, LLC	
					Unit Cost	Extended Cost	Unit Cost	Extended Cost	Unit Cost	Extended Cost
<b>ROADWAY ITEMS</b>										
1	2022010	Removal of Improvements	LS	1	\$40,000.00	\$40,000.00	\$26,884.00	\$26,884.00	\$259,000.00	\$259,000.00
2	4133200	Ultrathin Bonded Wearing Surface, Type C, 1"	SY	30,305	\$8.00	\$242,440.00	\$14.20	\$430,331.00	\$8.80	\$266,684.00
3	6085000	Concrete Approach, 7" (Remove and Replace)	SF	325	\$10.00	\$3,250.00	\$54.54	\$17,725.50	\$55.00	\$17,875.00
4	6091012	Concrete Vertical Curb, 6" (Remove and Replace)	LF	400	\$25.00	\$10,000.00	\$72.41	\$28,964.00	\$135.00	\$54,000.00
5	6091053	Concrete Vertical Curb and Gutter, 2'-6" Wide (Remove and Replace)	LF	1,590	\$30.00	\$47,700.00	\$68.06	\$108,215.40	\$147.00	\$233,730.00
6	6131000	Partial Depth Pavement Repair (Includes Milling and Asphalt Patch) (Allowance)	SY	300	\$30.00	\$9,000.00	\$101.11	\$30,333.00	\$135.00	\$40,500.00
7	6161025	Channelizers (Trimline)	EA	100	\$25.00	\$2,500.00	\$26.40	\$2,640.00	\$24.00	\$2,400.00
8	6181000	Mobilization	LS	1	\$70,000.00	\$70,000.00	\$129,334.73	\$129,334.73	\$485,000.00	\$485,000.00
9	6221000	Pavement Milling (Edge Mill & Butt Joints)	SY	15,025	\$4.00	\$60,100.00	\$4.68	\$70,317.00	\$2.00	\$30,050.00
10	8061007A	Inlet Check	EA	13.00	\$200.00	\$2,600.00	\$203.50	\$2,645.50	\$185.00	\$2,405.00
11	8061019	Silt Fence	LF	1,335.00	\$3.00	\$4,005.00	\$5.50	\$7,342.50	\$3.80	\$5,073.00

**Sub-total Roadway Items:      \$491,595.00                      \$854,732.63                      \$1,396,717.00**

<b>SIGNING/STRIPING/SIGNALS ITEMS</b>										
12	6161006	"Road Work Ahead" Sign (W20-1)	EA	2	\$150.00	\$300.00	\$143.00	\$286.00	\$130.00	\$260.00
13	6161006	"Shoulder Work Ahead" Sign (W21-5)	EA	2	\$150.00	\$300.00	\$143.00	\$286.00	\$130.00	\$260.00
14	6161006	"End Road Work" Sign (G20-2)	EA	2	\$150.00	\$300.00	\$110.00	\$220.00	\$100.00	\$200.00
15	6161006	"One Lane Road Ahead" Sign (W20-4)	EA	2	\$150.00	\$300.00	\$143.00	\$286.00	\$130.00	\$260.00
16	6161006	"Road Narrows" Sign (W5-1)	EA	2	\$150.00	\$300.00	\$143.00	\$286.00	\$130.00	\$260.00
17	6161006	"Flagger" Sign (W20-7a)	EA	2	\$150.00	\$300.00	\$143.00	\$286.00	\$130.00	\$260.00
18	6161006	"Sidewalk Closed" Sign (R9-9)	EA	2	\$150.00	\$300.00	\$55.00	\$110.00	\$50.00	\$100.00
19	6161006	"Sidewalk Closed, Use Other Side" Sign (R9-10)	EA	2	\$150.00	\$300.00	\$55.00	\$110.00	\$50.00	\$100.00
20	6161031	Type III Moveable Barricade for Sidewalk Closure	EA	2	\$300.00	\$600.00	\$203.50	\$407.00	\$185.00	\$370.00
21	6200020	Pavement Marking - Turn Lane Arrow White (Standard Waterborne)	EA	14	\$350.00	\$4,900.00	\$93.50	\$1,309.00	\$85.00	\$1,190.00
22	6200026	Pavement Marking - Straight Left/Right Arrow White (Standard Waterborne)	EA	2	\$400.00	\$800.00	\$137.50	\$275.00	\$125.00	\$250.00
23	6205901A	Pavement Marking - Lane Lines 4" - Yellow and White (High Build Waterborne)	LF	20,340	\$0.50	\$10,170.00	\$0.55	\$11,187.00	\$0.50	\$10,170.00
24	6206112A	Pavement Marking 12" - Crosswalk White (Standard Waterborne)	LF	1,060	\$3.00	\$3,180.00	\$4.40	\$4,664.00	\$4.00	\$4,240.00
25	6206124A	Pavement Marking 24" - Stop Bar White (Standard Waterborne)	LF	205	\$6.00	\$1,230.00	\$8.80	\$1,804.00	\$8.00	\$1,640.00
26	9031200	Sign Relocation on New Post (per location, regardless of the number of signs)	EA	5	\$750.00	\$3,750.00	\$734.80	\$3,674.00	\$1,200.00	\$6,000.00
27	9035000	"Share the Road" Sign (R16-1)	EA	4	\$900.00	\$3,600.00	\$71.50	\$286.00	\$600.00	\$2,400.00
28	9035000	Bike Sign (R11-1)	EA	4	\$900.00	\$3,600.00	\$143.00	\$572.00	\$600.00	\$2,400.00
29	JSP	Signal Loop Detectors	EA	3	\$2,000.00	\$6,000.00	\$1,980.00	\$5,940.00	\$3,120.00	\$9,360.00

**Sub-total Signing/Striping/Signals Items:      \$40,230.00                      \$31,988.00                      \$39,720.00**

<b>BICYCLE/PEDESTRIAN FACILITY ITEMS</b>										
30	6086000	Concrete Sidewalk and Curb Ramps (Remove and Replace)	SF	6,750	\$10.00	\$67,500.00	\$30.09	\$203,107.50	\$109.00	\$735,750.00
31	6081012	Detectable Warning Device	SF	445	\$25.00	\$11,125.00	\$22.00	\$9,790.00	\$44.00	\$19,580.00

**Sub-total Bicycle/Pedestrian Facility Items:      \$78,625.00                      \$212,897.50                      \$755,330.00**

<b>LANDSCAPING/STREETSCAPING ITEMS</b>										
32	8031000	Sodding	LS	800	\$10.00	\$8,000.00	\$22.00	\$17,600.00	\$55.00	\$44,000.00
33	9011000	Hand Hole, 13" x 24"	EA	4	\$1,200.00	\$4,800.00	\$1,755.60	\$7,022.40	\$2,820.00	\$11,280.00
34	9011000	Underground Conduit, 1-1/2"	LF	7,700	\$15.00	\$115,500.00	\$15.95	\$122,815.00	\$51.50	\$396,550.00
35	9011000	Underground Conduit, 2-1/2"	LF	110	\$15.00	\$1,650.00	\$30.80	\$3,388.00	\$55.00	\$6,050.00
36	9011000	Load Center	EA	3	\$7,000.00	\$21,000.00	\$10,062.80	\$30,188.40	\$11,900.00	\$35,700.00
37	9011000	Street Light Assembly	EA	38	\$3,000.00	\$114,000.00	\$5,022.60	\$190,858.80	\$5,610.00	\$213,180.00

**Sub-total Landscaping/Streetscaping Items:      \$264,950.00                      \$371,872.60                      \$706,760.00**

**Total Construction Costs:      \$875,400.00                      \$1,471,490.73                      \$2,898,527.00**



**DBE Submittal Forms**

(6) **DBE Submittal Forms:** This form must be submitted by 4 p.m. three (3) business days after bid opening.

(A) **DBE Contract Goal:** By submitting this bid, the bidder certifies that the bidder is familiar with the DBE Program Requirements in this contract. The contract DBE goal for the amount of work to be awarded is « 7.0 »% of the total federal project price. The bidder shall also complete the DBE Submittal Form in accordance with the program requirements.

(B) **DBE Participation:** The bidder certifies that it will utilize DBE's as follows:

8.70 % OF TOTAL FEDERAL CONTRACT

NOTE: Bidder must fill in the above blank. If no percentage is specified, the bidder certifies that it agrees to, and will comply with the contract goal. If a percentage below the contract goal is specified, then the bidder must submit complete documentation of good faith efforts to meet the DBE contract goal, immediately below.

(C) **Certification of Good Faith Efforts to Obtain DBE Participation:** By submitting its signed bid, the bidder certifies under penalty of perjury and other provisions of law, that the bidder took each of the following steps to try to obtain sufficient DBE participation to achieve the Commission's proposed DBE Contract Goal: (Attach additional sheets if necessary).

Multiple horizontal lines for providing details on good faith efforts.

## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP-4939 (610)

Route: \_\_\_\_\_

County: Ballwin

Prime Contractor: Bainer's Construction

Contract Amount: \$1,471,490.73

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. This page of this document must be received for each DBE utilized on the project.

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: Centrex Address: 3900 Washington Blvd. 63108

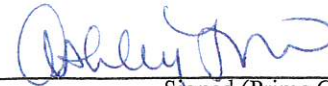
(A) Line No.	(B) Dollar Value of DBE Work** (Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal (B x C)	(E) Percent of total contract amount for line item (D / total contract amount)	Add or Remove Lines
901 1000	2156.	60%	1293.60	.9%	- +
901 1000	15,621.	60%	9,372.60	.64%	- +
901 1000	111,948.	60%	67,168.	4.56%	- +
					- +
					- +
					- +
					- +
					- +
					- +
					- +
					- +
<b>DBE Total:</b>				<b>71,835.</b>	<b>Total % 5.29</b>

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Bainer's Construction  
 Company Name (Prime Contractor)

Ashley Baineri, President  
 Name / Title

  
 Signed (Prime Contractor)

## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP-4939 (610)

Route: \_\_\_\_\_

County: \_\_\_\_\_

Prime Contractor: Raineri Construction

Contract Amount: \$1,471,490.73

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: ATK Safety Address: 6352 Cedar Springs rd. 63016

(A) Line No.	(B) Dollar Value of DBE Work** (Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal (B x C)	(E) Percent of total contract amount for line item (D / total contract amount)	Add or Remove Lines	
616	1006	260.	100	260.	.02	- +
616	1006	260.	100	260.	.02	- +
616	1006	200.	100	200.	.01	- +
616	1006	260.	100	260.	.02	- +
616	1006	260.	100	260.	.02	- +
616	1006	100.	100	100.	.01	- +
616	1006	100.	100	100.	.01	- +
616	1031	370.	100	370.	.03	- +
620	0020	1190.	100	1190.	.08	- +
620	0026	250.	100	250.	.02	- +
<b>DBE Total:</b>				<b>Total %</b>		<u>page 2</u> →

\*\*Cannot exceed contract amount for given item of work  
Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
Allowed amount of participation will be in accordance with 49 CFR Part 26.  
Brokered services will only receive credit for fees.

Respectfully submitted:

Raineri Construction  
Company Name (Prime Contractor)

Ashley Raineri, President  
Name / Title

Ashley Raineri  
Signed (Prime Contractor)



### DBE Identification Submittal Form (For Local Program Agency (LPA) Projects)

Job Number: STP-4939 (610)

Route: \_\_\_\_\_

County: \_\_\_\_\_

Prime Contractor: Baineri Construction

Contract Amount: \$1,471,490.73

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. This page of this document must be received for each DBE utilized on the project.

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: ATK (cont) Address: \_\_\_\_\_

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item ( D / total contract amount)	Add or Remove Lines	
620 5901A	10,170.	100	10,170.	.69	-	+
620 6112A	4240.	100	4240.	.29	-	+
620 6124A	1640.	100	1640.	.11	-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
<b>DBE Total:</b> <u>19,350.</u>				<b>Total %</b> <u>1.31</u>		

\*\*Cannot exceed contract amount for given item of work  
Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
Allowed amount of participation will be in accordance with 49 CFR Part 26.  
Brokered services will only receive credit for fees.

Respectfully submitted:

Baineri Construction  
Company Name (Prime Contractor)

Ashley Baineri, President  
Name / Title

Ashley B  
Signed (Prime Contractor)

### DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP-4939 (610)

Route: \_\_\_\_\_

County: \_\_\_\_\_

Prime Contractor: Raineri Construction

Contract Amount: \$1,471,490.73

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: Site Systems Address: 2313 Markoe Ave. 63385

(A) Line No.	(B) Dollar Value of DBE Work** (Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal (B x C)	(E) Percent of total contract amount for line item (D / total contract amount)	Add or Remove Lines
618	5800.	100 %	5800.	.39 %	- +
806	2405.	100 %	2405.	.16 %	- +
806	6675.	100 %	6675.	.45 %	- +
803	16,000.	100 %	16,000.	1.09 %	- +
					- +
					- +
					- +
					- +
					- +
					- +
					- +
					- +
<b>DBE Total:</b>				<u>30,880.00</u>	<b>Total %</b> <u>2.10 %</u>

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Raineri Construction  
 Company Name (Prime Contractor)

Ashley Raineri, President  
 Name / Title

Ashley Raineri  
 Signed (Prime Contractor)



Project No.

**DBE and non-DBE Subcontractor Reporting Form:**

MoDOT and its subrecipients are recipients of federal funds and are required by 49 CFR 26.11, to provide data about its DBE program. The information shall consist of the names of all subcontractors used and considered for the contract bid. The information listed below shall only include the names of both DBE and non-DBE companies. MoDOT will then contact the DBEs and non-DBE companies and request additional information including their current year of gross receipts and number of years in business. The information provided by the prime bidders shall not include any bid quote pricing regardless of whether the subcontractor was used or not. This information shall be submitted by 4:00 p.m. on the 3rd working day after the bid opening. This form shall be submitted to:

Mike Spalding via email, [mspalding@cochraneng.com](mailto:mspalding@cochraneng.com).

DBE/non-DBE Subcontractors Used

DBE/non-DBE Subcontractor Quotes Received

metron surveying  
Reinhold Electric  
ATK Safety Supply  
Site Systems  
   
   
   
   
   
 

Meyer Electric  
Gerstner Electric  
   
   
   
   
   
   
   
 

Representative: Ashley Raineri

Signature Field  


Title: President

Company Name: Raineri Construction

Date: 9/20/24

**DBE Submittal Forms**

**(6) DBE Submittal Forms:** This form must be submitted by 4 p.m. three (3) business days after bid opening.

**(A) DBE Contract Goal:** By submitting this bid, the bidder certifies that the bidder is familiar with the DBE Program Requirements in this contract. The contract DBE goal for the amount of work to be awarded is « 7.0 »% of the total federal project price. The bidder shall also complete the DBE Submittal Form in accordance with the program requirements.

**(B) DBE Participation:** The bidder certifies that it will utilize DBE's as follows:

7% % OF TOTAL FEDERAL CONTRACT

**NOTE:** Bidder must fill in the above blank. If no percentage is specified, the bidder certifies that it agrees to, and will comply with the contract goal. If a percentage below the contract goal is specified, then the bidder must submit complete documentation of good faith efforts to meet the DBE contract goal, immediately below.

**(C) Certification of Good Faith Efforts to Obtain DBE Participation:** By submitting its signed bid, the bidder certifies under penalty of perjury and other provisions of law, that the bidder took each of the following steps to try to obtain sufficient DBE participation to achieve the Commission's proposed DBE Contract Goal: (Attach additional sheets if necessary).

Multiple horizontal lines for providing details on good faith efforts to obtain DBE participation.

## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP - 4939(610)

Route: Ries Road Improvements

County: Ballwin

Prime Contractor: Plattin Creek Excavating, LLC dba PCX Construction, LLC

Contract Amount: \$2,898,527.00

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: Schrimpf Landscaping Address: 2820 Brush Creek Court, Jefferson City, MO 65110

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item ( D / total contract amount)	Add or Remove Lines	
8	1,500.00	100%	1,500.00	0.05%	-	+
10	2,405.00	100%	2,405.00	0.08%	-	+
11	5,073.00	100%	5,073.00	0.17%	-	+
32	44,000.00	100%	44,000.00	1.51%	-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
<b>DBE Total:</b>				<b>52,978.00</b>	<b>Total % 1.81%</b>	

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Plattin Creek Excavating, LLC dba PCX Construction, LLC  
 Company Name (Prime Contractor)

Brian Trudt Esitimator  
 Name / Title

Brian Trudt  
 Signed (Prime Contractor)



## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP - 4939(610)

Route: Ries Road Improvements

County: Ballwin

Prime Contractor: Plattin Creek Excavating, LLC dba PCX Construction, LLC

Contract Amount: \$2,898,527.00

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: ATK Safety Supply Address: 6352 Cedar Springs Road, Cedar Hill MO 63016

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item ( D / total contract amount)	Add or Remove Lines	
21	1,190.00	100%	1,190.00	0.04%	-	+
22	250.00	100%	250.00	0.008%	-	+
23	10,170.00	100%	10,170.00	0.35%	-	+
24	4,240.00	100%	4,240.00	0.14%	-	+
25	1,640.00	100%	1,640.00	0.05%	-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
<b>DBE Total: 17,490.00</b>				<b>Total % 0.58%</b>		

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Plattin Creek Excavating, LLC dba PCX Construction, LLC  
 Company Name (Prime Contractor)

Brian Trudt Esitimator  
 Name / Title

Brian Trudt  
 Signed (Prime Contractor)

## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP - 4939(610)

Route: Ries Road Improvements

County: Ballwin

Prime Contractor: Plattin Creek Excavating, LLC dba PCX Construction, LLC

Contract Amount: \$2,898,527.00

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: ATK Safety Supply Address: 6352 Cedar Springs Road, Cedar Hill MO 63016

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item (D / total contract amount)	Add or Remove Lines	
7	2,400.00	100%	2,400.00	0.08%	-	+
12	260.00	100%	260.00	0.008%	-	+
13	260.00	100%	260.00	0.008%	-	+
14	200.00	100%	200.00	0.008%	-	+
15	260.00	100%	260.00	0.008%	-	+
16	260.00	100%	260.00	0.008%	-	+
17	260.00	100%	260.00	0.008%	-	+
18	100.00	100%	100.00	0.003%	-	+
19	100.00	100%	100.00	0.003%	-	+
20	370.00	100%	370.00	0.009%	-	+
<b>DBE Total: 4,470.00</b>				<b>Total %0.14%</b>		

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Plattin Creek Excavating, LLC dba PCX Construction, LLC  
 Company Name (Prime Contractor)

Brian Trudt Esitimator  
 Name / Title

Brian Trudt  
 Signed (Prime Contractor)

## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP - 4939(610)

Route: Ries Road Improvements

County: Ballwin

Prime Contractor: Plattin Creek Excavating, LLC dba PCX Construction, LLC

Contract Amount: \$2,898,527.00

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: Bahr Hydro Address: 3126 Cliff Drive, Arnold, MO 63010

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item (D / total contract amount)	Add or Remove Lines	
8	2,320.00	100%	2,320.00	0.08%	-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
<b>DBE Total: 2,320.00</b>				<b>Total %0.08%</b>		

**\*\*Cannot exceed contract amount for given item of work**  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Plattin Creek Excavating, LLC dba PCX Construction, LLC  
 Company Name (Prime Contractor)

Brian Trudt Esitimator  
 Name / Title

*Brian Trudt*  
 Signed (Prime Contractor)

## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP - 4939(610)

Route: Ries Road Improvements

County: Ballwin

Prime Contractor: Plattin Creek Excavating, LLC dba PCX Construction, LLC

Contract Amount: \$2,898,527.00

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: D&S Fencing Address: 2800 Sunnyside Road Festus, MO 63028

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item (D / total contract amount)	Add or Remove Lines	
26	6,000.00	100%	6,000.00	0.20%	-	+
27	2,400.00	100%	2,400.00	0.08%	-	+
28	2,400.00	100%	2,400.00	0.08%	-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
<b>DBE Total:</b>				<b>10,800.00</b>	<b>Total % 0.36%</b>	

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Plattin Creek Excavating, LLC dba PCX Construction, LLC  
 Company Name (Prime Contractor)

Brian Trudt Esitimator  
 Name / Title

Brian Trudt  
 Signed (Prime Contractor)

## DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP - 4939(610)

Route: Ries Road Improvements

County: Ballwin

Prime Contractor: Plattin Creek Excavating, LLC dba PCX Construction, LLC

Contract Amount: \$2,898,527.00

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: Diamond Hauling Address: 807 Hwy T, Firistell, MO 63348

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item ( D / total contract amount)	Add or Remove Lines	
1	12,569.00	100%	12,569.00	0.43%	-	+
3	2,569.00	100%	2,569.00	0.08%	-	+
4	3,256.00	100%	3,256.00	0.11%	-	+
5	44,658.00	100%	44,658.00	1.54%	-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
<b>DBE Total: 63,025.00</b>				<b>Total % 2.16%</b>		

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Plattin Creek Excavating, LLC dba PCX Construction, LLC  
 Company Name (Prime Contractor)

Brian Trudt Esitimator  
 Name / Title

Brian Trudt  
 Signed (Prime Contractor)

# DBE Identification Submittal Form

(For Local Program Agency (LPA) Projects)

Job Number: STP - 4939(610)

Route: Ries Road Improvements

County: Ballwin

Prime Contractor: Plattin Creek Excavating, LLC dba PCX Construction, LLC

Contract Amount: \$2,898,527.00

**Identification of Participating DBE's:** Provide the requested information below for each DBE participating on the project. Submit this information with your bid or to Cochran, 737 Rudder Road, Fenton, MO 63026 no later than 4:00 p.m. on the 3rd working day after the bid opening. Fax or e-mail transmittal is permitted. The fax number is (314) 842-5957 and the e-mail address for submittal is mspalding@cochraneng.com. Contact MoDOT's External Civil Rights Division (ECR) at (573) 526-2978 for questions and assistance on completion. **This page of this document must be received for each DBE utilized on the project.**

All information must be provided.

If awarded the contract for this project, the undersigned will use the following DBE to perform or furnish the work, supplies, and/or services as shown below:

DBE Name: Gerstner Electric

Address: 2400 Cassens Dr. Fenton, MO 63026

(A) Line No.	(B) Dollar Value of DBE Work** ( Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100%, 60%)	(D) Dollar amount applicable to DBE Goal ( B x C )	(E) Percent of total contract amount for line item ( D / total contract amount)	Add or Remove Lines	
33	11,280.00	40%	2,481.60	0.08%	-	+
36	35,643.00	40%	14,257.20	0.49%	-	+
37	213,028.00	40%	35,151.20	0.12%	-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
					-	+
<b>DBE Total:</b>				<b>51,890.00</b>	<b>Total % 0.69%</b>	

\*\*Cannot exceed contract amount for given item of work  
 Trucking services credited at 100% if the DBE owns the trucks or is leasing from a DBE firm  
 Allowed amount of participation will be in accordance with 49 CFR Part 26.  
 Brokered services will only receive credit for fees.

Respectfully submitted:

Plattin Creek Excavating, LLC dba PCX Construction, LLC  
 Company Name (Prime Contractor)

Brian Trudt Esitimator  
 Name / Title

Brian Trudt  
 Signed (Prime Contractor)

Project No.

**DBE and non-DBE Subcontractor Reporting Form:**

MoDOT and its subrecipients are recipients of federal funds and are required by 49 CFR 26.11, to provide data about its DBE program. The information shall consist of the names of all subcontractors used and considered for the contract bid. The information listed below shall only include the names of both DBE and non-DBE companies. MoDOT will then contact the DBEs and non-DBE companies and request additional information including their current year of gross receipts and number of years in business. The information provided by the prime bidders shall not include any bid quote pricing regardless of whether the subcontractor was used or not. This information shall be submitted by 4:00 p.m. on the 3rd working day after the bid opening. This form shall be submitted to:

Mike Spalding via email, mspalding@cochraneng.com.

DBE/non-DBE Subcontractors Used	DBE/non-DBE Subcontractor Quotes Received
Gerstner Electric 40%	
Schrimpf Landscaping	
Diamond Hauling	
Bahr Hydro	
D&S Fencing	
ATK Safety Supply	

**Representative:**     Matt Clark    

**Signature Field**

**Title:**     President    



**Company Name:**     Plattin Creek Excavating, LLC dba PCX Construction, LLC    

**Date:**     9/17/2024

**ARTICLE 6**

**BID FORM PROPOSAL**

PROJECT NAME: Ries Road Improvements

BID TIME: 2:00 p.m.

PROJECT LOCATION: City of Ballwin, Missouri

BID DATE: 9/19/2024

BIDDER NAME: Raineri Construction

TO: City of Ballwin, Missouri ("Owner")

In response to the Invitation for Bids for Project No. STP-4939(610), and in accordance with the Instructions to Bidders and other Bidding Documents, the Bidder declares that he has had an opportunity to examine the site of the Work and has carefully examined the Contract Documents therefore, including the Addenda, and on the basis thereof, and being fully familiar with the local conditions affecting the Work, and upon written notice of award of contract, acknowledges and agrees to provide all labor, material, equipment, tools, management and supervision, safety and technical services, insurance, bonds and incidentals necessary or required for the faithful performance of the Contract Work in accordance with the above-referenced documents in a safe, timely and workmanlike manner for the following Base Bid Price:

<b>BASE BID:</b>	
One million four hundred seventy one thousand four hundred ninety dollars and seventy three cents	
Dollars	(Amount in Words)
(\$ <u>1,471,490.73</u> )	

**DETERMINATION OF LOW BIDDER.** The Low Bidder will be determined by the total of the Base Bid.

**DETERMINATION OF DBE PERCENTAGE.** The DBE goal percentage will be based on the Base Bid total.

The Base Bid amount is more fully itemized as follows:



BIDDER NAME: Raineri Construction

**ITEMIZED BID FORM**

Each bidder shall specify a unit price for each of the separate items listed. The bidder shall show the products of the respective unit prices and quantities in the column provided. In cases of errors or discrepancies in extensions, the unit prices shall govern.

Bid No.	Spec. No.	Description	Unit	Quantity	Unit Cost	Extended Cost
1	2022010	Removal of Improvements	LS	1	\$26884.00	\$26,884.00
2	4133200	Ultrathin Bonded Wearing Surface, Type C, 1"	SY	30,305	\$14.20	\$430,331.00
3	6085000	Concrete Approach, 7" (Remove and Replace)	SF	325	\$54.54	\$17,725.50
4	6091012	Concrete Vertical Curb, 6" (Remove and Replace)	LF	400	\$72.41	\$28,964.00
5	6091053	Concrete Vertical Curb and Gutter, 2'-6" Wide (Remove and Replace)	LF	1,590	\$68.06	\$108,215.40
6	6131000	Partial Depth Pavement Repair (Includes Milling and Asphalt Patch) (Allowance)	SY	300	\$101.11	\$30,333.00
7	6161025	Channelizers (Trimline)	EA	100	\$26.40	\$2,640.00
8	6181000	Mobilization	LS	1	\$129,334.73	\$129,334.73
9	6221000	Pavement Milling (Edge Mill & Butt Joints)	SY	15,025	\$4.68	\$70,317.00
10	8061007A	Inlet Check	EA	13	\$203.50	\$2,645.50
11	8061019	Silt Fence	LF	1,335	\$5.50	\$7,342.50
<b>Sub-total Roadway Items</b>						<b>\$854,732.63</b>
12	6161006	"Road Work Ahead" Sign (W20-1)	EA	2	\$143.00	\$286.00
13	6161006	"Shoulder Work Ahead" Sign (W21-5)	EA	2	\$143.00	\$286.00
14	6161006	"End Road Work" Sign (G20-2)	EA	2	\$110.00	\$220.00
15	6161006	"One Lane Road Ahead" Sign (W20-4)	EA	2	\$143.00	\$286.00
16	6161006	"Road Narrows" Sign (W5-1)	EA	2	\$143.00	\$286.00
17	6161006	"Flagger" Sign (W20-7a)	EA	2	\$143.00	\$286.00
18	6161006	"Sidewalk Closed" Sign (R9-9)	EA	2	\$55.00	\$110.00
19	6161006	"Sidewalk Closed, Use Other Side" Sign (R9-10)	EA	2	\$55.00	\$110.00
20	6161031	Type III Moveable Barricade for Sidewalk Closure	EA	2	\$203.50	\$407.00
21	6200020	Pavement Marking - Turn Lane Arrow White (Standard Waterborne)	EA	14	\$93.50	\$1,309.00
22	6200026	Pavement Marking - Straight Left/Right Arrow White (Standard Waterborne)	EA	2	\$137.50	\$275.00
23	6205901A	Pavement Marking - Lane Lines 4" - Yellow and White (High Build Waterborne)	LF	20,340	\$0.55	\$11,187.00
24	6206112A	Pavement Marking 12" - Crosswalk White (Standard Waterborne)	LF	1,060	\$4.40	\$4,664.00
25	6206124A	Pavement Marking 24" - Stop Bar White (Standard Waterborne)	LF	205	\$8.80	\$1,804.00
26	9031200	Sign Relocation on New Post (per location, regardless of the number of signs)	EA	5	\$734.80	\$3,674.00
27	9035000	"Share the Road" Sign (R16-1)	EA	4	\$71.50	\$286.00
28	9035000	Bike Sign (R11-1)	EA	4	\$143.00	\$572.00
29	JSP	Signal Loop Detectors	EA	3	\$1980.00	\$5,940.00
<b>Sub-total Signing/Striping/Signals Items</b>						<b>\$31,988.00</b>

BIDDER NAME: Raineri Construction

**ITEMIZED BID FORM CONTINUED**

Each bidder shall specify a unit price for each of the separate items listed. The bidder shall show the products of the respective unit prices and quantities in the column provided. In cases of errors or discrepancies in extensions, the unit prices shall govern.

Bid No.	Spec. No.	Description	Unit	Quantity	Unit Cost	Extended Cost
30	6086000	Concrete Sidewalk and Curb Ramps (Remove and Replace)	SF	6,750	\$30.09	\$203,107.50
31	6081012	Detectable Warning Device	SF	445	\$22.00	\$9,790.00
<b>Sub-total Bicycle/Pedestrian Facility Items</b>						<b>\$212,897.50</b>
32	8031000	Sodding	LS	800	\$22.00	\$17,600.00
33	9011000	Hand Hole, 13" x 24"	EA	4	\$1755.60	\$7,022.40
34	9011000	Underground Conduit, 1-1/2"	LF	7,700	\$15.95	\$122,815.00
35	9011000	Underground Conduit, 2-1/2"	LF	110	\$30.80	\$3,388.00
36	9011000	Load Center	EA	3	\$10,062.80	\$30,188.40
37	9011000	Street Light Assembly	EA	38	\$5022.60	\$190,858.80
<b>Sub-total Landscaping/Streetscaping Items</b>						<b>\$371,872.60</b>
<b>Total Base Bid</b>						<b>\$1,471,490.73</b>

**ARTICLE 6**

**BID FORM PROPOSAL**

PROJECT NAME: Ries Road Improvements BID TIME: 2:00 p.m.

PROJECT LOCATION: City of Ballwin, Missouri BID DATE: 9/19/2024

BIDDER NAME: Plattin Creek Excavating, LLC dba PCX Construction, LLC

TO: City of Ballwin, Missouri ("Owner")

In response to the Invitation for Bids for Project No. STP-4939(610), and in accordance with the Instructions to Bidders and other Bidding Documents, the Bidder declares that he has had an opportunity to examine the site of the Work and has carefully examined the Contract Documents therefore, including the Addenda, and on the basis thereof, and being fully familiar with the local conditions affecting the Work, and upon written notice of award of contract, acknowledges and agrees to provide all labor, material, equipment, tools, management and supervision, safety and technical services, insurance, bonds and incidentals necessary or required for the faithful performance of the Contract Work in accordance with the above-referenced documents in a safe, timely and workmanlike manner for the following Base Bid Price:

<b>BASE BID:</b>	
Two million eight hundred ninety eight thousand five hundred twenty seven	
Dollars	(Amount in Words)
(\$ <b>2,898,527.000</b> )	

**DETERMINATION OF LOW BIDDER.** The Low Bidder will be determined by the total of the Base Bid.

**DETERMINATION OF DBE PERCENTAGE.** The DBE goal percentage will be based on the Base Bid total.

The Base Bid amount is more fully itemized as follows:

BIDDER NAME: Plattin Creek Excavating, LLC dba PCX Construction, LLC

**ITEMIZED BID FORM**

Each bidder shall specify a unit price for each of the separate items listed. The bidder shall show the products of the respective unit prices and quantities in the column provided. In cases of errors or discrepancies in extensions, the unit prices shall govern.

Bid No.	Spec. No.	Description	Unit	Quantity	Unit Cost	Extended Cost
1	2022010	Removal of Improvements	LS	1	259,00.000	259,000.00
2	4133200	Ultrathin Bonded Wearing Surface, Type C, 1"	SY	30,305	8.80	266,684.00
3	6085000	Concrete Approach, 7" (Remove and Replace)	SF	325	55.00	17,875.00
4	6091012	Concrete Vertical Curb, 6" (Remove and Replace)	LF	400	135.00	54,000.00
5	6091053	Concrete Vertical Curb and Gutter, 2'-6" Wide (Remove and Replace)	LF	1,590	147.00	233,730.00
6	6131000	Partial Depth Pavement Repair (Includes Milling and Asphalt Patch) (Allowance)	SY	300	135.00	40,500.00
7	6161025	Channelizers (Trimline)	EA	100	24.00	2,400.00
8	6181000	Mobilization	LS	1	485,000.00	485,000.00
9	6221000	Pavement Milling (Edge Mill & Butt Joints)	SY	15,025	2.00	30,050.00
10	8061007A	Inlet Check	EA	13	185.00	2,405.00
11	8061019	Silt Fence	LF	1,335	3.80	5,073.00
<b>Sub-total Roadway Items</b>						<b>\$1,396,717.00</b>
12	6161006	"Road Work Ahead" Sign (W20-1)	EA	2	130.00	260.00
13	6161006	"Shoulder Work Ahead" Sign (W21-5)	EA	2	130.00	260.00
14	6161006	"End Road Work" Sign (G20-2)	EA	2	100.00	200.00
15	6161006	"One Lane Road Ahead" Sign (W20-4)	EA	2	130.00	260.00
16	6161006	"Road Narrows" Sign (W5-1)	EA	2	130.00	260.00
17	6161006	"Flagger" Sign (W20-7a)	EA	2	130.00	260.00
18	6161006	"Sidewalk Closed" Sign (R9-9)	EA	2	50.00	100.00
19	6161006	"Sidewalk Closed, Use Other Side" Sign (R9-10)	EA	2	50.00	100.00
20	6161031	Type III Moveable Barricade for Sidewalk Closure	EA	2	185.00	370.00
21	6200020	Pavement Marking - Turn Lane Arrow White (Standard Waterborne)	EA	14	85.00	1,190.00
22	6200026	Pavement Marking - Straight Left/Right Arrow White (Standard Waterborne)	EA	2	125.00	250.00
23	6205901A	Pavement Marking - Lane Lines 4" - Yellow and White (High Build Waterborne)	LF	20,340	0.50	10,170.00
24	6206112A	Pavement Marking 12" - Crosswalk White (Standard Waterborne)	LF	1,060	4.00	4,240.00
25	6206124A	Pavement Marking 24" - Stop Bar White (Standard Waterborne)	LF	205	8.00	1,640.00
26	9031200	Sign Relocation on New Post (per location, regardless of the number of signs)	EA	5	1,200.00	6,000.00
27	9035000	"Share the Road" Sign (R16-1)	EA	4	600.00	2,400.00
28	9035000	Bike Sign (R11-1)	EA	4	600.00	2,400.00
29	JSP	Signal Loop Detectors	EA	3	3,120.00	9,360.00
<b>Sub-total Signing/Striping/Signals Items</b>						<b>\$39,720.00</b>

BIDDER NAME: Plattin Creek Excavating, LLC dba PCX Construction, LLC

**ITEMIZED BID FORM CONTINUED**

Each bidder shall specify a unit price for each of the separate items listed. The bidder shall show the products of the respective unit prices and quantities in the column provided. In cases of errors or discrepancies in extensions, the unit prices shall govern.

Bid No.	Spec. No.	Description	Unit	Quantity	Unit Cost	Extended Cost
30	6086000	Concrete Sidewalk and Curb Ramps (Remove and Replace)	SF	6,750	109.00	735,750.00
31	6081012	Detectable Warning Device	SF	445	44.00	19,580.00
<b>Sub-total Bicycle/Pedestrian Facility Items</b>						<b>\$755,330.00</b>
32	8031000	Sodding	LS	800	55.00	44,000.00
33	9011000	Hand Hole, 13" x 24"	EA	4	2,820.00	11,280.00
34	9011000	Underground Conduit, 1-1/2"	LF	7,700	51.50	396,550.00
35	9011000	Underground Conduit, 2-1/2"	LF	110	55.00	6,050.00
36	9011000	Load Center	EA	3	11,900.00	35,700.00
37	9011000	Street Light Assembly	EA	38	5,610.00	213,180.00
<b>Sub-total Landscaping/Streetscaping Items</b>						<b>\$706,760.00</b>
<b>Total Base Bid</b>						<b>\$2,898,527.00</b>

**INVITATION TO BIDS**

Sealed bids for the City of Ballwin, Missouri, (hereinafter "Owner") Ries Road Improvements, STP-4939(610) (hereinafter "Project") will be received by Ballwin City Hall, 1 Government Center, Ballwin, Missouri 63011, until 2:00 p.m. local time, on Thursday, September 19, 2024, at which time the bids will be publicly opened and read aloud.

The Scope of Work includes street improvements to Ries Road within the City of Ballwin and provides for pavement preparation, ultrathin bonded asphalt wearing surface overlay, pavement striping, curb ramp replacement, curb and gutter replacement, concrete driveway approach replacement, street lighting, traffic control and other incidental items and work described in the Project Manual, or reasonably inferable therefrom. The City of Ballwin, Missouri, anticipates issuing notice to proceed in the winter/spring of 2025 dependent on weather.

To ensure that you receive all addenda, request the bid documents by email from Mike Spalding at [mspalding@cochraneng.com](mailto:mspalding@cochraneng.com). Bid packages will be distributed electronically at no cost to the bidder. When requesting the documents, you will be required to provide your company name, a contact person and phone number, a complete company address and an e-mail address to be added to the Plan Holders List and for receiving official bidding communications and addenda. If you are not on the Plan Holders List, you will not receive any addenda issued. Hard copies will not be available for purchase. Bidders may make printed copies of the bid documents (plans, project manual, and a bid packet) at their own expense. Project and bidding questions shall be conducted exclusively via e-mail. Any questions regarding this project must be submitted to: [mspalding@cochraneng.com](mailto:mspalding@cochraneng.com), by 4:00 pm local time on September 12, 2024. No written questions after this date or any verbal questions will be recognized.

A bid security in the amount of five percent (5%) of the bid amount must accompany each bid, in accordance with the Instructions to Bidders.

For a contractor to be awarded this project the contractor must have a fully responsive contractor questionnaire on file with the Missouri Highway and Transportation Commission at least 7 days prior to the bid opening date. All bidders must be on MoDOT's Qualified Contractor List per Section 102.2 of the 2023 Missouri Standard Specifications for Highway Construction. No Second Tier Subcontracting will be allowed.

The wage rates applicable to this project have been predetermined as required by law and are set forth in this specification. When Federal wage rates are applicable and included, this contract is subject to the "Work Hours Act of 1962", (P.L. 87-581: 76 Stat. 357) and implementing regulations. When state and federal wage rates are both required the higher of the two for each job classification shall be used.

Effective January 1, 2009 and pursuant to RSMo 285.530 (1), No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. The successful bidder must submit a sworn affidavit and documentation affirming the business entity's enrollment and participation in the federal work authorization program and that all of its employees working for the contracted services are not illegal immigrants.

Upon signing the contract, the successful contractor and any subcontractor performing the work shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees within sixty (60) days of beginning work on the construction project.

The City of Ballwin, Missouri hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, businesses owned and controlled by socially and economically disadvantaged individuals will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, creed, sex, age, ancestry, or national origin in consideration for an award.

The DBE Contract Goal for this project is 7%, and DBE firms must be certified by MoDOT to attain credit towards this contract goal. There is no On the Job Trainee goal.

**THE OWNER INTENDS TO AWARD THE CONTRACT TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER. THE OWNER RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS, AND TO WAIVE ANY IRREGULARITIES IN THE BEST INTEREST OF THE OWNER WITH MODOT'S CONSENT.**

The Countian - St. Louis County  
100 S. Highway Drive  
Fenton, MO, 63099  
Phone: 3144211880 Fax: 0

# THE ST. LOUIS COUNTIAN

## Affidavit of Publication

To: Ballwin, City Of - Megan Freeman  
14811 Manchester Rd  
Ballwin, MO, 630114617

Re: Legal Notice 2634154, Ries Road Improvements,  
STP-4939(610) (hereinafter "Project")

State of MO

County of St. Louis County

**INVITATION TO BIDS.**

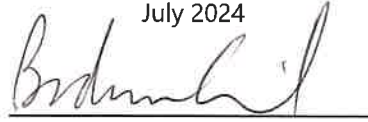
Sealed bids for the City of Ballwin, Missouri, (hereinafter "Owner") Ries Road Improvements, STP-4939(610) (hereinafter "Project") will be received by Ballwin City Hall, 1 Government Center, Ballwin, Missouri 63011, until 2:00 p.m. local time, on Thursday, September 19, 2024, at which time the bids will be publicly opened and read aloud. The Scope of Work includes street improvements to Ries Road within the City of Ballwin and provides for pavement preparation, ultrathin bonded asphalt wearing surface overlay, pavement striping, curb ramp replacement, curb and gutter replacement, concrete driveway approach replacement, street lighting, traffic control and other incidental items and work described in the Project Manual, or reasonably inferable therefrom. The City of Ballwin, Missouri, anticipates issuing notice to proceed in the winter/spring of 2025 dependent on weather. To ensure that you receive all addenda, request the bid documents by email from Mike Spalding at [mspalding@cochraneng.com](mailto:mspalding@cochraneng.com). Bid packages will be distributed electronically at no cost to the bidder. When requesting the documents, you will be required to provide your company name, a contact person and phone number, a complete company address and an e-mail address to be added to the Plan Holders List and for receiving official bidding communications and addenda. If you are not on the Plan Holders List, you will not receive any addenda issued. Hard copies will not be available for purchase. Bidders may make printed copies of the bid documents (plans, project manual, and a bid packet) at their own expense. Project and bidding questions shall be conducted exclusively via e-mail. Any questions regarding this project must be submitted to: [mspalding@cochraneng.com](mailto:mspalding@cochraneng.com), by 4:00 pm local time on September 12, 2024. No written questions after this date or any verbal questions will be recognized. A bid security in the amount of five percent (5%) of the bid amount must accompany each bid, in accordance with the Instructions to Bidders. For a contractor to be awarded this project

Before the undersigned Notary Public personally appeared Lisa Fowler on behalf of The Countian - St. Louis County, St. Louis County who, being duly sworn, attests that the said newspaper is qualified under the provisions of Missouri Law governing public notices to publish, and did so publish, the notice annexed hereto; starting with the 07/25/2024 edition and ending with the 07/25/2024 edition for a total of 1 publications, and that the date of publications were as follows: 07/25/2024.

Publishers fee: \$194.60

By:   
Lisa Fowler

Sworn to me on this 25<sup>th</sup> day of  
July 2024

By:   
Brandon M. Crail  
Notary Public, State of MO  
No. 20297982  
Qualified in St. Louis County  
My commission expires on  
March 5, 2028



contractor to be awarded this project the contractor must have a fully responsive contractor questionnaire on file with the Missouri Highway and Transportation Commission at least 7 days prior to the bid opening date. All bidders must be on MoDOT's Qualified Contractor List per Section 102.2 of the 2023 Missouri Standard Specifications for Highway Construction. No Second Tier Subcontracting will be allowed. The wage rates applicable to this project have been predetermined as required by law and are set forth in this specification. When Federal wage rates are applicable and included, this contract is subject to the "Work Hours Act of 1962", (P.L. 87-581: 76 Stat. 357) and implementing regulations. When state and federal wage rates are both required the higher of the two for each job classification shall be used. Effective January 1, 2009 and pursuant to RSMo 285.530 (1), No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. The successful bidder must submit a sworn affidavit and documentation affirming the business entity's enrollment and participation in the federal work authorization program and that all of its employees working for the contracted services are not illegal immigrants. Upon signing the contract, the successful contractor and any subcontractor performing the work shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees within sixty (60) days of beginning work on the construction project. The City of Ballwin, Missouri hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, businesses owned and controlled by socially and economically disadvantaged individuals will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, creed, sex, age, ancestry, or national origin in consideration for an award. The DBE Contract Goal for this project is 7%, and DBE firms must be certified by MoDOT to attain credit towards this contract goal. There is no On the Job Trainee goal. The owner intends to award the contract to the lowest, responsive, responsible bidder. The owner reserves the right to reject any and all bids, and



to waive any irregularities in the best  
interest of the owner with MoDOT's  
consent.

2634154 County Jul. 25, 2024

Company ID Number: 213136

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

**Employer Raineri Construction, LLC**

**Ashley Raineri**

Name (Please Type or Print)

Title

*Electronically Signed*

Signature

05/13/2009

Date

**Department of Homeland Security – Verification Division**

**USCIS Verification Division**

Name (Please Type or Print)

Title

*Electronically Signed*

Signature

05/13/2009

Date

AFFIDAVIT of COMPLIANCE

Section 11, Item b.

Section 285.530.2

**State of Missouri** ) **ss**

**County of** St. Louis )

**Now this** 19 **day of** September , 2024, **the undersigned,**  
**being first duly sworn, deposes and says:**

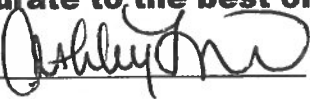
- 1. I am more than 18 years of age.**
- 2. I make this affidavit from my personal knowledge of the facts stated herein or upon information and facts available to me as a duly authorized owner, partner, corporate or LLC officer or Human Relations Director of** Raineri Construction  
(name of Corporation, LLC, sole proprietorship or partnership)
- 3. I am authorized to make this affidavit on behalf of** Raineri Construction  
(name of business entity, same as above)
- 4. I state and affirm that** Raineri Construction **is enrolled and is**  
(name of business entity, same as above)  
**currently participating in E-Verify, a federal work authorization program or another equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986.**
- 5. Further,** Raineri Construction **does not knowingly employ**  
(name of business entity, same as above)

**any person who is an unauthorized alien.**

**6. Further, Raineri Construction has performed an electronic**  
(name of business entity, same as above)  
**verification check as described above on all workers hired since**  
**January 1, 2009 or obtained documents required for completion of a**  
**federal I-9 form before it began participating in e-verify.**

**7. Attached to this affidavit is a true and accurate copy of this**  
**company's Memorandum of Understanding with the United States**  
**concerning the use of e-verify.**

**I certify under penalty of perjury that the statements above are**  
**complete, true and accurate to the best of my knowledge and belief.**

Ashley Raineri 

Authorized Agent, Partner, Owner or Officer

*If business has a Human Relations Director or equivalent that person  
must sign as an affiant as well.*

**I certify under penalty of perjury that the statements above**  
**are complete, true and accurate to the best of my knowledge and**  
**belief.**

Brad Plein 

Human Relations Director

*This form is promulgated pursuant to 15CSR 60-15-.020. Use of this form  
is not required but the Attorney General has deemed this affidavit  
sufficient in form to satisfy the requirements of section 285.540, RSMo.,  
Supp. 2008.*

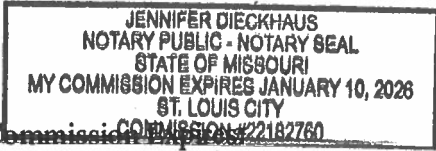
FURTHER THE AFFIANT SAYETH NOT

*Ashley Raineri*

(Signature)

On this 19 day of September in the year 2024, before me, Jennifer Dieckhaus  
a Notary Public in and for said State, personally appeared Ashley Raineri, known to me  
to be the person who executed the within affidavit, and acknowledged to me that he/she executed the  
same for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the  
county and State aforesaid, the day and year first above written.




*Jennifer Dieckhaus*  
Notary Public

My Commission Expires

01/10/2026

Company ID Number: 187907

Approved by: Matt Clark

<b>Employer</b> PLATTIN CREEK EXCAVATING, LLC	
Name (Please Type or Print) Matt Clark	Title President
Signature 	Date 02/05/2009
<b>Department of Homeland Security – Verification Division</b>	
Name (Please Type or Print) USCIS Verification Division	Title
Signature Electronically Signed	Date 02/05/2009



Company ID Number: 187907

Information Required for the E-Verify Program	
<b>Information relating to your Company:</b>	
Company Name	PLATTIN CREEK EXCAVATING, LLC
Company Facility Address	555 EAST OUTER 21 ROAD ARNOLD, MO 63010
Company Alternate Address	
County or Parish	JEFFERSON
Employer Identification Number	431913037
North American Industry Classification Systems Code	237
Parent Company	
Number of Employees	20 to 99
Number of Sites Verified for	1 site(s)

# Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

## Bid Bond

**CONTRACTOR:**

*(Name, legal status and address)*

Raineri Construction, LLC  
1300 Hampton Avenue, Suite 100  
Saint Louis, MO 63139

**SURETY:**

*(Name, legal status and principal place of business)*

Fidelity and Deposit Company of Maryland  
1299 Zurich Way, 10th Floor  
Schaumburg, IL 60196-1056

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

**OWNER:**

*(Name, legal status and address)*

City of Ballwin  
1 Government Center  
Ballwin, MO 63011

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** \$ 5%

Five Percent of Amount Bid

**PROJECT:**

*(Name, location or address, and Project number, if any)*

STP-4939(610) - Ries Road Improvements

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 19th day of September, 2024

*Jeanette Dicklas*  
*(Witness)*

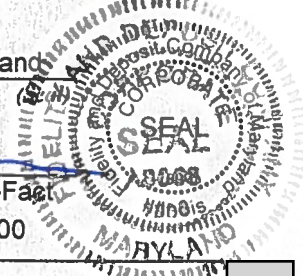
Raineri Construction, LLC  
*(Principal)* \_\_\_\_\_ *(Seal)*

By: *Jerry Nae*  
*(Title)*

Fidelity and Deposit Company of Maryland  
*(Surety)*

By: *Matthew Morin*  
*(Title)* Matthew Morin Attorney-in-Fact

Surety Phone No. 847-605-6000



*Dennis W. Lutz*  
*(Witness)* Dennis W. Lutz



Obligee: City of Ballwin

ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by Robert D. Murray, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Matthew Morin**, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York, the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland, and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland, in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 10th day of October, A.D. 2023.



ATTEST:  
ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: Robert D. Murray  
Vice President

By: Dawn E. Brown  
Secretary

State of Maryland  
County of Baltimore

On this 10th day of October, A.D. 2023, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, Robert D. Murray, Vice President and Dawn E. Brown, Secretary of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

*Genevieve M. Maison*

GENEVIEVE M. MAISON  
NOTARY PUBLIC  
BALTIMORE COUNTY, MD  
My Commission Expires JANUARY 27, 2025



Authenticity of this bond can be confirmed at [bondvalidator.zurichna.com](http://bondvalidator.zurichna.com) or 410-559-8790

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 19th day of September, 2024.



MJ Pethick

By: Mary Jean Pethick  
Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims  
1299 Zurich Way  
Schaumburg, IL 60196-1056  
[reportsfclaims@zurichna.com](mailto:reportsfclaims@zurichna.com)  
800-626-4577

Authenticity of this bond can be confirmed at [bondvalidator.zurichna.com](http://bondvalidator.zurichna.com) or 410-559-8790

# BID BOND

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS, that we

Plattin Creek Excavating, LLC dba PCX Construction LLC

as principal and Nationwide Mutual Insurance Company

as surety, are held and firmly bound unto the City of Ballwin, Missouri in the penal sum of Five Percent of the Total Amount Bid

Dollars (\$ 5% ) to be paid to the commission to be credited to the state road fund, the principal and surety binding themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this September 18th, 2024

THE CONDITION OF THIS OBLIGATION is such that

WHEREAS the principal is submitting herewith a bid to the commission on route(s) \_\_\_\_\_

in Ries Road  
Saint Louis County(ies),

project (s) Ries Road Improvements  
STP-4939(610)

for construction or improvement of state highway as set out in said bid;

NOW THEREFORE, if the commission shall accept the bid of the principal and if the principal shall properly execute and deliver to the commission the contract, contract bond, and evidence of insurance coverage in compliance with the requirements of the bid, the specifications, and the provisions of section 227.100 RSMo, to the satisfaction of the commission, then this obligation shall be void and of no effect, otherwise to remain in full force and effect.

In the event the said principal shall, in the judgment of the commission, fail to comply with any requirement as set forth in the preceding paragraph, then the state of Missouri, acting by and through the commission, shall immediately and forthwith be entitled to recover the full penal sum above set out, together with court costs, attorney's fees, and any other expense of recovery.

The principal and surety hereby certify that the document is the original or a verbatim copy of the bid bond form furnished by the Commission, in accordance with Sec 102.9 of the Missouri Standard Specifications for Highway Construction.

Plattin Creek Excavating, LLC dba PCX Construction LLC  
Principal

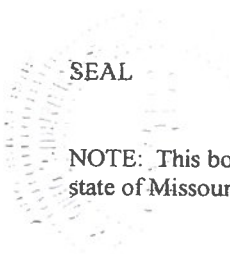
SEAL

By [Signature]  
Signature

Nationwide Mutual Insurance Company  
Surety

By Nicole M Johnson  
Nicole M Johnson, Attorney-In-Fact

SEAL



NOTE: This bond must be executed by the principal, and by a corporate surety authorized to conduct surety business in the state of Missouri.

Power of Attorney

KNOW ALL MEN BY THESE PRESENTS THAT:

Nationwide Mutual Insurance Company, an Ohio corporation

hereinafter referred to severally as the "Company" and collectively as "the Companies" does hereby make, constitute and appoint: ERIC DEDOVESH, NICOLE M JOHNSON; RODNEY W PADDOCK,

each in their individual capacity, its true and lawful attorney-in-fact, with full power and authority to sign, seal, and execute on its behalf any and all bonds and undertakings, and other obligatory instruments of similar nature, in penalties not exceeding the sum of

UNLIMITED

and to bind the Company thereby, as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Company; and all acts of said Attorney pursuant to the authority given are hereby ratified and confirmed.

This power of attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the board of directors of the Company:

"RESOLVED, that the president, or any vice president be, and each hereby is, authorized and empowered to appoint attorneys-in-fact of the Company, and to authorize them to execute and deliver on behalf of the Company any and all bonds, forms, applications, memorandums, undertakings, recognizances, transfers, contracts of indemnity, policies, contracts guaranteeing the fidelity of persons holding positions of public or private trust, and other writings obligatory in nature that the business of the Company may require; and to modify or revoke, with or without cause, any such appointment or authority; provided, however, that the authority granted hereby shall in no way limit the authority of other duly authorized agents to sign and countersign any of said documents on behalf of the Company."

"RESOLVED FURTHER, that such attorneys-in-fact shall have full power and authority to execute and deliver any and all such documents and to bind the Company subject to the terms and limitations of the power of attorney issued to them, and to affix the seal of the Company thereto; provided, however, that said seal shall not be necessary for the validity of any such documents."

This power of attorney is signed and sealed under and by the following bylaws duly adopted by the board of directors of the Company.

Execution of Instruments. Any vice president, any assistant secretary or any assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts, or other papers in connection with the operation of the business of the company in addition to the chairman of the board, the chief executive officer, president, treasurer or secretary; provided, however, the signature of any of them may be printed, engraved, or stamped on any approved document, contract, instrument, or other papers of the Company.

IN WITNESS WHEREOF, the Company has caused this instrument to be sealed and duly attested by the signature of its officer the 20th day of August, 2021.

[Handwritten signature of Antonio C. Albanese]

Antonio C. Albanese, Vice President of Nationwide Mutual Insurance Company

ACKNOWLEDGMENT

STATE OF NEW YORK COUNTY OF NEW YORK: ss

On this 20th day of August, 2021, before me came the above-named officer for the Company aforesaid, to me personally known to be the officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposes and says, that he is the officer of the Company aforesaid, that the seal affixed hereto is the corporate seal of said Company, and the said corporate seal and his signature were duly affixed and subscribed to said instrument by the authority and direction of said Company.



Stephanie Rubino McArthur  
Notary Public, State of New York  
No. 02MC6270117  
Qualified in New York County  
Commission Expires October 19, 2024

[Handwritten signature of Stephanie Rubino McArthur]

Notary Public  
My Commission Expires  
October 19, 2024

CERTIFICATE

I, Laura B. Guy, Assistant Secretary of the Company, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney issued by the Company; that the resolution included therein is a true and correct transcript from the minutes of the meetings of the boards of directors and the same has not been revoked or amended in any manner; that said Antonio C. Albanese was on the date of the execution of the foregoing power of attorney the duly elected officer of the Company, and the corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority of said board of directors; and the foregoing power of attorney is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of said Company this 18th day of September 2024

[Handwritten signature of Laura B. Guy]

Assistant Secretary

(13) **ADDENDUM ACKNOWLEDGEMENT:** The undersigned states that all addenda (if applicable) have been received, acknowledged and incorporated into their bid, prior to submittal. Include all addenda issued to the bid (cover sheets only) with your complete bid.

(14) **SIGNATURE AND IDENTITY OF BIDDER:** The undersigned states that the following provided information is correct and that (if not signing with the intention to bind themselves to become the responsible and sole bidder) they are the agent of, and they are signing and executing this, as the bid of

\_\_\_\_\_, which is the correct LEGAL NAME as stated on the contractor questionnaire.

a) The organization submitting this bid is a(n) (1) individual bidder, (2) partnership, (3) joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (4) corporation. Indicate by marking the appropriate box below.

- sole individual
- partnership
- joint venture
- corporation, incorporated under laws of state of \_\_\_\_\_.

b) If the bidder is doing business under a fictitious name, indicate below by filling in the fictitious name \_\_\_\_\_

Executed by bidder this 19 day of September 2024.

THE BIDDER CERTIFIES THAT THE BIDDER AND ITS OFFICIALS, AGENTS, AND EMPLOYEES HAVE NEITHER DIRECTLY NOR INDIRECTLY ENTERED INTO ANY AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THIS BID, AND THAT THE BIDDER INTENDS TO PERFORM THE WORK WITH ITS OWN BONAFIDE EMPLOYEES AND SUBCONTRACTORS, AND DID NOT BID FOR THE BENEFIT OF ANOTHER CONTRACTOR.

THE BIDDER ACKNOWLEDGES THAT THIS IS AN UNSWORN DECLARATION, EXECUTED UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES AND/OR FALSE DECLARATION UNDER THE LAWS OF MISSOURI, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS. THE FAILURE TO PROVIDE THIS CERTIFICATION IN THIS BID MAY MAKE THIS BID NON-RESPONSIVE, AND CAUSE IT TO BE REJECTED.

THE BIDDER CERTIFIES THAT THE BIDDER'S COMPANY KNOWINGLY EMPLOYS ONLY INDIVIDUALS WHO ARE AUTHORIZED TO WORK IN THE UNITED STATES IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE LAWS AND ALL PROVISIONS OF MISSOURI EXECUTIVE ORDER NO. 07-13 FOR CONTRACTS WITH THE CONTRACTING AUTHORITY.

Check this box ONLY if the bidder REFUSES to make any or all of these certifications. The bidder may provide an explanation for the refusal(s) with this submittal.

Signature of Bidder's Owner, Officer, Partner or Authorized Agent

Ashley Raineri, President

Please print or type name and title of person signing here

Attest:

\_\_\_\_\_  
Secretary of Corporation if Bidder is a Corporation

Affix Corporate Seal (If Bidder is a Corporation)

NOTE: If bidder is doing business under a fictitious name, the bid shall be executed in the legal name of the individual, partners, joint ventures, or corporation, and registration of fictitious name filed with the secretary of state, as required by sections 417.200 to 417.230 RSMo. If the bidder is a corporation not organized under the laws of Missouri, it shall procure a certificate of authority to do business in Missouri, as required by section 351.572 et seq RSMo. A certified copy of such registration of fictitious name or certificate of authority to do business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the standard specifications.

(13) **ADDENDUM ACKNOWLEDGEMENT:** The undersigned states that all addenda (if applicable) have been received, acknowledged and incorporated into their bid, prior to submittal. Include all addenda issued to the bid (cover sheets only) with your complete bid.

(14) **SIGNATURE AND IDENTITY OF BIDDER:** The undersigned states that the following provided information is correct and that (if not signing with the intention to bind themselves to become the responsible and sole bidder) they are the agent of, and they are signing and executing this, as the bid of

Plattin Creek Excavating, LLC \_\_\_\_\_, which is the correct LEGAL NAME as stated on the contractor questionnaire.

a) The organization submitting this bid is a(n) (1) individual bidder, (2) partnership, (3) joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (4) corporation. Indicate by marking the appropriate box below.

- sole individual
- partnership
- joint venture
- corporation, incorporated under laws of state of \_\_\_\_\_.

b) If the bidder is doing business under a fictitious name, indicate below by filling in the fictitious name PCX Construction, LLC

Executed by bidder this 19th day of September 2024.

THE BIDDER CERTIFIES THAT THE BIDDER AND ITS OFFICIALS, AGENTS, AND EMPLOYEES HAVE NEITHER DIRECTLY NOR INDIRECTLY ENTERED INTO ANY AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THIS BID, AND THAT THE BIDDER INTENDS TO PERFORM THE WORK WITH ITS OWN BONAFIDE EMPLOYEES AND SUBCONTRACTORS, AND DID NOT BID FOR THE BENEFIT OF ANOTHER CONTRACTOR.

THE BIDDER ACKNOWLEDGES THAT THIS IS AN UNSWORN DECLARATION, EXECUTED UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES AND/OR FALSE DECLARATION UNDER THE LAWS OF MISSOURI, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS. THE FAILURE TO PROVIDE THIS CERTIFICATION IN THIS BID MAY MAKE THIS BID NON-RESPONSIVE, AND CAUSE IT TO BE REJECTED.

THE BIDDER CERTIFIES THAT THE BIDDER'S COMPANY KNOWINGLY EMPLOYS ONLY INDIVIDUALS WHO ARE AUTHORIZED TO WORK IN THE UNITED STATES IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE LAWS AND ALL PROVISIONS OF MISSOURI EXECUTIVE ORDER NO. 07-13 FOR CONTRACTS WITH THE CONTRACTING AUTHORITY.

- Check this box ONLY if the bidder REFUSES to make any or all of these certifications. The bidder may provide an explanation for the refusal(s) with this submittal.



Signature of Bidder's Owner, Officer, Partner or Authorized Agent

Matt Clark

Please print or type name and title of person signing here

Attest: 

Secretary of Corporation if Bidder is a Corporation

Affix Corporate Seal (If Bidder is a Corporation)

NOTE: If bidder is doing business under a fictitious name, the bid shall be executed in the legal name of the individual, partners, joint ventures, or corporation, and registration of fictitious name filed with the secretary of state, as required by sections 417.200 to 417.230 RSMo. If the bidder is a corporation not organized under the laws of Missouri, it shall procure a certificate of authority to do business in Missouri, as required by section 351.572 et seq RSMo. A certified copy of such registration of fictitious name or certificate of authority to do business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the standard specifications.

CCO Form: FS11  
Approved: 07/96 (KMH)  
Revised: 03/17 (MWH)  
Modified:

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP-4939(610)  
Award Year: 2024  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
STP-URBAN PROGRAM AGREEMENT**

THIS STP-URBAN AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Ballwin, St. Louis County, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Fixing America's Surface Transportation Act (FAST) 23 U.S.C. §133, authorizes a Surface Transportation Program (STP) to fund transportation related projects; and

WHEREAS, the City desires to construct certain improvements, more specifically described below, using such STP funding; and

WHEREAS, those improvements are to be designed and constructed in compliance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STP-4939(610) involves:

Resurfacing, new ADA curb ramps, curb repair, street lighting and pavement striping.

The City shall be responsible for all aspects of the construction of the improvement.



(2) LOCATION: The contemplated improvement designated as Project STP-4939(610) by the Commission is within the city limits of Ballwin, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

Ries Road from Manchester Road (MO 100) to Big Bend Road.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street



system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the STP for the City will be constructed in accordance with current MoDOT design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the FHWA.

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: No acquisition of additional right of way is anticipated in connection with Project STP-4939(610) or contemplated by this Agreement.

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent not to exceed \$684,618. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STP-4939(610 will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

(16) DISADVANTAGED BUSINESS ENTERPRISES (DBEs): At time of processing the required project agreements with the FHWA, the Commission will advise the City of any required goals for participation by DBEs to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. All progress payment requests must be submitted for reimbursement within 90 days of the project completion date for the final phase of work. The City shall repay any progress payments which involve ineligible costs.

(19) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice shall also include documentation that the vendor was paid in full for the work identified in the progress invoice. Examples of proof of payment may include a letter or e-mail from the vendor, lien waiver or copies of cancelled checks. Reimbursement will not be made on these submittals until proof of payment is provided. Progress invoices submitted to MoDOT for reimbursement within thirty (30) calendar days of the date on the vendor invoice will be processed for reimbursement without proof of payment to the vendor. If the City has not paid the vendor prior to receiving reimbursement, the City must pay the vendor within two (2) business days of receipt of funds from MoDOT.

(20) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any STP improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately

owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(21) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(22) AUDIT REQUIREMENT: If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars (\$750,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(23) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(24) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(25) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(26) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(27) COMMISSION REPRESENTATIVE: The Commission's St. Louis District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(28) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

- (A) To the City:  
200 Park Drive  
Ballwin, MO 63011
- (B) To the Commission:  
1590 Woodlake Drive  
Chesterfield, MO 63017

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(29) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(30) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

(31) CONFLICT OF INTEREST: The City shall comply with conflict of interest policies identified in 23 CFR 1.33. A conflict of interest occurs when an entity has a financial or personal interest in a federally funded project.

(32) MANDATORY DISCLOSURES: The City shall comply with 2 CFR 200.113 and disclose, in a timely manner, in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City on 2022-09-27 | 9:52 AM CDT (DATE).

Executed by the Commission on 2022-10-18 | 8:26 AM CDT (DATE).

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

DocuSigned by: Eric E. Schroeter  
5F8CGFE9B39E490...

Title Assistant Chief Engineer

CITY OF BALLWIN

DocuSigned by: [Signature]  
0927D70CC38D438...

Title Mayor

ATTEST: DocuSigned by: [Signature]  
A4666CD7996249B...

Secretary to the Commission

ATTEST: DocuSigned by: Eric Sterman  
2F54F613315949F...

Title City Administrator



Approved as to Form:

DocuSigned by: Megan L. Waters-Hamblin  
BA34EE9E9E6407...

Commission Counsel

Approved as to Form:

By \_\_\_\_\_

Title \_\_\_\_\_

Ordinance No: \_\_\_\_\_

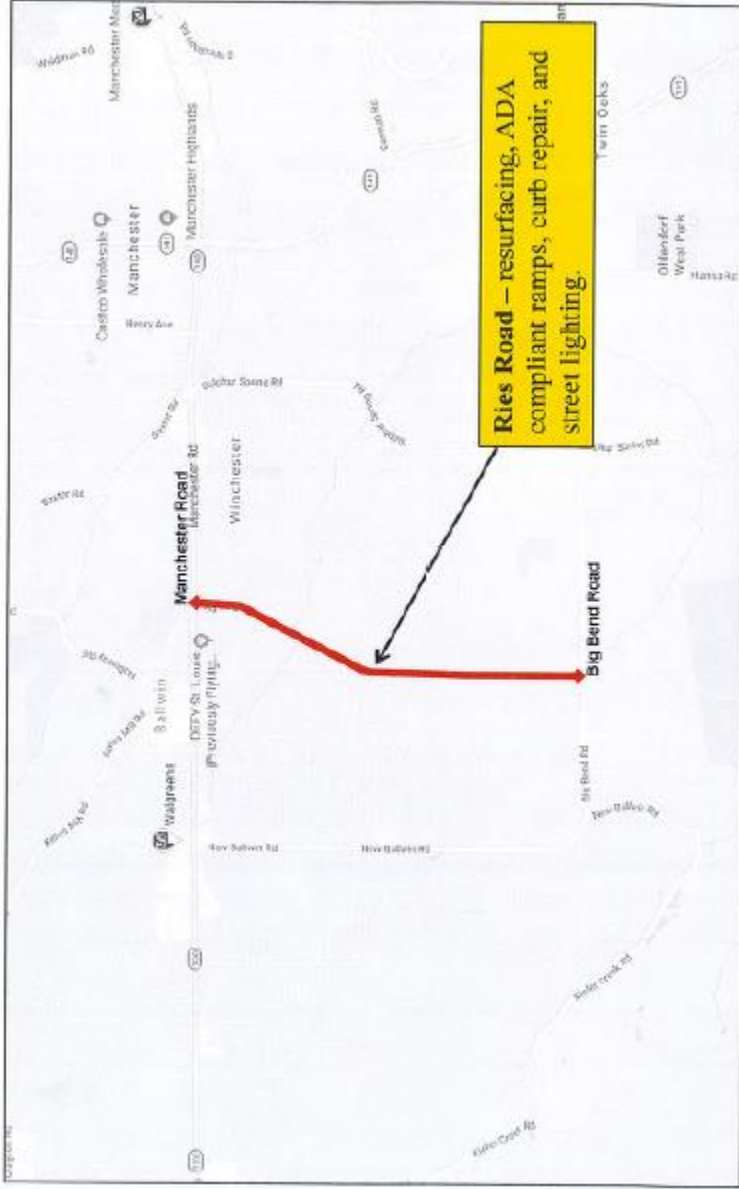


Exhibit A - Location of Project

City of Ballwin – Project Location Map

**STP Project:**

- Ries Road – Manchester Road to Big Bend Road



## Exhibit B – Project Schedule

Project Description: STP-4939(610) Ries Road

<b>PROJECT DEVELOPMENT SCHEDULE</b>			
<i>Note: many stages can occur concurrently.</i>			
<b>Activity Description</b>	<b>Start Date (MM/YYYY)</b>	<b>Finish Date (MM/YYYY)</b>	<b>Time Frame (Months)</b>
Receive notification letter	10/2021	10/2021	1
Execute agreement (project sponsor and DOT)	11/2021	02/2022	3
<b>Engineering services contract submitted and approved*</b>			
Obtain environmental clearances (106, CE2, T&E, etc.)	11/2021	06/2022	7
Public meeting/hearing			
Develop and submit preliminary plans	11/2021	02/2022	3
Preliminary plans approved	03/2022	06/2022	3
Develop and submit right-of-way plans	06/2022	06/2022	1
Review and approval of right-of-way plans	07/2022	10/2022	3
<b>Submit and receive approval for notice to proceed for right-of-way acquisition (A-Date)*</b>	11/2022	01/2023	2
Right-of-way acquisition	02/2023	08/2023	6
Utility coordination	05/2022	05/2023	12
Develop and submit PS&E	12/2022	08/2023	8
<b>District approval of PS&amp;E/advertise for bids*</b>	09/2023	12/2023	3
Submit and receive bids for review and approval	01/2024	04/2024	3
Project implementation/construction	05/2024	11/2024	6
* Finish date must match fiscal year for each milestone shown in <b>bold</b> text.			

\*Note: the dates established in the schedule above will be used in the applicable ESC between the sponsor agency and consultant firm.

\*\*Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and requires request to adjust.

FHWA-1273 -- Revised May 1, 2012

**Exhibit C - Required Contract Provisions****REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

**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 (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).

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.

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

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

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

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

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

**II. NONDISCRIMINATION**

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

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

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

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

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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

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

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

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

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

**10. Assurance Required by 49 CFR 26.13(b):**

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

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

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

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

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

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

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

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

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

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

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

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

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

#### 1. Minimum wages

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2. Withholding

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

## 3. Payrolls and basic records

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

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

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

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

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

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

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



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

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

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

#### 4. Apprentices and trainees

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

**10. Certification of eligibility.**

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

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

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

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

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

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

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

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

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

**VI. SUBLETTING OR ASSIGNING THE CONTRACT**

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

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

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

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

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

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

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

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

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

**VII. SAFETY: ACCIDENT PREVENTION**

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

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

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

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

**VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

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

#### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

## 2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

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

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Section 11, Item b.

Bill No. 4137

Ordinance No. 22-24

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP-4939(610)  
Award Year: 2024  
Federal Agency: Federal Highway Administration, Department of Transportation

INTRODUCED BY  
ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, SIEGEL, BULLINGTON

AN ORDINANCE TO AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE CITY OF BALLWIN, MISSOURI AND THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION PROVIDING FOR ROADWAY IMPROVEMENTS ON RIES ROAD FROM MANCHESTER ROAD TO BIG BEND ROAD.

Section 1. That the Mayor is hereby authorized to execute on behalf of the City of Ballwin a contract with the Missouri Highways and Transportation Commission providing for roadway improvements on Ries Road from Manchester Road to Big Bend Road.

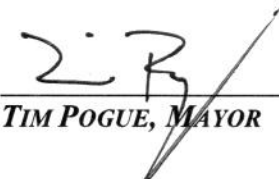
Section 2. That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

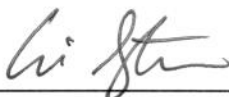
Section 3. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this 26 day of September, 2022.

  
TIM POGUE, MAYOR

APPROVED this 26 day of September, 2022.

  
TIM POGUE, MAYOR

ATTEST:   
ERIC STERMAN, CITY ADMINISTRATOR

**Certificate Of Completion**

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Certificate Pages: 6  
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Envelopeld Stamping: Enabled  
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Status: Completed  
  
Envelope Originator:  
Carol S. Kliethermes  
1860 Michael Faraday Drive  
Suite 100  
Reston, VA 20190  
Carol.Kliethermes@modot.mo.gov  
IP Address: 168.166.80.221

**Record Tracking**

Status: Original  
9/8/2022 8:20:23 AM

Holder: Carol S. Kliethermes  
Carol.Kliethermes@modot.mo.gov

Location: DocuSign

**Signer Events**

Tim Pogue  
tpogue@ballwin.mo.us  
Mayor  
Security Level: Email, Account Authentication (Optional), Access Code

**Signature**

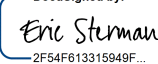
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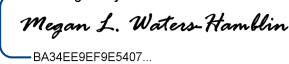
Eric Sterman  
Esterman@ballwin.mo.us  
City Administrator  
Security Level: Email, Account Authentication (Optional), Access Code

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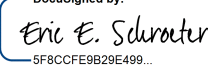
Megan L. Waters-Hamblin  
Megan.Waters-Hamblin@modot.mo.gov  
Senior Administrative Counsel  
Missouri Department of Transportation  
Security Level: Email, Account Authentication (Optional)

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**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign


Eric E. Schroeter  
Eric.Schroeter@modot.mo.gov  
Assistant Chief Engineer  
Missouri Department of Transportation  
Security Level: Email, Account Authentication (Optional)

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Signer Events	Signature	Timestamp
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Carbon Copy Events	Status	Timestamp
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Dana Kaiser Dana.Kaiser@modot.mo.gov Senior Executive Assistant Missouri Department of Transportation Security Level: Email, Account Authentication (Optional) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	COPIED	Sent: 10/14/2022 2:02:56 PM
Jennifer L. Jorgensen Jennifer.Jorgensen@modot.mo.gov Asst Secretary to the Commission MoDOT Security Level: Email, Account Authentication (Optional) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	COPIED	Sent: 10/18/2022 7:25:47 AM

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Signing Complete	Security Checked	10/18/2022 8:26:08 AM
Completed	Security Checked	10/18/2022 8:26:08 AM
<b>Payment Events</b>	Status	Timestamps



**Missouri Highways and Transportation Commission  
DocuSign, Inc. Express Electronic Signature Agreement**

The Missouri Highways and Transportation Commission (hereinafter, Commission), acting by and through the Missouri Department of Transportation (MoDOT) is willing to provide to the Authorized Representative of the Contractor/Vendor/Consultant (Entity) who is duly authorized to act on behalf of said Entity (hereinafter you or I) and accept from you your electronically affixed authorized signature and seal, as required to validate a binding agreement between the Commission and the Entity, on all Commission/MoDOT documents, including but not limited to disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and the like, (hereinafter, Commission Documents) that are processed, generated, and exchanged by and between the Commission and you, acting on behalf of the Entity, electronically through the utilization of the DocuSign, Inc. Express (DocuSign) eSignature Application. In consideration of mutual covenants, you agree as follows:

- 1) You are the person duly authorized and designated by the Entity to receive, access and agree to the terms of this agreement on behalf of the Entity by clicking the Agree button below.
- 2) You have the authority to specifically consent and agree that the Commission, in its discretion, provide all disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and all other evidence of the transaction between the Commission and the Entity electronically (hereinafter all such documentation is referred to as electronic record(s)).
- 3) The email address, User ID and password authorized to access the electronic agreement via DocuSign are your own and are not shared with any other person.
- 4) All of the required notices and disclosures will be sent to the email address authorized through DocuSign.
- 5) You are duly authorized to receive electronically through DocuSign, access and act upon all electronic records, to provide all required information and electronically affix your signature and seal, as applicable, on behalf of the Entity named in such Commission Documents via DocuSign,.
- 6) The system through which you are accessing DocuSign and its eSignature Application meets the minimum requirements to access DocuSign, view, receive, retrieve, download, print, store, send and transmit all electronic records and any and all other communications sent to you from the Commission through the DocuSign web site.
- 7) All communications in electronic format from the Commission to you through DocuSign are considered in-writing. You have the ability to download and print any documents processed through DocuSign for 30 calendar days after such documents are first sent, as long as you are an authorized user of the DocuSign system. After such time, you may request copies by contacting the Commission through the Secretary to the Commission at [mhtc@modot.mo.gov](mailto:mhtc@modot.mo.gov) or by telephone at 573-751-2824. You shall print or download for your records a copy of any communication that is important to you to retain.
- 8) You have implemented appropriate security measures to ensure that only you have access through DocuSign to receive, access and electronically affix signatures to electronic records, as applicable, Commission/MoDOT sends to you through DocuSign. It is your sole responsibility to ensure your adequate protection, confidentiality and secrecy of the DocuSign Authentication Code, and any other user ID and/or Password combinations that may be required for you to access the DocuSign eSignature services and any disclosure thereof to any other person or

communication thereof through unsecure medium, such as traditional electronic mail, shall be entirely at your risk. You shall be liable for any unauthorized usage of your ID/Password combination and the DocuSign Authentication Code.

9) You agree and authorize the Commission to respond to and act upon any and all transactions initiated and transmitted by you electronically through DocuSign. Any transaction initiated and transmitted by you to the Commission through DocuSign and its eSignature application shall be deemed to have been authorized by you, and the Commission is entitled to assume that the said transactions are so authorized by you and the Commission shall be protected upon acting thereon.

10) You shall be fully liable to the Commission for every transaction entered into using a valid DocuSign Authentication Code sent to you through certified mail, telephone call or Short Message Service (SMS) text, with or without your knowledge. In no event will the Commission be liable to you for any special, direct, indirect, consequential or incidental loss or damages even if you have advised the Commission/MoDOT of such possibility. The Commission shall not be liable for any misuse, if any, of any data placed on the internet by third parties hacking or accessing the application and hosting server without authorization.

11) The Entity shall take responsibility for all the transactions with the Commission conducted electronically through DocuSign and will abide by the record of the transactions generated by DocuSign or by the Commission/MoDOT through DocuSign. Further such record of transactions shall be conclusive proof and binding for all purposes and may be used as conclusive evidence in any proceedings. All records of the Commission and DocuSign, whether in electronic form, magnetic medium, documents or any other form, with respect to electronic transactions sent or received through use of DocuSign shall be conclusive evidence of such transactions and shall be binding on the Entity.

12) The Commission/MoDOT shall not be liable for any loss or damage whatsoever caused, arising directly or indirectly, in connection with the services and /or this Agreement, including without limitation any: (A) Loss of data; and (B) Interruption or stoppages to your access to DocuSign and its eSignature application and/or processing of electronic transactions due to any operational or technical difficulties/reason beyond our control for any other reason. The Commission, along with its members, employees, agents, executors, successors and assigns shall not be liable for any damages or claims or injuries arising out of or in connection with the use of DocuSign and its eSignature application or its non-use including non-availability or failure of performance, loss or corruption of data, loss of or damage to property (including profit and goodwill), work stoppage, computer failure or malfunctioning or interruption of business, error, omission, deletion, defect, delay in operation or transmission, communication line failure or for any failure to act upon electronic transaction for any cause.

13) You shall keep confidential all information, in whatever form, produced, prepared, observed or received by you to the extent that such information is confidential by law or otherwise required by the Commission.

14) This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Missouri. It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

15) The terms of this agreement and any amendments thereafter shall remain in full force and effect for as long as DocuSign is active, or by thirty (30) days written notification by either party

of their intent to cancel this agreement.

**By checking the I Agree button, I confirm that:**

1. I am the person named in the documents to which I will electronically affix my signature; that I am authorized to sign such documents on behalf of the Entity named in the documents; that I will read and know the contents of such electronically signed documents including all exhibits attached thereto, and that the statements made therein are true, and that I will not omit any information needed to make such documents true; and that I will take appropriate security measures to insure that I have sole access to the documents sent to me by the Commission and MoDOT through the email address provided on DocuSign.

2. I and the Entity shall indemnify and save harmless the Commission, its members, employees, officers, successors, assigns, agents and representatives against any and all claims, losses, damages, costs, liabilities and expense actually incurred, suffered or paid by the Commission, its members, employees, officers, successors, assigns, agents and representatives, directly or indirectly, and also against all demands, actions, suits, proceedings made, filed, instituted against the Commission, its members, employees, officers, successors, agents and representatives in connection with, or arising out of, or relating to the Commission accepting and acting or not accepting and not acting for any reason whatsoever pursuant to, in accordance with or relying upon, data received, through DocuSign and its eSignature application you or any unauthorized use of your ID/Password combination, the DocuSign Authentication Code, or the DocuSign eSignature application.

3. I agree to the DocuSign, Inc. Express (DocuSign) Electronic Signature Agreement terms and conditions outlined above.

CCO Form: FS27  
Approved: 05/02 (BDG)  
Revised: 10/22 (MWH)  
Modified:

St. Louis County  
City of Ballwin  
Project STP-4939(610)

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP-4939(610)  
Award Year: 2024  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
STBG PROGRAM  
SUPPLEMENTAL AGREEMENT**

THIS SUPPLEMENTAL AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Ballwin (hereinafter, "City").

WITNESSETH:

WHEREAS, on October 18, 2022, the Commission and the City previously entered into a STP (currently, Surface Transportation Block Grant (STBG)) Program Agreement (Agreement number 2022-03-68827) as to public improvements designated as STP-4939(610), for the resurfacing, new ADA curb ramps, curb repair, street lighting and pavement striping on Ries Road from Manchester Road (MO 100) to Big Bend Road, (hereinafter, "Original Agreement"); and

WHEREAS, the Commission and the City now desire to revise the Original Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

(1) REVISION: Paragraph (10) FEDERAL-AID PROVISIONS of the Original Agreement is hereby removed and replaced with the following:

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation (USDOT) Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the

City” is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(2) REVISION: Paragraph (12) REIMBURSEMENT of the Original Agreement is hereby removed and replaced with the following:

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent not to exceed \$890,003. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(3) REVISION: Exhibit C – Required Contract Provisions of the Original Agreement is hereby removed and replaced with the revised Exhibit C – Required Contract Provisions attached to this Agreement.

(4) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this Supplemental Agreement, the Original Agreement between the parties shall remain in full force and effect and shall extend and apply to this Supplemental Agreement as if fully written in this Supplemental Agreement.

*Remainder of Page Intentionally Left Blank*

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this \_\_\_\_\_ (date).

Executed by the Commission this \_\_\_\_\_ (date).

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF BALLWIN

\_\_\_\_\_

By \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary to the Commission

By \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

\_\_\_\_\_

Title: \_\_\_\_\_

Ordinance No.: \_\_\_\_\_



**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:

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).

**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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10. Assurances Required:**

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

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

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

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

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

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

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

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

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

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

### III. NONSEGREGATED FACILITIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**3. Records and certified payrolls (29 CFR 5.5)**

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

**VI. SUBLETTING OR ASSIGNING THE CONTRACT**

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

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

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

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

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

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

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

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

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

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

**VII. SAFETY: ACCIDENT PREVENTION**

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

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

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

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

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

**VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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