

The Tulalip Tribes of Washington



The Consolidated Borough of Quil Ceda Village

**Marine Drive Shoulder Improvements
Phase 1: 7th Drive NW to 64th Street NW
Contract Documents**

Bid Solicitation No. 2014-358

Contract Documents

June 1, 2016

**MARINE DRIVE SHOULDER
IMPROVEMENTS
Phase 1: 7th Drive NW to 64th Street NW**

Bid Solicitation No. 2014-358

Contract Documents

Prepared for

The Tulalip Tribes
8802 27th Avenue NE
Tulalip, WA 98271-9694

Prepared by

Parametrix
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June 1, 2016

CITATION

Parametrix. 2016. Marine Drive Shoulder
Improvements Phase 1: 7th Drive NW to 64th
Street NW Contract Documents

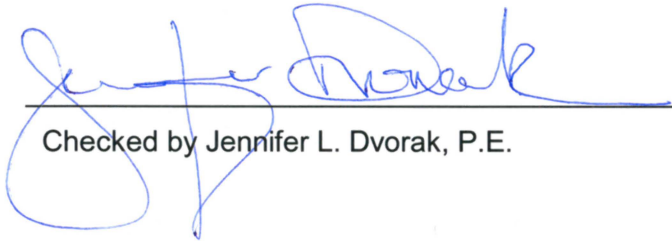
Prepared by Parametrix, Seattle, Washington.
June 1, 2016.

CERTIFICATION


The technical material and data contained in this document were prepared under the supervision and direction of the undersigned, whose seal, as a professional engineer licensed to practice as such, is affixed below.



Prepared by Austin R. Fisher, P.E.



Checked by Jennifer L. Dvorak, P.E.



Approved by Austin R. Fisher, P.E.

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Division 0

Bidding Requirements, Contract
Forms, and Conditions of Contract

The Tulalip Tribes of Washington

DEFINITIONS

These definitions supersede and take precedence over other definitions in the special provisions and plans.

A

Addenda or Addendum

A written or graphic instruction issued prior to the opening of bids which clarifies, amends or interprets the Contract Documents.

Alternate

A proposed change in the Work described in the Contract Documents providing the Tulalip Tribes of Washington with an option to select between alternative materials, products or systems, or to add or delete portions of the Work.

Alternative Dispute Resolution

A method of resolving disputes other than arbitration or litigation.

Application for Payment

The form furnished by the Tulalip Tribes of Washington that is to be used by the Contractor in requesting progress payments and which when signed by the Contractor shall serve as an affidavit that payments requested are in proportion to the Work completed as shown by the Contract Cost Breakdown and that payments previously paid by the Tulalip Tribes of Washington have been applied by the Contractor to discharge in full all of Contractor's obligations incurred in connection with the Work covered by all prior Applications for Payment.

Approved Equal

Article, device, material, equipment, form of construction or other item proposed by the Bidder and approved by the Engineer for incorporation or use in the Work as being equivalent to essential attributes of a Standard specified in the Contract Documents.

Engineer

The individual or firm responsible for providing professional design services for the Project.

As-Built Drawings

Drawings or computer files revised by the Contractor to show changes made during the construction process.

B

| | |
|---------------------|---|
| Base Bid | The amount of money stated in a bid as the sum for which the Bidder offers to perform the Work described in the Contract Documents, exclusive of adjustments for Alternates. |
| Bidder | A person or entity who submits a bid for a Contract. |
| Bid Form | The form furnished by the Tulalip Tribes of Washington that is to be completed, signed and submitted containing the Bidder's bid. |
| Bid Guaranty | The Bid Guaranty and Contract Bond or other instrument of security furnished by the Bidder to provide assurance that the Bidder will execute the Contract Form. |
| Bond | Bid Guaranty and Contract Bond, Contract Bond, or other instruments of security, furnished by the Contractor to provide assurance that the Contractor will perform the Contract and make required payments. |

C

| | |
|------------------------------|---|
| Change Order | A document recommended by the Engineer and Construction Manager, and authorized by the Tulalip Tribes of Washington, issued after execution of the Contract, through which the parties agree to a change in the Work or an adjustment in the Contract price or the time for Contract Completion. |
| Claim Affidavit | A sworn document containing a claim on funds that are due to a Contractor, in favor of a person supplying labor, materials or services for the value of labor, materials or services supplied. |
| Connect | To bring service(s) to point of installation and make final connections to the service(s) to the installed equipment, and to provide miscellaneous auxiliary appurtenances necessary to make operable for its intended use. |
| Construction Budget | The total amount budgeted by the Tulalip Tribes of Washington for the Contracts required for the Project, including without limitation, any amount budgeted for loose furnishings, but not including any fees for construction management services, professional design services or other soft costs. |
| Construction Schedule | The schedule for the construction of the Project showing the time for completing the Work, the planned sequence for performing the Work, the Contractor's resource loading |

curve and the interrelationship between the activities of the Contractors, the Engineer, the Construction Manager and the Tulalip Tribes of Washington.

Construction Manager

The individual or firm responsible for providing administration, management and related services as required to coordinate the Project, coordinate the Contractors and provide other services identified in the Contract Documents.

Contract

The agreement between a Contractor and the Tulalip Tribes of Washington for performance of Work as set forth in the Contract Documents.

Contract Completion

The date upon which all deficiencies noted in the Punch List have been corrected, the Contractor's Work is 100 percent complete, and the Contractor has complied with all conditions precedent to final payment and release of retainage.

Contract Cost Breakdown

A statement furnished by the Contractor to the Tulalip Tribes of Washington reflecting the portions of the Contract price allocated to the various portions of the Work and used as the basis for reviewing the Contractor's Applications for Payment.

Contract Documents

Collectively, the Drawings, Specifications, Addenda, Notice to Bidders, Instructions to Bidders, Definitions, Bid Form, Bid Guaranty, Contract Form and Attachments, Bond, Engineer's Supplemental Instructions, Shop Drawings, Change Orders, Standard Conditions of the Contract and Special Conditions, if any.

Contract Form

The form furnished by the Tulalip Tribes of Washington that is to be completed and executed by the Contractor and the Tulalip Tribes of Washington to evidence that the Contract has been entered among them.

Contractor

A successful Bidder with whom the Tulalip Tribes of Washington has entered into a Contract for the performance of Work on the Project in cooperation with other Contractors and persons and in accordance with the Contract Documents.

D**Day**

Calendar day, unless otherwise expressly specified to mean a working or business day.

Defective

When modifying the word Work, refers to Work that does not conform to the Contract Documents, or does not meet the requirements of any applicable statute, rule or regulation, inspection, reference standard, test or approval, or has been damaged prior to the Architect's recommendation of final payment, unless responsibility for the protection thereof has been expressly assumed by the Tulalip Tribes of Washington in writing.

Documented Non-enrolled**Descendent**

Means a descendent of a Tribe with BIA documentation.

Drawings

The graphic and pictorial portions of the Contract Documents, showing the design, type of construction, location, dimension and character of the Work to be provided by the Contractor, generally including plans, elevations, sections, details, schedules, diagrams, notes and portions of Specifications.

E**Engineer**

The individual or firm responsible for providing professional design services for the Project.

Engineer's Supplemental Instruction (ESI)

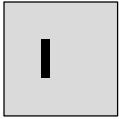
A document issued by the Engineer, through the Construction Manager, after the execution of the Contract requesting a Proposal from the Contractor which, if approved as provided in the Contract Documents, will cause the execution of a Change Order to modify, amend or alter the Contract Documents.

F**Final Acceptance**

The Tulalip Tribes of Washington's acceptance of the Work from the Contractor upon certification by the Architect and Construction Manager of Contract Completion.

Furnish

To supply to another party for their use of installation, including cost of delivery and unloading at the job site.



Indian / Native American

The term “Indian or Native American” shall mean any person who is a member of a federally recognized Indian tribe, and recognized as an Indian by the United States, pursuant to its trust responsibility to American Indians.

Install

To distribute, uncrate, assemble, and fix into the intended final positions; the installer to provide all miscellaneous hardware and supplies required to anchor and support securely, clean up, and dispose of rubbish.



Liquidated Damages

The sum established in the Contract Documents as the predetermined measure of damages to be paid to the Tulalip Tribes of Washington due to the Contractor's failure to complete the Work, or portions thereof, within stipulated times.



Material Supplier

A person or entity who furnishes materials, equipment or supplies for Work on the Project.



NAOB or NAOB's

Native American Owned Business that has been certified by Tulalip TERO.

Notice of Intent to Award

The notice provided to the apparently successful Bidder stating that upon satisfactory compliance with all conditions precedent for execution of the Contract Form, within the time specified, the Tulalip Tribes of Washington intends to execute a Contract Form with the Bidder.

Notice of Commencement

The notice prepared by the Tulalip Tribes of Washington identifying the Project, the Contractors, the Surety for each Contractor and the name of the Tulalip Tribes of Washington's representative upon whom a Claim Affidavit may be served.

Notice to Proceed

A notice provided by the Tulalip Tribes of Washington to the Contractor authorizing the Contractor to proceed with the Work and establishing the date for completion of the Work.

O

Or Equal

See Approved Equal.

Owner

See The Tulalip Tribes of Washington.

Owner's Representative

See Construction Manager.

P

Partial Occupancy

The stage in the progress of the Work when the Project, or a designated portion thereof, is sufficiently complete in accordance with the Contract Documents and has been approved for temporary occupancy by the local building department or authority having jurisdiction so the Tulalip Tribes of Washington can occupy or utilize the Project, or designated portion thereof, for its intended use.

Preference / Preferred Employee / Hiring

The term "Preferred Employee" shall mean a person entitled to a preference in employment under Ordinance No. 60, who must be hired in tier preference order before a non-Indian person, whenever an opening is available.

Project

The improvement to be constructed, of which the Work performed under the Contract Documents may be the whole or a part.

Proposal

The offer of a Contractor to complete the Work set forth in an Engineer's Supplemental Instruction or scope of work description.

Proposed Equal

Article, device, material, equipment, form of construction or other item proposed by a Bidder for incorporation or use in the Work as being equivalent to essential attributes of a Standard specified in the Contract Documents.

Provide

To furnish, install and connect complete.

Punch List

A list of items of Work to be completed or corrected by the Contractor as a condition precedent to Contract Completion.

R**Record Drawings**

Drawings or computer files revised by the Engineer to show the changes made during the construction process, based on the As-Built Drawings furnished by the Contractor to the Engineer.

Regulations / Ordinance

Shall mean the regulations implementing any Ordinance adopted by the Tulalip Tribal Employment Rights Commission and the Tulalip Board of Directors, which is a law within the boundaries of the reservation.

Request for Information (RFI)

Written request from the Contractor to the Engineer, through the Construction Manager, seeking an interpretation or clarification of the Contract Documents.

Reservation

Shall mean all lands and waters within the exterior boundaries of the Tulalip Indian Reservation or within the jurisdiction of the Tulalip Tribes.

Responsive Bid

Shall mean at a minimum that the bid shall comply with all bid requirements stated in writing and shall be at a reasonable price.

S**Samples**

Physical examples furnished by the Contractor to illustrate materials, equipment or workmanship and establish Standards by which the Work will be judged.

Schedule of Values

See Contract Cost Breakdown.

Shop Drawings

Drawings, diagrams, illustrations, schedules, performance charts, brochures, catalog data and other data specially prepared or provided by the Contractor, a Subcontractor or Material Supplier to illustrate some portion of the Work.

Special Conditions

Amendments to the General Conditions, which describe conditions unique to a particular Project, including withoutprovisions regarding the assignment of responsibility for refuse removal and for safety and security precautions and programs, regarding temporary Project facilities and utilities, weather and fire protection, scaffolding and equipment, materials and services to be used commonly by Contractors and requiring Contractors to provide assistance in the utilization of any applicable equipment system, preparation of operation and maintenance manuals, and training of Tulalip Tribes of Washington personnel for operation and maintenance of the Project.

| | |
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| Specifications | Those portions of the Contract Documents consisting of the detailed written requirements and standards for materials, equipment, construction systems and workmanship as applied to the Work and certain administrative details applicable thereto. |
| Standard | The articles, devices, materials, equipment, forms of construction and other items named in the Specifications or Addenda to denote kind, quality or performance requirements for each significant portion of the Work. All bids and Proposals shall be based on Standards named in the Specifications or Addenda. |
| Standard Conditions | The standard forms, terms and conditions of the Contract for Construction, provided by the Tulalip Tribes of Washington and as in effect from time to time. |
| Subcontractor | A person or entity who undertakes to construct, alter, erect, improve, repair, demolish, remove, dig, drill or otherwise perform any part of the Work on the Project under a contract with any person other than the Tulalip Tribes of Washington. |
| Surety | A person or entity providing a Bid Guaranty or a Bond to a Bidder or a Contractor, as applicable, to indemnify the Tulalip Tribes of Washington against all direct and consequential damages suffered by failure of the Bidder to enter into the Contract, or by failure of the Contractor to perform the Contract and to pay all lawful claims of Subcontractors, Material Suppliers and laborers, as applicable. |



| | |
|--------------------------|--|
| TERO | Means the “Tulalip Tribal Employment Rights Office”. |
| Tribal Court | Shall mean the tribal court of the Tulalip Tribes of Washington. |
| Tribal Entity | Means all subsidiary entities of the Tulalip Tribes and is intended to be as broad and encompassing as possible to ensure the Ordinance’s coverage over all employment and contract activities within the Nation’s jurisdiction and the term shall be so interpreted by the Commission and the Courts. |
| Tribal Preference | Is the process of hiring applicants which gives tribal members a higher preference in employment on tribally funded projects or tribal entities. |
| Tribal Member | The term “Tribal Member” and the term “Member” shall mean any person who is an enrolled member of the Tulalip Tribes. |

Tribe The term “Tribe” or “Tribes” shall mean the Tulalip Tribes of Washington, unless the context clearly indicates otherwise.

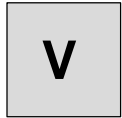
Tulalip TERO Code The Tulalip “Tribal Employment Rights Office” (TERO) Code is the Tribal law which establishes the methods and procedures to give preference to Indians in hiring promotions, training and all other aspects of employment contracting and subcontracting and specifies the methods and procedures for providing preference to certified NAOB’s when contracting and subcontracting for goods or services on the Reservation.

Tulalip Tribes See Tulalip Tribes of Washington.

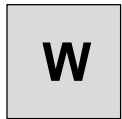
Tulalip Tribes of Washington The Owner or entity for whom the Project is being constructed.



Unit Price An amount stated in the bid as the price per unit of measurement for materials or services described in the Contract Documents, which cost shall include overhead, profit and any other expense for the Work.



Veteran Shall mean a person who has been honorably discharged from the active, reserve, or National Guard armed forces of the United States including Army, Navy, Marines, Air Force, and Coast Guard.



Warranty Legally enforceable assurance of the quality and performance of materials and equipment.

Work The construction and services required by the Contract Documents, to include all labor, materials, equipment and services performed or provided by the Contractor for the Project.

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The Tulalip Tribes of Washington

Notice to Bidders

Sealed bid proposals will be received by The Tulalip Tribes of Washington, at the Consolidated Borough of Quil Ceda Village's Office located at 8802 27th Avenue NE, Tulalip, Washington 98271-9694 for the following Project:

BID SOLICITATION NUMBER 2014-358

Marine Drive Shoulder Improvements Phase 1: 7th Drive NW to 64th Street NW

in accordance with the Drawings and Specifications prepared by:

Parametrix
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374
(253) 604-6600

The Construction Manager for the Project is:

The Tulalip Tribes of Washington
Consolidated Borough of Quil Ceda Village
8802 27th Avenue NE
Tulalip, WA 98271-9694
Attn: Debbie Bray
Telephone: (360) 716-5024
Facsimile: (360) 716-0178

This Tulalip Tribes project provides for the installation of approximately 7,300 linear feet of HMA shoulder improvements including roadway embankment construction, channelization, guardrail, an illumination system, and a pile-supported pedestrian path.

The Request for Bid Proposal is restricted to certified Native American Owned Businesses (i.e., Prime Contractors) only. Native American Owned Businesses submitting proposals shall submit evidence of certification from the Tulalip Tribes' TERO (Tribal Employment Rights Ordinance) office as being a certified Native American Owned Businesses with their Proposal in order to obtain the preferences provided for in the Request for Bid Proposal.

Native American Preference related to contracting, subcontracting, and suppliers in the project is required. Bidders shall abide by The Tulalip Code, Chapter 9.05 – TERO Code which provides Indian preference in contracting goods and services. Additionally, The Tulalip Tribes' Board of Directors has the authority to require those employers subject to The Tulalip Code, Chapter 9.05 – TERO Code and applicable federal laws and guidelines, to give preference to Indians in hiring, promotions, training, and all other aspects of employment. Bidders shall comply with this Code and the rules, regulations, and orders of the TERO Commission. For more information about The Tulalip Code, Chapter 9.05 – TERO Code, contact The Tulalip Tribes' TERO Department at 6406 Marine Drive, Tulalip, Washington 98271, Office (360) 716-4747 or Facsimile (360) 716-0249. The Tulalip TERO Code is available for review on the Tulalip TERO website: <http://www.tulaliptero.com/>

Sealed bids will be received for:

Bid Package No.: 2014-358 – Marine Drive Shoulder Improvements
Phase 1: 7th Drive NW to 64th Street NW
Estimate \$2 Million

until Monday, June 27, 2016 at 2:00 p.m. at which time all bids will be opened and read aloud. All required bid documentation shall be submitted to the front desk receptionist at the QCV – Administrative Office located at 8802 27th Avenue NE, Tulalip, WA by the scheduled bid date and times. ORAL, TELEPHONIC, FAXED, OR TELEGRAPHIC BIDS WILL NOT BE ACCEPTED.

A mandatory pre-bid meeting is not required.

All pre-bid questions and clarifications should be made in writing to the Construction Manager no later than five (5) working days prior to bid opening. Any and all such clarifications and any supplemental instructions will be in the form of written addenda, if issued or responded to. Be sure to include in the address of the correspondence the words “PRE-BID QUESTION”.

The bid documents may also be reviewed for bidding purposes by the following means and methods:

1. On the Internet – Free of Charge:

Plans, specifications, addenda, bidders list, and plan holders list for this project are available through the Consolidated Borough of Quil Ceda Village – Tulalip Tribes’ online plan room. Free of charge access is provided to Prime Bidders, Subcontractors, and Vendors by going to: <http://www.quilcedavillage.org> and clicking on: “**Contracts and Procurement**” and “**Current Projects**”. This online plan room provides Bidders with fully usable online documents; with the ability to download and print to your own printer. Contact The Tribes’ Construction Manager listed above should you require assistance.

Plans, Specifications, Addenda, Bidders List, and Plan Holders List for this project are also available through the Consolidated Borough of Quil Ceda Village – Tulalip Tribes’ online plan room with Builders Exchange of Washington. Free of charge access is provided to Prime Bidders, Subcontractors, and Vendors by going to: “<http://bxwa.com>” and clicking on: “**Posted Projects**”, “**Public Works**”, “**Tribal Agencies**”, “**Consolidated Borough of Quil Ceda Village – Tulalip Tribes**”, and “**Projects Bidding**”. Bidders are encouraged to “Register” in order to receive automatic email notification of future addenda and to place themselves on the self-registered “Bidders List”. This online plan room provides Bidders with fully usable online documents; with the ability to: download, print to your own printer, order full/partial plan sets from numerous reprographic sources (online print order form), and a free online digitizer/take-off tool. Contact Builders Exchange of Washington at 425-258-1303 should you require assistance.

2. For review at the following locations during normal business hours:

| | |
|---|---|
| Consolidated Borough of Quil Ceda Village | Builders Exchange of Washington, Inc. |
| 8802 27 th Avenue NE | 2607 Wetmore Avenue |
| Tulalip, WA 98271-9694 | Everett, WA 98201 |
| (360) 716-5024 office | http://www.bxwa.com |
| (360) 716-0165 facsimile | (425) 258-1303 office |
| | (425) 259-3832 facsimile |

The following is applicable to federal aid projects.

The Tulalip Tribes in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises 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 or national origin in consideration for an award.

The Tulalip Tribes of Washington

CONFIDENTIALITY AGREEMENT

Upon award of a Contract the successful Bidder shall provide the Tulalip Tribes of Washington with a completed and signed Confidentiality Agreement as setforth herein. Successful Bidder shall also provide the Tulalip Tribes of Washington with a Confidentiality Agreement Completed and signed by all lower tier contractors and/or suppliers whom may perform Work on the Project.

I / we, the undersigned, have been provided certain confidential and proprietary information ("Confidential Information") regarding the Tulalip Tribes of Washington for the Project identified as Marine Drive Shoulder Improvements Phase 1: 7th Drive NW to 64th Street NW Contract Documents ("Project"). "Confidential Information" shall include, without limitation, all financial information, data, materials, products, manuals, business plans, marketing plans, Project design documents, or other information disclosed or submitted orally, in writing, or by any other media.

The undersigned acknowledges that this Confidential Information is sensitive and confidential in nature, and that the disclosure of this information to anyone not part of this agreement would be damaging to the Tulalip Tribes of Washington.

In consideration of the premises herein contained, I / we understand and agree that I / we will not disclose any "Confidential Information" regarding this "Project" to any person(s) not privy to this agreement. Furthermore, I / we will not disclose any of this information directly or indirectly to any competitor of the Tulalip Tribes of Washington.

Agreed to and accepted:

Signature: _____

Title: _____

Printed Name: _____

DATE: _____

The Tulalip Tribes of Washington

INSTRUCTIONS TO BIDDERS

The Tulalip Tribes of Washington and Consolidated Borough of Quil Ceda Village hereby invite you to submit a Bid Proposal for this project.

Article 1 Contract Information

Article 2 Bidding Procedures

Article 3 Bid Opening & Consideration of Bids

Article 4 Withdrawal of Bid

Article 5 Bid Estimate

Article 6 Bid Guaranty and Contract Bond

Article 7 Contract Award and Execution

Article 8 Applicable Law and Forum

ARTICLE 1 – CONTRACT INFORMATION

1.1 PROJECT BID REQUIREMENTS

- 1.1.1 The Tulalip Tribes of Washington’s Board of Directors has the authority to require those employers subject to The Tulalip Code, Chapter 9.05 – TERO Code and applicable federal laws and guidelines, to give preference to Indians in hiring promotions, training and all other aspects of employment contracting and subcontracting, and to give preference to Indians in contracting goods and services. Bidders and must comply with The Tulalip Code, Chapter 9.05 – TERO Code and the rules, regulations and orders of the TERO Commission.
- 1.1.2 The preference requirements contained in The Tulalip Code, Chapter 9.05 – TERO Code shall be binding on all contractors and subcontractors, regardless of tier, and shall be deemed a part of all resulting contract agreements.
- 1.1.3 For more information about The Tulalip Code, Chapter 9.05 – TERO Code, contact the Tulalip Tribes” TERO Department at 6406 Marine Drive, Tulalip, Washington 98271, Office (360) 716-4747 or Facsimile (360) 716-0249. The Tulalip TERO Code is available for review on the Tulalip TERO website: <http://www.tulaliptero.com>.
- 1.1.4 The following requirements apply to the Bid Award Criteria and Procedures for the Project:
 - 1.1.4.1 Bidding is restricted to certified Native American Owned Businesses.
 - 1.1.4.2 Minimum TERO Participation Requirements for Employment:
 - 1.1.4.2.1 A minimum of twenty five percent (25%) of the entire project work force shall be “Preferred Employees” as defined in The Tulalip Code, Chapter 9.05 – TERO Code.

- 1.1.4.2.2 The total number of “Preferred Employees” employed by the Bidder, and those employed by its subcontractors shall be used to determine if Bidder satisfies the minimum requirement.
- 1.1.4.2.3 Bidders are encouraged to exceed the minimum requirement for employment.
- 1.1.4.3 Minimum TERO Participation Requirements in contracting with Tulalip Tribal Member NAOB Subcontractors and Suppliers:
 - 1.1.4.3.1 Bidder shall contract with a minimum number of two (2) certified Tulalip Tribal Member NAOB firms to be considered responsive and responsible.
 - 1.1.4.3.2 The total value of Tulalip Tribal Member NAOB contracted work shall be a minimum of twenty five percent (25%) of the total Bid Proposal Price.
 - 1.1.4.3.3 Bidders are encouraged to exceed the minimum requirements for Tulalip Tribal Member NAOB Subcontractors and Suppliers.
 - 1.1.4.3.4 Bidders shall list their Tulalip Tribal Member NAOB Subcontractors and Suppliers on the Bid Form in Section IV A.
- 1.1.4.4 Minimum TERO Participation Requirements in contracting with NAOB Subcontractors and Suppliers:
 - 1.1.4.4.1 Bidders are encouraged to contract with NAOB Subcontractors and Suppliers.
 - 1.1.4.4.2 Bidders shall list their NAOB Subcontractors and Suppliers on the Bid Form in Section IV B.
 - 1.1.4.5 Bidder shall be considered nonresponsive if they do not meet the minimum requirements contained in this paragraph IB 1.1.4.

1.2 NOT USED.

1.3 GIVING NOTICE

- 1.3.1 Whenever any provision of the Contract Documents requires the giving of notice, such notice shall be deemed to have been validly given if delivered personally to the individual or to a member of the entity for whom the notice is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address of such individual or entity known to the giver of the notice.
- 1.3.2 When any period of time is referred to in the Contract Documents by days, it shall be computed to exclude the first, and include the last, day of such period. If the last day of any such period falls on a Saturday, Sunday, or a legal holiday, such day will be omitted from the computation and such period shall be deemed to end on the next succeeding day which is not a Saturday, Sunday, or legal holiday.
- 1.3.3 The effective date of any and all notices, regardless of the method of delivery, shall be the date of receipt.

1.4 USE OF FACSIMILE TRANSMISSION

- 1.4.1 Any notice required to be given by the Contract Documents may be given by facsimile transmission, provided the original signed notice is delivered pursuant to paragraph IB 1.3.1.
- 1.4.2 Notice of withdrawal of a bid may be given by facsimile transmission provided an original signed document is received within three (3) business days of the facsimile transmission.

ARTICLE 2 - BIDDING PROCEDURES

2.1 EXAMINATION OF CONTRACT DOCUMENTS AND PROJECT SITE

- 2.1.1 The Bidder shall examine all Contract Documents, including without limitation the Drawings and Specifications for all divisions of Work for the Project, noting particularly all requirements which will affect the Bidder's Work in any way. In addition, the Bidder must carefully examine all Contract Documents because laws and rules applicable to other Tribal projects are not necessarily applicable to this Project.
- 2.1.2 Failure of a Bidder to be acquainted with the extent and nature of Work required to complete any applicable portion of the Work, in conformity with all requirements of the Project as a whole wherever set forth in the Contract Documents, will not be considered as a basis for additional compensation.
- 2.1.3 The Bidder shall evaluate the Project site and related Project conditions where the Work will be performed, including without limitation the following:
 - 2.1.3.1 The condition, layout and nature of the Project site and surrounding area;
 - 2.1.3.2 The availability and cost of labor;
 - 2.1.3.3 The availability and cost of materials, supplies and equipment;
 - 2.1.3.4 The cost of temporary utilities required in the bid;
 - 2.1.3.5 The cost of any permit or license required by a local or regional authority having jurisdiction over the Project;
 - 2.1.3.6 The generally prevailing climatic conditions;
 - 2.1.3.7 Conditions bearing upon transportation, disposal, handling, and storage of materials.
- 2.1.4 Unless otherwise specified in the Contract Documents, borings, test excavations and other subsurface information, if any, are provided solely to share information available to the Tulalip Tribes of Washington and any use of, or reliance upon, such items by the Bidder is at the risk of the Bidder. The Bidder shall be afforded access to the Project site to obtain the Bidder's own borings, test excavations and other subsurface information upon request made to the Construction Manager not less than ten (10) days prior to the opening of the bids.

2.2 PRE-BID MEETING

- 2.2.1 The Bidder is strongly encouraged to attend any pre-bid meetings, where the Engineer and the Construction Manager will answer questions regarding the Contract Documents.
- 2.2.2 The Construction Manager, with the assistance of the Engineer, shall prepare minutes of the pre-bid meeting for the Project record, which will be provided to a Bidder upon request.
- 2.2.3 Failure of the Bidder to attend the pre-bid meeting, or to obtain the minutes thereof, which results in the Bidder not being fully acquainted with the requirements of the Project, will not be considered as a basis for additional compensation.
- 2.2.4 If not given in the Notice to Bidders, notice of the time and place of any pre-bid meeting to be held will be given by the Engineer to each person of record holding Contract Documents.

2.3 INTERPRETATION

- 2.3.1 If the Bidder finds any perceived ambiguity, conflict, error, omission or discrepancy on or between any of the Contract Documents, including without limitation the Drawings and Specifications, or between any of the Contract Documents and any applicable provision of law, including without limitation, the current International Building Code, the Bidder shall submit a written request to the Engineer, through the Construction Manager, for an interpretation or clarification.
 - 2.3.1.1 The Bidder shall be responsible for prompt delivery of such request.
 - 2.3.1.2 In order to prevent an extension of the bid opening, the Bidder is encouraged to make all requests for interpretation or clarification a minimum of seven (7) days before the bid opening.
- 2.3.2 If the Engineer determines that an interpretation or clarification is warranted, the Engineer shall issue an Addendum and the Construction Manager shall provide a copy to each person of record holding Contract Documents in accordance with paragraph IB 1.3. Any Addendum shall be deemed to have been validly given if it is delivered via facsimile, issued and mailed, or otherwise furnished to each person of record holding the Contract Documents. If any Addendum is issued within 72 hours prior to the published time for the bid opening, excluding Saturdays, Sundays and legal holidays, the bid opening shall automatically be extended one (1) week, with no further advertising required.
- 2.3.3 Any interpretation or clarification of the Contract Documents made by any person other than the Engineer, or in any manner other than a written Addendum, shall not be binding and the Bidder shall not rely upon any such interpretation or clarification.
- 2.3.4 The Bidder shall not, at any time after the execution of the Contract, be compensated for a claim alleging insufficient data, incomplete, ambiguous, conflicting or erroneous Contract Documents, any discrepancy on or between Contract Documents, or incorrectly assumed conditions regarding the nature or character of the Work, if no request for interpretation or clarification regarding such matter was made by the Bidder prior to the bid opening.

2.4 STANDARDS

- 2.4.1 The articles, devices, materials, equipment, forms of construction, fixtures and other items named in the Specifications to denote kind quality or performance requirement shall be known as Standards and all bids shall be based upon those Standards.
- 2.4.2 Where two or more Standards are named, the Bidder may furnish any one of those Standards.

2.5 NOT USED.

2.6 BID FORM

- 2.6.1 Each bid shall be submitted on the Bid Form and sealed in an envelope clearly marked as containing a bid, indicating the Project name, the Contractor scope of work, and the date of the bid opening on the envelope.
 - 2.6.1.1 Any change, alteration or addition in the wording of the Bid Form by a Bidder may cause the Bidder to be rejected as not responsible for award of a Contract.
 - 2.6.1.2 Unless the Bidder withdraws the bid as provided in IB Article 4, the Bidder will be required to comply with all requirements of the Contract Documents, regardless of whether the Bidder had actual knowledge of the requirements and regardless of any statement or omission made by the Bidder which might indicate a contrary intention.
- 2.6.2 The Bidder shall fill in all relevant blank spaces in the Bid Form in ink or by typewriting and not in pencil.
 - 2.6.2.1 The Bidder shall show bid amounts for the Total Base Bid and any Alternate(s) in both words and figures. In the case of a conflict between the words and figures, the amount shown in words shall govern, where such words are not ambiguous. When the Bidder's intention and the meaning of the words are clear, omissions or misspellings of words will not render the words ambiguous.
 - 2.6.2.2 Any alteration or erasure of items filled in on the Bid Form shall be initialed by the Bidder in ink.
- 2.6.3 When an Alternate is listed on the Bid Form, the Bidder shall fill in the applicable blank with an increased or decreased bid amount. The Tulalip Tribes of Washington reserves the right to accept or reject any or all bids on Alternates, in whole or in part, and in any order. Voluntary Alternates submitted by a Bidder are prohibited from becoming the basis of the Contract award.
 - 2.6.3.1 If no change in the bid amount is required, indicate "No Change" or "\$0 dollars".
 - 2.6.3.2 Failure to make an entry or an entry of "No Bid," "N/A," or similar entry for any Alternate by a Bidder may cause the Bidder to be rejected as nonresponsive only if that Alternate is selected.

- 2.6.3.3 If an Alternate is not selected, an entry by a Bidder as listed in paragraph IB 2.6.3.2 on that Alternate will not, by itself, render a Bidder nonresponsive.
- 2.6.3.4 In a combined bid, a blank entry or an entry of "No Bid," "N/A," or similar entry on an Alternate will cause the bid to be rejected as nonresponsive only if that Alternate applies to the combined bid and that Alternate is selected.
- 2.6.4 Each bid shall contain the name of every person interested therein. If the Bidder is a corporation, partnership, sole proprietorship, or limited liability company, an officer, partner or principal of the Bidder, as applicable, shall print or type the legal name of the Bidder on the line provided and sign the Bid Form. If the Bidder is a joint venture, an officer, partner or principal, as applicable, of each member of the joint venture shall print or type the legal name of the applicable member on the line provided and sign the Bid Form on behalf of that member. All signatures must be original.
- 2.6.5 Subject to the provisions of this paragraph IB 2.6, the completed Bid Form of the Bidder with whom the Tulalip Tribes of Washington executes a Contract Form shall be incorporated into the Contract Form as if fully rewritten therein.

2.7 REQUIRED SUBMITTALS WITH BID FORM

- 2.7.1 A Bidder shall be rejected as nonresponsive if the Bidder fails to submit the following submittals with the Bid Form in a sealed envelope:
 - 2.7.1.1 If the Bid is restricted to certified Tulalip Tribal Member NAOBs or NAOBs, then Bidder shall submit evidence of certification from the Tulalip Tribes" TERO office as being a certified NAOB for the identified NAOB category.
 - 2.7.1.2 A Bid Guaranty as provided in paragraph IB 6.1.
 - 2.7.1.3 A Power of Attorney of the agent signing for a Surety which is licensed in Washington, when a Bid Guaranty and Contract Bond is submitted.
 - 2.7.1.4 Native American Owned Business Written Confirmation Documentation for each Tulalip Tribal Member NAOB and NAOB firm listed on the Bidder's Bid Form.

2.8 UNIT PRICES

- 2.8.1 When Unit Prices are requested on the Bid Form, the scheduled quantities listed are to be considered as approximate and are to be used only for the comparison of bids for purposes of award of the Contract and to determine the maximum quantity to be provided without a Change Order. If Unit Prices are stated to be sought only for informational purposes, they shall not be used for comparison of bids.
- 2.8.2 Unless otherwise specified in the Contract Documents, the Unit Prices set forth shall include all materials, equipment, labor, delivery, installation, overhead, profit and any other cost or expense, in connection with or incidental to, the performance of that portion of the Work to which the Unit Prices apply. The Bidder shall submit Unit Prices for all items listed unless other instructions are stated on the Bid Form.
- 2.8.3 Where there is a conflict between a Unit Price and the extension thereof made by the Bidder, the Unit Price shall govern and a corrected extension of such Unit Price shall be made and such corrected extension shall be used for the comparison of the bids and to determine the maximum quantity to be provided without a Change Order.

- 2.8.4 The Bidder agrees that the Tulalip Tribes of Washington may increase, decrease or delete entirely the scheduled quantities of Work to be done and materials to be furnished after execution of the Contract Form.
- 2.8.5 Payments, except for lump sum items in Unit Price Contracts, will be made to the Contractor only for the actual quantities of Work performed or materials furnished in accordance with the Contract Documents.
- 2.8.6 If the cost of an item for which a Unit Price is stated in the Contract changes substantially so that application of the Unit Price to the quantities of Work proposed will create an undue hardship on the Tulalip Tribes of Washington or the Contractor, the applicable Unit Price may be equitably adjusted by Change Order.

2.9 CHANGE IN THE BID AMOUNT

- 2.9.1 Any change to a previously submitted bid shall be made in writing and must be received by the Tulalip Tribes of Washington before the time scheduled for the bid opening, as determined by the employee or agent of the Tulalip Tribes of Washington designated to open the bids.
- 2.9.2 Changes shall provide an amount to be added or subtracted from the bid amount, so that the final bid amount can be determined only after the sealed envelope is opened.
- 2.9.3 If the Bidder's written instruction reveals the bid amount in any way prior to the bid opening, the bid shall not be opened or considered for award of a Contract.

2.10 COPIES OF THE DRAWINGS AND SPECIFICATIONS

- 2.10.1 The Contractor shall maintain at the Project site the permits and one (1) complete set of Drawings and Specifications approved by the Tribes, city, local or state building department having lawful jurisdiction over the project.
- 2.10.2 Unless otherwise specified in the Contract Documents, the Engineer, through the Construction Manager, shall furnish to the Contractor, free of charge, four (4) sets of Drawings and Specifications if the Contract price is \$500,000 or less, and seven (7) sets of Drawings and Specifications if the Contract price is in excess of \$500,000.

ARTICLE 3 – BID OPENING AND CONSIDERATION OF BIDS

3.1 DELIVERY OF BIDS

- 3.1.1 It is the responsibility of the Bidder to submit the bid to the Tulalip Tribes of Washington at the designated location prior to the time scheduled for bid opening.
- 3.1.2 If the bid envelope is enclosed in another envelope for the purpose of delivery, the exterior envelope shall be clearly marked as containing a bid with the Project name, the scope of Work or Contract and the date of the bid opening shown on the envelope.
- 3.1.3 No bid shall be considered if it arrives after the time set for the bid opening as determined by the employee or agent of the Tulalip Tribes of Washington designated to open the bids.

3.2 BID OPENING

- 3.2.1 Sealed bids will be received at the office designated in the Notice to Bidders until the time stated when all bids will be opened, read aloud and the tabulation made public.
- 3.2.2 The public opening and reading of bids is for informational purposes only and is not to be construed as an acceptance or rejection of any bid submitted.
- 3.2.3 The contents of the bid envelope shall be a public record and open for inspection, upon request, at any time after the bid opening.

3.3 BID OPENING EXTENSION

- 3.3.1 If any Addendum is issued within 72 hours prior to the published time for the bid opening, excluding Saturdays, Sundays and legal holidays, the bid opening shall automatically be extended one (1) week, with no further advertising required.

3.4 BID EVALUATION CRITERIA

- 3.4.1 The Tulalip Tribes of Washington reserves the right to accept or reject any bid or bids and to award the Contract to any remaining Bidder the Tulalip Tribes of Washington determines to be the lowest responsive and responsible Bidder pursuant to paragraph IB 3.5.1 The Tulalip Tribes of Washington reserves the right to accept or reject any or all Alternates, in whole or in part, and the right to reject any Alternate or Alternates and to accept any remaining Alternate or Alternates. Alternates may be accepted or rejected in any order.
- 3.4.2 The Tulalip Tribes of Washington may reject the bid of any Bidder who has engaged in collusive bidding.
- 3.4.3 The Tulalip Tribes of Washington reserves the right to waive, or to allow any Bidder a reasonable opportunity to cure, a minor irregularity or technical deficiency in a bid, provided the irregularity or deficiency does not affect the bid amount or otherwise give the Bidder a competitive advantage. Noncompliance with any requirement of the Contract Documents may cause a Bidder to be rejected.
- 3.4.4 The Tulalip Tribes of Washington may reject all bids for one or more bid packages, prior to, during or after evaluation of Bidders, and may advertise for other bids, using the original estimate or an amended estimate, for such time, in such form and in such newspapers as the Tulalip Tribes of Washington may determine.

3.5 BID EVALUATION PROCEDURE

- 3.5.1 The Contract will be awarded to the lowest responsive and responsible Bidder as determined in the discretion of the Tulalip Tribes of Washington, all bids may be rejected in accordance with applicable Tribal Ordinances or Codes.
 - 3.5.1.1 In determining which Bidder is lowest responsive and responsible, the Tulalip Tribes of Washington shall consider the Base Bid, the bids for any Alternate or Alternates and the bids for any Unit Price or Unit Prices which the Tulalip Tribes of Washington determines to accept.
 - 3.5.1.2 The total of the bids for accepted Alternate(s) and Unit Price(s) will be added to the Base Bid for the purpose of determining the lowest Bidder.

- 3.5.1.3 If two or more Bidders submit the same bid amount and are determined to be responsive and responsible, the Tulalip Tribes of Washington reserves the right to select one Bidder in the following manner:
 - 3.5.1.3.1 If the Request for Bid Proposal is restricted to NAOB Firms and a majority of the funds used to pay the contract or subcontract are derived from Tulalip tribal resources preference shall be given to the certified Tulalip Tribal Member NAOB Firms; otherwise, selection shall be by lot in the presence of all such Bidders in such a manner as the Construction Manager shall determine and such selection shall be final.
 - 3.5.1.3.2 If the Request for Bid Proposal is restricted to Tulalip Tribal Member Owned NAOB Firms selection shall be by lot in the presence of all such Bidders in such a manner as the Construction Manager shall determine and such selection shall be final.
 - 3.5.1.3.3 If the Request for Bid Proposal is not restricted to NAOB Firms selection shall be by lot in the presence of all such Bidders in such a manner as the Construction Manager shall determine and such selection shall be final.
- 3.5.2 In determining whether a Bidder is responsible, factors to be considered include, without limitation:
 - 3.5.2.1 Whether the Bidder's bid responds to the Contract Documents in all material respects and contains no irregularities or deviations from the Contract Documents which would affect the amount of the bid or otherwise give the Bidder a competitive advantage.
 - 3.5.2.2 Preference to Indians in hiring promotions, training and all other aspects of employment contracting and subcontracting;
 - 3.5.2.3 Preferences required by Tribal Ordinances, Codes, or Laws;
 - 3.5.2.4 The experience of the Bidder;
 - 3.5.2.5 The financial condition of the Bidder;
 - 3.5.2.6 The conduct and performance of the Bidder on previous contracts;
 - 3.5.2.7 The facilities of the Bidder;
 - 3.5.2.8 The management skills of the Bidder;
 - 3.5.2.9 The ability of the Bidder to execute the Contract properly;
 - 3.5.2.10 The evaluation of a bid below the median of other bids pursuant to paragraph IB 5.2.
 - 3.5.2.11 Bidder's commitment to Safety and worker training.
- 3.5.3 If the lowest or most responsive Bidder, as applicable, is not responsible, and all bids are not rejected, the Tulalip Tribes of Washington shall follow the procedure set forth with each next lowest or most responsive Bidder, as applicable, until the Contract is awarded or all bids are rejected or all Bidders are determined to be not responsible.

3.6 REJECTION OF BID BY THE TULALIP TRIBES OF WASHINGTON

- 3.6.1 If the lowest or most responsive Bidder, as applicable, is not responsible, the Tulalip Tribes of Washington shall reject such Bidder and notify the Bidder in writing by certified mail of the finding and the reasons for the finding.
- 3.6.2 A Bidder who is notified in accordance with paragraph IB 3.6.1 may object to such Bidder's rejection by filing a written protest which must be received by the Tulalip Tribes of Washington, through the Construction Manager, within five (5) days of the notification provided pursuant to paragraph IB 3.6.1.
- 3.6.3 Upon receipt of a timely protest, representatives of the Tulalip Tribes of Washington shall meet with the protesting Bidder to hear the Bidder's objections.
 - 3.6.3.1 No award of the Contract shall become final until after the representatives of the Tulalip Tribes of Washington have met with all Bidders who have timely filed protests and the award of the Contract is affirmed by the Tulalip Tribes of Washington.
 - 3.6.3.2 If all protests are rejected in the Tulalip Tribes of Washington's discretion the award of the Contract shall be affirmed by the Tulalip Tribes of Washington or all bids shall be rejected.

3.7 NOTICE OF INTENT TO AWARD

- 3.7.1 The Tulalip Tribes of Washington shall notify the apparent successful Bidder that upon satisfactory compliance with all conditions precedent for execution of the Contract Form, within the time specified, the Bidder will be awarded the Contract.
- 3.7.2 The Tulalip Tribes of Washington reserves the right to rescind any Notice of Intent to Award if the Tulalip Tribes of Washington determines the Notice of Intent to Award was issued in error.

ARTICLE 4 – WITHDRAWAL OF BID

4.1 WITHDRAWAL PRIOR TO BID OPENING

- 4.1.1 A Bidder may withdraw a bid after the bid has been received by the Tulalip Tribes of Washington, provided the Bidder makes a request in writing and the request is received by the Tulalip Tribes of Washington prior to the time of the bid opening, as determined by the employee or agent of the Tulalip Tribes of Washington designated to open bids.

4.2 WITHDRAWAL AFTER BID OPENING

- 4.2.1 All bids shall remain valid and open for acceptance for a period of, at least, 60 days after the bid opening; provided, however, that within two (2) business days after the bid opening, a Bidder may withdraw a bid from consideration if the bid amount was substantially lower than the amounts of other bids, provided the bid was submitted in good faith, and the reason for the bid amount being substantially lower was a clerical mistake, as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a

substantial quantity of Work, labor or material made directly in the compilation of the bid amount.

4.2.1.1 Notice of a request to withdraw a bid must be made in writing filed with the Tulalip Tribes of Washington, through the Construction Manager, within two (2) business days after the bid opening.

4.2.1.2 No bid may be withdrawn under paragraph IB 4.2.1 when the result would be the awarding of the Contract on another bid to the same Bidder.

4.2.2 If a bid is withdrawn under paragraph IB 4.2.1, the Tulalip Tribes of Washington may award the Contract to another Bidder the Tulalip Tribes of Washington determines to be the next lowest or most responsive and responsible Bidder, as applicable, or reject all bids and advertise for other bids. If the Tulalip Tribes of Washington advertises for other bids, the withdrawing Bidder shall pay the costs, in connection with the rebidding, of printing new Contract Documents, required advertising and printing and mailing notices to prospective Bidders, if the Tulalip Tribes of Washington finds that such costs would not have been incurred but for such withdrawal.

4.2.3 A Bidder may withdraw the Bidder's bid at any time after the period described in paragraph IB 4.2.1 by written notice to the Tulalip Tribes of Washington.

4.3 REFUSAL BY TULALIP TRIBES OF WASHINGTON TO ACCEPT WITHDRAWAL

4.3.1 If the Tulalip Tribes of Washington intends to contest the right of a Bidder to withdraw a bid pursuant to paragraph IB 4.2.1, a hearing shall be held by one or more representatives of the Tulalip Tribes of Washington within ten (10) days after the bid opening and an order shall be issued by the Tulalip Tribes of Washington allowing or denying the claim of such right within five (5) days after such hearing is concluded. The Tulalip Tribes of Washington, through the Construction Manager, shall give the withdrawing Bidder timely notice of the time and place of any such hearing.

4.3.1.1 The Tulalip Tribes of Washington shall make a stenographic record of all testimony, other evidence, and rulings on the admissibility of evidence presented at the hearing. The Bidder shall pay the costs of the hearing.

4.4 REFUSAL BY BIDDER TO PERFORM

4.4.1 If the Tulalip Tribes of Washington denies the claim for withdrawal and the Bidder elects to appeal or otherwise refuses to perform the Contract, the Tulalip Tribes of Washington may reject all bids or award the Contract to the next lowest or most responsive and responsible Bidder, as applicable.

4.5 EFFECT OF WITHDRAWAL

4.5.1 No Bidder who is permitted, pursuant to paragraph IB 4.2.1, to withdraw a bid, shall for compensation supply any material or labor to, or perform any subcontract or other work agreement for, the person to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the Project for which the withdrawn bid was submitted, without the written approval of the Tulalip Tribes of Washington.

4.5.2 The person to whom the Contract is awarded and the withdrawing Bidder shall be jointly liable to the Tulalip Tribes of Washington in an amount equal to any

compensation paid to or for the benefit of the withdrawing Bidder without such approval.

ARTICLE 5 – BID ESTIMATE

5.1 BID TOTALS

5.1.1 No Contract shall be entered into if the price of the Contract, or if the Project involves multiple Contracts where the total price of all Contracts for the Project, is in excess of ten (10) percent above the entire estimate.

5.2 SUBSTANTIALLY LOW BID

5.2.1 No Bidder shall be responsible if the Bidder's bid is more than twenty (20) percent below the median of all higher bids received for a Contract where the estimate is \$100,000 or more, and no Bidder shall be responsible if the Bidder's bid is more than twenty-five (25) percent below the median of all higher bids received for a Contract where the estimate is less than \$100,000, unless the following procedures are followed.

5.2.1.1 The Construction Manager and the Engineer conduct an interview with the Bidder to determine what, if anything, has been overlooked in the bid, and to analyze the process planned by the Bidder to complete the Work. The Construction Manager and the Engineer shall submit a written summary of the interview to the Tulalip Tribes of Washington.

5.2.1.2 The Tulalip Tribes of Washington reviews and approves the Bidder's responsibility.

5.2.1.3 The Construction Manager notifies the Bidder's Surety, if applicable, in writing that the Bidder with whom the Tulalip Tribes of Washington intends to enter a Contract submitted a bid determined to be substantially lower than the median of all higher bids.

ARTICLE 6 – BID GUARANTY AND CONTRACT BOND

6.1 BID GUARANTY

6.1.1 The Bidder must file with the bid a Bid Guaranty, payable to the Tulalip Tribes of Washington, in the form of either:

6.1.1.1 The signed Bid Guaranty and Contract Bond contained in the Contract Documents for the amount of the Base Bid plus add Alternates; or

6.1.1.2 The signed Bid Proposal Bond contained in the Contract Documents for the amount of the Base Bid plus add Alternates; or

6.1.1.3 A cashier's check in the amount of five (5) percent of the Base Bid plus add Alternates.

6.1.1.4 If Bidder elects to file with the bid a Bid Guaranty under paragraph IB 6.1.1.3 Bidder shall also file with the bid a signed Statement of Intended Surety contained in the Contract Documents.

6.1.2 The Bid Guaranty shall be in form and substance satisfactory to the Tulalip Tribes of Washington and shall serve as an assurance that the Bidder will, upon acceptance of the bid, comply with all conditions precedent for execution of the Contract Form,

within the time specified in the Contract Documents. Any Bid Guaranty must be payable to the Tulalip Tribes of Washington.

- 6.1.3 If the blank line on the Bid Guaranty and Contract Bond or Bid Proposal Bond is not filled in, the penal sum will automatically be the full amount of the Base Bid plus add Alternates. If the blank line is filled in, the amount must not be less than the full amount of the Base Bid plus add Alternates, stated in dollars and cents. A percentage is not acceptable.
- 6.1.4 The Bid Guaranty and Contract Bond or Bid Proposal Bond must be signed by an authorized agent, with Power of Attorney, from the Surety. The Bid Guaranty and Contract Bond or Bid Proposal Bond must be issued by a Surety licensed to transact business in the State of Washington.
- 6.1.5 Bid Guaranties will be returned to all unsuccessful Bidders 90 days after the bid opening. If used, the cashier's check will be returned to the successful Bidder upon compliance with all conditions precedent for execution of the Contract Form.

6.2 FORFEITURE

- 6.2.1 If for any reason, other than as authorized by paragraph IB 4.2.1 or paragraph IB 6.3, the Bidder fails to execute the Contract Form, and the Tulalip Tribes of Washington awards the Contract to another Bidder which the Tulalip Tribes of Washington determines is the next lowest or most responsive and responsible Bidder, as applicable, the Bidder who failed to enter into a Contract shall be liable to the Tulalip Tribes of Washington for the difference between such Bidder's bid and the bid of the next lowest or most responsible Bidder, as applicable, or for a penal sum not to exceed five (5) percent of the bid amount, whichever is less.
- 6.2.2 If the Tulalip Tribes of Washington then awards a Contract to another Bidder which the Tulalip Tribes of Washington determines is the next lowest or most responsive and responsible Bidder, as applicable, and such Bidder also fails or refuses to execute the Contract Form, the liability of such lowest or most responsive and responsible Bidder, as applicable, shall, except as provided in paragraph IB 6.3, be the amount of the difference between the bid amounts of such lowest or most responsible Bidder, as applicable, and another Bidder which the Tulalip Tribes of Washington determines is the next lowest or most responsive and responsible Bidder, as applicable, but not in excess of the liability specified in paragraph IB 6.2.1. Liability on account of an award to each succeeding lowest or most responsive and responsible Bidder, as applicable, shall be determined in like manner.
- 6.2.3 If the Tulalip Tribes of Washington does not award the Contract to another Bidder which the Tulalip Tribes of Washington determines is the next lowest or most responsive and responsible Bidder, as applicable, but resubmits the Project for bidding, the Bidder failing to execute the Contract Form shall, except as provided in paragraph IB 6.3, be liable to the Tulalip Tribes of Washington for a penal sum not to exceed five (5) percent of such Bidder's bid amount or the costs in connection with the resubmission, of printing new Contract Documents, required advertising and printing and mailing notices to prospective Bidders, whichever is less.

6.3 EXCEPTION TO FORFEITURE

- 6.3.1 A Bidder for a Contract costing less than \$500,000 may withdraw a bid from consideration if the Bidder's bid for some other Contract costing less than \$500,000 has already been accepted, if the Bidder certifies in good faith that the total price of

all such Bidder's current contracts is less than \$500,000, and if the Bidder's Surety, if applicable, certifies in good faith that the Bidder is unable to perform the subsequent contract because to perform such Contract would exceed the Bidder's bonding capacity.

- 6.3.2 If a bid is withdrawn pursuant to paragraph IB 6.3.1, the Tulalip Tribes of Washington may award the Contract to another Bidder which the Tulalip Tribes of Washington determines is the next lowest or most responsive and responsible Bidder, as applicable, or reject all bids and resubmit the Project for bidding, and neither the withdrawing Bidder nor such Bidder's Surety, as applicable, shall be liable for the difference between the Bidder's bid and that of another Bidder which the Tulalip Tribes of Washington determines is the next lowest or most responsive and responsible Bidder, as applicable, for a penal sum, or for the costs of printing new Contract Documents, required advertising and printing and mailing notices to prospective Bidders.

6.4 CONTRACT BOND

- 6.4.1 If the Bidder executes the Contract Form, the Bidder shall, at the same time, provide a Bond meeting the requirements of the Contract Documents, unless the Bidder provided an acceptable Bid Guaranty and Contract Bond at the time of the bid opening. A "A- VII" or better Best Rated Surety Company shall issue the required bond.
- 6.4.2 The Bond shall be in the full amount of the Contract to indemnify the Tulalip Tribes of Washington against all direct and consequential damages suffered by failure of the Contractor to perform according to the provisions of the Contract and in accordance with the plans, details, specifications and bills of material therefore and to pay all lawful claims of Subcontractors, Material Suppliers, and laborers for labor performed or materials furnished in carrying forward, performing or completing the Contract.
- 6.4.3 The Bond shall be supported by a Power of Attorney of the agent signing for a Surety. The Bond shall be supported by a current and signed Certificate of Compliance or Certificate of Authority showing the Surety is licensed to do business in Washington.

6.5 NOT USED

ARTICLE 7 – CONTRACT AWARD AND EXECUTION

7.1 NONCOMPLIANCE WITH CONDITIONS PRECEDENT

- 7.1.1 The award of the Contract and the execution of the Contract Form are based upon the expectation that the lowest or most responsive and responsible Bidder, as applicable, will comply with all conditions precedent for execution of the Contract Form within ten (10) days of the date of the Notice of Intent to Award.
- 7.1.1.1 Noncompliance with the conditions precedent for execution of the Contract Form within ten (10) days of the date of the Notice of Intent to Award shall be cause for the Tulalip Tribes of Washington to cancel the Notice of Intent to Award for the Bidder's lack of responsibility and award the Contract to another Bidder which the Tulalip Tribes of Washington determines is the next lowest or most responsive and responsible Bidder, as applicable, or

resubmit the Contract for bidding, at the discretion of the Tulalip Tribes of Washington.

- 7.1.1.2 The Tulalip Tribes of Washington may extend the time for submitting the conditions precedent for execution of the Contract Form for good cause shown. No extension shall operate as a waiver of the conditions precedent for execution of the Contract Form.

7.2 TIME LIMITS

7.2.1 The failure to award the Contract and to execute the Contract Form within 60 days of the bid opening invalidates the entire bid process and all bids submitted, unless the time is extended by written consent of the Bidder whose bid is accepted by the Tulalip Tribes of Washington and with respect to whom the Tulalip Tribes of Washington awards and executes a Contract.

7.2.1.1 If the Contract is awarded and the Contract Form is executed within 60 days of the bid opening, any increases in material, labor and subcontract costs shall be borne by the Bidder without alteration of the amount of the bid.

7.2.1.2 If the cause of the failure to execute the Contract within 60 days of the bid opening is due to matters for which the Tulalip Tribes of Washington is solely responsible, the Contractor shall be entitled to a Change Order authorizing payment of verifiable increased costs in materials, labor or subcontracts.

7.2.1.3 If the cause of the failure to execute the Contract within 60 days of the bid opening is due to matters for which the Contractor is responsible, no request for increased costs will be granted.

7.3 CONDITIONS PRECEDENT FOR EXECUTION OF CONTRACT FORM

7.3.1 Bond, if required. To support the Bond, a current and signed Certificate of Compliance or Certificate of Authority showing the Surety is licensed to do business in Washington;

7.3.2 Current Washington Workers' Compensation Certificate or other similar type documentation supporting workers' compensation coverage;

7.3.3 Certificate of Insurance (ISO general liability form CG 2010 11/85 edition or equivalent form is acceptable) and copy of additional insured endorsement. The certificate shall clearly state "The Tulalip Tribes of Washington and Consolidated Borough of Quil Ceda Village are named as "Additional Insureds" to the General Liability, Automobile Liability, and Excess Liability Policies. Workers Compensation coverage includes a waiver of subrogation against the Tulalip Tribes of Washington and Consolidated Borough of Quil Ceda Village." The wording "endeavor to" and "but failure to" under CANCELLATION shall be stricken from the certificate. The Tulalip Tribes of Washington reserves the right to request a certified copy of the Contractor's insurance policies meeting the requirements of GC Article 12;

7.3.4 If the Bidder is a foreign corporation, i.e., not incorporated under the laws of Washington, a Certificate of Good Standing from the Secretary of State showing the right of the Bidder to do business in the State; or, if the Bidder is a person or partnership, the Bidder has filed with the Secretary of State a Power of Attorney

designating the Secretary of State as the Bidder's agent for the purpose of accepting service of summons in any action brought under this Contract;

7.3.5 Contractor signed Contract Form;

7.3.6 Completed and approved TERO Contracting and Subcontracting Compliance plan;

7.3.7 Current Tulalip Tribes Business License; and

7.3.8 Completed and signed Confidentiality Agreement.

7.4 NOTICE TO PROCEED AND SUBMITTALS

7.4.1 The Tulalip Tribes of Washington shall issue to the Contractor a Notice to Proceed, which shall establish the date for Contract Completion. The Contractor shall, within ten (10) days of the date of the Notice to Proceed, furnish the Construction Manager with the following submittals:

7.4.1.1 Contract Cost Breakdown;

7.4.1.2 Preliminary schedule of Shop Drawings and Submittals;

7.4.1.3 Outline of qualifications of the proposed superintendent; and

7.4.1.4 Acknowledgement by a TERO Representative the Project related TERO fee has been paid or an agreement has been reached to pay the fee in installments over the course of the Contract.

ARTICLE 8 – APPLICABLE LAW AND FORUM

8.1 FORUM FOR EQUITABLE RELIEF

8.1.1 The Tribal Court of the Tulalip Tribes of Washington shall have exclusive jurisdiction over any action or proceeding for any injunction or declaratory judgment concerning any agreement or performance under the Contract Documents or in connection with the Project. Any such action or proceeding arising out of or related in any way to the Contract or performance thereunder shall be brought only in the Tribal Court of the Tulalip Tribes of Washington and the Contractor irrevocably consents to such jurisdiction and venue. The Contract shall be governed by the law of the State of Washington.

8.2 FORUM FOR MONEY DAMAGES

8.2.1 The Tribal Court of the Tulalip Tribes of Washington shall be the exclusive jurisdiction for any action or proceeding for any injunction or declaratory judgment concerning any agreement or performance under the Contract Documents or in connection with the Project. The Tribal Court of the Tulalip Tribes of Washington shall be the exclusive jurisdiction for any action or proceeding by the Contractor or the Contractor's Surety, if applicable, for any money damages concerning any agreement or performance under the Contract Documents or in connection with the Project.

8.3 FEDERAL ACQUISITION REGULATIONS

8.3.1 Applicable sections of the Federal Acquisition Regulations (FAR) are a part of this Contract by reference. Access the entire FAR regulations at the following website:

<http://acquisition.gov/far/>

The FAR sections are applicable to the work covered in the Proposal and include:

- 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009.
- 52.204-6 Data Universal Numbering System (DUNS) Number.
- 52.204-7 Central Contractor Registration.
- 52.204.10 Reporting Subcontractor Awards
- 52.225-21 Required use of American Iron, Steel and Other Manufactured Goods – Buy American Act – Construction Materials

The Tulalip Tribes of Washington

BID PROPOSAL FORM

Project Name: Marine Drive Shoulder Improvements Date of Bid: _____
Phase 1: 7th Drive NW to 64th Street NW

Location of Project: Marine Drive, 7th Drive NW to 64th Street NW
Tulalip, WA 98271

COMPANY NAME OF BIDDER: _____

CERTIFIED NATIVE AMERICAN OWNED BUSINESS:

YES _____ If Yes, Percentage (%) of Indian Ownership: _____ **NO** _____

Having read and examined the Contract Documents, including without limitation the Drawings and Specifications, prepared by the Engineer and the Tulalip Tribes of Washington for the above-referenced Project, and the following Addenda:

ADDENDA ACKNOWLEDGED (Enter Addenda Number and Date of Addenda below):

1. _____ 2. _____
3. _____ 4. _____

The undersigned Bidder proposes to perform all Work for the applicable Contract, in accordance with the Contract Documents, for the following sums:

BASE BID FOR PACKAGE # 2014-358 – Marine Drive Shoulder Improvements
Phase 1: 7th Drive NW to 64th Street NW

Refer to Division 0, TERO Code, and Special Provisions, Section 1-07.2 State Taxes, for application of TERO and Taxes on all schedules

Bid Schedule

| <i>ITEM NO.</i> | <i>SECTION</i> | <i>ITEM DESCRIPTION</i> | <i>UNIT</i> | <i>APPROX. QUANTITY</i> | <i>UNIT PRICE DOLLAR CENTS</i> | <i>AMOUNT DOLLAR CENTS</i> |
|-----------------|----------------|-----------------------------------|-------------|-------------------------|--------------------------------|----------------------------|
| 1 | 1-04 | MINOR CHANGE | FA | 1 | \$30,000.00 | \$30,000.00 |
| 2 | 1-07 | SPCC PLAN | LS | 1 | \$ | \$ |
| 3 | 1-09 | MOBILIZATION | LS | 1 | \$ | \$ |
| 4 | 1-10 | PROJECT TEMPORARY TRAFFIC CONTROL | LS | 1 | \$ | \$ |
| 5 | 1-10 | FLAGGERS AND SPOTTERS | HR | 960 | \$ | \$ |
| 6 | 1-10 | TRAFFIC CONTROL SUPERVISOR | LS | 1 | \$ | \$ |
| 7 | 1-10 | PORTABLE CHANGEABLE MESSAGE SIGN | HR | 2,880 | \$ | \$ |

| ITEM NO. | SECTION | ITEM DESCRIPTION | UNIT | APPROX. QUANTITY | UNIT PRICE DOLLAR CENTS | AMOUNT DOLLAR CENTS |
|-----------------|----------------|---|-------------|-------------------------|--------------------------------|----------------------------|
| 8 | 2-01 | CLEARING AND GRUBBING AND ROADSIDE CLEANUP | LS | 1 | \$ | \$ |
| 9 | 2-02 | REMOVING ASPHALT CONC. PAVEMENT | SY | 5,130 | \$ | \$ |
| 10 | 2-03 | ROADWAY EXCAVATION INCL. HAUL | CY | 1,002 | \$ | \$ |
| 11 | 2-03 | GRAVEL BORROW INCL. HAUL | TON | 250 | \$ | \$ |
| 12 | 2-09 | UNSUITABLE FOUNDATION EXCAVATION INCL. HAUL | CY | 75 | \$ | \$ |
| 13 | 2-09 | STRUCTURE EXCAVATION CL A INCL. HAUL | CY | 18 | \$ | \$ |
| 14 | 4-04 | CRUSHED SURFACING TOP COURSE | TON | 456 | \$ | \$ |
| 15 | 4-04 | CRUSHED SURFACING BASE COURSE | TON | 440 | \$ | \$ |
| 16 | 5-04 | HMA CL. 1/2 IN. PG 64-22 | TON | 2,960 | \$ | \$ |
| 17 | 5-04 | PLANING BITUMINOUS PAVEMENT | SY | 150 | \$ | \$ |
| 18 | 6-02 | STEEL REINF. BAR FOR BRIDGE | LB | 1,647 | \$ | \$ |
| 19 | 6-02 | CONC. CLASS 4000 FOR BRIDGE | CY | 60 | \$ | \$ |
| 20 | 6-02 | PRECAST PRESTRESSED SLAB (8 IN. HOLLOW CORE SLAB) | SF | 5,370 | \$ | \$ |
| 21 | 6-05 | FURNISHING STEEL PILING (12 IN. DIAM.) | LF | 1,184 | \$ | \$ |
| 22 | 6-05 | DRIVING STEEL PILE (12 IN. DIAM.) | EA | 50 | \$ | \$ |
| 23 | 6-06 | PEDESTRIAN RAILING | LF | 970 | \$ | \$ |
| 24 | 8-01 | ESC LEAD | DAY | 60 | \$ | \$ |
| 25 | 8-01 | EROSION/WATER POLLUTION CONTROL | LS | 1 | \$ | \$ |
| 26 | 8-01 | SEEDING, FERTILIZING, AND MULCHING | ACRE | 0.3 | \$ | \$ |
| 27 | 8-02 | TOPSOIL TYPE A | CY | 180 | \$ | \$ |
| 28 | 8-01 | SILT FENCE | LF | 7,483 | \$ | \$ |
| 29 | 8-01 | HIGH VISIBILITY SILT FENCE | LF | 825 | \$ | \$ |
| 30 | 8-08 | CENTERLINE RUMBLE STRIP | MI | 1.1 | \$ | \$ |
| 31 | 8-09 | RECESSED PAVEMENT MARKER | HUND | 9 | \$ | \$ |
| 32 | 8-11 | BEAM GUARDRAIL TYPE 31 – 11 FT. LONG POST | LF | 1,428 | \$ | \$ |
| 33 | 8-11 | BEAM GUARDRAIL TYPE 31 NON-FLARED TERMINAL | EA | 18 | \$ | \$ |
| 34 | 8-20 | ILLUMINATION SYSTEM COMPLETE | LS | 1 | \$ | \$ |
| 35 | 8-21 | PROJECT SIGNAGE | LS | 1 | \$ | \$ |
| 36 | 8-22 | PAINT LINE | LF | 5,957 | \$ | \$ |
| 37 | 8-22 | PROFILED PLASTIC LINE | LF | 7,192 | \$ | \$ |
| 38 | 8-22 | PLASTIC STOP LINE | LF | 10 | \$ | \$ |
| 39 | 8-22 | PROFILED PLASTIC DOTTED LINE | LF | 193 | \$ | \$ |

| ITEM NO. | SECTION | ITEM DESCRIPTION | UNIT | APPROX. QUANTITY | UNIT PRICE DOLLAR CENTS | AMOUNT DOLLAR CENTS |
|--------------------------|---------|---------------------------------|------|------------------|-------------------------|---------------------|
| 40 | 8-22 | PROFILED PLASTIC WIDE LANE LINE | LF | 7,287 | \$ | \$ |
| 41 | 8-22 | PLASTIC TRAFFIC ARROW | EACH | 2 | \$ | \$ |
| 42 | 8-22 | REMOVING PAINT LINE | LF | 26,297 | \$ | \$ |
| SUBTOTAL SCHEDULE | | | | | | \$ |
| TERO TAX @ 1.75% | | | | | | \$ |
| TOTAL SCHEDULE | | | | | | \$ |

TOTAL BID AMOUNT: _____
 (Write in Words Above Base Bid Amount)

Trench Excavation Safety Provisions (included in Base Bid Amount Above): \$ _____
 (Write in Number Form Above)

TRENCH EXCAVATION SAFETY PROVISIONS: If contracted work contains any work that requires trenching exceeding a depth of four (4) feet, all costs for trench safety shall be included in the Base Bid amount for adequate trench safety systems in compliance with Chapter 39.04 RCW and WAC 296-155-650. The purpose of this provision is to ensure that the bidder agrees to comply with all the relevant trench safety requirements of Chapter 49.17 RCW. This bid amount shall be considered as part of the total Base Bid amount set forth above. ***If trench excavation safety provisions do not pertain to this contracted work, Bidder shall enter N.A. (not applicable) for the dollar amount.***

The following items shall also be considered in the review and award of this Contact. Bidder shall complete each section as applicable. By submission of this bid proposal, Bidder acknowledges their commitment to employ and or contract work to the parties identified below during the performance of Bidder's awarded Work.

SECTION I – KEY EMPLOYEES OF BIDDER (if required, attach additional sheets if needed) –
 (Weight of Award 5 points)

| | NAME | POSITION | PREFERRED EMPLOYEE | |
|----|------|----------|--------------------|----|
| | | | Yes | No |
| 1. | | 1. | | |
| 2. | | 2. | | |
| 3. | | 3. | | |
| 4. | | 4. | | |
| 5. | | 5. | | |

SECTION II – PREFERRED “TRADE” EMPLOYEES (if required, attach additional sheets if needed) – (Weight of Award 10 points)

| NUMBER OF PREFERRED “TRADE” EMPLOYEES | NUMBER OF PREFERRED “TRADE” EMPLOYEES |
|--|--|
| 1. | 2. |
| 3. | 4. |
| 5. | 6. |
| 7. | 8. |
| 9. | 10. |

SECTION III – PEAK WORK FORCE OF ALL EMPLOYEES ANTICIPATED TO BE EMPLOYED BY BIDDER AT THE PROJECT SITE IN THE PERFORMANCE OF THE WORK:

(Insert Number of Employees)

SECTION IV – LIST OF LOWER TIERED SUBCONTRACTOR(S) AND OR SUPPLIER(S)
(Total of Sections IV.A and IV.B) – (Weight of Award 25 points)

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

SECTION IV A – LIST OF TULALIP TRIBAL MEMBER NAOB SUBCONTRACTOR(S) AND OR SUPPLIER(S) (if required, attach additional sheets if needed) – (Weight of Award 15 points)

| NAME OF SUBCONTRACTOR (SUB) OR SUPPLIER (SUP) | TYPE OF WORK TO BE AWARDED | DOLLAR VALUE OF WORK | TYPE OF LOWER-TIER | | TULALIP NAOB | |
|---|----------------------------|----------------------|--------------------|-----|--------------|----|
| | | | SUB | SUP | Yes | No |
| 1. | 1. | \$ | | | | |
| 2. | 2. | \$ | | | | |
| 3. | 3. | \$ | | | | |
| 4. | 4. | \$ | | | | |
| 5. | 5. | \$ | | | | |
| 6. | 6. | \$ | | | | |
| 7. | 7. | \$ | | | | |
| 8. | 8. | \$ | | | | |
| 9. | 9. | \$ | | | | |
| 10. | 10. | \$ | | | | |

SECTION IV B – LIST OF NAOB SUBCONTRACTOR(S) AND OR SUPPLIER(S) (if required, attach additional sheets if needed) – (Weight of Award 10 points)

| NAME OF SUBCONTRACTOR (SUB) OR SUPPLIER (SUP) | TYPE OF WORK TO BE AWARDED | DOLLAR VALUE OF WORK | TYPE OF LOWER-TIER | | NAOB | |
|---|----------------------------|----------------------|--------------------|-----|------|----|
| | | | SUB | SUP | Yes | No |
| 1. | 1. | \$ | | | | |
| 2. | 2. | \$ | | | | |
| 3. | 3. | \$ | | | | |
| 4. | 4. | \$ | | | | |
| 5. | 5. | \$ | | | | |
| 6. | 6. | | | | | |
| 7. | 7. | | | | | |
| 8. | 8. | | | | | |
| 9. | 9. | | | | | |
| 10. | 10. | \$ | | | | |

Should Contractor fail to comply, to the fullest extent possible, with provisions for employment and or contracting as defined in The Tulalip Code, Chapter 9.05 – TERO Code, Contractor may be found to be in breach of Contract. If it is determined that a breach has occurred, Contractor acknowledges that said breach will be grounds to terminate Contractor's Contract agreement without claim against The Tulalip Tribes of Washington or the Project for any additional compensation and or consideration.

BIDDER'S CERTIFICATION

The Bidder hereby acknowledges that the following representations in this bid are material and not mere recitals:

1. The Bidder has read and understands the Contract Documents and agrees to comply with all requirements of the Contract Documents, regardless of whether the Bidder has actual knowledge of the requirements and regardless of any statement or omission made by the Bidder which might indicate a contrary intention.
2. The Bidder represents that the bid is based upon the Standards specified by the Contract Documents.
3. The Bidder acknowledges that all Work shall be completed within the time established in the Contract Documents, and that each applicable portion of the Work shall be completed upon the respective milestone completion dates, unless an extension of time is granted in accordance with the Contract Documents. The Bidder understands that the award of separate contracts for the Project will require sequential, coordinated and interrelated operations which may involve interference, disruption, hindrance or delay in the progress of the Bidder's Work. The Bidder agrees that the Contract price, as amended from time to time by Change Order, shall cover all amounts due from the Tulalip Tribes of Washington resulting from interference, disruption, hindrance or delay caused by or between Contractors or their agents and employees.
4. The Bidder has visited the Project site, become familiar with local conditions and has correlated personal observations with the requirements of the Contract Documents. The Bidder has no outstanding questions regarding the interpretation or clarification of the Contract Documents.
5. The Bidder agrees to comply with The Tulalip Code, Chapter 9.05 – TERO Code and give preference to Indians in hiring promotions, training and all other aspects of employment contracting and subcontracting.
6. The Bidder agrees to comply with The Tulalip Code, Chapter 9.05 – TERO Code and give preference to certified Indian-owned enterprises and organizations in the award of contracts and subcontracts.
7. The Bidder and each person signing on behalf of the Bidder certifies, and in the case of a joint or combined bid, each party thereto certifies as to such party's entity, under penalty of perjury, that to the best of the undersigned's knowledge and belief: (a) the Base Bid, any Unit Prices and any Alternate Bid in the bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such Base Bid, Unit Prices or Alternate bid with any other Bidder; (b) unless otherwise required by law, the Base Bid, any Unit Prices and any Alternate bid in the bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the bid opening, directly or indirectly, to any other Bidder who would have any interest in the Base Bid, Unit Prices or Alternate bid; (c) no attempt has been made or will

be made by the Bidder to induce any other individual, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

8. The Bidder will execute the Contract Form with the Tulalip Tribes of Washington, if a Contract is awarded on the basis of this bid, and if the Bidder does not execute the Contract Form for any reason, other than as authorized by law, the Bidder and the Bidder's Surety are liable to the Tulalip Tribes of Washington as provided in Article 6 of the Instructions to Bidders.
9. Bidder agrees to furnish any information requested by the Tulalip Tribes of Washington to evaluate the responsibility of the Bidder.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

The Tulalip Tribes of Washington

NON - COLLUSION DECLARATION

Failure to return this Declaration as part of the bid proposal package will make the bid nonresponsive and ineligible for award.

NON-COLLUSION DECLARATION

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. **That by signing the signature page of this proposal, I am deemed to have signed and to have agreed to the provisions of this declaration.**

NOTICE TO ALL BIDDERS

To report rigging activities call:

1-800-424-9071

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

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

Certification for Federal-Aid Contracts

Certification for Federal-Aid Contracts

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

(1) 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.

(2) 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.

This certification is material representation of the 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 Section 1352, Title 31, U.S. Code. 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 failure.

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

Any modification made to either the bid form or exception taken to the defined scope of work outlined in this bid package may result in the bid proposal being considered non-responsive.

Each bid shall contain the name of every person interested therein. If the Bidder is a corporation, partnership, sole proprietorship, or limited liability corporation, an officer, partner or principal of the Bidder, as applicable, shall print or type the legal name of the Bidder on the line provided and sign the Bid Form. If the Bidder is a joint venture, an officer, partner or principal, as applicable, of each member of the joint venture shall print or type the legal name of the applicable member on the line provided and signs the Bid Form. An unsigned Bid Form will render the Bid as non-responsive.

BIDDER'S NAME (PRINT): _____

Authorized Signature: _____

Title: _____

Company Name: _____

Mailing Address: _____

Telephone Number: (____) _____ Facsimile Number (____) _____

Where Incorporated: _____

Type of Business (circle one): corporation partnership sole proprietorship limited liability corporation

The Tulalip Tribes Business License Number: _____

State of Washington Contractor's License Number: _____

Federal ID Number: _____

Contact Person for Contract processing: _____

BIDDER'S NAME (PRINT): _____

Authorized Signature: _____

Title: _____

Company Name: _____

Mailing Address: _____

Telephone Number: (____) _____ Facsimile Number (____) _____

Where Incorporated: _____

Type of Business (circle one): corporation partnership sole proprietorship limited liability corporation

The Tulalip Tribes Business License Number: _____

State of Washington Contractor's License Number: _____

Federal ID Number: _____

Contact Person for Contract processing: _____

END OF BID FORM

NAOB Written Confirmation

**Native American Owned Business (NAOB)
Written Confirmation Document**

As an authorized representative of the Native American Owned Business (NAOB), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided on the bidder's Bid Proposal Form, Section IV.

Contract Title: _____

Bidder's Business Name: _____

NAOB's Business Name: _____

NAOB Signature: _____

NAOB's Representative _____

Name and Title: _____

Date: _____

The entries must be consistent with what is shown on the bidder's Bid Proposal Form, Section IV. Failure to do so will result in bid rejection. See Instructions to Bidders Section 1.1.7; *Minimum TERO Participation for Subcontractors*.

Description of Work: _____

Amount to be Awarded to NAOB: _____

The Tulalip Tribes of Washington

FORM OF BID GUARANTY & CONTRACT BOND

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____ as Principal at _____, (Address) _____ and _____ as Surety, are hereby held and firmly bound unto the Tulalip Tribes of Washington, herein referred to as Tulalip Tribes, in the penal sum of the dollar amount of the bid submitted by the Principal to the Tulalip Tribes on (date) _____, ____ to undertake the Project known as: _____.

The penal sum, referred to herein, shall be the dollar amount of the Principal's bid to the Tulalip Tribes, incorporating any additive or deductive alternate bids or any additive or deductive allowance bids made by the Principal on the date referred to above to the Tulalip Tribes, which are accepted by the Tulalip Tribes. In no case shall the penal sum exceed the amount of dollars (\$_____). (If the above line is left blank, the penal sum will be the full amount of the Principal's bid, including alternates and unit prices. Alternatively, if completed, the amount stated must not be less than the full amount of the bid, including alternates and allowances, in dollars and cents. A percentage is not acceptable.) For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above-named Principal has submitted a bid on the above-referred to project;

NOW, THEREFORE, if the Tulalip Tribes accept the bid of the Principal, and the Principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications and bills of material; and in the event the Principal pays to the Tulalip Tribes the difference not to exceed five percent of the penalty hereof between the amount specified in the bid and such larger amount for which the Tulalip Tribes may in good faith contract with the next lowest bidder to perform the work covered by the bid; or resubmits the project for bidding, the Principal will pay the Tulalip Tribes the difference not to exceed five percent of the penalty hereof between the amount specified in the bid, or the costs, in connection with the resubmission, of printing new contract documents, required advertising and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect. If the Tulalip Tribes accept the bid of the Principal, and the Principal, within ten days after the awarding of the contract, enters into a proper contract in accordance with the bid, plans, details, specifications and bills of material, which said contract is made a part of this bond the same as though set forth herein; and

IF THE SAID Principal shall well and faithfully perform each and every condition of such contract; and indemnify the Tulalip Tribes against all damage suffered by failure to perform such contract according to the provisions thereof and in accordance with the plans, details, specifications and bills of material therefore; and shall pay all lawful claims of subcontractors, material suppliers and laborers for labor performed and materials furnished in the carrying forward, performing or completing of said contract; we, agreeing and assenting to, at this undertaking shall be for the benefit of any material supplier or laborer having a just claim, as well as for the Tulalip Tribes herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for

any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions or additions, in or to the terms of said contract or in or to the plans and specifications, therefore, shall in any wise affect the obligations of said Surety on its bond, and it does hereby waive notice of any such modifications, omissions or additions to the terms of the contract or to the work or to the specifications.

SIGNED this _____ day of _____, _____

PRINCIPAL:

By: _____

Title: _____

SURETY:

Address: _____

Phone: (____) _____

By: _____

Attorney-in-Fact

SURETY AGENT:

Address: _____

Phone: (____) _____

The Tulalip Tribes of Washington

STATEMENT OF INTENDED SURETY

(Required if Bid Deposit is NOT a Surety Bond)

FURNISH WITH BIDDER'S SEALED BID a written statement prepared and signed by Bidder's intended sureties or surety company, to the effect that: _____ (Name of Surety), who meets the requirements of Chapter 48.28 RCW, will promptly provide a surety bond in the amount of 100% of the base bid in the event _____ (Bidder's Name) is awarded a Contract for _____ (Project Description) and that the proposed Construction Contract is acceptable to the Surety.

Surety:

Signature of Authorized Representative

Printed Name / Title of Authorized Representative

This statement, if required, must be included in Bidder's sealed bid for Bidder's Bid to be considered.

By: _____

Title: _____

SURETY:

Address: _____

Phone: (____) _____

By: _____

Attorney-in-Fact

SURETY AGENT:

Address: _____

Phone: (____) _____

The Tulalip Tribes of Washington

BID PROPOSAL BOND

KNOW ALL BY THESE PRESENTS, that (Name of Bidder) _____ a corporation, partnership, or individual) duly organized under the laws of the State of _____ as principal, and (Name of Surety) _____ a corporation duly organized under the laws of the State of _____ and authorized to do business in the State of Washington, as surety, are held and firmly bound unto The Tulalip Tribes of Washington in the full and penal sum of five (5) percent of the total amount of the bid proposal of said principal for the work hereinafter described for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

Said bid and proposal, by reference hereto, being made a part hereof.

NOW, THEREFORE, if the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish a performance, payment and warranty bond as required by The Tulalip Tribes of Washington within a period of ten (10) days from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, the principal and surety have caused these presents to be signed and sealed this _____ day of _____, 20____.

Principal _____
(Name) _____
(Address) _____

By _____
(Signature of Authorized Rep)

(Typed Name of Authorized Rep)
Title _____

SURETY
Name _____
By _____
(Attorney-in-fact for Surety)

(Name & Address of local Office or Agent)

*This bond must be accompanied by a fully executed Power of Attorney appointing the attorney-in-fact.

The Tulalip Tribes of Washington

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that we (Name of Contractor) _____,
(Address of Contractor) _____ a _____, hereinafter
called (Corporation, Partnership, or Individual) Principal, and (Name of Surety)
_____, (Address of Surety) _____ hereinafter called
Surety, are held and firmly bound unto (Name of Owner) _____, (Address of
Owner) _____ hereinafter called Owner, in the penal sum of _____
Dollars, (\$_____), in lawful money of the United States, for the payment of which sum well and truly
to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally,
firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain
contract with the owner, dated _____ day of _____, 20____, a copy of
which is hereto _____.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors,
and corporation furnishing materials for or performing labor in the prosecution of the work provided for in
such contract, and any authorized extension or modification thereof, including all amounts due for
materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed
or used in connection with the construction of such work and all insurance premiums on said work, and
for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be
void; otherwise to remain in full force and effect.

_____ By: _____
Witness of Surety Attorney-In-Fact

Attorney Attorney

Note: Date of Bond must not be prior to the date of contract, _____. If Contractor is Partnership, all
partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most
current list (Circular 57 – as amended) and be authorized to transact business in the state where the
project is located.

The Tulalip Tribes of Washington

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that we (Name of Contractor) _____, (Address of Contractor) _____ a _____, hereinafter called (Corporation, Partnership, or Individual) Principal, and (Name of Surety) _____, (Address of Surety) _____ hereinafter called Surety, are held and firmly bound unto (Name of Owner) _____, (Address of Owner) _____ hereinafter called Owner, in the penal sum of _____ Dollars, (\$ _____), in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the owner, dated _____ day of _____, 20____, a copy of which is hereto _____.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporation furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

Witness of Surety

By: _____
Attorney-In-Fact

Attorney

Attorney

Note: Date of Bond must not be prior to the date of contract, _____. If Contractor is Partnership, all partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 57 – as amended) and be authorized to transact business in the state where the project is located.

The Tulalip Tribes of Washington

TRIBAL EMPLOYMENT RIGHTS OFFICE (TERO)

TULALIP TERO MISSION STATEMENT

The Tulalip TERO has a mission to help improve the quality of life for Tulalip Tribal members and other Native American families through opportunities that can assist them in pursuing quality jobs or careers with decent wages and by protecting their rights of preferential employment, training, business and economic opportunities on and near the Tulalip Reservation. Also, to assist business in achieving compliance with hiring Native American qualified workers.

Information

6404 Marine Drive, Tulalip, WA 98271

Office: (360) 716-4747

Fax: (360) 716-0612

Alternate Fax: (360) 716-0249

Driving Direction From Seattle:

Go North on highway I-5. At exit 199, turn RIGHT onto Ramp and turn LEFT (West) onto SR-528 [4th St]. Road name changes to Marine Dr. NE. Turn RIGHT (North-East) onto 64th Street NW.

Driving Direction From Mount Vernon:

Go South on highway I-5. At exit 199, turn RIGHT onto Ramp and bear RIGHT (West) onto Marine Dr. NE. Turn RIGHT (North-East) onto 64th Street NW.

On June 20, 2012, the Tulalip Tribes board of Directors enacted the Tribal Employment Rights Office Code which is the preferential employment and contracting laws of the land within the boundaries of the Tulalip Reservation.

Tulalip TERO office requires businesses to:

- Hire TERO qualified and certified workers;
- Give Native owned businesses the opportunity to bid;
- Fill out and negotiate a compliance plan prior to commencing work; and
- Pay 1.75% TERO fee on all construction projects over \$10,000

FREQUENTLY ASKED QUESTIONS

The following presents a list of the most frequently asked questions and inquiries about Native American Preference and Tribal Employment Rights Office (TERO).

1. *WHAT IS THE PURPOSE OF TERO?*

To access more employment & training opportunities for Native Americans and their families. To provide more business & economic opportunities for businesses owned by Native Americans.

2. *WHY IS THERE A NEED FOR TERO?*

Since unemployment rate in Native communities remains high, Tribes must take strong actions to protect the employment rights of Native American people.

3. *WHAT ARE THE BASIC REQUIREMENTS OF TERO?*

All employers operating within tribal jurisdiction are required to provide Indian preference in employment, training, contracting, and subcontracting. Following are the major provisions and requirements found in most TERO Codes that employers must adhere too:

- A. To ensure Native preference, employers need to submit and negotiate a detailed compliance plan of employer workforce needs with a TERO Compliance Officer.
- B. To utilize the TERO skills banks for all referrals and consider Native applicants before interviewing or hiring any Non-Native worker.
- C. To negotiate with the TERO Compliance Officer(s) the specific number of Natives in each job classification and to cooperate with tribal training programs to hire a certain number of trainees.
- D. To eliminate all extraneous job qualification criteria or personnel requirements which may act as a barrier to Native employment. TEROs are guided by EEOC guidelines for verifying legitimate Bona-fide Occupational Qualifications (BFOQ's).
- E. To keep in contact with the TERO office in order to resolve any employee problems and issues.
- F. To acknowledge and respect tribal religious beliefs and cultural difference and to cooperate with TERO to provide reasonable accommodations.
- G. All employers who have collective bargaining agreements with one or more unions must secure a written agreement from their unions indicating that they will comply with TERO.
- H. The TERO certified worker shall be treated the same as the other employees. There will be a Zero tolerance to discrimination within the boundaries of the Tulalip Reservation.

The success of TERO programs can be directly attributed to the fact that these programs embody all of the critical elements listed above.

4. *WHAT IS A COMPLIANCE PLAN?*

A Compliance Plan is a written document that provides detailed descriptions of a construction project with all the pertinent information. This is where you list your key personnel and your work force needs. A Key employee is a permanent employee who is in a supervisory or specialized position and without this person an employer would face a financial loss. This document is then negotiated with a TERO Compliance Officer for approval.

5. *WHAT TERO REQUIREMENTS ARE THERE IN CONTRACTING BIDS?*

The TERO Office has a Native American Owned Business Registry (NAOB) in which TERO certifies that the companies are owned by Native Americans. The TERO Code requires that Contractors and or Subcontractors provide opportunities to every NAOB that is qualified to do the work.

6. *IS THERE A DIFFERENCE BETWEEN TRIBAL AND NATIVE AMERICAN PREFERENCE?*

Yes, on Tribally funded projects TERO can require Tribal member preference. This is permissible under Federal law because tribes are exempt from Title VII of the Civil Rights Act, Executive Order 11246 and most other employment rights legislation. Native

American preference is permissible under some federal laws i.e., Indian Self Determination Act, Buy Indian Act and under most federal laws.

7. *WHAT IS THE EXTENT OF TERO JURISDICTION?*

A Tribe has the authority to enact and enforce any Indian employment preference law that is grounded in its inherent sovereign powers of self-government. This legal doctrine is the most basic principle of Indian law and is supported by a host of Supreme Court decisions. The jurisdiction is legally described or defined by treaty or legislation. The exterior boundaries of the reservation including cede territories and lands where jurisdiction has not been extinguished. TERO has a political preference, not a racial preference and does not violate Title VII or any other Federal Employment Law.

8. *ARE THERE ANY EXEMPTIONS TO TERO REQUIREMENTS?*

Yes, there are several exemptions. Direct employment by Federal / State governments, schools, churches and some non-profits are not covered by TERO. Some Tribes also exempt themselves from TERO coverage. It is important to note however, that any contract or sub-contract let by any of these entities is covered by TERO.

9. *WILL TERO INTERRUPT MY DAILY BUSINESS OPERATIONS?*

No. Since TERO is pro-active, the compliance plans are signed by TERO and the employer prior to the commencement of work prevents disputes. The Compliance Officers will monitor the TERO requirements by doing onsite compliance visits that would not be detrimental to business operations. TERO can sanction employers for violations which may shut down operations but only in severe disputes and in accordance with the applicable law.

10. *DOESN'T TERO DO AWAY WITH THE COMPETITIVE BIDDING PROCESS AND FAIR COMPETITION?*

No. It provides preference to certified and qualified Native American businesses on projects on or near the Tulalip Reservation. As with employment contracting preference is permissible or required under Federal, Tribal, State or other Local laws. Preference is not provided to the exclusion of other businesses. Price and quality are still primary considerations.

11. *ARE EMPLOYERS PROTECTED AGAINST UNFAIR TERO VIOLATION CHARGES?*

Yes. The first level of protection comes from the TERO Compliance Officer who handles the charge. These officers are trained to deal with facts and merits of the case before making determinations. Beyond the TERO Commission, grievant can seek relief in the Tribal and Federal Courts.

12. *WHAT SANCTIONS DO EMPLOYERS FACE FOR VIOLATIONS OF TERO?*

Violation of TERO requirements may result in severe sanctions. If the TERO office determines that employers willfully and intentionally breached TERO requirements. TERO may:

- A. Deny such party the right to commence business on the reservation;
- B. Impose a civil fine on such party ranging on most reservations anywhere from \$500.00 to \$5,000.00 per violation;
- C. Terminate or suspend party's operation and deny them the rights to conduct further business on the reservation; and or

- D. Order any party to dismiss any illegally hired Non-Natives, take action to ensure future compliance and to make back payment of any lost wages be paid to the TERO certified Native Americans.

13. CAN SANCTIONS IMPOSED BY THE TERO COMMISSION BE APPEALED?

Yes. Sanctions imposed by the TERO Commission can be appealed in tribal court. Appeals of tribal court decisions can be made to the federal court system.

It is important to note that only one appeal to a TERO commission and tribal court decision has ever been appealed to the federal court. The case ended at the Ninth

Circuit Court of Appeals and Appellate that upheld the TERO complaint and the Tribal Courts decisions.

14. ARE TERO FEES LEGAL?

Yes. Tribal authority to access a fee is equal to that of any government. Taxation, licenses and fees are a valuable source for financing Tribal governmental operations. Tribes therefore consider their social and economic needs and priorities and set the TERO requirements to suit them just as National, State, and other units of government do.

Many contractors without complaint pay taxes and comply with the governmental requirements of states, counties, etc., but openly oppose doing so with Tribes. This "cultural discrimination" is indicative of the lack of knowledge and acceptance of the sovereign authority of the Tribes. Employers can realize a substantial savings since Tribal taxes or fees pre-empt state or other local taxation on the reservation projects often to the benefit of the employer.

The Tulalip Tribes' TERO fee is 1.75% of total cost on any project over \$10,000.

TERO has the responsibility to ensure due process of the employer under the Tribal code and that only qualified and screened referrals are made to the employer.

15. 15. HOW HAVE VARIOUS FEDERAL, STATE AND OTHER AGENCIES VIEWED TERO IN THEIR OPERATION?

When TERO first appeared in the late seventies there was opposition from some and difference from others. Over the past twenty years a great deal of progress has been made, some by direct legal action but most through pro-active, non-adversarial, synergistic effort. The results are Native American preference and TERO provisions, policies and procedures figure prominently in the following:

- A. The Civil Rights Handbook.
- B. The Job Training and Partnership Act.
- C. The Small Business Administration 8(a) Program.
- D. Public Law 93-638, The Indian Education Assistance and Self-Determination Act of 1974.
- E. HUD Regulations.
- F. BIA Acquisition Assistance Agreement 84-1.
- G. EEOC / TERO Contracts.
- H. OFCCP Indian Employment Initiative.
- I. FHWA ISTEA "Indians in Highway Construction Initiative".

- J. Indian Health Service Alaska Native Hiring Agreement.
- K. US DOL/BAT Notice 84-1.
- L. Indian Education Impact and Programs Under PL 81-815 (Construction) and PL 81-874 (OPS/Admin).

CONTRACTORS

The following outlines the TERO expectations and responsibilities placed on all contractors and subcontractors doing work on or near the Tulalip Reservation. This document should be read carefully, along with the TERO Code. If you have any questions or concerns contact a TERO Compliance Officer.

TERO ACKNOWLEDGMENT:

Requirement: The contractor / employer must comply with all rules and regulations as set forth in the TERO Code. This agreement will be affirmed in writing and will be signed and dated by the TERO Manager. Furthermore, if a project is expected to be of one month duration or more, the contractor must arrange a pre-construction meeting with the TERO Manager or TERO Compliance Officers prior to submitting a Compliance Plan to the TERO department.

TERO LIAISON:

Requirement: All contractors and employers must designate a responsible company official to coordinate all employment, training and contracting related activities with the TERO department to ensure that the company is in compliance with the TERO Code during all phases of the project.

NATIVE AMERICAN OWNED BUSINESS REGISTRY:

Requirement: The TERO Office maintains a certified Native American Owned Business Registry. All the businesses on the registry need to be given the opportunity to bid on any projects that they are qualified for. If they are within ten-percent (10%) of the lowest bid, you need to negotiate to see if they can reduce their price. But the fact remains that the bid will be awarded on: price, quality and capability unless other requirements are set forth in the bid documents.

TERO COMPLIANCE PLAN:

Requirement: All contractors, sub-contractors and or employers must have an approved written compliance agreement filed, negotiated and approved by the TERO Office prior to commencement of any construction activities on the Tulalip Reservation. There is a 1.75% TERO fee on any projects over \$10,000 to be paid in full or negotiated with the TERO Compliance Officers.

COMPLIANCE PLAN WORKFORCE/ KEY EMPLOYEE:

Requirement: Contractors and or Employers shall be required to hire and maintain as many TERO / Native American preference employees as apply for and are qualified for each craft or skill.

Exception: Prior to commencing work on the Tulalip Reservation the prospective employer, contractor and subcontractors shall identify key and permanent employees.

Key employee: One who is in a top supervisory position or performs a critical function such that an employer would risk likely financial damage or loss if that task were assigned to a person unknown to the employer. An employee who is hired on a project by project basis may be considered a key employee so long as they are in a top supervisory position or perform a critical function.

Permanent employee: One who is and had been on the employers' or contractors' annual pay roll for a period of one year continuously, working in a regular position for the employer, or is an owner of the firm. An employee who is hired on a project by project basis shall not be considered a permanent employee.

Non-preferred Permanent and Key Employee(s) shall not exceed 20% of the workforce. Permanent and Key employees are subject to TERO approval and TERO may require a position to be opened up to all preference workers.

TERO HIRING HALL & RECRUITMENT EFFORTS:

Requirement: Contractor or employer is required to contact the TERO Office for recruiting and placement services on all non-key positions. The TERO Office shall be given a minimum of (72) seventy-eight hours to furnish a qualified referral. Furthermore contractors and employers are required to provide TERO with a written list of their projected workforce needs, job classifications, openings, hiring policies, rate of pay, experience / skill requirements, employment screening procedures and anticipated duration of employment.

NATIVE PREFERENCE:

Requirement: All contractors, businesses and employers operating within the boundaries of the Reservation, or on Tribal projects off the reservation shall give preference in hiring, promotion, training, layoffs, recall, and all other aspects of employment, unless other contractual agreements or federal requirements restrict the preference specified below. The order of preference shall be given to the following persons in the following enumerated order:

- 1) Enrolled Tulalip Tribal Members
- 2) Spouses, Parent of a tribal member child, biological child born to an enrolled Tulalip Tribal Member, current legal guardian of a Tribal Member dependent child (with a proper letter of temporary or permanent legal guardianship from a court), or a tribal member in a domestic partner relationship (with documentation).
- 3) Other Natives/Indians shall mean any member of a federally recognized Indian tribe, nation or band, including members of federally recognized Alaskan Native villages or communities.
- 4) Spouse of federally recognized Native American
- 5) Regular current employees of the all Tulalip Tribal entities
- 6) Other

Exception: Where prohibited by contractual agreements or federal requirements, the above order of preference set out in subsection 1.8, shall not apply. In such cases preference shall be given in accordance with the applicable contractual agreement, federal requirement, or Federal Law.

Requirement: If the TERO Office is unable to refer an adequate number of qualified, preferred employees for a Contractor, TERO will notify the Contractor who may fill the remaining positions with non-TERO workers. When this occurs, TERO work permits may be valid for one month from the date of issuance and may be renewed. Work permits are non-transferable.

Requirement: When work permits are issued, the contractor is still required to notify the TERO Office of all future job openings on the project so that qualified, preferred employees have an opportunity to be dispatched.

JOB QUALIFICATIONS, PERSONNEL REQUIREMENTS & RELIGIOUS ACCOMMODATIONS:

Requirement: An employer may not use any job qualification criteria or personnel requirements which serve as barriers to the employment of Natives which are not required by business necessity. The TERO department will review the job duties and may require the employer to eliminate the personnel requirements at issue. Employers shall also make reasonable accommodation to the religious beliefs and cultural traditions of Native workers.

TRAINING:

Requirement: Contractors and or Employers may be required to develop on the job training opportunities and or participate in Tribal or local training programs, including upgrading programs, and apprenticeship or other trainee programs relevant to the employer's needs.

TRAINING:

Requirement: Contractors and or Employers may be required to develop on the job training opportunities and or participate in Tribal or local training programs, including upgrading programs, and apprenticeship or other trainee programs relevant to the employer's needs.

LAY-OFFS:

Requirement: TERO preference employees shall not be laid off where non-TERO preference employees are still working. If the employer lays-off employees by crews, classifications or other categories, qualified TERO preference employees shall be transferred to crews or positions that will be retained. This section does not apply to key or permanent employees.

NOTE: The TERO Office is here to help in any way we can. Communication with the TERO Compliance Officers is very important in that it will help ensure the job to run smoothly.

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THE TULALIP TRIBES OF WASHINGTON CONTRACT AGREEMENT

FOR
**MARINE DRIVE SHOULDER IMPROVEMENTS PHASE 1: 7TH DRIVE NW
TO 64TH STREET NW**

BID SOLICITATION No. 2014-358

This agreement entered into this ____ day of _____, 20__ between The Tulalip Tribes of Washington, 6406 Marine Drive, Tulalip, WA 98271, hereinafter referred to as "Tulalip Tribes", and _____, _____ **<insert Company name and address>** hereinafter referred to as "Contractor".

WITNESSETH, that the Contractor and The Tulalip Tribes for the consideration stated herein mutually agree as follows:

SECTION ONE DESCRIPTION OF WORK

This Contract consists of this written agreement and all appurtenant "contract documents" described in Section Six of this agreement. Contractor shall perform the following described work in accordance with this contract and the Scope of Work, incorporated as Bid Package No. 2014-358 **Marine Drive Shoulder Improvements Phase 1: 7th Drive NW to 64th Street NW**

Project. Contractor shall provide all work necessary to complete the installation of approximately 7,300 linear feet of HMA shoulder improvements including roadway embankment construction, channelization, guardrail, an illumination system, and a pile-supported pedestrian path.

SECTION TWO CONTRACT PRICE

The Tulalip Tribes agrees to pay Contractor for the Work described a total contract price of \$_____. Payment of this amount is subject to additions or deductions in accordance with the bid unit price amounts listed in the schedules below, provisions of this contract and of any other documents to which this contract is subject. Contractor shall be entitled to full payment when contract work is completed and approved by The Tulalip Tribes. Progress payments shall be made to the Contractor in accordance with the provisions of Section Three of this Contract.

SCHEDULE

| ITEM NO. | SECTION | ITEM DESCRIPTION | UNIT | APPROX. QUANTITY | UNIT PRICE DOLLAR CENTS | AMOUNT DOLLAR CENTS |
|----------|---------|------------------|------|------------------|-------------------------|---------------------|
| 1 | 1-04 | MINOR CHANGE | FA | 1 | \$30,000.00 | \$30,000.00 |
| 2 | 1-07 | SPCC PLAN | LS | 1 | \$ | \$ |
| 3 | 1-09 | MOBILIZATION | LS | 1 | \$ | \$ |

| ITEM NO. | SECTION | ITEM DESCRIPTION | UNIT | APPROX. QUANTITY | UNIT PRICE DOLLAR CENTS | AMOUNT DOLLAR CENTS |
|----------|---------|---|------|------------------|-------------------------|---------------------|
| 4 | 1-10 | PROJECT TEMPORARY TRAFFIC CONTROL | LS | 1 | \$ | \$ |
| 5 | 1-10 | FLAGGERS AND SPOTTERS | HR | 960 | \$ | \$ |
| 6 | 1-10 | TRAFFIC CONTROL SUPERVISOR | LS | 1 | \$ | \$ |
| 7 | 1-10 | PORTABLE CHANGEABLE MESSAGE SIGN | HR | 2,880 | \$ | \$ |
| 8 | 2-01 | CLEARING AND GRUBBING AND ROADSIDE CLEANUP | LS | 1 | \$ | \$ |
| 9 | 2-02 | REMOVING ASPHALT CONC. PAVEMENT | SY | 5,130 | \$ | \$ |
| 10 | 2-03 | ROADWAY EXCAVATION INCL. HAUL | CY | 1,002 | \$ | \$ |
| 11 | 2-03 | GRAVEL BORROW INCL. HAUL | TON | 250 | \$ | \$ |
| 12 | 2-09 | UNSUITABLE FOUNDATION EXCAVATION INCL. HAUL | CY | 75 | \$ | \$ |
| 13 | 2-09 | STRUCTURE EXCAVATION CL A INCL. HAUL | CY | 18 | \$ | \$ |
| 14 | 4-04 | CRUSHED SURFACING TOP COURSE | TON | 456 | \$ | \$ |
| 15 | 4-04 | CRUSHED SURFACING BASE COURSE | TON | 440 | \$ | \$ |
| 16 | 5-04 | HMA CL. 1/2 IN. PG 64-22 | TON | 2,960 | \$ | \$ |
| 17 | 5-04 | PLANING BITUMINOUS PAVEMENT | SY | 150 | \$ | \$ |
| 18 | 6-02 | STEEL REINF. BAR FOR BRIDGE | LB | 1,647 | \$ | \$ |
| 19 | 6-02 | CONC. CLASS 4000 FOR BRIDGE | CY | 60 | \$ | \$ |
| 20 | 6-02 | PRECAST PRESTRESSED SLAB (8 IN. HOLLOW CORE SLAB) | SF | 5,370 | \$ | \$ |
| 21 | 6-05 | FURNISHING STEEL PILING (12 IN. DIAM.) | LF | 1,184 | \$ | \$ |
| 22 | 6-05 | DRIVING STEEL PILE (12 IN. DIAM.) | EA | 50 | \$ | \$ |
| 23 | 6-06 | PEDESTRIAN RAILING | LF | 970 | \$ | \$ |
| 24 | 8-01 | ESC LEAD | DAY | 60 | \$ | \$ |
| 25 | 8-01 | EROSION/WATER POLLUTION CONTROL | LS | 1 | \$ | \$ |
| 26 | 8-01 | SEEDING, FERTILIZING, AND MULCHING | ACRE | 0.3 | \$ | \$ |
| 27 | 8-02 | TOPSOIL TYPE A | CY | 180 | \$ | \$ |
| 28 | 8-01 | SILT FENCE | LF | 7,483 | \$ | \$ |
| 29 | 8-01 | HIGH VISIBILITY SILT FENCE | LF | 825 | \$ | \$ |
| 30 | 8-08 | CENTERLINE RUMBLE STRIP | MI | 1.1 | \$ | \$ |
| 31 | 8-09 | RECESSED PAVEMENT MARKER | HUND | 9 | \$ | \$ |
| 32 | 8-11 | BEAM GUARDRAIL TYPE 31 – 11 FT. LONG POST | LF | 1,428 | \$ | \$ |

| ITEM NO. | SECTION | ITEM DESCRIPTION | UNIT | APPROX. QUANTITY | UNIT PRICE DOLLAR CENTS | AMOUNT DOLLAR CENTS |
|--------------------------|---------|--|------|------------------|-------------------------|---------------------|
| 33 | 8-11 | BEAM GUARDRAIL TYPE 31 NON-FLARED TERMINAL | EA | 18 | \$ | \$ |
| 34 | 8-20 | ILLUMINATION SYSTEM COMPLETE | LS | 1 | \$ | \$ |
| 35 | 8-21 | PROJECT SIGNAGE | LS | 1 | \$ | \$ |
| 36 | 8-22 | PAINT LINE | LF | 5,957 | \$ | \$ |
| 37 | 8-22 | PROFILED PLASTIC LINE | LF | 7,192 | \$ | \$ |
| 38 | 8-22 | PLASTIC STOP LINE | LF | 10 | \$ | \$ |
| 39 | 8-22 | PROFILED PLASTIC DOTTED LINE | LF | 193 | \$ | \$ |
| 40 | 8-22 | PROFILED PLASTIC WIDE LANE LINE | LF | 7,287 | \$ | \$ |
| 41 | 8-22 | PLASTIC TRAFFIC ARROW | EACH | 2 | \$ | \$ |
| 42 | 8-22 | REMOVING PAINT LINE | LF | 26,297 | \$ | \$ |
| SUBTOTAL SCHEDULE | | | | | | \$ |
| TERO TAX @ 1.75% | | | | | | \$ |
| TOTAL SCHEDULE | | | | | | \$ |

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SECTION THREE PAYMENTS

The Tulalip Tribes shall make payment for a phase of the work to the Contractor no later than thirty (30) days after The Tulalip Tribes' accounting department begins processing Contractor's invoice for that work. Such processing shall begin after Contractor presents the invoices and deliverables to The Tulalip Tribes' authorized representative and the authorized representative submits written approval to the accounting department for payment based on an inspection of the work. Payment by The Tulalip Tribes does not constitute a waiver of any claims by The Tulalip Tribes against Contractor concerning or arising out of this agreement. Acceptance of final payment by Contractor constitutes a waiver of all claims by Contractor.

Contractor agrees to maintain for inspection by The Tulalip Tribes for three years after final payment all books, records, documents, and other evidence pertaining to the costs and expenses of this agreement, hereinafter collectively called, "records", to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, supplies, and services, and other costs of whatever nature for which reimbursement is claimed under the provisions of this agreement.

In the event payment for work performed under this agreement is made from federal or state funds, Contractor shall abide by all applicable federal and state laws and regulations governing such funds which laws and regulations are hereby incorporated by reference. Any rights of the Contractor are subject to the limitations on and availability of such funds to The Tulalip Tribes.

Contractor shall not be entitled to any interest on any amount found due and owing hereunder, whether before or after judgment, but shall, at most, only be entitled to the amount specified in Section Two – CONTRACT PRICE.

SECTION FOUR STARTING AND COMPLETION DATES

The date of commencement of the work shall be the date of this agreement unless a different date is made for the date to be fixed in a notice to proceed issued by The Tulalip Tribes. This agreement shall become effective upon its signing by The Tulalip Tribes and Contractor.

The contract time shall be measured from the date of commencement.

The Contractor shall diligently prosecute the Work and shall complete all Work so that Contract Completion can occur on or before 90 working days from the date of the Notice to Proceed, unless the Contractor timely requests and The Tulalip Tribes grants an extension of time in accordance with the Contract Documents.

It is understood and agreed that all Work shall be completed within the established time for Contract Completion, and that each applicable portion of the Work shall be completed upon

the respective milestone completion date(s), unless the Contractor timely requests and The Tulalip Tribes grants an extension of time in accordance with the Contract Documents.

SECTION FIVE LIQUIDATED DAMAGES

Upon failure to have all Work completed within the period of time above specified, or failure to have the applicable portion of the Work completed upon any milestone completion date, The Tulalip Tribes shall be entitled to retain or recover from the Contractor, as Liquidated Damages, and not as a penalty, the applicable amount set forth in the following table for each and every day thereafter until Contract Completion, unless the Contractor timely requests and The Tulalip Tribes grants an extension of time in accordance with the Contract Documents.

| <u>Contract Amount</u> | <u>Dollars Per Day</u> |
|---------------------------------------|------------------------|
| \$1 to \$50,000 | \$150 |
| More than \$50,000 to \$150,000 | \$250 |
| More than \$150,000 to \$500,000 | \$500 |
| More than \$500,000 to \$2,000,000 | \$1,000 |
| More than \$2,000,000 to \$5,000,000 | \$2,000 |
| More than \$5,000,000 to \$10,000,000 | \$2,500 |
| More than \$10,000,000 | \$3,000 |

The amount of Liquidated Damages is agreed upon by and between the Contractor and The Tulalip Tribes because of the impracticality and extreme difficulty of ascertaining the actual amount of damage The Tulalip Tribes would sustain.

SECTION SIX CONTRACT DOCUMENTS

The contract documents includes the following, which are incorporated by reference as if fully set forth herein (not in order of precedence), on which the agreement between The Tulalip Tribes and Contractor is based, in accordance with which the work is to be done, are as follows:

- a. This agreement, together with such supplementary agreements and conditions as are attached hereto;
- b. Proposal (Form of Bid);
- c. Table of Contents;
- d. Division 0 – Bidding Requirements, Contract Forms, and Conditions of the Contract complete;
- e. General Provisions complete;
- f. Special Provisions Complete;
- g. Amendments to the Standard Specifications complete;
- h. 2016 WSDOT Standard Specifications;
- i. Contract Plans as listed in the Index to Drawings complete as listed on drawing sheet CV01;
- j. The Tulalip Code, Chapter 9.05 – TERO Code;

- k. Addendum No. _____ dated _____, 20____; and
- l. Addendum No. _____ dated _____, 20____.

These contract documents together form the contract for the work herein described. The parties intend that the documents include provisions for all labor, materials, equipment, supplies, and other items necessary for the execution and completion of the work and all terms and conditions of payment. The documents also include all work and procedures not expressly indicated therein which are necessary for the proper execution of the project.

This agreement, including its referenced appendices, represents the entire and complete agreement between the parties and supersedes all prior negotiations, representations, or agreements either written or oral and may be amended or modified only in writing signed by both parties. Nothing whatsoever in this agreement constitutes or shall be construed as a waiver of The Tulalip Tribes of Washington's sovereign immunity. This agreement shall not be valid unless each and every signature designated below is affixed.

SECTION SEVEN AUTHORITY OF TULALIP TRIBES' REPRESENTATIVE(S)

The Tulalip Tribes' representative designated as Construction Manager authorized to administer and implement the terms and conditions of this agreement is _____.

The Tulalip Tribes' representative designated as Project Engineer authorized to directly supervise the engineering and administration of the construction project is _____ <insert Company name and address>.

The Tulalip Tribes' representative designated as Inspector authorized to inspect Contract performance in detail is _____ <insert Company name and address>.

The Tulalip Tribes' authorized representatives shall be allowed to observe any work done by the Contractor which is covered by this agreement.

SECTION EIGHT RESPONSIBILITIES OF CONTRACTOR

Contractor's duties and rights in connection with the project herein are as follows:

- a. Responsibility for and supervision of work. Contractor represents that he has inspected and is familiar with the work site and the local conditions under which the work is to be performed. Contractor shall be solely responsible for all construction and installation in accordance with the contract, including the techniques, sequences, procedures, and means for coordination of all work. Contractor shall properly supervise and direct the work of the employees and subcontractors, and shall give all attention necessary for such proper direction. Contractor represents that he is bonded in sufficient amount to cover Contractor's liability occasioned by Contractor's performance of this contract.

- b. Discipline and employment. Contractor shall maintain at all times strict discipline among his workers and agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he was employed.
- c. Furnishing of labor, materials, etc. Contractor shall provide and pay for all labor, materials and equipment, including but not limited to tools, construction equipment, machinery, utilities including water, transportation, and all other facilities and services necessary for the proper completion of the work on the project in accordance with the contract documents.
- d. Manufacturer's instructions. Contractor shall comply with manufacturer's installation instructions and recommendations to the extent that those instruction and recommendations are more explicit or stringent than requirements contained within the Contract documents.
- e. Payment of taxes, procurement of license and permits. Contractor shall pay any taxes required by law in connection with work on the project and shall secure all licenses and permits necessary for proper completion of the work, paying the fees therefore.

The Tulalip Tribes of Washington is a federally recognized Indian Tribal government with a constitution and bylaws approved by the United States Secretary of the Interior. See: 65 Federal Register 13298, 13301 (March 13, 2000). As a recognized tribal government, The Tulalip Tribes of Washington and all of its governmental agencies, is a tax exempt entity. See: 26 USC §7871, and Washington Administrative Code Excise Tax Rule 192 (WAC 458-20-192). This project is Tax Exempt from all Sales and/or Use Taxes for all materials and supplies incorporated in construction of the work that become a permanent part of the Project. Upon request a Tax Exemption form may be obtained from The Tulalip Tribes.

- f. Compliance with laws and regulations. Contractor shall comply with all applicable laws and ordinances, and rules, regulations, or orders of all public authorities relating to the performance of the work herein. If any of the contract documents are at variance therewith, he shall notify The Tulalip Tribes, through the Construction Manager, promptly on discovery of such variance.
- g. Responsibility for negligence of employees and subcontractors. Contractor assumes full responsibility for acts, negligence, or omissions of all other persons doing work under a contract with him.
- h. Warranty of fitness of equipment and materials. Contractor represents and warrants to The Tulalip Tribes that all equipment and materials used in the work and made a part of any structure thereon, or placed permanently in connection therewith, will be new unless otherwise specified in the contract documents, of good quality, free of defects, and in conformity with the contract documents. It is understood between the parties that all equipment and materials that are not so in conformity are defective.
- i. Cleaning and protection. Contractor shall during handling and installation clean and protect construction in progress and adjoining materials in place. Contractor shall apply protective covering where required ensuring protection from damage or deterioration.
- j. Furnishing of design and engineering plans. Upon request Contractor shall furnish The Tulalip Tribes or Construction Manager all design and engineering plans for consideration and approval as to conformance with the specifications of

- the Contract documents.
- k. Clean-up. Contractor agrees to keep the work premises and adjoining way free of waste materials and rubbish caused by his work or that of his subcontractors, and further shall remove all such waste materials and rubbish on termination of the project, together with all his tools, equipment and machinery.
 - l. Indemnity and hold harmless agreement. Contractor agrees to indemnify and hold harmless The Tulalip Tribes, its employees, and their agents from and against all claims, damages, losses, and expenses including reasonable attorney fees in case it shall be necessary for The Tulalip Tribes to commence or defend any action arising out of or associated in any way with performance of the work herein, which is:
 - 1. For bodily injury, illness or death, property damage including loss of use, or other damage, and
 - 2. Caused in whole or part by Contractor's negligent act or omission, or that of a subcontractor, or that of anyone employed by them or for whose acts Contractor or subcontractor may be liable.
 - m. Contractor shall defend, indemnify and hold harmless The Tulalip Tribes, its employees, and their agents against all loss, damage, liability, claims, lawsuits demands, or costs arising in connection with this agreement. Contractor shall reimburse The Tulalip Tribes for all costs reasonably incurred to defend The Tulalip Tribes against such claims through attorneys of The Tulalip Tribes' choice.
 - n. Contractor shall promptly notify The Tulalip Tribes, through the Construction Manager, of any litigation arising from or affecting its operations under this agreement, including any bankruptcy or insolvency proceedings of Contractor or of its assignees or subcontractors. Contractor shall not assign its rights under this agreement without first obtaining The Tulalip Tribes' written approval.
 - o. Payment of royalties and license fees; hold harmless agreements. Contractor agrees to pay all royalties and license fees necessary for the work and to defend all actions and settle all claims for infringement of copyright or patent rights, and to save The Tulalip Tribes harmless therefrom.
 - p. The Contractor will be required as part of this contract to provide weekly certified payrolls and be in compliance with the Tribal Employment Rights Office (TERO) requirements. The Contractor shall be required to schedule a meeting with TERO prior to the start of work on this project and provide a signed approved copy of their Compliance Plan to the Construction Manager.
 - q. Archaeological and Historical Objects. Archaeological or historical objects, which may be encountered by the Contractor, shall not be further disturbed. The Contractor shall immediately notify the Construction Manager of any such finds. The Construction Manager will contact the Tribal Natural Resource and Cultural Resource Department who will determine the nature of the object(s). The Contractor may be required to stop work in the vicinity of the discovery until such determination is made. If the Tribal representative determines that the object(s) are to be surveyed, the Tribal representative may require the Contractor to stop work in the vicinity of the discovery until the survey is accomplished.
 - r. Excess material. All excess material shall become the property of The Tulalip Tribes.

- s. The Contractor shall, whether or not federal or state funds are involved, without additional expense to The Tulalip Tribes, comply with all applicable laws and obtain all required licenses and permits necessary to execute the provisions of this agreement. Contractor shall file all required returns and notices.
- t. When working within the exterior boundaries of the Tulalip Indian Reservation, Contractor shall comply with all Tribal laws. Before commencing work, Contractor shall obtain all required Tribal licenses and permits. Contractor shall indemnify and hold The Tulalip Tribes, its employees, and their agents harmless from any and all costs, liabilities, or obligations by reason of the failure of Contractor or his or her employees, agents, subcontractors or assigns to comply with any applicable law.
- u. Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, age, sex, national origin, or handicap, with regard to employment “upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay, or other forms of compensation and selection for training. Notwithstanding the foregoing, Contractor shall provide preference in employment and subcontracting in accordance with The Tulalip Code, Chapter 9.05 – TERO Code as it now exists or may be hereafter amended.

SECTION NINE TIME OF ESSENCE – EXTENSION OF TIME

All times stated herein or in the contract documents are of the essence hereof. Contract times may be extended by a change order from The Tulalip Tribes, through the Construction Manager, for such reasonable time as The Tulalip Tribes may determine when in their opinion Contractor is delayed in work progress by changes ordered, labor disputes, fire, prolonged transportation delays, injuries, or other causes beyond Contractor's control or which justify delay.

Any request by the Contractor for an extension of time shall be made in writing to The Tulalip Tribes, through the Construction Manager, no more than ten (10) days after the initial occurrence of any condition which, in the Contractor's opinion, entitles the Contractor to an extension of time. Failure to timely provide such notice to The Tulalip Tribes shall constitute a waiver by the Contractor of any claim for extension, damages or mitigation of Liquidated Damages, to the fullest extent permitted by law.

SECTION TEN CORRECTING NON-CONFORMING WORK

If a portion of the work is covered contrary to the Construction Manager's request or to requirements specifically expressed in the Contract documents, it must, if requested in writing by the Construction Manager, be uncovered for the Construction Manager's and or Architect's examination and be replaced at the Contractor's expense without change in the Contract time.

If a portion of the Work has been covered which the Construction Manager has not specifically requested to examine prior to its being covered, the Construction Manager may request to see such work and it shall be uncovered by the Contractor. If it is determined that

such work has been performed in accordance with the Contract documents all costs incurred by Contractor to uncover and replace the work shall, by appropriate change order, be reimbursed by The Tulalip Tribes. If such work is found not to be in accordance with the Contract documents, any and all required corrections shall be assigned to the Contractor unless the condition was caused by The Tulalip Tribes or a separate contractor in which event The Tulalip Tribes shall be responsible for payment of such costs.

When it appears to any authorized representative of The Tulalip Tribes or Contractor during the course of construction that any work does not conform to the provisions of the contract documents, Contractor shall make necessary corrections so that such work will so conform, and in addition Contractor will correct any defects caused by him or by a subcontractor, appearing within one year from the date of issuance of a certificate of Contract completion by The Tulalip Tribes, or within such longer period as may be prescribed by law or as may be provided for by applicable special guarantees in the contract documents.

SECTION ELEVEN CHANGES IN THE WORK

The Tulalip Tribes reserves the right to order changes in the work in the nature of additions, deletions or modifications, without invalidating the Contract, and agrees to make corresponding adjustments in the Contract price and time for completion, if justified. Any such changes will be authorized by a written change order signed by an authorized representative of The Tulalip Tribes. The change order will include conforming changes in the Contract and completion time. Work shall be changed, and Contract price and completion time shall be modified only as out in the written change order. Any adjustment in the Contract price resulting in a deductive credit or a charge to The Tulalip Tribes shall be determined by the mutual agreement of the parties to the Contract.

SECTION TWELVE TERMINATION

The Tulalip Tribes may terminate this agreement on ten (10) days written notice and in such case Contractor shall only be entitled to payment for work performed prior to receipt of said notice. Additionally, The Tulalip Tribes may immediately suspend operations under this agreement by written notice of any breach. Suspension shall continue until The Tulalip Tribes' authorized representative certifies in writing that the breach is remedied. If Contractor is still in breach after seven (7) days from the notice of suspension, The Tulalip Tribes may, without further notice, terminate all rights of Contractor under this agreement.

Any failure by The Tulalip Tribes to suspend or terminate this agreement in case of breach shall not waive Contractor's duty to perform strictly in accordance with this agreement. Failure by Contractor to perform on its part any duty, term or condition herein shall constitute a breach.

Any notice sent under this Section may either be sent by personally giving a copy thereof to Contractor or its agents, employer or contractors or mailing a copy to the address set forth herein.

**SECTION THIRTEEN
DISPUTES**

The parties agree that disputes involving this Contract shall be resolved pursuant to the laws of The Tulalip Tribes and exclusively in Tribal Court. This provision shall not be interpreted to be a waiver of Tribal immunity.

**SECTION FOURTEEN
EMPLOYMENT PREFERENCE**

Contractor recognizes and agrees that Contractor and Contractor's subcontractors are bound by The Tulalip Code, Chapter 9.05 – TERO Code.

**SECTION FIFTEEN
CONTRACTING PREFERENCE**

Contractor recognizes and agrees that Contractor and Contractor's subcontractors are bound by The Tulalip Code, Chapter 9.05 – TERO Code.

**SECTION SIXTEEN
CONTRACT INSURANCE**

CONTRACTOR'S LIABILITY INSURANCE

Contractor shall purchase and maintain such liability and other insurance as will protect The Tulalip Tribes and the Contractor from claims or losses which may arise out of or result from the Contractor's performance or obligations under the contract documents, whether due to action or inaction by the Contractor or any person for whom the Contractor is responsible.

A Commercial General Liability insurance policy and Business Automobile Liability insurance policy to provide insurance coverage and limits as indicated below. Automobile liability insurance coverage shall include owned, non-owned and hired automobiles. An Umbrella or Excess Liability policy may be used to reach such limits.

Policy Limits – Commercial General Liability

| | |
|-------------|---|
| \$2,000,000 | General Aggregate |
| \$2,000,000 | Products/Completed Operations Aggregate |
| \$1,000,000 | Occurrence Limit |
| \$1,000,000 | Personal and Advertising Injury Limit |
| \$ 100,000 | Fire Legal Liability Limit |
| \$ 10,000 | Medical Payments |
| \$1,000,000 | Employer's Liability |

Policy Limits – Business Automobile Liability

| | |
|-------------|-----------------------|
| \$1,000,000 | Combined Single Limit |
|-------------|-----------------------|

There shall be no residential construction or subsidence coverage exclusions or other

coverage limitations without specific disclosure and approval of The Tulalip Tribes.

CONTRACTOR'S WORKER'S COMPENSATION

All employees of Contractor and subcontractor(s) are to be insured, including qualified self-insured plans, under Washington State Industrial Insurance as well as in compliance with any Federal workers compensation regulations including USL&H and Jones Act Coverages. Employees not subject to the State Act are to be insured under Employer's Contingent Liability (Stop Gap) \$1,000,000 on accident and aggregate.

Such evidence of insurance shall be in the form of an Insurance Certificate issued by the State of Washington Department of Labor and Industries or an insurer satisfactory to The Tulalip Tribes and shall provide for not less than thirty (30) days prior written notice to the Contacting Agency of cancellation or reduction in coverage.

BUILDER'S RISK

The Tulalip Tribes shall provide and maintain, during the progress of the work and until the execution of the certificate of Contract Completion, a Builder's Risk Insurance policy to cover all on-site work in the course of construction including false work, temporary buildings and structures and materials used in the construction process. The amount of coverage is based upon the total completed value of the project (including the value of permanent fixtures and decorations.) Such insurance shall be on a special cause of loss form and may include such other coverage extension as The Tulalip Tribes deem appropriate. Unless otherwise provided for through agreement, the contractor experiencing any loss claimed under the Builder's Risk policy shall be responsible for up to \$10,000 of that loss. Contractor may provide its own builder's risk or installation insurance coverage for amounts up to the \$10,000 deductible. Contractor is responsible for insuring their property in transit, in temporary storage away from the site as well as their own tools, equipment and any employee tools.

Incidents related to pollution and contamination are specifically excluded from the Builders Risk Insurance policy.

To be eligible to make a claim under The Tulalip Tribes' Builders Risk Insurance policy, Contractor shall be responsible to secure all materials and or equipment stored on the project site in a secured fenced area.

INSURANCE POLICY REQUIREMENTS

Each policy of insurance required to be purchased and maintained by the Contractor shall name The Tulalip Tribes of Washington, Consolidated Borough of Quil Ceda Village and its members as primary and non-contributory additional insureds using the ISO general liability form CG 2010 11/85 edition or equivalent to include products and completed operations for all Contractor's and subcontractor's work. Each policy and respective Certificate of Insurance shall expressly provide a provision wherein no less than thirty (30) days or ten (10) days in the event of cancellation for non-payment prior written notice shall be given to The Tulalip Tribes and Construction Manager in the event of cancellation, non-renewal, expiration or material alteration of the coverage contained in such policy or evidenced by such Certificate of Insurance.

At least five (5) days prior to commencement of the Work or any portion thereof, and prior to the performance of any services hereunder, Contractor shall, for the purposes of protecting The Tulalip Tribes against any claims, damages or expenses as a consequence of any acts and omissions on the part of Contractor and any of its subcontractors of any tier in performing the work, procure or cause to be procured the following insurance coverage with

insurance carriers (with an A.M. Best rating of A-VII or better) in form acceptable to The Tulalip Tribes and shall maintain all such coverage in full force and effect through the term of this agreement.

The Contractor, if requested, shall furnish The Tulalip Tribes a certified copy of any insurance policy or additional insured endorsement required to be purchased or maintained by the contract documents. In no event shall any failure to demand a certified copy of any required insurance or insured endorsement be construed as a waiver of the obligation of the Contractor to obtain insurance required to be purchased or maintained by the contract documents.

The Contractor shall maintain all insurance in the required amounts, without interruption, from the date of the execution of the Contract until three (3) years after the date of approval of the certificate of Contract Completion by The Tulalip Tribes. Failure to maintain the required insurance during the time specified shall be cause for termination of the contract.

Insurance policies required to be purchased and maintained by the Contractor may include a reasonable loss deductible, which shall be the responsibility of the Contractor to pay in the event of loss.

The prompt repair or reconstruction of the work as a result of an insured loss or damage shall be the Contractor's responsibility and shall be accomplished at no additional cost to The Tulalip Tribes.

WAIVERS OF SUBROGATION

The Tulalip Tribes and the Contractor waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance obtained pursuant to this paragraph or other property insurance applicable to the work, except such rights as they have to proceeds of such insurance held by The Tulalip Tribes as fiduciary.

OTHER PROVISIONS

Neither The Tulalip Tribes nor Contractor shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or tangible personal property of the other occurring in or about the work, if such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required to be covered by insurance under terms of the agreement. Each party shall cause each insurance policy obtained by it to contain the waiver of subrogation clause.

Contractor shall indemnify, defend and hold The Tulalip Tribes of Washington and Consolidated Borough of Quil Ceda Village harmless from all losses, damages, liabilities, fines penalties, costs (including clean-up costs) and expenses (including attorneys' fees) arising from hazardous, toxic or harmful wastes, materials or substances, as defined by applicable law, deposited on or about the Project site by Contractor, subcontractors, suppliers or materialmen or its or their agents or employees. Should any material that exhibits hazardous or toxic characteristics as defined in applicable law be brought onto the Project site by Contractor, subcontractors, suppliers or materialmen or its or their agents or employees, that material will be handled, stored, transported and disposed of by Contractor in accordance with respective regulations and the best available technology. Should any such material be found on the Project site that was not brought onto the Project site by Contractor, subcontractors, suppliers or materialmen or its or their agents or employees, Contractor shall immediately notify The Tulalip Tribes of Washington and Consolidated Borough of Quil Ceda

Village through the Construction Manager.

In the event Contractor fails to maintain any and all insurance required by this contract during the entire life of this contract, The Tulalip Tribes of Washington or Consolidated Borough of Quil Ceda Village may at its option, and without waiver of other available remedies, purchase such insurance in the name of Contractor and deduct the cost of same from payments due Contractor.

SECTION SEVENTEEN OTHER PROVISIONS

Any and all reports, data, findings or other materials or deliverables under this agreement shall become the property of and remain under the sole proprietorship of The Tulalip Tribes. Contractor will keep all information learned under this agreement confidential and will not release any such information, either orally or in writing, to parties other than The Tulalip Tribes, its agents, contractors or employees without the express written permission of The Tulalip Tribes.

The Tulalip Tribes and Contractor each binds themselves and their partners, agents, assigns, successors and legal representatives of such other party to this agreement and to the partners, successors and legal representatives of such other party with respect to all terms and conditions of this agreement.

Neither The Tulalip Tribes nor Contractor shall delegate, assign, sublet or transfer their duties or interest in this agreement without the written consent of the other party. Any such assignment, sublet, delegation or transfer shall be subject to the same terms and conditions as this agreement.

The negotiation and execution of this agreement shall be deemed by the parties to have occurred within the exterior boundaries of the Tulalip Indian Reservation and any interpretation thereof shall be in accordance with the laws of The Tulalip Tribes of Washington.

The failure of The Tulalip Tribes to assert any claim or right at any time under this agreement shall not waive its right to assert any claim or right at a later time.

Remainder of page intentionally left blank

IN WITNESS WHEREOF, the parties have executed this agreement at the Tulalip Indian Reservation, Washington, on the date first above written.

APPROVED BY CONTRACTOR:

(Company Name)

(Print Name & Title)

By: _____
(Authorized Signature)

APPROVED BY THE TULALIP TRIBES OF WASHINGTON:

Melvin Sheldon Jr.
(Chairman)

By: _____
(Authorized Signature)

The Tulalip Tribes of Washington
Marine Drive Shoulder Improvements
Phase 1: 7th Drive NW to 64th Street NW Project

INTERIM WAIVER AND RELEASE OF CLAIMS

TO THE TULALIP TRIBES OF WASHINGTON ("OWNER"):

_____ (the "Releasing Party") has furnished labor or services, or supplied materials or equipment (collectively, the "Work") for construction on the Marine Drive Shoulder Improvements Phase 1: 7th Drive NW to 64th Street NW Project (the "Project"), located at 7th Drive NW to 64th Street NW, Tulalip, WA 98271.

Upon receipt of payment by the Releasing Party of \$ _____, whether in cash, by check or by joint check, the Releasing Party represents and certifies to Owner that: (i) Releasing Party and all of its subcontractors are in compliance with the terms of their respective contracts; (ii) all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Application for Payment and there is no known basis for the filing of any claim in respect of the Work except for (a) any claim that the Releasing Party has previously provided written notice to Owner about such claim, and (b) amounts owed to Releasing Party and/or any subcontractor or supplier that are considered Cost of the Work but have been withheld by the Owner; and (iii) waivers and releases from all Subcontractors and/or Suppliers being billed under a Releasing Party Subcontract Agreement or Purchase Agreement have been obtained in form substantially similar hereto as to constitute an effective waiver and release of all known claims. Notwithstanding the foregoing, this Interim Waiver and Release of Claims shall not apply to any amounts owed for Work which has been provided to the Project during a billing period prior to the date hereof where Releasing Party and/or any subcontractor or supplier has not yet requested reimbursement for the cost of the Work provided to the Project.

If any claim covered by this Interim Waiver and Release of Claims is made or filed by the Releasing Party or any of its lower tier consultants, subcontractors, suppliers, vendors or materialmen at any tier against or with respect to Owner or the Project then the Releasing Party (1) shall immediately release and discharge, or secure the release or discharge of, such claim and (2) shall indemnify, defend and hold harmless Owner and the Project from and against any and all costs, damages, expenses, court costs and attorney fees arising from such claim or any litigation resulting from such claim.

(the Releasing Party)

DATED: _____

By: _____

Printed Name: _____

Its: _____

[Notary Seal]

State of: _____ County of: _____

Subscribed and sworn to before me this _____ day of _____

Notary Public: _____

My Commission expires: _____

The Tulalip Tribes of Washington
Marine Drive Shoulder Improvements
Phase 1: 7th Drive NW to 64th Street NW Project

FINAL WAIVER AND RELEASE OF CLAIMS

TO THE TULALIP TRIBES OF WASHINGTON ("OWNER"):

Upon receipt of payment of \$ _____, whether in cash, by check or by joint check, _____ (the "Releasing Party") has furnished labor or services, or supplied materials or equipment for construction on the Marine Drive Shoulder Improvements Phase 1: 7th Drive NW to 64th Street NW Project (the "Project"), located at located at Marine Drive from 7th Drive NW to 64th Street NW, Tulalip, WA 98271.

The Releasing Party hereby unconditionally waives and releases any and all claims, stop notices, rights to submit stop notices, suits, demands, protests, damages, losses and expenses of any nature whatsoever (whether under statute, in equity or otherwise and whether received through assignment or otherwise) (each, individually, a "Claim") against or with respect to The Tulalip Tribes of Washington, which is referred to as the Owner in the Contract Documents, or any other party holding an interest in the Property (collectively, the "Released Parties"), or against or with respect to the Project, the Property, improvements to the Property and materials, fixtures, apparatus and machinery furnished for the Property (collectively, the "Released Properties").

Upon the receipt of the aforesaid amount, the Releasing Party expressly acknowledges that it has been paid all amounts due and owing to it for work, services, material or equipment in connection with the Work and the Releasing Party represents and warrants that all amounts due and owing to consultants, subcontractors and suppliers below the Releasing Party in connection with this Project have been paid, unless noted herewith as approved by Owner.

If any Claim is made or filed by the Releasing Party or any of its lower tier consultants, subcontractors, suppliers or laborers at any tier against or with respect to any of the Released Parties or any of the Released Properties, then the Releasing Party (1) shall immediately release and discharge, or secure the release or discharge of such Claim and (2) shall indemnify, defend and hold harmless the Released Parties from and against any and all costs, damages, expenses, court costs and attorney fees arising from such Claim or any litigation resulting from such Claim.

(the Releasing Party)

DATED: _____

By: _____

Printed Name: _____

Its: _____

[Notary Seal]

State of: _____ County of: _____

Subscribed and sworn to before me this _____ day of _____

Notary Public: _____

My Commission expires: _____



BUYERS' RETAIL SALES TAX EXEMPTION CERTIFICATE

Not to be used to make purchases for resale

| | | | |
|-----------------------|-------------|--------------|-----------------|
| <i>Vendor/Seller</i> | <i>Date</i> | | |
| <i>Street Address</i> | <i>City</i> | <i>State</i> | <i>Zip Code</i> |

I, the undersigned buyer, certify I am making an exempt purchase for the following reason: (Enter information and/or check applicable box(es))

1. Nonresident:

Place of residence: _____

Type of proof of residence accepted (drivers license, fishing license, etc) _____, including any identification numbers _____, and expiration date _____.

a. Tangible personal property other than motor vehicles for use outside Washington by a resident of a state, possession, or province of Canada, with a sales tax rate of less than three percent.

b. Watercraft (Include make, model and serial number of vessel):

Registered or documented with the US Coast Guard or state of principal use and will leave Washington waters within 45 days; **or**

Buyer is a resident of a foreign country. Purchase is for use outside Washington and will leave Washington waters within 45 days.

Seller's Signature: _____

2. Electric Vehicles:

a. Batteries for electric vehicles or the purchase of labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries.

b. Tangible personal property that will become a component of electric vehicle infrastructure or the purchase of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving electric vehicle infrastructure.

3. Intrastate Air Transport:

Airplanes for use in providing intrastate air transportation by a commuter air carrier and the sale of repair and related services for these airplanes.

4. Interstate or Foreign Commerce or Commercial Deep Sea Fishing Business:

a. Motor vehicles, trailers and component parts thereof used to transport persons or property *for hire* in interstate or foreign commerce.

b. Airplanes, locomotives, railroad cars or watercraft and component parts thereof used in transporting persons or property *for hire*.

c. Labor and services rendered to construct, repair, clean, alter or improve *for hire* carrier property.

d. Items for use connected with private or common carriers engaged in air, rail or water in interstate or foreign commerce. (**Note: Items consumed in the state are subject to use tax.**)

e. Fuel to be consumed outside of Washington by a vessel primarily engaged in foreign commerce.

Vessel Name: _____

Type of Fuel: _____ Quantity: _____

f. Watercraft, component parts, labor and services, and/or diesel fuel used in a qualifying commercial deep sea fishing operation.

Registered Vessel Name: _____ Vessel Number: _____

5. Sales to Indians:

- Tangible personal property or services purchased by Indians or Indian tribes when the goods are delivered to or services provided within Indian country.

6. Other:

- a. Prescription items (*describe*): _____
- b. Machinery and equipment (*including labor and services to install*) used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas.
- c. Biodiesel blend or E85 motor fuel construction and purchases of machinery and equipment for retail facilities.
- d. Biodiesel blend or E85 motor fuel delivery vehicles and service charges on such vehicles.
- e. Waste vegetable oil used to produce biodiesel fuel for personal use.
- f. Equipment rental and purchase of services for use in motion picture and video production.
- g. Objects of art or cultural value purchased by an artistic or cultural organization.
- h. Animal pharmaceuticals purchased by veterinarians (*describe*): _____
- i. Computer hardware, peripherals, software and related installation, used by the aerospace industry.
- j. Computer hardware, peripherals, software and related installation, purchased by publishers and printers.
- k. City, County, Tribal, or Inter-Tribal Housing Authorities.
- l. Tangible personal property for use in a noncontiguous state delivered to the usual receiving terminal of the shipper.

Type of Goods Purchased: _____

Point of Delivery: _____ Carrier/Agent: _____

- m. Gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials.
- n. Hog fuel used to produce electricity, steam, heat, or biofuel.
- o. Tangible personal property under the weatherization assistance program.
- p. Trail Grooming Services.
- q. Honey bees purchased by an eligible apiarist. Apiarist ID #: _____
- r. Federal credit union purchases.

I, the undersigned buyer, understand that by completing and signing this certificate I am certifying that I qualify for the tax-exempt purchase(s) indicated above. I understand that I will be required to pay sales or use tax on purchases that do not qualify for an exemption. In addition, I understand that false or erroneous use of this certificate will result in liability for unpaid tax with interest and may result in additional penalties.

Type of entity: Individual Corporation Sole Proprietor Partnership Other (Explain)

Type of Business: _____ Tax Registration No.: _____

Name of Buyer: _____ Title: _____

Signature of Buyer: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Seller must maintain a copy. Do not send to Department of Revenue.

Each exemption on this form has specific rules (see instructions)

INSTRUCTIONS

Buyers must ensure entitlement to the exemption before using this Certificate. For information regarding exemptions, contact Washington State Department of Revenue Taxpayer Information Center at (360) 705-6705 or 1-800-647-7706 or visit the Department's web site at: dor.wa.gov.

Line 1a applies to the purchase of tangible personal property other than motor vehicles for use outside Washington by a resident of a state, possession, or province of Canada with a sales tax rate of less than three percent (e.g. Oregon, Alaska). Reference: RCW 82.08.0273, WAC 458-20-193 (6)(b) and ETA 3054.2009.

***NOTE:** Sales of motor vehicles are not covered by this certificate; please refer to RCW 82.08.0264 and WAC 458-20-177 for certificate and exemption information.*

Line 1b applies to watercraft purchased by a nonresident for use outside Washington when delivery takes place in Washington. The buyer must provide proof of residency (picture ID) and check the applicable box. By checking the box, the buyer certifies that the vessel will leave Washington State waters within forty-five days. Sellers must examine and document the proof of residency provided by the buyer. **Seller must sign the form.** By signing the form, the seller certifies that the seller has examined and listed the buyer's proof of residency. See WAC 458-20-238 for acceptable proof of residency for corporations, partnerships and limited liability companies. Reference: RCW 82.08.0266, RCW 82.08.02665, and WAC 458-20-238.

Line 2a applies to the purchase of electric vehicle batteries or to labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries.

Line 2b applies to the purchase of tangible personal property that will become a component of an electric vehicle infrastructure or to labor and services rendered in respect to installing, constructing, repairing, or improving electric vehicle infrastructure. Reference: 2SHB 1481 (Chapter 459, 2009 Laws.)

Line 3 applies to the purchase of airplanes for use in providing intrastate air transportation by a commuter air carrier and the sale of repair and related services for these airplanes. Commuter air carriers are air carriers holding authority under Title 14, part 298 of the code of federal regulations that carries passengers on at least five round trips per week on at least one route between two or more points. Reference: RCW 82.08.0262 and 82.12.0254.

Line 4a applies to the purchase of motor vehicles, or trailers by a business operating or contracting to operate for the holder of a carrier permit issued by the Interstate Commerce Commission. The exemption also applies to component parts and repairs of such carrier property including labor and services rendered in the course of constructing, repairing, cleaning, altering or improving the same. The buyer must attach a list stating make, model, year, serial number, motor number and ICC permit number. Reference: RCW 82.08.0263 and WAC 458-20-174.

Line 4b applies to the purchase of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith persons or property *for hire*. The exemption also applies to component parts of such carrier property. Reference: RCW 82.08.0262 and WAC 458-20-175.

Line 4c applies to charges for labor and services rendered in the course of constructing, repairing, cleaning, altering or improving carrier property when carrier property is used *for hire*. Reference: RCW 82.08.0262 and WAC 458-20-175.

Line 4d applies to the purchase of durable goods or consumables, other than those mentioned in line 3b, for use in connection with interstate or foreign commerce by such businesses. The goods must be for exclusive use while engaged in transporting persons or property in interstate or foreign commerce. The exemption **does not** apply to charges for labor or services in regard to the installing, repairing, cleaning or altering of such property. Although exempt from retail sales tax, materials are subject to use tax if consumed in Washington. Unregistered businesses must attach a list stating the description and quantity of items that will be consumed in Washington and pay use tax to the seller. Reference: RCW 82.08.0261 and WAC 458-20-175.

Line 4e applies to fuel consumed outside the territorial waters of the United States by vessels used primarily in foreign commerce. Buyers must list the vessel name, type of fuel and quantity. Reference: RCW 82.08.0261 and WAC 458-20-175.

Line 4f applies to the purchase of vessels, component parts, or repairs by persons engaged in commercial deep sea fishing operations outside the territorial waters of the state of Washington. The exemption also applies to the purchase of diesel fuel used in commercial deep or commercial passenger fishing operations when annual gross receipts from the operations are at least five thousand dollars. Reference: RCW 82.08.0262, RCW 82.08.0298, and WAC 458-20-176.

Line 5 applies to the purchase of tangible personal property or services by an Indian or Indian tribe. The goods or services must be delivered to, or performed on the reservation. The purchaser must present a tribal membership card, a treaty fishing card, a certificate of enrollment, or a letter from a tribal official. Sellers must document the buyer's name, dollar amount of purchase, tribal affiliation and reservation where delivery is made. Reference: RCW 82.08.0254 and WAC 458-20-192.

Line 6a applies to the purchase by a medical practitioner, chiropractor, nursing home, or hospital of items to be prescribed and used for the treatment of illness or ailments of human beings. To qualify, certain of these items must be prescribed. Reference: RCW 82.08.0281.

Line 6b applies to the purchase of qualifying machinery and equipment (and charges for labor and services to install) used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, technology that converts otherwise lost energy from exhaust, or landfill gas as the principal source of power at a facility capable of generating *not less than 1000 watts* of electricity. The exemption also applies to machinery and equipment used directly in a facility generating *not more than ten kilowatts* of electricity using solar energy. Effective July 1, 2009. Portion expires June 30, 2011. Reference: ESSB 6170 Part 1.

Line 6c applies to the purchase of machinery and equipment and the construction of facilities used directly for the retail sale of biodiesel blend or E85 motor fuel. Reference: RCW 82.08.955.

Line 6d applies to the purchase of fuel delivery vehicles and labor and service charges related to such vehicles, provided 75% of the fuel distributed by them is biodiesel blend and E85 motor fuel. Reference: RCW 82.08.955.

Line 6e applies to the purchase of waste vegetable oil from restaurants and food processors to produce biodiesel fuel for personal use. The exemption does not

apply to persons that are engaged in selling biodiesel fuel at wholesale or retail. Reference: RCW 82.08.0205.

Line 6f applies to the rental of production equipment and purchases of production services by motion picture and video production companies. Reference: RCW 82.08.0315 and Motion Picture-Video Production Special Notice, available from the Department.

Line 6g applies to the purchase of objects of art or cultural value and items used in the creation of such objects, or in displaying art objects or presenting artistic or cultural exhibitions or performances by artistic or cultural organizations. Reference: RCW 82.08.031 and WAC 458-20-249.

Line 6h applies to the purchase of animal pharmaceuticals by veterinarians or farmers for the purpose of administering to an animal raised for sale by a farmer. Animal pharmaceuticals must be approved by the United States Food and Drug Administration or the United States Department of Agriculture. Reference: RCW 82.08.880.

Line 6i applies to the purchase of computer hardware, peripherals, and software, and related installation, not otherwise eligible for the M&E exemption, used primarily in development, design, and engineering of aerospace products or in providing aerospace services. Reference: RCW 82.08.975.

Line 6j applies to the purchase of computer hardware, peripherals, digital cameras, software, and related installation not otherwise eligible for the M&E exemption that is used primarily in the printing or publishing of printed materials. The exemption includes repairs and replacement parts. Reference: RCW 82.08.806.

Line 6k applies to all retail purchases of goods and services by City, County, Tribal, or Inter-Tribal Housing Authorities. Reference: RCW 35.82.210.

Line 6l applies to the purchase of goods for use in a state, territory or possession of the United States which is not contiguous to any other state such as Alaska, Hawaii, Guam, and American Samoa. For the exemption to apply, the seller must deliver the goods to the usual receiving terminal of the for-hire carrier selected to transport the goods. Reference: RCW 82.08.0269 and WAC 458-20-193 (6)(c).

Line 6m applies to the purchase of gases and chemicals by a manufacturer or processor for hire in the production of semiconductor materials. Limited to gases and chemicals used to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other uses where the gases and chemicals come into direct contact with the product during the production process, or gases and chemicals used to clean the chambers and other like equipment in which processing takes place. Reference: RCW 82.08.9651.

Line 6n applies to the purchase of hog fuel to produce electricity, steam, heat, or biofuel. Hog fuel is defined as wood waste and other wood residuals including forest derived biomass. Hog fuel does not include firewood or wood pellets. Reference: ESSB 6170 Part III.

Line 6o applies the purchase of tangible personal property used in the weatherization of residences under the weatherization assistance program. The tangible personal property must become a component part of the residence. Reference: RCW 82.08.998.

Line 6p applies to the purchase of trail grooming services by the state of Washington and nonprofit corporations organized under chapter 24.03 RCW. Trail grooming activities include snow compacting, snow redistribution, or snow removal on state or privately-owned trails. Reference: RCW 82.08.0203.

Line 6q applies to all honey bees purchased by an eligible apiarist. An eligible apiarist is a person who: owns or keeps one or more bee colonies; grows, raises, or produces honey bee products for sale at wholesale; and registers their hives/colonies with the WA State Department of Agriculture as required by RCW 15.60.021. Reference: RCW 82.08.0204.

Line 6r applies to the purchase of goods and retail services by federally chartered credit unions. Federal credit unions are exempt from state and local consumer taxes under federal law, such as sales tax, lodging taxes and rental car tax. To be exempt, the federal credit union must pay for goods and services directly, such as by a check written on the federal credit union or a credit card issued to the federal credit union. Sellers should keep a copy of the check or credit card used for payment to substantiate the exempt nature of the sale. Reference: Det. No. 92-239, 17 WTD 32 (1998).

**MARINE DRIVE SHOULDER IMPROVEMENTS
PHASE 1: 7TH DRIVE NEW TO 64TH STREET NW PROJECT
Tulalip Tribes Bid Solicitation No. 2014-358**

TULALIP, WASHINGTON

SECTION 008400 – MILESTONE SCHEDULE FOR CONSTRUCTION

PART 1 – GENERAL

1.01 WORK INCLUDED

- A. The milestone schedule for construction represents critical dates that must be met in order to complete the project within the specified Contract time. Contractor shall plan for the necessary resources to achieve these dates. Upon issuance of the Notice to Proceed (NTP), the overall project CPM Construction Schedule shall be prepared in accordance with SECTION 013216 – CPM CONSTRUCTION SCHEDULE. The Construction Schedule will list the sequencing and duration of each specific work activity. Milestone completion dates are shown at the end of this section.
- B. The submission of shop drawings, product data, and samples is critical to the timely completion of the project, and as such, Contractor is responsible to make the required submissions as necessary to allow for reasonable review time and obtain the materials required to complete the work by the specified completion dates. Submission deadlines for shop drawings are based on their relative impact on the construction schedule. Contractor and all other contractors shall comply with the submittal deadlines contained in the project schedule.
- C. In the event a milestone completion date is not met, Contractor's application(s) for payment may be affected until the milestone is satisfactorily met and Contractor gains compliance with the Construction Schedule.

1.02 RELATED REQUIREMENTS

- A. Drawings and general provisions of Contract, including General and Special Conditions.
- B. SECTION 013216 – CPM CONSTRUCTION SCHEDULE.

1.03 SCHEDULE OF MILESTONES

- A. The following is attached hereto and made a part of this section:
 - 1. Guideline Milestone Schedule.
- B. The following Milestone completion dates are listed in Calendar days, unless otherwise noted, from effective date of Notice to Proceed and shall apply to all work performed under this Contract:

| MILESTONE COMPLETION DESCRIPTION – ACTION BY | DATE AND OR DAYS |
|--|---|
| 1. Anticipated Notice to Proceed Date | 1. July 20, 2016 |
| 2. Physical Completion Date | 2. 60 Working Days |
| 3. Contract Completion | 3. 90 Working Days (includes utility window) |

END OF SECTION 008400

**MARINE DRIVE SHOULDER IMPROVEMENTS
PHASE 1: 7TH DRIVE NEW TO 64TH STREET NW PROJECT
Tulalip Tribes Bid Solicitation No. 2014-358**

TULALIP, WASHINGTON

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Amendments to the Standard Specifications

AMENDMENTS TO THE STANDARD SPECIFICATIONS

INTRODUCTION

The following Amendments and Special Provisions shall be used in conjunction with the 2016 Standard Specifications for Road, Bridge, and Municipal Construction.

AMENDMENTS TO THE STANDARD SPECIFICATIONS

The following Amendments to the Standard Specifications are made a part of this contract and supersede any conflicting provisions of the Standard Specifications. For informational purposes, the date following each Amendment title indicates the implementation date of the Amendment or the latest date of revision.

Each Amendment contains all current revisions to the applicable section of the Standard Specifications and may include references which do not apply to this particular project.

1-02.AP1

Section 1-02, Bid Procedures and Conditions April 4, 2016

1-02.4(1) General

The first sentence of the last paragraph is revised to read:

Any prospective Bidder desiring an explanation or interpretation of the Bid Documents, shall request the explanation or interpretation in writing by close of business on the Thursday preceding the bid opening to allow a written reply to reach all prospective Bidders before the submission of their Bids.

1-02.9 Delivery of Proposal

The last sentence of the third paragraph is revised to read:

The Contracting Agency will not open or consider any Proposal when the Proposal or Bid deposit is received after the time specified for receipt of Proposals or received in a location other than that specified for receipt of Proposals unless an emergency or unanticipated event interrupts normal work processes of the Contracting Agency so that Proposals cannot be received.

The following new paragraph is inserted before the last paragraph:

If an emergency or unanticipated event interrupts normal work processes of the Contracting Agency so that Proposals cannot be received at the office designated for receipt of bids as specified in Section 1-02.12 the time specified for receipt of the Proposal will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which the normal work processes of the Contracting Agency resume.

1-02.12 Public Opening of Proposals

This section is supplemented with the following new paragraph:

If an emergency or unanticipated event interrupts normal work processes of the Contracting Agency so that Proposals cannot be opened at the time indicated in the call for Bids the time specified for opening of Proposals will be deemed to be extended to the same time of day on the first work day on which the normal work processes of the Contracting Agency resume.

1-06.AP1

Section 1-06, Control of Material January 4, 2016

This section is supplemented with the following new section and subsections:

1-06.6 Recycled Materials

The Contractor shall make their best effort to utilize recycled materials in the construction of the project; the use of recycled concrete aggregate as specified in Section 1-06.6(1)A is a requirement of the Contract.

The Contractor shall submit a Recycled Material Utilization Plan as a Type 1 Working Drawing within 30 calendar days after the Contract is executed. The plan shall provide the Contractor's anticipated usage of recycled materials for meeting the requirements of these Specifications. The quantity of recycled materials will be provided in tons and as a percentage of the Plan quantity for each material listed in Section 9-03.21(1)E Table on Maximum Allowable Percent (By Weight) of Recycled Material. When a Contract does not include Work that requires the use of a material that is included in the requirements for using materials the Contractor may state in their plan that no recycled materials are proposed for use.

Prior to Physical Completion the Contractor shall report the quantity of recycled materials that were utilized in the construction of the project for each of the items listed in Section 9-03.21. The report shall include hot mix asphalt, recycled concrete aggregate, recycled glass, steel furnace slag and other recycled materials (e.g. utilization of on-site material and aggregates from concrete returned to the supplier). The Contractor's report shall be provided on DOT Form 350-075 Recycled Materials Reporting.

1-06.6(1) Recycling of Aggregate and Concrete Materials

1-06.6(1)A General

The minimum quantity of recycled concrete aggregate shall be 25 percent of the total quantity of aggregate that is incorporated into the Contract for those items listed in Section 9-03.21(1)E Table on Maximum Allowable Percent (By Weight) of Recycled Material that allow the use of recycled concrete aggregate. The percentage of recycled material incorporated into the project for meeting the required percentage will be calculated in tons based on the quantity of recycled concrete used on the entire Contract and not as individual items.

If the Contractor's total cost for Work with recycled concrete aggregate is greater than without the Contractor may choose to not use recycled concrete aggregate. When the Contractor does not meet the minimum requirement of 25 percent recycled concrete aggregate for the Contract due to costs or any other reason the following shall be submitted:

1. A cost estimate for each material listed in Section 9-03.21(1)E that is utilized on the Contract. The cost estimate shall include the following:
 - a. The estimated costs for the Work for each material with 25 percent recycled concrete aggregate. The cost estimate shall include for each material a copy of the price quote from the supplier with the lowest total cost for the Work.
 - b. The estimated costs for the Work for each material without recycled concrete aggregate.

The Contractor's cost estimates shall be submitted as an attachment to the Recycled Materials Reporting form.

1-07.AP1

Section 1-07, Legal Relations and Responsibilities to the Public April 4, 2016

1-07.1 Laws to be Observed

In the second to last sentence of the third paragraph, "WSDOT" is revised to read "Contracting Agency".

1-07.2(2) State Sales Tax: WAC 458-20-170 – Retail Sales Tax

The last three sentences of the first paragraph are deleted and replaced with the following new sentence:

The Contractor (Prime or Subcontractor) shall include sales or use tax on the purchase or rental of tools, machinery, equipment, or consumable supplies not integrated into the project, in the unit bid prices.

1-07.9(2) Posting Notices

Items 1 and 2 are revised to read:

1. EEOC - P/E-1 (revised 11/09, supplemented 09/15) – **Equal Employment Opportunity IS THE LAW** published by US Department of Labor. Post for projects with federal-aid funding.
2. FHWA 1022 (revised 05/15) – **NOTICE Federal-Aid Project** published by Federal Highway Administration (FHWA). Post for projects with federal-aid funding.

Items 5, 6 and 7 are revised to read:

5. WHD 1420 (revised 02/13) – **Employee Rights and Responsibilities Under The Family And Medical Leave Act** published by US Department of Labor. Post on all projects.
6. WHD 1462 (revised 01/16) – **Employee Polygraph Protection Act** published by US Department of Labor. Post on all projects.
7. F416-081-909 (revised 09/15) – **Job Safety and Health Law** published by Washington State Department of Labor and Industries. Post on all projects.

Items 9 and 10 are revised to read:

9. F700-074-909 (revised 06/13) – **Your Rights as a Worker in Washington State** by Washington State Department of Labor and Industries (L&I). Post on all projects.
10. EMS 9874 (revised 10/15) – **Unemployment Benefits** published by Washington State Employment Security Department. Post on all projects.

1-08.AP1

Section 1-08, Prosecution and Progress January 4, 2016

1-08.1(1) Prompt Payment, Subcontract Completion and Return of Retainage Withheld

In item number 5 of the first paragraph, “WSDOT” is revised to read “Contracting Agency”.

1-09.AP1

Section 1-09, Measurement and Payment April 4, 2016

1-09.6 Force Account

The second sentence of item number 4 is revised to read:

A “specialized service” is a work operation that is not typically done by worker classifications as defined by the Washington State Department of Labor and Industries and by the Davis Bacon Act, and therefore bills by invoice for work in road, bridge and municipal construction.

5-02.AP5

Section 5-02, Bituminous Surface Treatment April 4, 2016

5-02.3(2) Preparation of Roadway Surface

This section is supplemented with the following new subsection:

5-02.3(2)E Crack Sealing

Where shown in the Plans, seal cracks and joints in the pavement in accordance with Section 5-04.3(4)A1 and the following:

1. Cracks ¼ inch to 1 inch in width - fill with hot poured sealant.
2. Cracks greater than 1 inch in width – fill with sand slurry.

5-04.AP5

Section 5-04, Hot Mix Asphalt April 4, 2016

This section (and all subsections) is revised to read:

This Section 5-04 is written in a style which, unless otherwise indicated, shall be interpreted as direction to the Contractor.

5-04.1 Description

This Work consists of providing and placing one or more layers of plant-mixed hot mix asphalt (HMA) on a prepared foundation or base, in accordance with these Specifications and the lines, grades, thicknesses, and typical cross-sections shown in the Plans. The manufacture of HMA may include warm mix asphalt (WMA) processes in accordance with these Specifications.

HMA shall be composed of asphalt binder and mineral materials as required, and may include reclaimed asphalt pavement (RAP) or reclaimed asphalt shingles (RAS), mixed in the proportions specified to provide a homogeneous, stable, and workable mix.

5-04.2 Materials

Provide materials as specified in these sections:

| | |
|----------------------------------|------------|
| Asphalt Binder | 9-02.1(4) |
| Cationic Emulsified Asphalt | 9-02.1(6) |
| Anti-Stripping Additive | 9-02.4 |
| Warm Mix Asphalt Additive | 9-02.5 |
| Aggregates | 9-03.8 |
| Reclaimed Asphalt Pavement (RAP) | 9-03.8(3)B |
| Reclaimed Asphalt Shingles (RAS) | 9-03.8(3)B |
| Mineral Filler | 9-03.8(5) |
| Recycled Material | 9-03.21 |
| Hot Poured Sealant | 9-04.2(1)A |
| Sand Slurry | 9-04.2(1)B |

5-04.2(1) How to Get an HMA Mix Design on the QPL

Comply with each of the following:

- Develop the mix design in accordance with WSDOT SOP 732.
- Develop a mix design that complies with Sections 9-03.8(2) and 9-03.8(6).
- Develop a mix design no more than 6 months prior to submitting it for QPL evaluation.
- Submit mix designs to the WSDOT State Materials Laboratory in Tumwater, including WSDOT Form 350-042.
- Include representative samples of the materials that are to be used in the HMA production as part of the mix design submittal. See Section 5-04.2(1)A to determine when to include samples of RAP or RAS.
- Identify the brand, type, and percentage of anti-stripping additive in the mix design submittal.
- Include with the mix design submittal a certification from the asphalt binder supplier that the anti-stripping additive is compatible with the crude source and the formulation of asphalt binder proposed for use in the mix design.
- Do not include warm mix asphalt (WMA) additives when developing a mix design or submitting a mix design for QPL evaluation. The use of warm mix asphalt (WMA) additives is not part of the process for obtaining approval for listing a mix design on the QPL. Refer to Section 5-04.2(2)B.

The Contracting Agency’s basis for approving, testing, and evaluating HMA mix designs for approval on the QPL is dependent on the contractual basis for acceptance of the HMA mixture, as shown in Table 1.

Table 1

| Basis for Contracting Agency Evaluation of HMA Mix Designs for Approval on the QPL | | |
|---|---|---|
| Contractual Basis for Acceptance of HMA Mixture (see Section 5-04.3(9)) | Basis for Contracting Agency Approval of Mix Design for Placement on QPL | Contracting Agency Materials Testing for Evaluation of the Mix Design |
| Statistical Evaluation, or Nonstatistical Evaluation | WSDOT Standard Practice QC-8 | The Contracting Agency will test the mix design materials for compliance with Sections 9-03.8(2) and 9-03.8(6). |
| Visual Evaluation | Review of Form 350-042 for compliance with Sections 9-03.8(2) and 9-03.8(6) | The Contracting Agency may elect to test the mix design materials, or evaluate in accordance with WSDOT Standard Practice QC-8, at its sole discretion. |

If the Contracting Agency approves the mix design, it will be listed on the QPL for 12 consecutive months. The Contracting Agency may extend the 12 month listing provided the Contractor submits a certification letter to the Qualified Products Engineer verifying that the aggregate source and job mix formula (JMF) gradation, and asphalt binder crude source and formulation have not changed. The Contractor may submit the certification no sooner than one month prior to expiration of the initial 12 month mix design approval. Within 7 calendar days of receipt of the Contractor's certification, the Contracting Agency will update the QPL. The maximum duration for approval of a mix design and listing on the QPL will be 24 months from the date of initial approval or as approved by the Engineer.

5-04.2(1)A Mix Designs Containing RAP and/or RAS

Mix designs are classified by the RAP and/or RAS content as shown in Table 2.

Table 2

| Mix Design Classification Based on RAP/RAS Content | |
|---|---|
| RAP/RAS Classification | RAP/RAS Content¹ |
| Low RAP/No RAS | $0\% \leq \text{RAP}\% \leq 20\%$ and $\text{RAS}\% = 0\%$ |
| High RAP/Any RAS | $20\% < \text{RAP}\% \leq \text{Maximum Allowable RAP}^2$ and/or $0\% < \text{RAS}\% \leq \text{Maximum Allowable RAS}^2$ |

¹Percentages in this table are by total weight of HMA

²See Table 4 to determine the limits on the maximum amount RAP and/or RAS.

5-04.2(1)A1 Low RAP/No RAS – Mix Design Submittals for Placement on QPL

For Low RAP/No RAS mix designs, comply with the following additional requirements:

1. Develop the mix design without the inclusion of RAP.
2. The asphalt binder grade shall be the grade indicated in the Bid item name or as otherwise required by the Contract.
3. Do not submit samples of RAP with these mix designs.
4. Testing RAP or RAS stockpiles is not required for obtaining approval for placing these mix designs on the QPL.

5-04.2(1)A2 High RAP/Any RAS - Mix Design Submittals for Placement on QPL

For High RAP/Any RAS mix designs, comply with the following additional requirements:

1. For mix designs with any RAS, test the RAS stockpile (and RAP stockpile if any RAP is in the mix design) in accordance with Table 3.
2. For High RAP mix designs with no RAS, test the RAP stockpile in accordance with Table 3.
3. For mix designs with High RAP/Any RAS, construct a single stockpile for RAP and a single stockpile for RAS and isolate (sequester) these stockpiles from further stockpiling before beginning development of the mix design. Test the RAP and RAS during stockpile construction as required by item 1 and 2 above. Use the test data in developing the mix design, and report the test data to the Contracting Agency on WSDOT Form 350-042 as part of the mix design submittal for approval on the QPL. Account for the reduction in asphalt binder contributed from RAS in accordance with AASHTO PP 78. Do not add to these stockpiles after starting the mix design process.

Table 3

| Test Frequency of RAP/RAS During RAP/RAS Stockpile Construction For Approving a High RAP/Any RAS Mix Design for Placement on the QPL | | |
|---|--|--|
| Test Frequency ¹ | Test for | Test Method |
| <ul style="list-style-type: none"> • 1/1000 tons of RAP (minimum of 10 per mix design) and • 1/100 tons of RAS (minimum of 10 per mix design) | Asphalt Binder Content and Sieve Analysis of Fine and Coarse Aggregate | FOP for AASHTO T 308 and FOP for WAQTC T 27/T 11 |

¹“tons”, in this table, refers to tons of the reclaimed material before being incorporated into HMA.

4. Limit the amount of RAP and/or RAS used in a High RAP/Any RAS mix design by the amount of binder contributed by the RAP and/or RAS, in accordance with Table 4.

Table 4

| Maximum Amount of RAP and/or RAS in HMA Mixture | |
|--|------------------|
| Maximum Amount of Binder Contributed from: | |
| RAP | RAS |
| 40% ¹ minus contribution of binder from RAS | 20% ² |

¹ Calculated as the weight of asphalt binder contributed from the RAP as a percentage of the total weight of asphalt binder in the mixture.

² Calculated as the weight of asphalt binder contributed from the RAS as a percentage of the total weight of asphalt binder in the mixture.

5. Develop the mix design including RAP, RAS, recycling agent, and new binder.
6. Extract, recover, and test the asphalt residue from the RAP and RAS stockpiles to determine the percent of recycling agent and/or grade of new asphalt binder needed to meet but not exceed the performance grade (PG) of asphalt binder required by the Contract.
 - a. Perform the asphalt extraction in accordance with AASHTO T 164 or ASTM D 2172 using reagent grade trichloroethylene.
 - b. Perform the asphalt recovery in accordance with AASHTO R 59 or ASTM D 1856.
 - c. Test the recovered asphalt residue in accordance with AASHTO R 29 to determine the asphalt binder grade in accordance with Section 9-02.1(4).
 - d. After determining the recovered asphalt binder grade, determine the percent of recycling agent and/or grade of new asphalt binder in accordance with ASTM D 4887.
 - e. Test the final blend of recycling agent, binder recovered from the RAP and RAS, and new asphalt binder in accordance with AASHTO R 29. The final blended binder shall meet but not exceed the performance grade of asphalt binder required by the Contract and comply with the requirements of Section 9-02.1(4).
7. Include the following test data with the mix design submittal:
 - a. All test data from RAP and RAS stockpile construction.
 - b. All data from testing the recovered and blended asphalt binder.

8. Include representative samples of the following with the mix design submittal:
 - a. RAP and RAS.
 - b. 100 grams of recovered asphalt residue from the RAP and RAS that are to be used in the HMA production.

5-04.2(1)B Commercial HMA - Mix Design Submittal for Placement on QPL

For HMA used in the Bid item Commercial HMA, in addition to the requirements of 5-04.2(1) identify the following in the submittal:

1. Commercial HMA
2. Class of HMA
3. Performance grade of binder
4. Equivalent Single Axle Load (ESAL)

The Contracting Agency may elect to approve Commercial HMA mix designs without evaluation.

5-04.2(1)C Mix Design Resubmittal for QPL Approval

Develop a new mix design and resubmit for approval on the QPL when any of the following changes occur. When these occur, discontinue using the mix design until after it is reapproved on the QPL.

1. Change in the source of crude petroleum used in the asphalt binder.
2. Changes in the asphalt binder refining process.
3. Changes in additives or modifiers in the asphalt binder.
4. Changes in the anti-strip additive, brand, type or quantity.
5. Changes to the source of material for aggregate.
6. Changes to the job mix formula that exceed the amounts as described in item 2 of Section 9-03.8(7), unless otherwise approved by the Engineer.
7. Changes in the percentage of material from a stockpile, when such changes exceed 5% of the total aggregate weight.
 - a. Changes to the percentage of material from a stockpile will be calculated based on the total aggregate weight (not including the weight of RAP) for Low RAP/No RAS mix designs.
 - b. For High RAP/Any RAS mix designs, changes in the percentage of material from a stockpile will be based on total aggregate weight including the weight of RAP (and/or RAS when included in the mixture).

Prior to making any change in the amount of RAS in an approved mix design, notify the Engineer for determination of whether a new mix design is required, and obtain the Engineer's approval prior to implementing such changes.

5-04.2(2) Mix Design – Obtaining Project Approval

Use only mix designs listed on the Qualified Products List (QPL). Submit WSDOT Form 350-041 to the Engineer to request approval to use a mix design from the QPL. Changes to the job mix formula (JMF) that have been approved on other contracts may be included. The Engineer may reject a request to use a mix design if production of HMA using that mix design on any contract is not in compliance with Section 5-04.3(11)D, E, F, and G for mixture or compaction.

5-04.2(2)A Changes to the Job Mix Formula

The approved mix design obtained from the QPL will be considered the starting job mix formula (JMF) and shall be used as the initial basis for acceptance of HMA mixture, as detailed in Section 5-04.3(9).

During production the Contractor may request to adjust the JMF. Any adjustments to the JMF will require approval of the Engineer and shall be made in accordance with item 2 of Section 9-03.8(7). After approval by the Engineer, such adjusted JMF's shall constitute the basis for acceptance of the HMA mixture.

5-04.2(2)B Using Warm Mix Asphalt Processes

The Contractor may, at the Contractor's discretion, elect to use warm mix asphalt (WMA) processes for producing HMA. WMA processes include organic additives, chemical additives, and foaming. The use of WMA is subject to the following:

- Do not use WMA processes in the production of High RAP/Any RAS mixtures.
- Before using WMA processes, obtain the Engineer's approval using WSDOT Form 350-076 to describe the proposed WMA process.

5-04.3 Construction Requirements

5-04.3(1) Weather Limitations

Do not place HMA for wearing course on any Traveled Way beginning October 1st through March 31st of the following year, without written concurrence from the Engineer.

Do not place HMA on any wet surface, or when the average surface temperatures are less than those specified in Table 5, or when weather conditions otherwise prevent the proper handling or finishing of the HMA.

Table 5

| Minimum Surface Temperature for Paving | | |
|--|----------------|---------------|
| Compacted Thickness (Feet) | Wearing Course | Other Courses |
| Less than 0.10 | 55°F | 45°F |
| 0.10 to 0.20 | 45°F | 35°F |
| More than 0.20 | 35°F | 35°F |

5-04.3(2) Paving Under Traffic

These requirements apply when the Roadway being paved is open to traffic.

In hot weather, the Engineer may require the application of water to the pavement to accelerate the finish rolling of the pavement and to shorten the time required before reopening to traffic.

During paving operations, maintain temporary pavement markings throughout the project. Install temporary pavement markings on the Roadway prior to opening to traffic. Temporary pavement markings shall comply with Section 8-23.

5-04.3(3) Equipment

5-04.3(3)A Mixing Plant

Equip mixing plants as follows.

1. **Use tanks for storage and preparation of asphalt binder which:**
 - Heat the contents by means that do not allow flame to contact the contents or the tank, such as by steam or electricity.
 - Heat and hold contents at the required temperatures.
 - Continuously circulate contents to provide uniform temperature and consistency during the operating period.
 - Provide an asphalt binder sampling valve, in either the storage tank or the supply line to the mixer.
2. **Provide thermometric equipment:**
 - In the asphalt binder feed line near the charging valve at the mixer unit, capable of detecting temperature ranges expected in the HMA and in a location convenient and safe for access by Inspectors.
 - At the discharge chute of the drier to automatically register or indicate the temperature of the heated aggregates, and situated in full view of the plant operator.
3. **When heating asphalt binder:**
 - Do not exceed the maximum temperature of the asphalt binder recommended by the asphalt binder supplier.
 - Avoid local variations in heating.
 - Provide a continuous supply of asphalt binder to the mixer at a uniform average temperature with no individual variations exceeding 25°F.

4. **Provide a mechanical sampler for sampling mineral materials that:**
 - Meets the crushing or screening requirements of Section 1-05.6.
5. **Provide HMA sampling equipment that complies with WSDOT SOP T-168.**
 - Use a mechanical sampling device installed between the discharge of the silo and the truck transport, approved by the Engineer, or
 - Platforms or devices to enable sampling from the truck transport without entering the truck transport for sampling HMA.
6. **Provide for setup and operation of the Contracting Agency's field testing:**
 - As required in Section 3-01.2(2).
7. **Provide screens or a lump breaker:**
 - When using any RAP or any RAS, to eliminate oversize RAP or RAS particles from entering the pug mill or drum mixer.

5-04.3(3)B Hauling Equipment

Provide HMA hauling equipment with tight, clean, smooth metal beds and a cover of canvas or other suitable material of sufficient size to protect the HMA from adverse weather. Securely attach the cover to protect the HMA whenever the weather conditions during the work shift include, or are forecast to include, precipitation or an air temperature less than 45°F.

Prevent HMA from adhering to the hauling equipment. Spray metal beds with an environmentally benign release agent. Drain excess release agent prior to filling hauling equipment with HMA. Do not use petroleum derivatives or other coating material that contaminate or alter the characteristics of the HMA. For hopper trucks, operate the conveyer during the process of applying the release agent.

5-04.3(3)C Pavers

Use self-contained, power-propelled pavers provided with an internally heated vibratory screed that is capable of spreading and finishing courses of HMA in lane widths required by the paving section shown in the Plans.

When requested by the Engineer, provide written certification that the paver is equipped with the most current equipment available from the manufacturer for the prevention of segregation of the coarse aggregate particles. The certification shall list the make, model, and year of the paver and any equipment that has been retrofitted to the paver.

Operate the screed in accordance with the manufacturer's recommendations and in a manner to produce a finished surface of the required evenness and texture without tearing, shoving, segregating, or gouging the mixture. Provide a copy of

the manufacturer's recommendations upon request by the Contracting Agency. Extensions to the screed will be allowed provided they produce the same results, including ride, density, and surface texture as obtained by the primary screed. In the Travelled Way do not use extensions without both augers and an internally heated vibratory screed.

Equip the paver with automatic screed controls and sensors for either or both sides of the paver. The controls shall be capable of sensing grade from an outside reference line, sensing the transverse slope of the screed, and providing automatic signals that operate the screed to maintain the desired grade and transverse slope. Construct the sensor so it will operate from a reference line or a mat referencing device. The transverse slope controller shall be capable of maintaining the screed at the desired slope within plus or minus 0.1 percent.

Equip the paver with automatic feeder controls, properly adjusted to maintain a uniform depth of material ahead of the screed.

Manual operation of the screed is permitted in the construction of irregularly shaped and minor areas. These areas include, but are not limited to, gore areas, road approaches, tapers and left-turn channelizations.

When specified in the Contract, provide reference lines for vertical control. Place reference lines on both outer edges of the Traveled Way of each Roadway. Horizontal control utilizing the reference line is permitted. Automatically control the grade and slope of intermediate lanes by means of reference lines or a mat referencing device and a slope control device. When the finish of the grade prepared for paving is superior to the established tolerances and when, in the opinion of the Engineer, further improvement to the line, grade, cross-section, and smoothness can best be achieved without the use of the reference line, a mat referencing device may be substituted for the reference line. Substitution of the device will be subject to the continued approval of the Engineer. A joint matcher may be used subject to the approval of the Engineer. The reference line may be removed after completion of the first course of HMA when approved by the Engineer. Whenever the Engineer determines that any of these methods are failing to provide the necessary vertical control, the reference lines will be reinstalled by the Contractor.

Furnish and install all pins, brackets, tensioning devices, wire, and accessories necessary for satisfactory operation of the automatic control equipment.

If the paving machine in use is not providing the required finish, the Engineer may suspend Work as allowed by Section 1-08.6.

5-04.3(3)D Material Transfer Device or Material Transfer Vehicle

Use a material transfer device (MTD) or material transfer vehicle (MTV) to deliver the HMA from the hauling equipment to the paving machine for any lift in (or partially in) the top 0.30 feet of the pavement section used in traffic lanes. However, an MTD/V is not required for HMA placed in irregularly shaped and minor areas such as tapers and turn lanes, or for HMA mixture that is accepted by Visual Evaluation. At the Contractor's request the Engineer may approve paving

without an MTD/V; the Engineer will determine if an equitable adjustment in cost or time is due. If a windrow elevator is used, the Engineer may limit the length of the windrow in urban areas or through intersections.

To be approved for use, an MTV:

1. Shall be a self-propelled vehicle, separate from the hauling vehicle or paver.
2. Shall not connected to the hauling vehicle or paver.
3. May accept HMA directly from the haul vehicle or pick up HMA from a windrow.
4. Shall mix the HMA after delivery by the hauling equipment and prior to placement into the paving machine.
5. Shall mix the HMA sufficiently to obtain a uniform temperature throughout the mixture.

To be approved for use, an MTD:

1. Shall be positively connected to the paver.
2. May accept HMA directly from the haul vehicle or pick up HMA from a windrow.
3. Shall mix the HMA after delivery by the hauling equipment and prior to placement into the paving machine.
4. Shall mix the HMA sufficiently to obtain a uniform temperature throughout the mixture.

5-04.3(3)E Rollers

Operate rollers in accordance with the manufacturer's recommendations. When requested by the Engineer, provide a Type 1 Working Drawing of the manufacturer's recommendation for the use of any roller planned for use on the project. Do not use rollers that crush aggregate, produce pickup or washboard, unevenly compact the surface, displace the mix, or produce other undesirable results.

5-04.3(4) Preparation of Existing Paved Surfaces

Before constructing HMA on an existing paved surface, the entire surface of the pavement shall be clean. Entirely remove all fatty asphalt patches, grease drippings, and other deleterious substances from the existing pavement to the satisfaction of the Engineer. Thoroughly clean all pavements or bituminous surfaces of dust, soil, pavement grindings, and other foreign matter. Thoroughly remove any cleaning or solvent type liquids used to clean equipment spilled on the pavement before paving proceeds. Fill all holes and small depressions with an appropriate class of HMA. Level and thoroughly compact the surface of the patched area.

Apply a uniform coat of asphalt (tack coat) to all paved surfaces on which any course of HMA is to be placed or abutted. Apply tack coat to cover the cleaned existing pavement with a thin film of residual asphalt free of streaks and bare spots. Apply a heavy application of tack coat to all joints. For Roadways open to traffic, limit the application of tack coat to surfaces that will be paved during the same working shift. Equip the spreading equipment with a thermometer to indicate the temperature of the tack coat material.

Do not operate equipment on tacked surfaces until the tack has broken and cured. Repair tack coat damaged by the Contractor's operation, prior to placement of the HMA.

Unless otherwise approved by the Engineer, use CSS-1, CSS-1h, or Performance Graded (PG) asphalt for tack coat. The CSS-1 and CSS-1h emulsified asphalt may be diluted with water at a rate not to exceed one part water to one part emulsified asphalt. Do not allow the tack coat material to exceed the maximum temperature recommended by the asphalt supplier.

When shown in the Plans, prelevel uneven or broken surfaces over which HMA is to be placed by using an asphalt paver, a motor patrol grader, or by hand raking, as approved by the Engineer.

5-04.3(4)A Crack Sealing

5-04.3(4)A1 General

When the Proposal includes a pay item for crack sealing, seal all cracks $\frac{1}{4}$ inch in width and greater.

Cleaning: Ensure that cracks are thoroughly clean, dry and free of all loose and foreign material when filling with crack sealant material. Use a hot compressed air lance to dry and warm the pavement surfaces within the crack immediately prior to filling a crack with the sealant material. Do not overheat pavement. Do not use direct flame dryers. Routing cracks is not required.

Sand Slurry: For cracks that are to be filled with sand slurry, thoroughly mix the components and pour the mixture into the cracks until full. Add additional CSS-1 emulsified asphalt to the sand slurry as needed for workability to ensure the mixture will completely fill the crack. Strike off the sand slurry flush with the existing pavement surface and allow the mixture to cure. Top off cracks that were not completely filled with additional sand slurry. Do not place the HMA overlay until the slurry has fully cured.

Hot Poured Sealant: For cracks that are to be filled with hot poured sealant, apply the material in accordance with these requirements and the manufacturer's recommendations. Furnish a Type 1 Working Drawing of the manufacturer's recommendations to the Engineer prior to the start of work, including the manufacturer's recommended heating time and temperatures, allowable storage time and temperatures after initial heating, allowable reheating criteria, and application temperature range. Confine hot poured

sealant material within the crack. Clean any overflow of sealant from the pavement surface. If, in the opinion of the Engineer, the Contractor's method of sealing the cracks with hot poured sealant results in an excessive amount of material on the pavement surface, stop and correct the operation to eliminate the excess material.

5-04.3(4)A2 Crack Sealing Areas Prior to Paving

In areas where HMA will be placed, use sand slurry to fill the cracks.

5-04.3(4)A3 Crack Sealing Areas Not to be Paved

In areas where HMA will not be placed, fill the cracks as follows:

1. Cracks ¼ inch to 1 inch in width - fill with hot poured sealant.
2. Cracks greater than 1 inch in width – fill with sand slurry.

5-04.3(4)B Soil Residual Herbicide

Where shown in the Plans, apply one application of an approved soil residual herbicide. Comply with Section 8-02.3(3)B. Complete paving within 48 hours of applying the herbicide.

Use herbicide registered with the Washington State Department of Agriculture for use under pavement. Before use, obtain the Engineer's approval of the herbicide and the proposed rate of application. Include the following information in the request for approval of the material:

1. Brand Name of the Material,
2. Manufacturer,
3. Environmental Protection Agency (EPA) Registration Number,
4. Material Safety Data Sheet, and
5. Proposed Rate of Application.

5-04.3(4)C Pavement Repair

Excavate pavement repair areas and backfill these with HMA in accordance with the details shown in the Plans and as staked. Conduct the excavation operations in a manner that will protect the pavement that is to remain. Repair pavement not designated to be removed that is damaged as a result of the Contractor's operations to the satisfaction of the Engineer at no cost to the Contracting Agency. Excavate only within one lane at a time unless approved otherwise by the Engineer. Do not excavate more area than can be completely backfilled and compacted during the same shift.

Unless otherwise shown in the Plans or determined by the Engineer, excavate to a depth of 1.0 feet. The Engineer will make the final determination of the excavation depth required.

The minimum width of any pavement repair area shall be 40 inches unless shown otherwise in the Plans. Before any excavation, sawcut the perimeter of the pavement area to be removed unless the pavement in the pavement repair area is to be removed by a pavement grinder.

Excavated materials shall be the property of the Contractor and shall be disposed of in a Contractor-provided site off the Right of Way or used in accordance with Sections 2-02.3(3) or 9-03.21.

Apply a heavy application of tack coat to all surfaces of existing pavement in the pavement repair area, in accordance with Section 5-04.3(4).

Place the HMA backfill in lifts not to exceed 0.35-foot compacted depth. Thoroughly compact each lift by a mechanical tamper or a roller.

5-04.3(5) Producing/Stockpiling Aggregates, RAP, & RAS

Produce aggregate in compliance with Section 3-01. Comply with Section 3-02 for preparing stockpile sites, stockpiling, and removing from stockpile each of the following: aggregates, RAP, and RAS. Provide sufficient storage space for each size of aggregate, RAP and RAS. Fine aggregate or RAP may be uniformly blended with the RAS as a method of preventing the agglomeration of RAS particles. Remove the aggregates, RAP and RAS from stockpile(s) in a manner that ensures minimal segregation when being moved to the HMA plant for processing into the final mixture. Keep different aggregate sizes separated until they have been delivered to the HMA plant.

5-04.3(5)A Stockpiling RAP or RAS for High RAP/Any RAS Mixes

Do not place any RAP or RAS into a stockpile which has been sequestered for a High RAP/Any RAS mix design. Do not incorporate any RAP or RAS into a High RAP/Any RAS mixture from any source other than the stockpile which was sequestered for approval of that particular High RAP/Any RAS mix design.

RAP that is used in a Low RAP/No RAS mix is not required to come from a sequestered stockpile.

5-04.3(6) Mixing

The asphalt supplier shall introduce anti-stripping additive, in the amount designated on the QPL for the mix design, into the asphalt binder prior to shipment to the asphalt mixing plant.

Anti-strip is not required for temporary work that will be removed prior to Physical Completion.

Use asphalt binder of the grade, and from the supplier, in the approved mix design.

Prior to introducing reclaimed materials into the asphalt plant, remove wire, nails, and other foreign material. Discontinue use of the reclaimed material if the Engineer, in their sole discretion, determines the wire, nails, or other foreign material to be excessive.

Size RAP and RAS prior to entering the mixer to provide uniform and thoroughly mixed HMA. If there is evidence of the RAP or RAS not breaking down during the

heating and mixing of the HMA, immediately suspend the use of the RAP or RAS until changes have been approved by the Engineer.

After the required amount of mineral materials, RAP, RAS, new asphalt binder and recycling agent have been introduced into the mixer, mix the HMA until complete and uniform coating of the particles and thorough distribution of the asphalt binder throughout the mineral materials, RAP and RAS is ensured.

Upon discharge from the mixer, ensure that the temperature of the HMA does not exceed the optimum mixing temperature shown on the approved Mix Design Report by more than 25°F, or as approved by the Engineer. When a WMA additive is included in the manufacture of HMA, do not heat the WMA additive (at any stage of production including in binder storage tanks) to a temperature higher than the maximum recommended by the manufacturer of the WMA additive.

A maximum water content of 2 percent in the mix, at discharge, will be allowed providing the water causes no problems with handling, stripping, or flushing. If the water in the HMA causes any of these problems, reduce the moisture content.

During the daily operation, HMA may be temporarily held in approved storage facilities. Do not incorporate HMA into the Work that has been held for more than 24 hours after mixing. Provide an easily readable, low bin-level indicator on the storage facility that indicates the amount of material in storage. Waste the HMA in storage when the top level of HMA drops below the top of the cone of the storage facility, except as the storage facility is being emptied at the end of the working shift. Dispose of rejected or waste HMA at no expense to the Contracting Agency.

5-04.3(7) Spreading and Finishing

Do not exceed the maximum nominal compacted depth of any layer in any course, as shown in Table 6, unless approved by the Engineer:

Table 6

| Maximum Nominal Compacted Depth of Any Layer | | |
|---|-----------------------|----------------------------------|
| HMA Class | Wearing Course | Other than Wearing Course |
| 1 inch | 0.35 feet | 0.35 feet |
| ¾ and ½ inch | 0.30 feet | 0.35 feet |
| ⅜ inch | 0.15 feet | 0.15 feet |

Use HMA pavers complying with Section 5-04.3(3) to distribute the mix. On areas where irregularities or unavoidable obstacles make the use of mechanical spreading and finishing equipment impractical, the paving may be done with other equipment or by hand.

When more than one JMF is being utilized to produce HMA, place the material produced for each JMF with separate spreading and compacting equipment. Do not intermingle HMA produced from more than one JMF. Each strip of HMA placed during a work shift shall conform to a single JMF established for the class of HMA specified unless there is a need to make an adjustment in the JMF.

5-04.3(8) Aggregate Acceptance Prior to Incorporation in HMA

Sample aggregate for meeting the requirements of Section 3-04 prior to being incorporated into HMA. (The acceptance data generated for the Section 3-04 acceptance analysis will not be commingled with the acceptance data generated for the Section 5-04.3(9) acceptance analysis.) Aggregate acceptance samples shall be taken as described in Section 3-04. Aggregate acceptance testing will be performed by the Contracting Agency. Aggregate contributed from RAP and/or RAS will not be evaluated under Section 3-04.

For aggregate that will be used in HMA mixture which will be accepted by either Statistical or Nonstatistical Evaluation, the Contracting Agency's acceptance of the aggregate will be based on:

1. Samples taken prior to mixing with asphalt binder, RAP, or RAS;
2. Testing for the materials properties of fracture, uncompacted void content, and sand equivalent;
3. Evaluation by the Contracting Agency in accordance with Section 3-04, including price adjustments as described therein.

For aggregate that will be used in HMA which will be accepted by Visual Evaluation, evaluation in accordance with items 1, 2, and 3 above is at the discretion of the Engineer.

5-04.3(9) HMA Mixture Acceptance

The Contracting Agency will evaluate HMA mixture for acceptance by one of three methods as determined from the criteria in Table 7.

Table 7

| Basis of Acceptance for HMA Mixture | | | |
|---|--|--|---|
| | Visual Evaluation | Nonstatistical Evaluation | Statistical Evaluation |
| Criteria for Selecting the Evaluation Method | <ul style="list-style-type: none"> • Commercial HMA placed at any location • Any HMA placed in: <ul style="list-style-type: none"> ○ sidewalks ○ road approaches ○ ditches ○ slopes ○ paths ○ trails ○ gores ○ prelevel ○ temporary pavement¹ ○ pavement repair • Other nonstructural applications of HMA as approved by the Engineer | <ul style="list-style-type: none"> • All HMA mixture of the same class and PG binder grade with a Proposal quantity less than 4,000 tons. (Exclude the tonnage of HMA mixture accepted by Visual Evaluation.) | <ul style="list-style-type: none"> • All HMA mixture other than that accepted by Visual or Nonstatistical Evaluation |

¹ Temporary pavement is HMA that will be removed before Physical Completion of the Contract.

5-04.3(9)A Mixture Acceptance – Test Section

This Section applies to HMA mixture accepted by Statistical Evaluation and mixture accepted by Nonstatistical Evaluation. A test section is not allowed for HMA accepted by Visual Evaluation.

The purpose of a test section is to determine, at the beginning of paving, whether or not the Contractor’s mix design and production processes will produce HMA meeting the Contract requirements related to mixture.

Use Table 8 to determine when a test section is required, optional, or not allowed, and to determine when test sections may end for an individual mix design. Each mix design will be evaluated independently for the test section requirements.

Construct HMA mixture test sections at the beginning of paving, using at least 600 tons and a maximum of 1,000 tons or as approved by the Engineer. Each test section shall be constructed in one continuous operation. Each test section shall be considered a lot. The mixture in each test section will be evaluated based on the criteria in Table 9 to determine if test sections for that mix design may stop.

If more than one test section is required, each test section shall be separately by the criteria in table 8 and 9.

Table 8

| Criteria for Conducting and Evaluating HMA Mix Texture Sections (For HMA Mixture Accepted by Statistical or Nonstatistical Evaluation) | | |
|--|---|---|
| | High RAP/Any RAS | Low RAP/No RAS |
| Is Mixture Test Section Optional or Mandatory? | Mandatory ¹ | At Contractor’s Option ³ |
| Waiting period after paving the test section. | 4 calendar days ² | 4 calendar days ² |
| What Must Happen to Stop Performing Test Sections? | Meet “Results Required to Stop Performing Test Sections” in Table 9 for High RAP/Any RAS. | Provide samples and respond to WSDOT test results required by Table 9 for Low RAP/No RAS. |

¹If a mix design has produced an acceptable test section on a previous contract (paved in the same calendar year, from the same plant, using the same JMF) the test section may be waived if approved by the Engineer.

²This is to provide time needed by the Contracting Agency to complete testing and the Contractor to adjust the mixture in response to those test results. Paving may resume when this is done.

³For HMA with Low RAP/No RAS, which is accepted by Nonstatistical Evaluation, a test section is not allowed.

Table 9

| Results Required to Stop Performing HMA Mixture Test Sections¹ (For HMA Mixture Accepted by Statistical or Nonstatistical Evaluation) | | |
|---|---|---|
| Test Property | Type of HMA | |
| | High RAP/Any RAS | Low RAP/No RAS |
| Gradation | Minimum PF_i of 0.95 based on the criteria in Section 5-04.3(9)B ² | None ⁴ |
| Asphalt Binder | Minimum PF_i of 0.95 based on the criteria in Section 5-04.3(9)B ² | None ⁴ |
| V_a | Minimum PF_i of 0.95 based on the criteria in Section 5-04.3(9)B ² | None ⁴ |
| Hamburg Wheel Track Indirect Tensile Strength | Meet requirements of Section 9-03.8(2). ³ | These tests will not be done as part of Test Section. |
| Sand Equivalent Uncompacted Void Content Fracture | Meet requirements of Section 9-03.8(2). ³ | None ³ |

¹In addition to the requirements of this table, acceptance of the HMA mixture used in each test section is subject to the acceptance criteria and price adjustments for Statistical Evaluation or Non-statistical Evaluation (see Table 7).

²Divide the test section lot into three sublots, approximately equal in size. Take one sample from each subplot, and test each sample for all of the properties in the first column.

³Take one sample for each test section lot. Test the sample for all of the properties in the first column.

⁴Divide the test section lot into three sublots, approximately equal in size. Take one sample from each subplot, and test each sample for all of the properties in the first column. There are no criteria for discontinuing test sections for these mixes; however, the contractor must comply with Section 5-04.3(11)F before resuming paving.

5-04.3(9)B Mixture Acceptance – Statistical Evaluation

5-04.3(9)B1 Mixture Statistical Evaluation – Lots and Sublots

HMA mixture which is accepted by Statistical Evaluation will be evaluated by the Contracting Agency dividing that HMA tonnage into mixture lots, and each mixture lot will be evaluated using stratified random sampling by the Contracting Agency sub-dividing each mixture lot into mixture sublots. All mixture in a mixture lot shall be of the same mix design. The mixture sublots will be numbered in the order in which the mixture (of a particular mix design) is paved.

Each mixture lot comprises a maximum of 15 mixture sublots, except:

- The final mixture lot of each mix design on the Contract will comprise a maximum of 25 sublots.
- A mixture lot for a test section, which will consist of the three sublots and corresponding test results used in evaluating the test section for gradation, asphalt binder, and Va.

Each mixture subplot shall be approximately uniform in size with the maximum mixture subplot size as specified in Table 10. The quantity of material represented by the final mixture subplot of the project, for each mix design on the project, may be increased to a maximum of two times the mixture subplot quantity calculated. Should a lot accepted by statistical evaluation contain fewer than three sublots, the HMA will be accepted in accordance with nonstatistical evaluation.

Table 10

| Maximum HMA Mixture Sublot Size For HMA Accepted by Statistical Evaluation | |
|---|---|
| HMA Original Plan Quantity (tons)¹ | Maximum Sublot Size (tons)² |
| < 20,000 | 1,000 |
| 20,000 to 30,000 | 1,500 |
| >30,000 | 2,000 |

¹ “Plan quantity” means the plan quantity of all HMA of the same class and binder grade which is accepted by Statistical Evaluation.

² The maximum subplot size for each combination of HMA class and binder grade shall be calculated separately.

- For a mixture lot in progress with a mixture CPF less than 0.75, a new mixture lot will begin at the Contractor’s request after the Engineer is satisfied that material conforming to the Specifications can be produced. See also Section 5-04.3(11)F.
- If, before completing a mixture lot, the Contractor requests a change to the JMF which is approved by the Engineer, the mixture produced in that lot after the approved change will be evaluated on the basis of the changed JMF, and the mixture produced in that lot before the approved change will be evaluated on the basis of the unchanged JMF; however, the mixture before and after the change will be evaluated in the same lot. Acceptance of subsequent mixture lots will be evaluated on the basis of the changed JMF.

5-04.3(9)B2 Mixture Statistical Evaluation – Sampling

Comply with Section 1-06.2(1).

Samples of HMA mixture which is accepted by Statistical Evaluation will be randomly selected from within each subplot, with one sample per

sublot. The Engineer will determine the random sample location using WSDOT Test Method T 716. The Contractor shall obtain the sample when ordered by the Engineer. The Contractor shall sample the HMA mixture in the presence of the Engineer and in accordance with FOP for WAQTC T 168.

5-04.3(9)B3 Mixture Statistical Evaluation – Acceptance Testing

Comply with Section 1-06.2(1).

The Contracting Agency will test the mixture sample from each sublot (including sublots in a test section) for the properties shown in Table 11.

Table 11

| Testing Required for each HMA Mixture Sublot | | |
|---|-------------------------|---------------------|
| Test | Procedure | Performed by |
| V _a | WSDOT SOP 731 | Engineer |
| Asphalt Binder Content | FOP for AASHTO T 308 | Engineer |
| Gradation: Percent Passing 1½", 1", ¾", ½", ⅜", No. 4, No. 8, No. 200 | FOP for WAQTC T 27/T 11 | Engineer |

The mixture samples and tests taken for the purpose of determining acceptance of the test section (as described in Section 5-04.3(9)A) shall also be used as the test results for acceptance of the mixture described in 5-04.3(9)B3, 5-04.3(9)B4, 5-04.3(9)B5, and 5-04.3(9)B6.

5-04.3(9)B4 Mixture Statistical Evaluation – Pay Factors

Comply with Section 1-06.2(2).

The Contracting Agency will determine a pay factor (PF_i) for each of the properties in Table 11, for each mixture lot, using the quality level analysis in Section 1-06.2(2)D. For Gradation, a pay factor will be calculated for each of the sieve sizes listed in Table 11 which is equal to or smaller than the maximum allowable aggregate size (100 percent passing sieve) of the HMA mixture. The USL and LSL shall be calculated using the Job Mix Formula Tolerances (for Statistical Evaluation) in Section 9-03.8(7).

If a constituent is not measured in accordance with these Specifications, its individual pay factor will be considered 1.00 in calculating the Composite Pay Factor (CPF).

5-04.3(9)B5 Mixture Statistical Evaluation – Composite Pay Factors (CPF)

Comply with Section 1-06.2(2).

In accordance with Section 1-06.2(2)D4, the Contracting Agency will determine a Composite Pay Factor (CPF) for each mixture lot from the pay factors calculated in Section 5-04.3(9)B4, using the price adjustment factors in Table 12. Unless otherwise specified, the maximum CPF for HMA mixture shall be 1.05.

Table 12

| HMA Mixture Price Adjustment Factors | |
|--|-------------------|
| Constituent | Factor "f" |
| All aggregate passing: 1½", 1", ¾", ½", ⅜" and No.4 sieves | 2 |
| All aggregate passing No. 8 sieve | 15 |
| All aggregate passing No. 200 sieve | 20 |
| Asphalt binder | 40 |
| Air Voids (V _a) | 20 |

5-04.3(9)B6 Mixture Statistical Evaluation – Price Adjustments

For each HMA mixture lot, a Job Mix Compliance Price Adjustment will be determined and applied, as follows:

$$JMCPA = [0.60 \times (CPF - 1.00)] \times Q \times UP$$

Where

- JMCPA = Job Mix Compliance Price Adjustment for a given lot of mixture (\$)
- CPF = Composite Pay factor for a given lot of mixture (maximum is 1.05)
- Q = Quantity in a given lot of mixture (tons)
- UP = Unit price of the HMA in a given lot of mixture (\$/ton)

5-04.3(9)B7 Mixture Statistical Evaluation – Retests

The Contractor may request that a mixture subplot be retested. To request a retest, submit a written request to the Contracting Agency within 7 calendar days after the specific test results have been posted to the website or emailed to the Contractor, whichever occurs first. The Contracting Agency will send a split of the original acceptance sample for testing by the Contracting Agency to either the Region Materials Laboratory or the State Materials Laboratory as determined by the Engineer. The Contracting Agency will not test the split of the sample with the same equipment or by the same tester that ran the original acceptance test. The sample will be tested for a complete gradation analysis, asphalt binder content, and V_a, and the results of the retest will be used for the acceptance of the HMA mixture in place of the original mixture subplot sample test results. The cost of testing will be deducted from any monies due or that may come due the Contractor under the Contract at the rate of \$250 per sample.

5-04.3(9)C Mixture Acceptance – Nonstatistical Evaluation

5-04.3(9)C1 Mixture Nonstatistical Evaluation – Lots, Sublots, Sampling, Test Section, Testing, Retests

For HMA mixture accepted by Nonstatistical Evaluation, comply with the requirements in Table 13:

Table 13

| Nonstatistical Evaluation | | |
|--|---------------------|--|
| Lots, Sublots, Sampling, Test Section, Testing, Retests | | |
| Comply with the Specifications Below | | Comply with the Requirements of the Section for: |
| Test Section | Section 5-04.3(9)A | Nonstatistical Evaluation |
| Lots and Sublots | Section 5-04.3(9)B1 | Statistical Evaluation |
| Sampling | Section 5-04.3(9)B2 | Statistical Evaluation |
| Acceptance Tests | Section 5-04.3(9)B3 | Statistical Evaluation |
| Retests | Section 5-04.3(9)B7 | Statistical Evaluation |

5-04.3(9)C2 Mixture Nonstatistical Evaluation - Acceptance

Each mixture lot of HMA produced under Nonstatistical Evaluation, for which all subplot acceptance test results (required by Table 13) fall within the Job Mix Formula Tolerances for Nonstatistical Evaluation in Section 9-03.8(7), will be accepted at the unit Contract price with no further evaluation.

5-04.3(9)C3 Mixture Nonstatistical Evaluation – Out of Tolerance Procedures

Each mixture lot of HMA produced under Nonstatistical Evaluation, for which any subplot acceptance test result (required by Table 13) falls outside of the Job Mix Formula Tolerances for Nonstatistical Evaluation in Section 9-03.8(7), shall be evaluated in accordance with Section 1-06.2 and Table 14 to determine a Job Mix Compliance Price Adjustment.

Table 14

| Nonstatistical Evaluation – Out of Tolerance Procedures | |
|--|---------------------|
| Comply with the Following ¹ | |
| Pay Factors ² | Section 5-04.3(9)B4 |
| Composite Pay Factors ³ | Section 5-04.3(9)B5 |
| Price Adjustments | Section 5-04.3(9)B6 |

¹When less than three mixture sublots exist, backup samples of the existing mixture sublots shall be tested to provide a minimum of three sets of results for evaluation. If enough backup samples are not available, the Contracting Agency will select core sample locations from the Roadway in accordance with WSDOT Test Method T 716, take cores from the roadway in accordance with WSDOT SOP 734, and test the cores in accordance with WSDOT SOP 737.

²The Nonstatistical Evaluation tolerance limits in Section 9-03.8(7) will be used in the calculation of the PF_i.

³The maximum CPF shall be 1.00.

5-04.3(9)D Mixture Acceptance – Visual Evaluation

Visual Evaluation of HMA mixture will be by visual inspection by the Engineer or, in the sole discretion of the Engineer, the Engineer may sample and test the mixture.

5-04.3(9)D1 Mixture Visual Evaluation – Lots, Sampling, Testing, Price Adjustments

HMA mixture accepted by Visual Evaluation will not be broken into lots unless the Engineer determines that testing is required. When that occurs, the Engineer will identify the limits of the questionable HMA mixture, and that questionable HMA mixture shall constitute a lot. Then, the Contractor will take samples from the truck, or the Engineer will take core samples from the roadway at a minimum of three random locations from within the lot, selected in accordance with WSDOT Test Method T 716, taken from the roadway in accordance with WSDOT SOP 734, and tested in accordance with WSDOT SOP 737. The Engineer will test one of the samples for all constituents in Section 5-04.3(9)B3. If all constituents from that test fall within the Job Mix Formula Tolerances (for Visual Evaluation) in Section 9-03.8(7), the lot will be accepted at the unit Contract price with no further evaluation.

When one or more constituents fall outside those tolerance limits, the other samples will be tested for all constituents in Section 5-04.3(9)B3, and a Job Mix Compliance Price Adjustment will be calculated in accordance with Table 15.

Table 15

| Visual Evaluation – Out of Tolerance Procedures | |
|--|---------------------|
| Comply with the Following | |
| Pay Factors ¹ | Section 5-04.3(9)B4 |
| Composite Pay Factors ² | Section 5-04.3(9)B5 |
| Price Adjustments | Section 5-04.3(9)B6 |

¹The Visual Evaluation tolerance limits in Section 9-03.8(7) will be used in the calculation of the PF_i.

²The maximum CPF shall be 1.00.

5-04.3(9)E Mixture Acceptance – Notification of Acceptance Test Results

The results of all mixture acceptance testing and the Composite Pay Factor (CPF) of the lot after three sublots have been tested will be available to the Contractor through The Contracting Agency’s website.

The Contracting Agency will endeavor to provide written notification (via email to the Contractor’s designee) of acceptance test results through its web-based materials testing system Statistical Analysis of Materials (SAM) within 24 hours of the sample being made available to the Contracting Agency. However, the Contractor agrees:

1. Quality control, defined as the system used by the Contractor to monitor, assess, and adjust its production processes to ensure that the final HMA mixture will meet the specified level of quality, is the sole responsibility of the Contractor.
2. The Contractor has no right to rely on any testing performed by the Contracting Agency, nor does the Contractor have any right to rely on timely notification by the Contracting Agency of the Contracting Agency’s test results (or statistical analysis thereof), for any part of quality control and/or for making changes or correction to any aspect of the HMA mixture.
3. The Contractor shall make no claim for untimely notification by the Contracting Agency of the Contracting Agency’s test results or statistical analysis.

5-04.3(10) HMA Compaction Acceptance

For all HMA, the Contractor shall comply with the General Compaction Requirements in Section 5-04.3(10)A. The Contracting Agency will evaluate all HMA for compaction compliance with one of the following - Statistical Evaluation, Visual Evaluation, or Test Point Evaluation - determined by the criteria in Table 16:

Table 16

| Criteria for Determining Method of Evaluation for HMA Compaction ¹ | | |
|---|--|--|
| Statistical Evaluation of HMA Compaction is Required For: | Visual Evaluation of HMA Compaction is Required For: | Test Point Evaluation of HMA Compaction is Required For: |
| <ul style="list-style-type: none"> • Any HMA for which the specified course thickness is greater than 0.10 feet, and the HMA is in: <ul style="list-style-type: none"> ○ traffic lanes, including but not limited to: <ul style="list-style-type: none"> • ramp lanes • truck climbing lanes • weaving lanes • speed change lanes | <ul style="list-style-type: none"> • “HMA for Preleveling...” • “HMA for Pavement Repair...” | <ul style="list-style-type: none"> • Any HMA not meeting the criteria for Statistical Evaluation or Visual Evaluation |

¹This table applies to all HMA, and shall be the sole basis for determining the acceptance method for compaction.

The Contracting Agency may, at its sole discretion, evaluate any HMA for compliance with the Cyclic Density requirements of Section 5-04.3(10)B.

5-04.3(10)A HMA Compaction – General Compaction Requirements

Immediately after the HMA has been spread and struck off, and after surface irregularities have been adjusted, thoroughly and uniformly compact the mix. The completed course shall be free from ridges, ruts, humps, depressions, objectionable marks, and irregularities and shall conform to the line, grade, and cross-section shown in the Plans. If necessary, alter the JMF in accordance with Section 9-03.8(7) to achieve desired results.

Compact the mix when it is in the proper condition so that no undue displacement, cracking, or shoving occurs. Compact areas inaccessible to large compaction equipment by mechanical or hand tampers. Remove HMA that becomes loose, broken, contaminated, shows an excess or deficiency of asphalt, or is in any way defective. Replace the removed material with new HMA, and compact it immediately to conform to the surrounding area.

The type of rollers to be used and their relative position in the compaction sequence shall generally be the Contractor’s option, provided the specified densities are attained. An exception shall be that pneumatic tired rollers shall be used for compaction of the wearing course beginning October 1st of any year through March 31st of the following year. Coverage with a steel wheel roller may precede pneumatic tired rolling. Unless otherwise approved by the Engineer, operate rollers in the static mode when the internal temperature of the mix is less than 175°F. Regardless of mix temperature, do not operate a roller in a mode that results in checking or cracking of the mat.

On bridge decks and on the five feet of roadway approach immediately adjacent to the end of bridge/back of pavement seat, operate rollers in static mode only.

5-04.3(10)B HMA Compaction – Cyclic Density

Low cyclic density areas are defined as spots or streaks in the pavement that are less than 90 percent of the theoretical maximum density. At the Engineer’s discretion, the Engineer may evaluate the HMA pavement for low cyclic density, and when doing so will follow WSDOT SOP 733. A \$500 Cyclic Density Price Adjustment will be assessed for any 500-foot section with two or more density readings below 90 percent of the theoretical maximum density.

5-04.3(10)C HMA Compaction Acceptance – Statistical Evaluation

HMA compaction which is accepted by Statistical Evaluation will be based on acceptance testing performed by the Contracting Agency, and statistical analysis of those acceptance tests results. This will result in a Compaction Price Adjustment.

5-04.3(10)C1 HMA Compaction Statistical Evaluation – Lots and Sublots

HMA compaction which is accepted by Statistical Evaluation will be evaluated by the Contracting Agency dividing the project into compaction lots, and each compaction lot will be evaluated using stratified random sampling by the Contracting Agency sub-dividing each compaction lot into compaction sublots. All mixture in any individual compaction lot shall be of the same mix design. The compaction sublots will be numbered in the order in which the mixture (of a particular mix design) is paved.

Each compaction lot comprises a maximum of 15 compaction sublots, except for the final compaction lot of each mix design on the Contract, which comprises a maximum of 25 sublots.

Each compaction subplot shall be uniform in size as shown in Table 17, except that the last compaction subplot of each day may be increased to a maximum of two times the compaction subplot quantity calculated. Minor variations in the size of any subplot shall not be cause to invalidate the associated test result.

Table 17

| HMA Compaction Sublot Size | |
|--|-------------------------------|
| HMA Original Plan Quantity (tons) ¹ | Compaction Sublot Size (tons) |
| <20,000 | 100 |
| 20,000 to 30,000 | 150 |
| >30,000 | 200 |

¹ In determining the plan quantity tonnage, do not include any tons accepted by test point evaluation.

The following will cause one compaction lot to end prematurely and a new compaction lot to begin:

- For a compaction lot in progress with a compaction CPF less than 0.75, a new compaction lot will begin at the Contractor’s request after the Engineer is satisfied that material conforming to the Specifications can be produced. See also Section 5-04.3(11)F.

5-04.3(10)C2 HMA Compaction Statistical Evaluation – Acceptance Testing

Comply with Section 1-06.2(1).

The location of HMA compaction acceptance tests will be randomly selected by the Contracting Agency from within each subplot, with one test per subplot. The Contracting Agency will determine the random sample location using WSDOT Test Method T 716.

Use Table 18 to determine compaction acceptance test procedures and to allocate compaction acceptance sampling and testing responsibilities between the Contractor and the Contracting Agency. Roadway cores shall be taken or nuclear density testing shall occur after completion of the finish rolling, prior to opening to traffic, and on the same day that the mix is placed.

Table 18

| HMA Compaction Acceptance Testing Procedures and Responsibilities | | | |
|--|--|--|--|
| | When Contract Includes Bid Item “Roadway Cores” | When Contract Does Not Include Bid Item “Roadway Cores” | |
| Basis for Test: | Roadway Cores | Roadway Cores ³ | Nuclear Density Gauge ³ |
| In-Place Density Determined by: | Contractor shall take cores ¹ using WSDOT SOP 734 ² Contracting Agency will determine core density using FOP for AASHTO T 166 | Contracting Agency will take cores ¹ using WSDOT SOP 734 Contracting Agency will determine core density using FOP for AASHTO T 166 | Contracting Agency, using FOP for WAQTC TM 8 |

Table 18

| HMA Compaction Acceptance Testing Procedures and Responsibilities | | | |
|--|---|---|--|
| | When Contract Includes Bid Item "Roadway Cores" | When Contract Does Not Include Bid Item "Roadway Cores" | |
| Theoretical Maximum Density Determined by: | Contracting Agency, using FOP for AASHTO T 209 | | |
| Rolling Average of Theoretical Maximum Densities Determined by: | Contracting Agency, using WSDOT SOP 729 | | |
| Percent Compaction in Each Sublot Determined by: | Contracting Agency, using WSDOT SOP 736 | Contracting Agency, using WSDOT SOP 736 | Contracting Agency, using FOP for WAQTC TM 8 |

¹The core diameter shall be 4-inches unless otherwise approved by the Engineer.

²The Contractor shall take the core samples in the presence of the Engineer, at locations designated by the Engineer, and deliver the core samples to the Contracting Agency.

³The Contracting Agency will determine, in its sole discretion, whether it will take cores or use the nuclear density gauge to determine in-place density. Exclusive reliance on cores for density acceptance is generally intended for small paving projects and is not intended as a replacement for nuclear gauge density testing on typical projects.

When using the nuclear density gauge for acceptance testing of pavement density, the Engineer will follow WSDOT SOP 730 for correlating the nuclear gauge with HMA cores. When cores are required for the correlation, coring and testing will be by the Contracting Agency. When a core is taken for gauge correlation at the location of a sublot, the relative density of the core will be used for the sublot test result and is exempt from retesting.

5-04.3(10)C3 HMA Statistical Compaction – Price Adjustments

For each HMA compaction lot (that is accepted by Statistical Evaluation) which has less than three compaction sublots, for which all compaction sublots attain a minimum of 91 percent compaction determined in accordance with FOP for WAQTC TM 8 (or WSDOT SOP 736 when provided by the Contract), the HMA will be accepted at the unit Contract price with no further evaluation.

For each HMA compaction lot (that is accepted by Statistical Evaluation) which does not meet the criteria in the preceding paragraph, the compaction lot shall be evaluated in accordance with Section 1-06.2(2) to determine the appropriate Compaction Price Adjustment (CPA). All of the test results obtained from the acceptance samples from a given compaction lot shall be evaluated collectively. Additional testing by either a nuclear density gauge or cores will be completed as required to provide a minimum of three tests for evaluation.

For the statistical analysis in Section 1-06.2, use the following values:

x = Percent compaction of each subplot
USL = 100
LSL = 91

Each CPA will be determined as follows:

$$CPA = [0.40 \times (CPF - 1.00)] \times Q \times UP$$

Where

CPA = Compaction Price Adjustment for the compaction lot (\$)
CPF = Composite Pay Factor for the compaction lot (maximum is 1.05)
Q = Quantity in the compaction lot (tons)
UP = Unit price of the HMA in the compaction lot (\$/ton)

5-04.3(10)C4 HMA Statistical Compaction – Requests for Retesting

For a compaction subplot that has been tested with a nuclear density gauge that did not meet the minimum of 91 percent of the theoretical maximum density in a compaction lot with a CPF below 1.00 and thus subject to a price reduction or rejection, the Contractor may request that a core, taken at the same location as the nuclear density test, be used for determination of the relative density of the compaction subplot. The relative density of the core will replace the relative density determined by the nuclear density gauge for the compaction subplot and will be used for calculation of the CPF and acceptance of HMA compaction lot. When cores are taken by the Contracting Agency at the request of the Contractor, they shall be requested by noon of the next workday after the test results for the compaction subplot have been provided or made available to the Contractor. Traffic control shall be provided by the Contractor as requested by the Engineer. Failure by the Contractor to provide the requested traffic control will result in forfeiture of the request for retesting. When the CPF for the compaction lot based on the results of the cores is less than 1.00, the Contracting Agency will deduct the cost for the coring from any monies due or that may become due the Contractor under the Contract at the rate of \$200 per core and the Contractor shall pay for the cost of the traffic control.

5-04.3(10)D HMA Compaction – Visual Evaluation

Visual Evaluation will be the basis of acceptance for compaction of the Bid items “HMA for Pavement Repair Cl. ___ PG ___” and “HMA for Prelevelling Class ___ PG ___”. This HMA shall be thoroughly compacted to the satisfaction of the Engineer. HMA that is used to prelevel wheel ruts shall be compacted with a pneumatic tire roller.

5-04.3(10)E HMA Compaction – Test Point Evaluation

When compaction acceptance is by Test Point Evaluation, compact HMA based on a test point evaluation of the compaction train. Perform the test point evaluation in accordance with instructions from the Engineer. The number of passes with an approved compaction train, required to attain the maximum test point density, shall be used on all subsequent paving.

5-04.3(10)F HMA Compaction Acceptance – Notification of Acceptance Test Results

The obligations and responsibilities for notifying the Contractor of compaction acceptance test results are the same as for mixture acceptance test results. See Section 5-04.3(9)E.

5-04.3(11) Reject Work

This Section applies to HMA and all requirements related to HMA (except aggregates prior to being incorporated into HMA). For rejection of aggregate prior to its incorporation into HMA refer to Section 3-04.

5-04.3(11)A Reject Work – General

Work that is defective or does not conform to Contract requirements shall be rejected.

5-04.3(11)B Rejection by Contractor

The Contractor may, prior to acceptance sampling and testing, elect to remove any defective material and replace it with new material. Any such new material will be sampled, tested, and evaluated for acceptance.

5-04.3(11)C Rejection Without Testing (Mixture or Compaction)

The Engineer may, without sampling, reject any batch, load, or section of Roadway that appears defective. Material rejected before placement shall not be incorporated into the pavement.

No payment will be made for the rejected materials or the removal of the materials unless the Contractor requests the rejected material to be tested. If the Contractor requests testing, acceptance will be by Statistical Evaluation, and a minimum of three samples will be obtained and tested. When uncompacted material is required for testing but not available, the Engineer will determine random sample locations on the roadway in accordance with WSDOT Test Method T 716, take cores in accordance with WSDOT SOP 734, and test the cores in accordance with WSDOT SOP 737.

If the CPF for the rejected material is less than 0.75, no payment will be made for the rejected material; in addition, the cost of sampling and testing shall be

borne by the Contractor. If the CPF is greater than or equal to 0.75, the cost of sampling and testing will be borne by the Contracting Agency. If the material is rejected before placement and the CPF is greater than or equal to 0.75, compensation for the rejected material will be at a CPF of 0.75. If rejection occurs after placement and the CPF is greater than or equal to 0.75, compensation for the rejected material will be at the calculated CPF with an addition of 25 percent of the unit Contract price added for the cost of removal and disposal.

5-04.3(11)D Rejection – A Partial Sublot (Mixture or Compaction)

In addition to the random acceptance sampling and testing, the Engineer may also isolate from a mixture or compaction sublot any material that is suspected of being defective in relative density, gradation or asphalt binder content. Such isolated material will not include an original sample location. The Contracting Agency will obtain a minimum of three random samples of the suspect material and perform the testing. When uncompacted material is required for testing but is not available, the Engineer will select random sample locations on the roadway in accordance with WSDOT Test Method T 716, take cores samples in accordance with WSDOT SOP 734, and test the material in accordance with WSDOT SOP 737. The material will then be statistically evaluated as an independent lot in accordance with Section 1-06.2(2).

5-04.3(11)E Rejection – An Entire Sublot (Mixture or Compaction)

An entire mixture or compaction sublot that is suspected of being defective may be rejected. When this occurs, a minimum of two additional random samples from this sublot will be obtained. When uncompacted material is required for the additional samples but the material has been compacted, the Contracting Agency will take and test cores from the roadway as described in Section 5-04.3(11)D. The additional samples and the original sublot will be evaluated as an independent lot in accordance with Section 1-06.2(2).

5-04.3(11)F Rejection - A Lot in Progress (Mixture or Compaction)

The Contractor shall shut down operations and shall not resume HMA placement until such time as the Engineer is satisfied that material conforming to the Specifications can be produced when:

1. the Composite Pay Factor (CPF) of a mixture or compaction lot in progress drops below 1.00 and the Contractor is taking no corrective action, or
2. the Pay Factor (PF_i) for any constituent of a mixture or compaction lot in progress drops below 0.95 and the Contractor is taking no corrective action, or
3. either the PF_i for any constituent (or the CPF) of a mixture or compaction lot in progress is less than 0.75.

5-04.3(11)G Rejection – An Entire Lot (Mixture or Compaction)

An entire lot with a CPF of less than 0.75 will be rejected.

5-04.3(12) Joints

5-04.3(12)A Transverse Joints

Conduct operations such that placement of the top or wearing course is a continuous operation or as close to continuous as possible. Unscheduled transverse joints will be allowed, but the roller may pass over the unprotected end of the freshly laid HMA only when the placement of the course is discontinued for such a length of time that the HMA will cool below compaction temperature. When the Work is resumed, cut back the previously compacted HMA to produce a slightly beveled edge for the full thickness of the course.

Construct a temporary wedge of HMA on a 50H:1V where a transverse joint as a result of paving or planing is open to traffic. Separate the HMA in the temporary wedge from the permanent HMA upon which it is placed by strips of heavy wrapping paper or other methods approved by the Engineer. Remove the wrapping paper and trim the joint to a slightly beveled edge for the full thickness of the course prior to resumption of paving.

Waste the material that is cut away and place new HMA against the cut. Use rollers or tamping irons to seal the joint.

5-04.3(12)B Longitudinal Joints

Offset the longitudinal joint in any one course from the course immediately below by not more than 6 inches nor less than 2 inches. Locate all longitudinal joints constructed in the wearing course at a lane line or an edge line of the Traveled Way. Construct a notched wedge joint along all longitudinal joints in the wearing surface of new HMA unless otherwise approved by the Engineer. The notched wedge joint shall have a vertical edge of not less than the maximum aggregate size nor more than $\frac{1}{2}$ of the compacted lift thickness, and then taper down on a slope not steeper than 4H:1V. Uniformly compact the sloped portion of the HMA notched wedge joint.

On one-lane ramps a longitudinal joint may be constructed at the center of the traffic lane, subject to approval by the Engineer, if:

1. The ramp must remain open to traffic, or
2. The ramp is closed to traffic and a hot-lap joint is constructed.
 - a. Two paving machines shall be used to construct the hot-lap joint.
 - b. The pavement within 6 inches of the hot-lap joint will not be excluded from random location selection for compaction testing.
 - c. Construction equipment other than rollers shall not operate on any uncompacted HMA.

When HMA is placed adjacent to cement concrete pavement, construct longitudinal joints between the HMA and the cement concrete pavement. Saw the joint to the dimensions shown on Standard Plan A-40.10 and fill with joint sealant meeting the requirements of Section 9-04.2.

5-04.3(13) Surface Smoothness

The completed surface of all courses shall be of uniform texture, smooth, uniform as to crown and grade, and free from defects of all kinds. The completed surface of the wearing course shall not vary more than $\frac{1}{8}$ inch from the lower edge of a 10-foot straightedge placed on the surface parallel to the centerline. The transverse slope of the completed surface of the wearing course shall vary not more than $\frac{1}{4}$ inch in 10 feet from the rate of transverse slope shown in the Plans.

When deviations in excess of the above tolerances are found that result from a high place in the HMA, correct the pavement surface by one of the following methods:

1. Remove material from high places by grinding with an approved grinding machine, or
2. Remove and replace the wearing course of HMA, or
3. By other method approved by the Engineer.

Correct defects until there are no deviations anywhere greater than the allowable tolerances.

Deviations in excess of the above tolerances that result from a low place in the HMA and deviations resulting from a high place where corrective action, in the opinion of the Engineer, will not produce satisfactory results will be accepted with a price adjustment. The Engineer shall deduct from monies due or that may become due to the Contractor the sum of \$500.00 for each and every section of single traffic lane 100 feet in length in which any excessive deviations described above are found.

When portland cement concrete pavement is to be placed on HMA, the surface tolerance of the HMA shall be such that no surface elevation lies above the Plan grade minus the specified Plan depth of portland cement concrete pavement. Prior to placing the portland cement concrete pavement, bring any such irregularities to the required tolerance by grinding or other means approved by the Engineer.

When utility appurtenances such as manhole covers and valve boxes are located in the Traveled Way, pave the Roadway before the utility appurtenances are adjusted to the finished grade.

5-04.3(14) Planing Bituminous Pavement

Plane in such a manner that the underlying pavement is not torn, broken, or otherwise damaged by the planing operation. Delamination or raveling of the underlying pavement will not be construed as damage due to the Contractor's

operations. Pavement outside the limits shown in the Plans or designated by the Engineer that is damaged by the Contractor's operations shall be repaired to the satisfaction of the Engineer at no additional cost to the Contracting Agency.

For mainline planing operations, use equipment with automatic controls and with sensors for either or both sides of the equipment. The controls shall be capable of sensing the grade from an outside reference line, or a mat-referencing device. The automatic controls shall have a transverse slope controller capable of maintaining the mandrel at the desired transverse slope (expressed as a percentage) within plus or minus 0.1 percent.

Remove all loose debris from the planed surface before opening the planed surface to traffic. The planings and other debris resulting from the planing operation shall become the property of the Contractor and be disposed of in accordance with Section 2-03.3(7)C, or as otherwise allowed by the Contract.

5-04.3(15) Sealing Pavement Surfaces

Apply a fog seal where shown in the Plans. Construct the fog seal in accordance with Section 5-02.3. Unless otherwise approved by the Engineer, apply the fog seal prior to opening to traffic.

5-04.3(16) HMA Road Approaches

Construct HMA approaches at the locations shown in the Plans or where staked by the Engineer, in accordance with Section 5-04.

5-04.4 Measurement

HMA Cl. ___ PG ___, HMA for ___ Cl. ___ PG ___, and Commercial HMA will be measured by the ton in accordance with Section 1-09.2, with no deduction being made for the weight of asphalt binder, mineral filler, or any other component of the HMA. If the Contractor elects to remove and replace HMA as allowed by Section 5-04.3(11), the material removed will not be measured.

Roadway cores will be measured per each for the number of cores taken.

Crack Sealing-LF will be measured by the linear foot along the line of the crack.

Soil residual herbicide will be measured by the mile for the stated width to the nearest 0.01 mile or by the square yard, whichever is designated in the Proposal.

Pavement repair excavation will be measured by the square yard of surface marked prior to excavation.

Asphalt for fog seal will be measured by the ton, as provided in Section 5-02.4.

Longitudinal joint seals between the HMA and cement concrete pavement will be measured by the linear foot along the line and slope of the completed joint seal.

Planing bituminous pavement will be measured by the square yard.

Temporary pavement marking will be measured by the linear foot as provided in Section 8-23.4.

Water will be measured by the M gallon as provided in Section 2-07.4.

5-04.5 Payment

Payment will be made for each of the following Bid items that are included in the Proposal:

“HMA Cl. ____ PG ____”, per ton.

“HMA for Approach Cl. ____ PG ____”, per ton.

“HMA for Preleveling Cl. ____ PG ____”, per ton.

“HMA for Pavement Repair Cl. ____ PG ____”, per ton.

“Commercial HMA”, per ton.

The unit Contract price per ton for “HMA Cl. ____ PG ____”, “HMA for Approach Cl. ____ PG ____”, “HMA for Preleveling Cl. ____ PG ____”, “HMA for Pavement Repair Cl. ____ PG ____”, and “Commercial HMA” shall be full compensation for all costs, including anti-stripping additive, incurred to carry out the requirements of Section 5-04 except for those costs included in other items which are included in this Subsection and which are included in the Proposal.

“Crack Sealing-FA”, by force account.

“Crack Sealing-FA” will be paid for by force account as specified in Section 1-09.6. For the purpose of providing a common Proposal for all Bidders, the Contracting Agency has entered an amount in the Proposal to become a part of the total Bid by the Contractor.

“Crack Sealing-LF”, per linear foot.

The unit Contract price per linear foot for “Crack Sealing-LF” shall be full payment for all costs incurred to perform the Work described in Section 5-04.3(4)A.

“Soil Residual Herbicide ____ ft. Wide”, per mile, or

“Soil Residual Herbicide”, per square yard.

The unit Contract price per mile or per square yard for “Soil Residual Herbicide” shall be full payment for all costs incurred to obtain, provide and install herbicide in accordance with Section 5-04.3(4)B.

“Pavement Repair Excavation Incl. Haul”, per square yard.

The unit Contract price per square yard for “Pavement Repair Excavation Incl. Haul” shall be full payment for all costs incurred to perform the Work described in Section 5-04.3(4)C with the exception, however, that all costs involved in the placement of HMA shall be included in the unit Contract price per ton for “HMA for Pavement Repair Cl. ____ PG ____”, per ton.

“Asphalt for Fog Seal”, per ton.

Payment for “Asphalt for Fog Seal” is described in Section 5-02.5.

“Longitudinal Joint Seal”, per linear foot.

The unit Contract price per linear foot for “Longitudinal Joint Seal” shall be full payment for all costs incurred to construct the longitudinal joint between HMA and cement concrete pavement, as described in Section 5-04.3(12)B.

“Planing Bituminous Pavement”, per square yard.
The unit Contract price per square yard for “Planing Bituminous Pavement” shall be full payment for all costs incurred to perform the Work described in Section 5-04.3(14).

“Temporary Pavement Marking”, per linear foot.
Payment for “Temporary Pavement Marking” is described in Section 8-23.5.

“Water”, per M gallon.
Payment for “Water” is described in Section 2-07.5.

“Job Mix Compliance Price Adjustment”, by calculation.
“Job Mix Compliance Price Adjustment” will be calculated and paid for as described in Section 5-04.3(9)B6, 5-04.3(9)C3, and 5-04.3(9)D1.

“Compaction Price Adjustment”, by calculation.
“Compaction Price Adjustment” will be calculated and paid for as described in Section 5-04.3(10)C3.

“Roadway Core”, per each.
The Contractor’s costs for all other Work associated with the coring (e.g., traffic control) shall be incidental and included within the unit Bid price per each and no additional payments will be made.

“Cyclic Density Price Adjustment”, by calculation.
“Cyclic Density Price Adjustment” will be calculated and paid for as described in Section 5-04.3(10)B.

6-02.AP6

Section 6-02, Concrete Structures April 4, 2016

6-02.3(2)A Contractor Mix Design

The following new sentence is inserted after the first sentence of the third paragraph:

The mix design submittal shall also include test results no older than one year showing that the Aggregates do not contain Deleterious Substances in accordance with Section 9-03.

6-02.3(2)A1 Contractor Mix Design for Concrete Class 4000D

The following new sentence is inserted after the second sentence of the last paragraph:

Mix designs using shrinkage reducing admixture shall state the specific quantity required.

The following new sentence is inserted before the last sentence of the last paragraph:

Testing samples of mixes using shrinkage reducing admixture shall use the admixture amount specified in the mix design submittal.

6-02.3(2)B Commercial Concrete

The last sentence of the first paragraph is revised to read:

Commercial concrete does not require mix design or source approvals for cement, aggregate, and other admixtures.

6-02.3(26)D2 Test Block Dimensions

The first sentence is revised to read:

The dimensions of the test block perpendicular to the tendon in each direction shall be the smaller of twice the minimum edge distance or the minimum spacing specified by the special anchorage device manufacturer, with the stipulation that the concrete cover over any confining reinforcing steel or supplementary skin reinforcement shall be appropriate for the project-specific application and circumstances.

6-02.3(27)A Use of Self-Consolidating Concrete for Precast Units

Item number 2 of the first paragraph is revised to read:

2. Precast reinforced concrete three-sided structures, box culverts and split box culverts in accordance with Section 7-02.3(6).

6-09.AP6

Section 6-09, Modified Concrete Overlays April 4, 2016

6-09.3(8)A Quality Assurance for Microsilica Modified and Fly Ash Modified Concrete Overlays

The first sentence of the first paragraph is revised to read the following two new sentences:

The Engineer will perform slump, temperature, and entrained air tests for acceptance in accordance with Section 6-02.3(5)D and as specified in this Section after the Contractor has turned over the concrete for acceptance testing. Concrete samples for testing shall be supplied to the Engineer in accordance with Section 6-02.3(5)E.

The last paragraph is deleted.

6-09.3(8)B Quality Assurance for Latex Modified Concrete Overlays

The first two paragraphs are deleted and replaced with the following:

The Engineer will perform slump, temperature, and entrained air tests for acceptance in accordance with Section 6-02.3(5)D and as specified in this Section after the Contractor has turned over the concrete for acceptance testing. The Engineer will perform testing as

the concrete is being placed. Samples shall be taken on the first charge through each mobile mixer and every other charge thereafter. The sample shall be taken after the first 2 minutes of continuous mixer operation. Concrete samples for testing shall be supplied to the Engineer in accordance with Section 6-02.3(5)E.

The second to last sentence of the last paragraph is revised to read:

Recommendations made by the technical representative on or off the jobsite shall be adhered to by the Contractor.

6-14.AP6

Section 6-14, Geosynthetic Retaining Walls January 4, 2016

6-14.5 Payment

The bid item "Concrete Fascia Panel", per square foot, and the paragraph following this bid item are revised to read:

"Concrete Fascia Panel For Geosynthetic Wall", per square foot.

All costs in connection with constructing the concrete fascia panels as specified shall be included in the unit Contract price per square foot for "Concrete Fascia Panel For Geosynthetic Wall", including all steel reinforcing bars, premolded joint filler, polyethylene bond breaker strip, joint sealant, PVC pipe for weep holes, exterior surface finish, and pigmented sealer (when specified), constructing and placing the concrete footing, edge beam, anchor beam, anchor rod assembly, and backfill.

6-19.AP6

Section 6-19, Shafts January 4, 2016

6-19.4 Measurement

The first paragraph is revised to read:

Soil excavation for shaft, including haul, will be measured by the cubic yards of shaft excavated. The cubic yards will be computed using the shaft diameter, top of shaft elevation and bottom of shaft elevation shown in the Plans, less all rock excavation measured as specified for rock excavation. Excavation between the existing ground line and the top of shaft elevation is considered incidental to soil excavation for shaft and will not be measured.

The second paragraph is deleted.

6-19.5 Payment

The paragraph following the bid item “Soil Excavation For Shaft Including Haul”, per cubic yard is revised to read:

The unit Contract price per cubic yard for “Soil Excavation For Shaft Including Haul” shall be full pay for performing the work as specified, including all costs in connection with furnishing, mixing, placing, maintaining, containing, collecting, and disposing of all mineral, synthetic, and water slurry, and disposing of groundwater collected by the shaft excavation, and the incidental excavation of soils between the top of shaft elevation shown in the Plans and the existing ground line.

8-01.AP8

Section 8-01, Erosion Control and Water Pollution Control April 4, 2016

8-01.2 Materials

This section is supplemented with the following new paragraph:

Recycled concrete, in any form, shall not be used for any Work defined in Section 8-01.

8-01.3(8) Street Cleaning

This section is revised to read:

Self-propelled street sweepers shall be used to remove and collect sediment and other debris from the Roadway, whenever required by the Engineer. The street sweeper shall effectively collect these materials and prevent them from being washed or blown off the Roadway or into waters of the State. Street sweepers shall not generate fugitive dust and shall be designed and operated in compliance with applicable air quality standards.

Material collected by the street sweeper shall be disposed of in accordance with Section 2-03.3(7)C.

Street washing with water will require the concurrence of the Engineer.

8-10.AP8

Section 8-10, Guide Posts January 4, 2016

8-10.3 Construction Requirements

The last sentence of the second paragraph is deleted.

8-20.AP8

Section 8-20, Illumination, Traffic Signal Systems, Intelligent Transportation Systems, and Electrical April 4, 2016

8-20.3(5)A General

The last paragraph is revised to read:

Immediately after the sizing mandrel has been pulled through, install an equipment grounding conductor if applicable (see Section 8-20.3(9)) and any new or existing wire or cable as specified in the Plans. Where conduit is installed for future use, install a 200-pound minimum tensile strength pull string with the equipment grounding conductor. The pull string shall be attached to duct plugs or caps at both ends of the conduit.

8-20.3(5)A1 Fiber Optic Conduit

The last paragraph is deleted.

8-20.3(5)D Conduit Placement

Item number 2 is revised to read:

2. 24-inches below the top of the untreated surfacing on a Roadbed.

8-20.3(9) Bonding, Grounding

The following two new paragraphs are inserted after the first paragraph:

Install an equipment grounding conductor in all new conduit, whether or not the equipment grounding conductor is called for in the wire schedule.

For each new conduit with innerduct install an equipment grounding conductor in only one of the innerducts unless otherwise required by the NEC or the Plans.

The fourth paragraph (after the preceding Amendments are applied) is revised to read:

Bonding jumpers and equipment grounding conductors meeting the requirements of Section 9-29.3(2)A3 shall be minimum #8 AWG, installed in accordance with the NEC. Where existing conduits are used for the installation of new circuits, an equipment grounding conductor shall be installed unless an existing equipment ground conductor, which is appropriate for the largest circuit, is already present in the existing raceway. The equipment ground conductor between the isolation switch and the sign lighter fixtures shall be minimum #14 AWG stranded copper conductor. Where parallel circuits are enclosed in a common conduit, the equipment-grounding conductor shall be sized by the largest overcurrent device serving any circuit contained within the conduit.

The second sentence of the fifth paragraph (after the preceding Amendments are applied) is revised to read:

A non-insulated stranded copper conductor, minimum #8 AWG with a full circle crimp on connector (crimped with a manufacturer recommended crimper) shall be connected to the

junction box frame or frame bonding stud, the other end shall be crimped to the equipment bonding conductor, using a “C” type crimp connector.

The last two sentences of the sixth paragraph (after the preceding Amendments are applied) are revised to read:

For light standards, signal standards, cantilever and sign bridge Structures the supplemental grounding conductor shall be #4 AWG non-insulated stranded copper conductor. For steel sign posts which support signs with sign lighting or flashing beacons the supplemental grounding conductor shall be #6 AWG non insulated stranded copper conductor.

The fourth to last paragraph is revised to read:

Install a two grounding electrode system at each service entrance point, at each electrical service installation and at each separately derived power source. The service entrance grounding electrode system shall conform to the “Service Ground” detail in the Standard Plans. If soil conditions make vertical grounding electrode installation impossible an alternate installation procedure as described in the NEC may be used. Maintain a minimum of 6 feet of separation between any two grounding electrodes within the grounding system. Grounding electrodes shall be bonded copper, ferrous core materials and shall be solid rods not less than 10 feet in length if they are ½ inch in diameter or not less than 8 feet in length if they are ⅝ inch or larger in diameter.

8-22.AP8

Section 8-22, Pavement Marking January 4, 2016

8-22.4 Measurement

The first two sentences of the fourth paragraph are revised to read:

The measurement for “Painted Wide Lane Line”, “Plastic Wide Lane Line”, “Profiled Plastic Wide Lane Line”, “Painted Barrier Center Line”, “Plastic Barrier Center Line”, “Painted Stop Line”, “Plastic Stop Line”, “Painted Wide Dotted Entry Line”, or “Plastic Wide Dotted Entry Line” will be based on the total length of each painted, plastic or profiled plastic line installed. No deduction will be made for the unmarked area when the marking includes a broken line such as, wide broken lane line, drop lane line, wide dotted lane line or wide dotted entry line.

8-22.5 Payment

The following two new Bid items are inserted after the Bid item “Plastic Crosshatch Marking”, per linear foot:

“Painted Wide Dotted Entry Line”, per linear foot.

“Plastic Wide Dotted Entry Line”, per linear foot.

9-03.AP9

Section 9-03, Aggregates

April 4, 2016

9-03.1(1) General Requirements

This first paragraph is supplemented with the following:

Reclaimed aggregate may be used if it complies with the specifications for Portland Cement Concrete. Reclaimed aggregate is aggregate that has been recovered from plastic concrete by washing away the cementitious materials.

9-03.1(2) Fine Aggregate for Portland Cement Concrete

This section is revised to read:

Fine aggregate shall consist of natural sand or manufactured sand, or combinations thereof, accepted by the Engineer, having hard, strong, durable particles free from adherent coating. Fine aggregate shall be washed thoroughly to meet the specifications.

9-03.1(2)A Deleterious Substances

This section is revised to read:

The amount of deleterious substances in the washed aggregate shall be tested in accordance with AASHTO M 6 and not exceed the following values:

| | |
|--|------------------------|
| Material finer than No. 200 Sieve | 2.5 percent by weight |
| Clay lumps and friable particles | 3.0 percent by weight |
| Coal and lignite | 0.25 percent by weight |
| Particles of specific gravity less than 2.00 | 1.0 percent by weight. |

Organic impurities shall be tested in accordance with AASHTO T 21 by the glass color standard procedure and results darker than organic plate no. 3 shall be rejected. A darker color results from AASHTO T 21 may be used provided that when tested for the effect of organic impurities on strength of mortar, the relative strength at 7 days, calculated in accordance with AASHTO T 71, is not less than 95 percent.

9-03.1(4) Coarse Aggregate for Portland Cement Concrete

This section is revised to read:

Coarse aggregate for concrete shall consist of gravel, crushed gravel, crushed stone, or combinations thereof having hard, strong, durable pieces free from adherent coatings. Coarse aggregate shall be washed to meet the specifications.

9-03.1(4)A Deleterious

This section, including title, is revised to read:

9-03.1(4)A Deleterious Substances

The amount of deleterious substances in the washed aggregate shall be tested in accordance with AASHTO M 80 and not exceed the following values:

| | |
|---|------------------------------------|
| Material finer than No. 200 | 1.0 ¹ percent by weight |
| Clay lumps and Friable Particles | 2.0 percent by weight |
| Shale | 2.0 percent by weight |
| Wood waste | 0.05 percent by weight |
| Coal and Lignite | 0.5 percent by weight |
| Sum of Clay Lumps, Friable Particles, and Chert (Less Than 2.40 specific gravity SSD) | 3.0 percent by weight |

¹If the material finer than the No. 200 sieve is free of clay and shale, this percentage may be increased to 1.5.

9-03.1(4)C Grading

The following new sentence is inserted at the beginning of the last paragraph:

Where coarse aggregate size 467 is used, the aggregate may be furnished in at least two separate sizes.

9-03.1(5) Combined Aggregate Gradation for Portland Cement Concrete

This section is revised to read:

As an alternative to using the fine aggregate sieve grading requirements in Section 9-03.1(2)B, and coarse aggregate sieve grading requirements in Section 9-03.1(4)C, a combined aggregate gradation conforming to the requirements of Section 9-03.1(5)A may be used.

9-03.1(5)A Deleterious Substances

This section is revised to read:

The amount of deleterious substances in the washed aggregates $\frac{3}{8}$ inch or larger shall not exceed the values specified in Section 9-03.1(4)A and for aggregates smaller than $\frac{3}{8}$ inch they shall not exceed the values specified in Section 9-03.1(2)A.

9-03.1(5)B Grading

The first paragraph is deleted.

9-03.8(7) HMA Tolerances and Adjustments

In the table in item 1, the last column titled "Commercial Evaluation" is revised to read "Visual Evaluation".

9-03.21(1)B Concrete Rubble

This section, including title, is revised to read:

9-03.21(1)B Recycled Concrete Aggregate

Recycled concrete aggregates are coarse aggregates manufactured from hardened concrete mixtures. Recycled concrete aggregate may be used as coarse aggregate or blended with coarse aggregate for Commercial Concrete. Recycled concrete aggregate shall meet all of the requirements for coarse aggregate contained in Section 9-03.1(4) or

9-03.1(5). In addition to the requirements of Section 9-03.1(4) or 9-03.1(5), recycled concrete shall:

1. Contain an aggregated weight of less than 1 percent of adherent fines, vegetable matter, plastics, plaster, paper, gypsum board, metals, fabrics, wood, tile, glass, asphalt (bituminous) materials, brick, porcelain or other deleterious substance(s) not otherwise noted;
2. Be free of harmful components such as chlorides and reactive materials unless mitigation measures are taken to prevent recurrence in the new concrete;
3. Have an absorption of less than 10 percent when tested in accordance with AASHTO T 85.

Recycled concrete aggregate shall be in a saturated condition prior to mixing.

Recycled concrete aggregate shall not be placed below the ordinary high water mark of any water of the State.

9-03.21(1)D Recycled Steel Furnace Slag

This section title is revised to read:

Steel Furnace Slag

9-03.21(1)E Table on Maximum Allowable Percent (By Weight) of Recycled Material

The following new row is inserted after the second row:

| | | | | | |
|--|-----------|---|-----|---|---|
| Coarse Aggregate for Commercial Concrete | 9-03.1(4) | 0 | 100 | 0 | 0 |
|--|-----------|---|-----|---|---|

9-04.AP9

Section 9-04, Joint and Crack Sealing Materials January 4, 2016

9-04.2(1) Hot Poured Joint Sealants

This section's content is deleted and replaced with the following new subsections:

9-04.2(1)A Hot Poured Sealant

Hot poured sealant shall be sampled in accordance with ASTM D5167 and tested in accordance with ASTM D5329. Hot poured sealant shall have a minimum Cleveland Open Cup Flash Point of 205°C in accordance with AASHTO T 48.

9-04.2(1)A1 Hot Poured Sealant for Cement Concrete Pavement

Hot poured sealant for cement concrete pavement shall meet the requirements of ASTM D6690 Type IV, except for the following:

1. The Cone Penetration at 25°C shall be 130 maximum.
2. The extension for the Bond, non-immersed, shall be 100 percent.

9-04.2(1)A2 Hot Poured Sealant for Bituminous Pavement

Hot poured sealant for bituminous pavement shall meet the requirements of ASTM D6690 Type II.

9-04.2(1)B Sand Slurry for Bituminous Pavement

Sand slurry is mixture consisting of the following components measured by total weight:

1. Twenty percent CSS-1 emulsified asphalt,
2. Two percent portland cement, and
3. Seventy-eight percent fine aggregate meeting the requirements of 9-03.1(2)B Class 2. Fine aggregate may be damp (no free water).

9-07.AP9

**Section 9-07, Reinforcing Steel
January 4, 2016**

9-07.1(1)A Acceptance of Materials

The first sentence of the first paragraph is revised to read:

Reinforcing steel rebar manufacturers shall comply with the National Transportation Product Evaluation Program (NTPEP) Work Plan for Reinforcing Steel (rebar) Manufacturers.

The first sentence of the second paragraph is revised to read:

Steel reinforcing bar manufacturers use either English or a Metric size designation while stamping rebar.

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Special Provisions

INTRODUCTION TO THE SPECIAL PROVISIONS

(*****)

The work on this project shall be accomplished in accordance with the *Standard Specifications for Road, Bridge and Municipal Construction*, 2016 edition, as issued by the Washington State Department of Transportation (WSDOT) and the American Public Works Association (APWA), Washington State Chapter (hereafter “Standard Specifications”). The Standard Specifications, as modified or supplemented by the Amendments to the Standard Specifications and these Special Provisions, all of which are made a part of the Contract Documents, shall govern all of the Work.

These Special Provisions are made up of both General Special Provisions (GSPs) from various sources, which may have project-specific fill-ins; and project-specific Special Provisions. Each Provision either supplements, modifies, or replaces the comparable Standard Specification, or is a new Provision. The deletion, amendment, alteration, or addition to any subsection or portion of the Standard Specifications is meant to pertain only to that particular portion of the section, and in no way should it be interpreted that the balance of the section does not apply.

The project-specific Special Provisions are labeled with asterisks (*****). The GSPs are labeled under the headers of each GSP, with the effective date of the GSP and its source. For example:

(March 8, 2013 APWA GSP)

(April 1, 2013 WSDOT GSP)

Also incorporated into the Contract Documents by reference are:

- *Manual on Uniform Traffic Control Devices for Streets and Highways*, currently adopted edition, with Washington State modifications, if any
- *Standard Plans for Road, Bridge and Municipal Construction*, WSDOT/APWA, current edition
- *****Sign Fabrication Manual, WSDOT, Current Edition*****
- *****The Required Contract Provisions Federal Aid Construction Contracts (FHWA 1273) and the amendments thereto. See Appendix B for a copy of FHWA-1273.**
- Applicable sections of the Federal Acquisition Regulations (FAR) are a part of this Contract by reference. Access the entire FAR regulations at the following website:
<http://acquisition.gov/far/>
- The FAR sections specific to the American Recovery and Reinvestment Act and applicable to the work covered in Proposal No. 1 (Schedule A) only, include:
 - 52.204-6 Data Universal Numbering System (DUNS) Number.
 - 52.204-7 Central Contractor Registration.
 - 52.204.10 Reporting Subcontractor Awards
 - 52.225-21 Required Use of American Iron, Steel and Other Manufactured Goods – Buy American Act – Construction Materials***

Contractor shall obtain copies of these publications, at Contractor’s own expense.

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DIVISION 1

GENERAL REQUIREMENTS

DESCRIPTION OF WORK

(*****)

The contract provides for the installation of approximately 7,300 linear feet of HMA shoulder improvements including roadway embankment construction, channelization, guardrail, an illumination system, and a pile-supported pedestrian path.

1-01 DEFINITIONS AND TERMS

1-01.3 Definitions (January 4, 2016 APWA GSP)

Delete the heading **Completion Dates** and the three paragraphs that follow it, and replace them with the following:

Dates

Bid Opening Date

The date on which the Contracting Agency publicly opens and reads the Bids.

Award Date

The date of the formal decision of the Contracting Agency to accept the lowest responsible and responsive Bidder for the Work.

Contract Execution Date

The date the Contracting Agency officially binds the Agency to the Contract.

Notice to Proceed Date

The date stated in the Notice to Proceed on which the Contract time begins.

Substantial Completion Date

The day the Engineer determines the Contracting Agency has full and unrestricted use and benefit of the facilities, both from the operational and safety standpoint, any remaining traffic disruptions will be rare and brief, and only minor incidental work, replacement of temporary substitute facilities, plant establishment periods, or correction or repair remains for the Physical Completion of the total Contract.

Physical Completion Date

The day all of the Work is physically completed on the project. All documentation required by the Contract and required by law does not necessarily need to be furnished by the Contractor by this date.

Completion Date

The day all the Work specified in the Contract is completed and all the obligations of the Contractor under the contract are fulfilled by the Contractor. All documentation required by the Contract and required by law must be furnished by the Contractor before establishment of this date.

Final Acceptance Date

The date on which the Contracting Agency accepts the Work as complete.

Supplement this Section with the following:

All references in the Standard Specifications, Amendments, or WSDOT General Special Provisions, to the terms “Department of Transportation”, “Washington State Transportation Commission”, “Commission”, “Secretary of Transportation”, “Secretary”, “Headquarters”, and “State Treasurer” shall be revised to read “Contracting Agency”.

All references to the terms “State” or “state” shall be revised to read “Contracting Agency” unless the reference is to an administrative agency of the State of Washington, a State statute or regulation, or the context reasonably indicates otherwise.

All references to “State Materials Laboratory” shall be revised to read “Contracting Agency designated location”.

All references to “final contract voucher certification” shall be interpreted to mean the Contracting Agency form(s) by which final payment is authorized, and final completion and acceptance granted.

Additive

A supplemental unit of work or group of bid items, identified separately in the Bid Proposal, which may, at the discretion of the Contracting Agency, be awarded in addition to the base bid.

Alternate

One of two or more units of work or groups of bid items, identified separately in the Bid Proposal, from which the Contracting Agency may make a choice between different methods or material of construction for performing the same work.

Business Day

A business day is any day from Monday through Friday except holidays as listed in Section 1-08.5.

Contract Bond

The definition in the Standard Specifications for “Contract Bond” applies to whatever bond form(s) are required by the Contract Documents, which may be a combination of a Payment Bond and a Performance Bond.

Contract Documents

See definition for “Contract”.

Contract Time

The period of time established by the terms and conditions of the Contract within which the Work must be physically completed.

Notice of Award

The written notice from the Contracting Agency to the successful Bidder signifying the Contracting Agency’s acceptance of the Bid Proposal.

Notice to Proceed

The written notice from the Contracting Agency or Engineer to the Contractor authorizing and directing the Contractor to proceed with the Work and establishing the date on which the Contract time begins.

Traffic

Both vehicular and non-vehicular traffic, such as pedestrians, bicyclists, wheelchairs, and equestrian traffic.

1-02 BID PROCEDURES AND CONDITIONS

1-02.2 Plans and Specifications

(June 27, 2011 APWA GSP)

Delete this section and replace it with the following:

Information as to where Bid Documents can be obtained or reviewed can be found in the Call for Bids (Advertisement for Bids) for the work.

After award of the contract, plans and specifications will be issued to the Contractor at no cost as detailed below:

| To Prime Contractor | No. of Sets | Basis of Distribution |
|-------------------------------|--------------------|-------------------------------------|
| Reduced plans (11" x 17") | 5 | Furnished automatically upon award. |
| Contract Provisions | 5 | Furnished automatically upon award. |
| Large plans (e.g., 22" x 34") | 0 | Furnished only upon request. |

Additional plans and Contract Provisions may be obtained by the Contractor from the source stated in the Call for Bids, at the Contractor's own expense.

1-02.12 Public Opening of Proposals

Section 1-02.12 is supplemented with the following:

(*****)

Date of Opening Bids

Sealed bids are to be received as specified in the Notice to Bidders.

1-03 AWARD AND EXECUTION OF CONTRACT

1-03.4 Contract Bond

(July 23, 2015 APWA GSP)

Delete the first paragraph and replace it with the following:

The successful bidder shall provide executed payment and performance bond(s) for the full contract amount. The bond may be a combined payment and performance bond; or be

separate payment and performance bonds. In the case of separate payment and performance bonds, each shall be for the full contract amount. The bond(s) shall:

1. Be on Contracting Agency-furnished form(s);
2. Be signed by an approved surety (or sureties) that:
 - a. Is registered with the Washington State Insurance Commissioner, and
 - b. Appears on the current Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner,
3. Guarantee that the Contractor will perform and comply with all obligations, duties, and conditions under the Contract, including but not limited to the duty and obligation to indemnify, defend, and protect the Contracting Agency against all losses and claims related directly or indirectly from any failure:
 - a. Of the Contractor (or any of the employees, subcontractors, or lower tier subcontractors of the Contractor) to faithfully perform and comply with all contract obligations, conditions, and duties, or
 - b. Of the Contractor (or the subcontractors or lower tier subcontractors of the Contractor) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material person, or any other person who provides supplies or provisions for carrying out the work;
4. Be conditioned upon the payment of taxes, increases, and penalties incurred on the project under titles 50, 51, and 82 RCW; and
5. Be accompanied by a power of attorney for the Surety's officer empowered to sign the bond; and
6. Be signed by an officer of the Contractor empowered to sign official statements (sole proprietor or partner). If the Contractor is a corporation, the bond(s) must be signed by the president or vice president, unless accompanied by written proof of the authority of the individual signing the bond(s) to bind the corporation (i.e., corporate resolution, power of attorney, or a letter to such effect signed by the president or vice president).

1-04 SCOPE OF THE WORK

1-04.2 Coordination of Contract Documents, Plans, Special Provisions, Specifications, and Addenda

(March 13, 2012 APWA GSP)

Section 1-04.2 is supplemented with the following:

Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Addenda,
2. Proposal Form,

3. Special Provisions,
4. Contract Plans,
5. Amendments to the Standard Specifications,
6. Standard Specifications,
7. Contracting Agency's Standard Plans or Details (if any), and
8. WSDOT Standard Plans for Road, Bridge, and Municipal Construction.

1-05 CONTROL OF WORK

1-05.4 Conformity With and Deviations from Plans and Stakes

Supplement this section with the following:

(*****)

Roadway and Utility Surveys

The Engineer shall furnish to the Contractor one time only all principal lines, grades, and measurements the Engineer deems necessary for completion of the work. These shall generally consist of one initial set of:

1. Hubs or offset points to establish construction alignments and stationing;
2. Slope stakes for establishing grading;
3. Offset points to establish the centerline of the pile supported pedestrian path;
4. Offset points for establishing the clearing and grubbing limits and installation of silt protection fencing and/or straw wattles adjacent to embankments;
5. Offset points to establish line and grade for the luminaire foundations; and
6. Offset points for establishing the location of guardrail and guardrail transition sections.

All other survey requirements to construct the improvements in accordance with the contract plans and these contract specifications shall be the responsibility of the Contractor. Contractor-provided surveying will not be measured and the cost shall be incidental to the other bid items included in the proposal.

Add the following new section:

(*****)

1-05.5 As-Built Record Drawings

New Section

At the close of the project, the Contractor shall furnish to the Engineer one complete set of as-built drawings. The as-built drawings shall include all material installed by the Contractor regardless of bid schedule. As-built drawings shall be legible redline markups showing all as-constructed revisions from the original Plans and Specifications. Plans will also identify any

existing underground utilities not shown on the Plans and encountered during the construction. No separate measurement or payment will be made for this work.

1-05.14 Cooperation With Other Contractors

Section 1-05.14 is supplemented with the following:

(March 13, 1995 WSDOT GSP Option 1)

Other Contracts Or Other Work

It is anticipated that the following work adjacent to or within the limits of this project will be performed by others during the course of this project and will require coordination of the work:

*** Frontier Communications has existing buried communications lines within the northbound shoulder of Marine Drive and will be relocating facilities during the Contract time.

Frontier Communications will require 30 working days to complete their relocation work after the Contractor has located conflicts by potholing the luminaire foundation locations and guardrail locations and has removed the asphalt concrete pavement as shown in the contract plans in those locations where relocations are deemed necessary. During the 30 days allowed to Frontier Communications, the Contractor shall not impede the work of Frontier Communications and shall not use lane closures that conflict with Frontier Communications' work. ***

1-06 CONTROL OF MATERIAL

Section 1-06 is supplemented with the following:

Buy America

(August 6, 2012 WSDOT GSP, Option A)

In accordance with Buy America requirements contained in 23 CFR 635.410, the major quantities of steel and iron construction material that is permanently incorporated into the project shall consist of American-made materials only. Buy America does not apply to temporary steel items, e.g., temporary sheet piling, temporary bridges, steel scaffolding and falsework.

Minor amounts of foreign steel and iron may be utilized in this project provided the cost of the foreign material used does not exceed one-tenth of one percent of the total contract cost or \$2,500.00, whichever is greater.

American-made material is defined as material having all manufacturing processes occurring domestically. To further define the coverage, a domestic product is a manufactured steel material that was produced in one of the 50 States, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States.

If domestically produced steel billets or iron ingots are exported outside of the area of coverage, as defined above, for any manufacturing process then the resulting product does not conform to the Buy America requirements. Additionally, products manufactured domestically from foreign source steel billets or iron ingots do not conform to the Buy America

requirements because the initial melting and mixing of alloys to create the material occurred in a foreign country.

Manufacturing begins with the initial melting and mixing, and continues through the coating stage. Any process which modifies the chemical content, the physical size or shape, or the final finish is considered a manufacturing process. The processes include rolling, extruding, machining, bending, grinding, drilling, welding, and coating. The action of applying a coating to steel or iron is deemed a manufacturing process. Coating includes epoxy coating, galvanizing, aluminizing, painting, and any other coating that protects or enhances the value of steel or iron. Any process from the original reduction from ore to the finished product constitutes a manufacturing process for iron.

Due to a nationwide waiver, Buy America does not apply to raw materials (iron ore and alloys), scrap (recycled steel or iron), and pig iron or processed, pelletized, and reduced iron ore.

The following are considered to be steel manufacturing processes:

1. Production of steel by any of the following processes:
 - a. Open hearth furnace.
 - b. Basic oxygen.
 - c. Electric furnace.
 - d. Direct reduction.
2. Rolling, heat treating, and any other similar processing.
3. Fabrication of the products.
 - a. Spinning wire into cable or strand.
 - b. Corrugating and rolling into culverts.
 - c. Shop fabrication.

A certification of materials origin will be required for any items comprised of, or containing, steel or iron construction materials prior to such items being incorporated into the permanent work. The certification shall be on DOT Form 350-109EF provided by the Engineer, or such other form the Contractor chooses, provided it contains the same information as DOT Form 350-109EF.

1-07 LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC

1-07.1 Laws to be Observed

Section 1-07.1 is supplemented with the following:

(*****)

Indian Preference and Tribal Ordinances

This project is located on the Tulalip Indian Reservation. It is the Contractor's responsibility to comply with all applicable Tribal laws, codes, ordinances, and regulations. The Contractor shall comply with them in accordance with Section 1-07.1.

Tribal Employment Rights Ordinances (TEROs), may utilize a variety of tools to encourage Indian employment. These tools may include, but are not limited to, TERO fees, Indian hiring preference, Indian-owned business subcontracting preference and/or an Indian training requirement. Other requirements may be a Tribal business license, a required compliance plan and/or employee registration requirements. Every tribe is different and each may be willing to work cooperatively with the Contractor to develop a strategy that works for both parties. For specific details, the Contractor should contact Debbie Bray at (360) 716-5024.

The Tulalip Tribes of Washington has the sovereign authority over the lands of the Tulalip Indian Reservation and has the authority to enact and enforce its laws, ordinances, codes, and regulations. The Contractor shall comply and cooperate with the Tribes and its representatives. The costs related to such compliance shall be borne solely by the Contractor, who is advised to contact the tribal representative listed above, prior to submitting a bid, to assess the impact of compliance on the project.

Although Indian preference can be compelled and mandated by the Contracting Agency, there is no limitation whereby voluntary Contractor or Subcontractor initiated preferences are given, if otherwise lawful. 41 CFR 60-1.5(a)7 provides as follows:

Work on or near Indian reservations --- It shall not be a violation of the equal opportunity clause for a construction or non-construction Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The use of the word near would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors or Subcontractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such a preference shall not excuse a Contractor from complying with the other requirements as contained in the August 25, 1981 Department of Labor, Office of Federal Contract Compliance Programs, Government Contractors Affirmative Action Requirements.

TERO Participation shall be evaluated as follows:

Counting Tulalip Tribal Member Native American Owned Business or Native American Owned Business

When a Tulalip Tribal Member NAOB or NAOB participates in a contract, only the value of the work actually performed by the Tulalip Tribal Member NAOB or NAOB will be counted towards the Tulalip Tribal Member NAOB or NAOB subcontracting requirement.

1. Count the entire amount of the portion of the contract that is performed by the Tulalip Tribal owned or Indian-owned enterprise or organization's own forces. Include the cost of supplies and materials obtained by the Tulalip Tribal Member NAOB or NAOB for the work of the contract, including supplies purchased or equipment leased by the Tulalip Tribal Member NAOB or NAOB (except supplies and equipment the lower-tiered Tulalip Tribal Member NAOB or NAOB purchases or leases from the Prime Contractor or its affiliates, unless the Prime Contractor is also a Tulalip Tribal Member NAOB or NAOB). Work performed by a Tulalip Tribal Member NAOB or NAOB, utilizing resources of the Prime Contractor or its affiliates will not be counted toward Tulalip Tribal-owned or Indian-owned enterprise or organization goals. In very rare situations, a Tulalip Tribal Member NAOB or NAOB may utilize equipment and or personnel from a non-Tulalip Tribal Member NAOB or NAOB other than the Prime Contractor or its affiliates. Should this situation arise, the arrangement must be short-term and must have prior written approval from the Contracting Agency. The arrangement must not erode a Tulalip Tribal Member NAOB or NAOB's ability to perform a Commercially Useful Function (See discussion of CUF, below).
2. Count the entire amount of fees or commissions charged by a Tulalip Tribal Member NAOB or NAOB firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance.
3. When a Tulalip Tribal Member NAOB or NAOB subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward the Tulalip Tribal Member NAOB or NAOB requirement only if the Tulalip Tribal Member NAOB or NAOB's lower tier subcontractor is also a Tulalip Tribal Member NAOB or NAOB. Work that a Tulalip Tribal Member NAOB or NAOB subcontracts to a non-Tulalip Tribal Member NAOB or NAOB does not count toward the Tulalip Tribal Member NAOB or NAOB contracting requirement.
4. When a non-Tulalip Tribal Member NAOB or NAOB subcontractor further subcontracts to a lower-tier subcontractor or supplier who is a certified Tulalip Tribal owned or Indian-owned enterprise or organization, then that portion of the work further subcontracted may be counted toward the Tulalip Tribal Member NAOB or NAOB requirement, so long as it is a distinct clearly defined portion of the work of the subcontract that the Tulalip Tribal Member NAOB or NAOB is performing in a commercially useful function with its own forces.
5. Continue to count the work subcontracted to a decertified Tulalip Tribal-owned or Indian-owned enterprise or organization after decertification, provided the prime contractor had a subcontract in force before the decertification and the prime

contractor's actions did not influence the Tulalip Tribal-owned or Indian-owned enterprise's or organization's decertification.

Commercially Useful Function

Payments to a Tulalip Tribal Member NAOB or NAOB will count toward Tulalip Tribal Member NAOB or NAOB requirements only if the Tulalip Tribal Member NAOB or NAOB is performing a commercially useful function on the contract.

1. A Tulalip Tribal Member NAOB or NAOB performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the Tulalip Tribal Member NAOB or NAOB must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (if applicable) and paying for the material itself. Two party checks are not allowed.
2. A Tulalip Tribal Member NAOB or NAOB does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of Tulalip Tribal Member NAOB or NAOB participation.

Trucking

Use the following factors in determining whether a Tulalip Tribal Member NAOB or NAOB trucking company is performing a commercially useful function:

1. The Tulalip Tribal Member NAOB or NAOB must be responsible for the management and supervision of the entire trucking operation for which it is listed on a particular contract.
2. The Tulalip Tribal Member NAOB or NAOB must itself own and, with its own workforce, operate at least one fully licensed, insured, and operational truck used on the contract.
3. The Tulalip Tribal Member NAOB or NAOB receives credit only for the total value of the transportation services it provides on the contract using trucks it owns or leases, licenses, insures, and operates with drivers it employs.
4. For purposes of this paragraph a lease must indicate that the Tulalip Tribal-owned or Indian-owned enterprise or organization has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the Tulalip Tribal Member NAOB or NAOB, so long as the lease gives the Tulalip Tribal Member NAOB or NAOB absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the Tulalip Tribal Member NAOB or NAOB.
5. The Tulalip Tribal Member NAOB or NAOB may lease trucks from another Tulalip Tribal Member NAOB or NAOB and may enter an agreement with an owner-operator who is certified as a Tulalip Tribal Member NAOB or NAOB. The Tulalip Tribal Member NAOB or NAOB who leases trucks from another Tulalip Tribal Member NAOB or NAOB or employs a Tulalip Tribal Member NAOB or NAOB owner-operator receives credit for the total value of the transportation services the lessee Tulalip Tribal Member NAOB or NAOB provides on the contract.

6. The Tulalip Tribal Member NAOB or NAOB may also lease trucks from a non-Tulalip Tribal Member NAOB or NAOB and may enter an agreement with an owner-operator who is a non-Tulalip Tribal Member NAOB or NAOB. The Tulalip Tribal Member NAOB or NAOB who leases trucks from a non-Tulalip Tribal Member NAOB or NAOB or employs a non-Tulalip Tribal Member NAOB or NAOB owner-operator is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The Tulalip Tribal Member NAOB or NAOB does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a Tulalip Tribal Member NAOB or NAOB.
7. In any lease or owner-operator situation, as described in paragraphs 5 and 6 above, the following rules shall apply:
 - A written lease/rental agreement on all trucks leased or rented, showing the true ownership and the terms of the rental must be submitted and approved by the Contracting Agency prior to the beginning of the work. The agreement must show the lessor's name, trucks to be leased, and agreed upon amount or method of payment (hour, ton, or per load). All lease agreements shall be for a long-term relationship, rather than for the individual project. Does not apply to owner-operator arrangements.
 - Only the vehicle, (not the operator) is leased or rented. Does not apply to owner-operator arrangements.
8. In order for Tulalip Tribal Member NAOB or NAOB project requirements to be credited, Tulalip Tribal Member NAOB or NAOB trucking firms must be covered by a subcontract or a written agreement approved by the Contracting Agency prior to performing their portion of the work.

Expenditures Paid to Other Tulalip Tribal Member Native American Owned Business or Native American Owned Business

Expenditures paid to other Tulalip Tribal Member Native American Owned Business or Native American Owned Business for materials or supplies may be counted toward Tulalip Tribal Member NAOB or NAOB requirements as provided in the following:

Manufacturer

1. Counting

If the materials or supplies are obtained from a Tulalip Tribal Member NAOB or NAOB manufacturer, count 100 percent of the cost of the materials or supplies toward Tulalip Tribal Member NAOB or NAOB requirements.

2. Definition

To be a manufacturer, the firm operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

3. In order to receive credit as a Tulalip Tribal Member NAOB or NAOB manufacturer, the firm must have received an “on-site” review and been approved by TERO to operate as a Tulalip Tribal Member NAOB or NAOB manufacturing firm prior to bid opening. Use of a Tulalip Tribal Member NAOB or NAOB manufacturer that has not received an on-site review and approval by TERO prior to bid opening will result in the bid being declared non-responsive, unless the contribution of the manufacturer was not necessary to meet the project requirement. To schedule a review, the manufacturing firm must submit a written request to TERO and may not receive credit towards Tulalip Tribal Member NAOB or NAOB participation until the completion of the review. Once a firm’s manufacturing process has been approved in writing, it is not necessary to resubmit the firm for approval unless the manufacturing process has substantially changed. Information on approved manufacturers (per contract) may be obtained from TERO.

Regular Dealer

1. Counting

If the materials or supplies are purchased from a Tulalip Tribal Member NAOB or NAOB regular dealer, 60 percent of the cost of the materials or supplies will count toward Tulalip Tribal Member NAOB or NAOB goals.

2. Definition

- a) To be a regular dealer, the firm must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. It must also be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
- b) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, as provided elsewhere in this specification, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers’ own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
- c) Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions are not regular dealers.

Regular dealer status is granted on a contract-by-contract basis. To obtain regular dealer status, a formal written request must be made by the interested supplier (potential regular dealer) to TERO. TERO must be in receipt of this request at least seven (7) calendar days prior to bid opening. Included in the request shall be a full description of the project, type of business operated by the Tulalip Tribal Member NAOB or NAOB, and the manner the Tulalip Tribal Member NAOB or NAOB will operate as a regular dealer on the specific contract. Once the request is reviewed by TERO, the Tulalip Tribal Member NAOB or NAOB supplier requesting it will be notified in writing whether regular dealer status was approved. Tulalip Tribal Member Native

American Owned Business or Native American Owned Business that are approved as regular dealers for a contract (whenever possible) will be listed on the Tulalip Tribes TERO's Native American Owned Business (NAOB) registry Internet Homepage at: www.tulaliptribes.com/Home/Contractors/NAOBRegistryReport.aspx prior to the time of bid opening. In addition, bidders may request confirmation of the Tulalip Tribal Member NAOB or NAOB supplier's approval to operate as a regular dealer on a specific contract by writing the TERO Department, 6406 Marine Drive, Tulalip, WA 98271 or by phone at (360) 716-4747. Use of a supplier that has not received approval as a regular dealer prior to bid opening will result in the bid being declared nonresponsive, unless the contribution of the regular dealer was not necessary to meet the project requirement.

Materials or Supplies Purchased from a Tulalip Tribal Member NAOB or NAOB

With respect to materials or supplies purchased from a Tulalip Tribal Member NAOB or NAOB who is neither a manufacturer nor a regular dealer, the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site may be counted toward the goal. No part of the cost of the materials and supplies themselves may be applied toward Tulalip Tribal Member NAOB or NAOB requirements.

Eligibility

To be eligible for award of the contract, the bidder must properly complete and submit the Tulalip Tribal-owned and Indian owned Enterprise Utilization Certification which have been made a part of the bidder's formal bid proposal. The Certification will be used by the Contracting Agency in determining whether the bidder's bid proposal satisfies the Tulalip Tribal-owned and Indian-owned Enterprise contract requirements.

For each Tulalip Tribal-owned and Indian-owned Enterprise described in the Certification, the bidder shall state the project role and work item in which that Tulalip Tribal-owned or Indian-owned Enterprise will participate. A general description of the work to be performed by the Tulalip Tribal-owned or Indian-owned Enterprise shall be included. If a Tulalip Tribal-owned or Indian-owned Enterprise will perform a partial item of work, the bidder shall also include a dollar amount for each partial item of work. The bidder shall also include a dollar amount for each Tulalip Tribal-owned and Indian-owned Enterprise listed in the Certification that will be applied towards meeting or exceeding the assigned Tulalip Tribal-owned and Indian-owned Enterprise contract requirement.

In the event of arithmetic errors in completing the Certification, the amount listed to be applied towards the requirement for each Tulalip Tribal-owned and Indian-owned Enterprise shall govern and the Tulalip Tribal-owned and Indian-owned Enterprise total shall be adjusted accordingly. The information and commitments demonstrated in the Certification shall become a condition of any subsequent award of a contract to that bidder and the Certification itself shall become a part of the subsequent contract.

The Contracting Agency shall consider as non-responsive and shall reject any bid proposal submitted that does not contain a Tulalip Tribal-owned or Indian-owned Enterprise Certification or contains a Tulalip Tribal-owned or Indian-owned Enterprise Certification that fails to demonstrate that the bidder will meet the Tulalip Tribal-owned or Indian-owned Enterprise requirements.

Procedures Between Award and Execution

After award of the contract, the successful bidder shall provide the additional information described below. A failure to comply shall result in the forfeiture of the bidder's proposal bond or deposit.

The Contracting Agency will notify the successful bidder of the award of the contract in writing and will include a request for a further breakdown of the Tulalip Tribal-owned and Indian-owned Enterprise information. After award and prior to execution of the contract, the bidder shall submit the following items:

- (1) Additional information for all successful Tulalip Tribal-owned and Indian-owned Enterprises as shown on the Tulalip Tribal-owned and Indian-owned Enterprise Utilization Certification:
 - Correct business name, federal employee identification number (if available), and mailing address.
 - List of all bid items assigned to each successful Tulalip Tribal-owned or Indian-owned Enterprise firm, including unit prices and extensions.
 - Description of partial items (if any) to be sublet to each successful Tulalip Tribal-owned or Indian-owned Enterprise firm specifying the distinct elements of work under each item to be performed by the Tulalip Tribal-owned or Indian-owned Enterprise and including the dollar value of the Tulalip Tribal-owned or Indian-owned Enterprise portion.
 - Submit evidence of certification for the Tulalip Tribal-owned or Indian-owned Enterprise.

Total amounts shown for each Tulalip Tribal-owned and Indian-owned Enterprise shall not be less than the amount shown on the Utilization Certification. This submittal, showing the Tulalip Tribal-owned and Indian-owned Enterprise work item breakdown, when accepted by the Contracting Agency and resulting in contract execution, shall become a part of the contract. A breakdown that does not conform to the Tulalip Tribal-owned and Indian-owned Enterprise Utilization Certification or that demonstrates a lesser amount of Tulalip Tribal-owned or Indian-owned Enterprise participation than that included in the Certification will be returned for correction. The contract will not be executed by the Contracting Agency until a satisfactory breakdown has been submitted.

Procedures After Execution

Reporting

The Contractor shall submit a "Quarterly Report of Amounts Credited as Tulalip Tribal-owned or Indian-owned Enterprise Participation" (actual payments) on a quarterly basis for any calendar quarter in which Tulalip Tribal-owned or Indian-owned Enterprise work is accomplished or upon completion of the project, as appropriate. The quarterly reports are due on January 20th, April 20th, July 20th, and October 20th of each year. The dollars reported will be in accordance with the "Counting Indian-owned Enterprise Participation" section of this specification.

In the event that the payments to a Tulalip Tribal-owned or Indian-owned Enterprise have been made by an entity other than the Prime Contractor (as in the case of a lower-tier subcontractor or supplier), then the Prime Contractor shall obtain the quarterly report, including the signed affidavit, from the paying entity and submit the report to the Contracting Agency.

Damages for Noncompliance

When a Contractor violates the Tulalip Tribal-owned and Indian-owned Enterprise provisions of the contract, the Contracting Agency may incur damages. These damages consist of additional administrative costs including, but not limited to, the inspection, supervision, engineering, compliance, and legal staff time and expenses necessary for investigating, reporting, and correcting violations. Damages attributable to a Contractor's violations of the Tulalip Tribal-owned or Indian-owned Enterprise provisions may be deducted from progress payments due to the Contractor or from retainage withheld by the Contracting Agency as allowed by the Contract documents. Before any money is withheld, the Contractor will be provided with a notice of the basis of the violations and an opportunity to respond.

The Contracting Agency's decision to recover damages for a Tulalip Tribal-owned or Indian-owned Enterprise provision violation does not limit its ability to suspend or revoke the Contractor's pre-qualification status or seek other remedies as allowed by tribal, federal or state law. In appropriate circumstances, the Contracting Agency may also refer the Contractor to tribal, state, or federal authorities for additional sanctions.

1-07.2 State Taxes

Section 1-07.2 is revised to read:

(*****)

The Tulalip Tribes of Washington is a federally recognized Indian Tribal government with a constitution and bylaws approved by the United States Secretary of the Interior. See: 65 Federal Register 13298, 13301 (March 13, 2000). As a recognized tribal government, The Tulalip Tribes of Washington and all of its governmental agencies, is a tax exempt entity. See: 26 USC §7871, and Washington Administrative Code Excise Tax Rule 192 (WA 458-20-192). This project is Tax Exempt from all Sales and/or Use Taxes for all materials and supplies incorporated in construction of the work that become a permanent part of the Project. Upon request a Tax Exemption form may be obtained from The Tulalip Tribes.

1-07.6 Permits and Licenses

Section 1-07.6 is supplemented with the following:

(*****)

No hydraulic permits are required for this project unless the Contractor's operations use, divert, obstruct, or change the natural flow or bed of any river or stream, or utilize any of the waters of the State or materials from gravel or sand bars, or from stream beds.

The Contractor shall obtain a traffic control permit from Snohomish County prior to starting work. No separate payment will be made for the preparation of project-specific traffic control plans.

All costs necessary to obtain permits required to complete the work shall be incidental to the bid items included in the proposal.

1-07.9 Wages

1-07.9(1) General

Section 1-07.9(1) is supplemented with the following:

(January 8, 2016)

The Federal wage rates incorporated in this contract have been established by the Secretary of Labor under United States Department of Labor General Decision No. WA160001.

The State rates incorporated in this contract are applicable to all construction activities associated with this contract.

(April 2, 2007 WSDOT GSP OPT 4)

Application of Wage Rates For The Occupation Of Landscape Construction

State prevailing wage rates for public works contracts are included in this contract and show a separate listing for the occupation:

Landscape Construction, which includes several different occupation descriptions such as: Irrigation and Landscape Plumbers, Irrigation and Landscape Power Equipment Operators, and Landscaping or Planting Laborers.

In addition, federal wage rates that are included in this contract may also include occupation descriptions in Federal Occupational groups for work also specifically identified with landscaping such as:

Laborers with the occupation description, Landscaping or Planting, or

Power Equipment Operators with the occupation description, Mulch Seeding Operator.

If Federal wage rates include one or more rates specified as applicable to landscaping work, then Federal wage rates for all occupation descriptions, specific or general, must be considered and compared with corresponding State wage rates. The higher wage rate, either State or Federal, becomes the minimum wage rate for the work performed in that occupation.

Contractors are responsible for determining the appropriate crafts necessary to perform the contract work. If a classification considered necessary for performance of the work is missing from the Federal Wage Determination applicable to the contract, the Contractor shall initiate a request for approval of a proposed wage and benefit rate. The Contractor shall prepare and submit Standard Form 1444, Request for Authorization of Additional Classification and Wage Rate available at <http://www.wdol.gov/docs/sf1444.pdf>, and submit the completed form to the Project Engineer's office. The presence of a classification wage on the Washington State Prevailing Wage Rates For Public Works Contracts does not exempt the use of form 1444 for the purpose of determining a federal classification wage rate.

1-07.11 Requirements for Nondiscrimination
(December 8, 2014 APWA GSP, Option A)

Supplement this section with the following:

Disadvantaged Business Enterprise Participation

The Disadvantaged Business Enterprise (DBE) requirements of 49 CFR Part 26 apply to this Contract. As such, the requirements of this Contract are to make affirmative efforts to solicit DBEs, provide information on who submitted a Bid or quote and to report DBE participation quarterly as described elsewhere in these Contract Provisions. No preference will be included in the evaluation of Bids/Proposals, no minimum level of DBE participation shall be required as a Condition of Award and Bids/Proposals may not be rejected or considered non-responsive on that basis.

DBE Goals

No DBE goals have been assigned as part of this Contract.

Affirmative Efforts to Solicit DBE Participation

DBE firms shall have an equal opportunity to compete for subcontracts in which the Contractor enters into pursuant to this Contract.

Contractors are encouraged to:

1. Advertise opportunities for Subcontractors or suppliers in a timely and reasonably designed manner to provide notice of the opportunity to DBEs capable of performing the Work. All advertisements should include a Contract Provision encouraging participation by DBE firms. This may be accomplished through general advertisements (e.g. newspapers, journals, etc.) or by soliciting Bids/Proposals directly from DBEs.

Note: A Directory of Certified DBE Firms denoting the Description of Work the DBE Contractors are certified to perform is available at:

www.omwbe.wa.gov/certification/index.shtml.

The directory provides a plain language on the Description of Work that the listed DBE's have been certified by the Office of Minority and Women's Business Enterprises (OMWBE) to perform.

2. Establish delivery schedules that encourage participation by DBEs and other small businesses.
3. Participate with a DBE as a joint venture.

DBE Eligibility/Selection of DBEs for Reporting Purposes Only

Contractors may take credit for DBEs utilized on this Contract only if the firm is certified for the Work being performed.

Absent a mandatory goal, all DBE participation that is attained on this project will be considered as "race neutral" participation and shall be reported as such.

Crediting DBE Participation for Reporting Purposes

Joint Venture

When a DBE performs as a participant in a joint venture, only that portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the Work that the DBE performs with its own forces shall be credited.

DBE Prime Contractor

A DBE Prime Contractor may only take credit for that portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the Work that the DBE Prime Contractor performs with its own forces.

DBE Subcontractor

When a DBE firm participates as a Subcontractor, only that portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the Work that the DBE performs with its own forces shall be credited.

- Include the cost of supplies and materials obtained by the DBE for the Work in the Contract including supplies purchased or equipment leased by the DBE. However, you may not take credit supplies, materials, and equipment the DBE Subcontractor purchases or leases from the Prime Contractor or its affiliate. In addition, Work performed by a DBE, utilizing resources of the Prime Contractor or its affiliates shall not be credited.
- In very rare situations, a DBE firm may utilize equipment and/or personnel from a non-DBE firm other than the Prime Contractor or its affiliates. Should this situation arise the arrangement must be short-term and have prior written approval from the Office of Equal Opportunity (OEO). The arrangement must not impact a DBE firm's ability to perform a Commercially Useful Function (CUF).
- Count the entire value of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, managerial services, or for providing bonds or insurance.
- When a DBE subcontracts to another firm, the value of the subcontracted Work may be counted as participation only if the DBE's lower tier Subcontractor is also a DBE.
- When non-DBE Subcontractor further subcontracts to a lower-tier Subcontractor or supplier who is a certified DBE, then that portion of the Work further subcontracted may be credited as DBE participation, so long as it is a distinct clearly defined portion of the Work that the DBE is performing with its own forces.
- If a firm is not certified as a DBE at the time of the execution of the contract, their participation cannot be counted toward any DBE goals.

Trucking

Use the following factors in determining DBE credit and whether a DBE trucking company is performing a Commercially Useful Function (CUF):

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which credit is being claimed.
2. The DBE must itself own and, with its own workforce, operate at least one fully licensed, insured, and operational truck used on the Contract.
3. The DBE receives credit only for the value of the transportation services it provides on the Contract using trucks it owns or leases, licenses, insures, and operates with drivers it employs. For purposes of this requirement a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others provided it is with the consent of the DBE and the lease provides the DBE first priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
4. The DBE may lease trucks from another DBE firm including an owner-operator provided they are certified as a DBE for trucking. The DBE who leases trucks from another DBE may claim participation for the total value of the transportation services the lessee DBE provides on the Contract.
5. The DBE may also lease trucks from a non-DBE firm and may enter into an agreement with an owner-operator who is a non-DBE. The DBE shall only receive credit for the number of additional non-DBE trucks equal or less than the number of DBE trucks the firms owns or has leased/subcontracted through another DBE trucking company. The DBE must control the work of the non-DBE trucks. If the non-DBE is performing the Work without supervision of that Work by the DBE, the DBE is not performing a Commercially Useful Function (CUF).
6. In any lease or owner-operator situation, as described in requirement #4 and #5 above, the following rules shall apply:
 - a. A written lease/rental agreement is required for all trucks leased or rented; documenting the ownership and the terms of the agreement. The agreements must be submitted and approved by the Contracting Agency prior to the beginning of the Work. The agreement must show the leaser's name, truck description and agreed upon amount and method of payment (hour, ton, or per load). All lease agreements shall be for a long-term relationship, rather than for the individual project. (This requirement does not apply to owner-operator arrangements.)
 - b. Only the vehicle, (not the operator) may be leased or rented. (This requirement does not apply to owner-operator arrangements.)
7. Credit may only be claimed for DBE trucking firms operating under a subcontract or a written agreement approved by the Contracting Agency prior to performing Work.

Expenditures paid to other DBEs

Expenditures paid to other DBEs for materials or supplies may be counted toward DBE goals as provided in the following:

Manufacturer

You may claim DBE credit for 100 percent of value of the materials or supplies obtained from a DBE manufacturer.

A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract. A manufacturer shall include firms that produce finished goods or products from raw or unfinished material or that purchases and substantially alters goods and materials to make them suitable for construction use before reselling them.

In order to receive credit as a DBE Manufacturer, the firm must be certified by OMWBE as a manufacturer in a NAICS code that falls within the 31XXXX to 33XXXX classification.

Regular Dealer

You may claim credit for 60 percent of the value of the materials or supplies purchased from a DBE regular dealer. Rules applicable to regular dealer status are contained in 49 CFR Part 26.55.e.2.

To be considered a regular dealer you must meet the following criteria:

1. WSDOT considers and recognizes a regular dealer, as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the Contract and described by the specifications of the Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business.
2. Sixty percent (60%) of the cost of materials or supplies purchased from an approved regular dealer may be credited as DBE participation.

Regular dealer status is granted on a contract-by-contract basis. A firm wishing to be approved as a regular dealer for WSDOT contracted projects or Highways & Local Program administered projects must submit a request in writing to the OEO no later than seven days prior to bid opening.

Once the OEO has received the request, an onsite review will be set up with the firm and a review conducted to determine the firm's qualifications. If it is determined that the firm qualifies as a regular dealer the OEO will list the firm on an approved regular dealers List. The list may be accessed through the OEO Home website is at:

www.wsdot.wa.gov/equalopportunity

Note: Requests to be listed as a regular dealer will only be processed if the requesting firm is certified by the Office of Minority and Women's Business Enterprises in a NAICS code that fall within the 42XXXX NAICS Wholesale code section.

Materials or Supplies Purchased from a DBE

With regard to materials or supplies purchased from a DBE who is neither a manufacturer nor a regular dealer you may claim credit for the following:

1. Fees or commissions charged for assistance in the procurement of the materials and supplies.
2. Fees or transportation charges for the delivery of materials or supplies.

In either case, you may not take credit for any part of the cost of the materials and supplies.

Joint Checking Allowance

Prime Contractors and DBEs must receive pre-approval by the OEO before using a joint check. Joint check requests shall be submitted, by the Prime Contractor to the Contracting Agency for approval.

When requesting approval for use of a joint checking allowance, the Contractor must distribute a written joint check agreement among the parties (including the suppliers involved) providing full and prompt disclosure of the expected use of the joint checks. The agreement shall contain all the information concerning the parties' obligations and consequences or remedies if the agreement is not fulfilled or a breach occurs. The joint check request shall be submitted to the Contracting Agency for approval prior to signing the Contract agreement.

The following are some general conditions that must be met by all parties regarding joint check use:

- a. It is understood the Prime Contractor acts as the guarantor of a joint check.
- b. The DBE's own funds are used to pay supplier of materials. The Prime Contractor does not make direct payment to supplier. In order to be performing a Commercially Useful Function (CUF), the DBE must release the check to the supplier (paying for the materials it-self and not be an extra participant in a transaction).
- c. If the Prime Contractor makes joint checks available to one DBE Subcontractor, the service must be made available to all Subcontractors (DBE and non-DBE).
- d. The relationship between the DBE and its suppliers should be established independently of and without interference by the Prime Contractor. The DBE has final decision-making responsibility concerning the procurement of materials and supplies, including which supplier to use.
- e. The Prime Contractor and DBE shall be able to provide receipts, invoices, cancelled checks and/or certification statements of payment if requested by the Contracting Agency.
- f. The DBE remains responsible for all other elements of 49 CFR 26.55(c) (1).

Failure by the Prime Contractor to request and to receive prior approval of a joint check arrangement will result in the joint check amount not counting towards the Prime Contractor's DBE goal.

Commercially Useful Function (CUF)

In any case, you may only take credit when the associated DBE that is determined to be performing a Commercially Useful Function (CUF).

- A DBE performs a CUF when it is responsible for execution of a distinct element of Work and is carrying out its responsibilities by performing, managing and supervising the Work involved. The DBE must also be responsible with respect to materials and supplies used on the Contract. For example; negotiating price, determining quality, determining quantities, ordering, installing (if applicable) and paying for the material itself.
- A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed.

Procedures Between Award and Execution

After award and prior to Execution of the Contract, the successful Bidder shall provide additional information as described below. Failure to comply may result in the forfeiture of the Bidder's Proposal bond or deposit.

A list of all firms who submitted a Bid or quote in an attempt to participate in this project whether they were successful or not.

Include the correct business name, federal employer identification number (optional) and a mailing address.

The firms identified by the Prime Contractor may be contacted by Contracting Agency to solicit general information as follows:

1. Age of the firm.
2. Average of its gross annual receipts over the past three years.

Procedures after Execution

Reporting

Quarterly Report of Amounts Credited as DBE Participation

Form #422-102

The Prime Contractor shall submit a Quarterly Report of Amounts Credited as DBE Participation form (422-102 EF) on a quarterly basis for any calendar quarter in which DBE Work is accomplished or upon completion of the project, as appropriate. This is a record of payments to the DBE that the Prime Contractor is taking credit for as DBE participation. The dollars reported as specified in Crediting DBE Participation for Reporting Purposes section of this contract provision.

In the event that the payments to a DBE have been made by an entity other than the Prime Contractor (as in the case of a lower-tier Subcontractor or supplier), then the Prime Contractor shall obtain the quarterly report,

including the signed affidavit, from the paying entity and submit the report to the Contracting Agency.

Payment

Compensation for all costs associated with complying with the conditions of this specification shall be included in payment for the associated Contract items of Work.

Prompt Payment

Prompt payment to all Subcontractors shall be in accordance with Section 1-08.1(1) of the Contract Provisions.

Damages for Noncompliance

The Prime Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Prime Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Contracts, which contain funding assistance from the United States Department of Transportation. Failure by the Prime 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.

(July 1, 2013)

Small Business Enterprise Participation

The Small Business Enterprise (SBE) Program is an element of the Disadvantaged Business Enterprise (DBE) Program in accordance with the requirements of 49 CFR Part 26.39. As such, the requirements of this contract establish affirmative efforts to utilize SBE certified firms on construction projects. No preference will be included in the evaluation of Bids/Proposals. No minimum level of SBE participation shall be required as a Condition of Award and Bids/Proposals may not be rejected or considered non-responsive on that basis.

Voluntary SBE Goals

A voluntary goal amount of ten percent of the Contract bid amount is established.

The goal is voluntary, but achievement of the goal is encouraged. No preference will be included in the evaluation of bids/proposals. Bidders may contact the Washington State Office of Minority and Women's Business Enterprises (OMWBE) at 360-664-9750 or visit www.omwbe.wa.gov to obtain information on certified SBE firms.

Required SBE Participation Plan

The Contractor shall submit a SBE Participation Plan prior to commencing contract work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

For SBE Participation Plan Drafting Guidelines, please visit:

www.wsdot.wa.gov/equalopportunity.

Definitions

Regardless of race or gender, a SBE is one certified by OMWBE as such, where the firm's:

- Three year averaged gross receipts are less than \$22.41 million dollars, with smaller industry standards applicable
- Is at least 51% owned and controlled by an individual or individuals with a personal net worth less than \$1.32 million dollars
- A Micro Small Business Enterprise is a firm certified as an SBE with average gross receipts for three years less than one million dollars

1-07.12 Federal Agency Inspection

Section 1-07.12 is supplemented with the following:

(January 25, 2016 WSDOT GSP, Option 1)

Required Federal Aid Provisions

The Required Contract Provisions Federal Aid Construction Contracts (FHWA 1273) Revised May 1, 2012 and the amendments thereto supersede any conflicting provisions of the Standard Specifications and are made a part of this Contract; provided, however, that if any of the provisions of FHWA 1273, as amended, are less restrictive than Washington State Law, then the Washington State Law shall prevail.

The provisions of FHWA 1273, as amended, included in this Contract require that the Contractor insert the FHWA 1273 and amendments thereto in each Subcontract, together with the wage rates which are part of the FHWA 1273, as amended. Also, a clause shall be included in each Subcontract requiring the Subcontractors to insert the FHWA 1273 and amendments thereto in any lower tier Subcontracts, together with the wage rates. The Contractor shall also ensure that this section, REQUIRED FEDERAL AID PROVISIONS, is inserted in each Subcontract for Subcontractors and lower tier Subcontractors. For this purpose, upon request to the Project Engineer, the Contractor will be provided with extra copies of the FHWA 1273, the amendments thereto, the applicable wage rates, and this Special Provision.

1-07.17 Utilities and Similar Facilities

Section 1-07.17 is supplemented with the following:

(April 2, 2007 WSDOT Option 2)

Locations and dimensions shown in the Plans for existing facilities are in accordance with available information obtained without uncovering, measuring, or other verification.

Public and private utilities, or their Contractors, will furnish all work necessary to adjust, relocate, replace, or construct their facilities unless otherwise provided for in the Plans or these Special Provisions. Such adjustment, relocation, replacement, or construction will be done during the prosecution of the work for this project. It is anticipated that utility adjustment, relocation, replacement or construction within the project limits will be completed as follows:

*** The Contractor will be required to coordinate with Frontier Communications for necessary relocations of their existing buried communications lines that are located within the shoulder area. The Contractor will pothole locations where luminaire foundations are

to be located and where guardrail will be installed to determine where the existing communications lines will require relocation. The Contractor shall remove the existing pavement as indicated in the contract plans in the locations where relocation will need to be completed by Frontier Communications. The Contractor will provide Frontier Communications up to 30 working days to complete their relocation work. ***

The Contractor shall attend a mandatory utility preconstruction meeting with the Engineer, all affected Subcontractors, and all utility owners and their Contractors prior to beginning onsite work.

The following addresses and telephone numbers of utility companies or their Contractors that will be adjusting, relocating, replacing or constructing utilities within the project limits are supplied for the Contractor's use:

Frontier Communications
3831 204th Street SW
Lynnwood, WA 98036
Attn: Kim Swenstad
(425) 712-3211

Frontier Communications
1800 41st Street
Everett, WA 98201
Attn: Ashley Charouhas
(425) 261-6282

Snohomish County Public Utilities
District (PUD)
210 E Division St
Arlington, WA 98223
Attn: Nick Fadich(360) 435-7500

Tulalip Broadband
8825 Quil Ceda Boulevard, Suite O
Tulalip, WA 98271
Attn: Richard Brown
(360) 654-3270

Tulalip Technology Data Services
8825 Quil Ceda Boulevard, Suite O
Tulalip, WA 98271
Attn: Gregory Keith
(360) 654-2233

Verizon
OSP Engineering
PO Box 1003
Everett, WA 98200
Attn: Tim Rennick
(425) 263-4034 ***

1-07.18 Public Liability and Property Damage Insurance

Delete this section in its entirety, and replace it with the following:

1-07.18 Insurance *(January 4, 2016 APWA GSP)*

1-07.18(1) General Requirements

- A. The Contractor shall procure and maintain the insurance described in all subsections of section 1-07.18 of these Special Provisions, from insurers with a current A. M. Best rating of not less than A-: VII and licensed to do business in the State of Washington. The Contracting Agency reserves the right to approve or reject the insurance provided, based on the insurer's financial condition.
- B. The Contractor shall keep this insurance in force without interruption from the commencement of the Contractor's Work through the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated below.

- C. If any insurance policy is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period (“tail”) or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.
- D. The Contractor’s Automobile Liability, Commercial General Liability and Excess or Umbrella Liability insurance policies shall be primary and non-contributory insurance as respects the Contracting Agency’s insurance, self-insurance, or self-insured pool coverage. Any insurance, self-insurance, or self-insured pool coverage maintained by the Contracting Agency shall be excess of the Contractor’s insurance and shall not contribute with it.
- E. The Contractor shall provide the Contracting Agency and all additional insureds with written notice of any policy cancellation, within two business days of their receipt of such notice.
- F. The Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by the Contracting Agency.
- G. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Contracting Agency may, after giving five business days’ notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Contracting Agency on demand, or at the sole discretion of the Contracting Agency, offset against funds due the Contractor from the Contracting Agency.
- H. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the Contract and no additional payment will be made.

1-07.18(2) Additional Insured

All insurance policies, with the exception of Workers Compensation, and of Professional Liability and Builder’s Risk (if required by this Contract) shall name the following listed entities as additional insured(s) using the forms or endorsements required herein:

- the Contracting Agency and its officers, elected officials, employees, agents, and volunteers
- ***Parametrix, Inc.
- David Downing and Associates
- Materials Testing Consultants, Inc.***

The above-listed entities shall be additional insured(s) for the full available limits of liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract, and irrespective of whether the Certificate of Insurance provided by the Contractor pursuant to 1-07.18(4) describes limits lower than those maintained by the Contractor.

For Commercial General Liability insurance coverage, the required additional insured endorsements shall be at least as broad as ISO forms CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

1-07.18(3) Subcontractors

The Contractor shall cause each Subcontractor of every tier to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors.

The Contractor shall ensure that all Subcontractors of every tier add all entities listed in 1-07.18(2) as additional insureds, and provide proof of such on the policies as required by that section as detailed in 1-07.18(2) using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency evidence of insurance and copies of the additional insured endorsements of each Subcontractor of every tier as required in 1-07.18(4) Verification of Coverage.

1-07.18(4) Verification of Coverage

The Contractor shall deliver to the Contracting Agency a Certificate(s) of Insurance and endorsements for each policy of insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the work. Failure of Contracting Agency to demand such verification of coverage with these insurance requirements or failure of Contracting Agency to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the Contracting Agency to be equivalent.
2. Copies of all endorsements naming Contracting Agency and all other entities listed in 1 07.18(2) as additional insured(s), showing the policy number. The Contractor may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.
3. Any other amendatory endorsements to show the coverage required herein.
4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.

Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency a full and certified copy of the insurance policy(s). If Builders Risk insurance is required on this Project, a full and certified copy of that policy is required when the Contractor delivers the signed Contract for the work.

1-07.18(5) Coverages and Limits

The insurance shall provide the minimum coverages and limits set forth below. Contractor's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Contracting Agency's recourse to any remedy available at law or in equity.

All deductibles and self-insured retentions must be disclosed and are subject to approval by the Contracting Agency. The cost of any claim payments falling within the deductible or self-insured retention shall be the responsibility of the Contractor. In the event an additional insured incurs a liability subject to any policy's deductibles or self-insured retention, said deductibles or self-insured retention shall be the responsibility of the Contractor.

1-07.18(5)A Commercial General Liability

Commercial General Liability insurance shall be written on coverage forms at least as broad as ISO occurrence form CG 00 01, including but not limited to liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage.

The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement.

Contractor shall maintain Commercial General Liability Insurance arising out of the Contractor's completed operations for at least three years following Substantial Completion of the Work.

Such policy must provide the following minimum limits:

| | |
|-------------|---|
| \$1,000,000 | Each Occurrence |
| \$2,000,000 | General Aggregate |
| \$2,000,000 | Products & Completed Operations Aggregate |
| \$1,000,000 | Personal & Advertising Injury each offence |
| \$1,000,000 | Stop Gap / Employers' Liability each accident |

1-07.18(5)B Automobile Liability

Automobile Liability shall cover owned, non-owned, hired, and leased vehicles; and shall be written on a coverage form at least as broad as ISO form CA 00 01. If the work involves the transport of pollutants, the automobile liability policy shall include MCS 90 and CA 99 48 endorsements.

Such policy must provide the following minimum limit:

| | |
|-------------|-------------------------------------|
| \$1,000,000 | Combined single limit each accident |
|-------------|-------------------------------------|

1-07.18(5)C Workers' Compensation

The Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

1-07.23 Public Convenience and Safety

1-07.23(1) Construction Under Traffic

Section 1-07.23(1) is supplemented with the following:

(January 2, 2012 WSDOT GSP OPT 2)

Work Zone Clear Zone

The Work Zone Clear Zone (WZCZ) applies during working and nonworking hours. The WZCZ applies only to temporary roadside objects introduced by the Contractor's operations and does not apply to preexisting conditions or permanent Work. Those work operations that are actively in progress shall be in accordance with adopted and approved Traffic Control Plans, and other contract requirements.

During nonworking hours equipment or materials shall not be within the WZCZ unless they are protected by permanent guardrail or temporary concrete barrier. The use of temporary concrete barrier shall be permitted only if the Engineer approves the installation and location.

During actual hours of work, unless protected as described above, only materials absolutely necessary to construction shall be within the WZCZ and only construction vehicles absolutely necessary to construction shall be allowed within the WZCZ or allowed to stop or park on the shoulder of the roadway.

The Contractor's nonessential vehicles and employees private vehicles shall not be permitted to park within the WZCZ at any time unless protected as described above.

Deviation from the above requirements shall not occur unless the Contractor has requested the deviation in writing and the Engineer has provided written approval.

Minimum WZCZ distances are measured from the edge of traveled way and will be determined as follows:

| Regulatory Posted Speed | Distance From Traveled Way (Feet) |
|--------------------------------|--|
| 35 mph or less | 10* |
| 40 mph | 15 |
| 45 to 55 mph | 20 |
| 60 mph or greater | 30 |

* or 2-feet beyond the outside edge of sidewalk

Minimum Work Zone Clear Zone Distance

Section 1-07.23(1) is supplemented with the following:

(*****)

Lane closures are subject to the following restrictions:

During nonworking hours, the Contractor shall maintain all lanes open to traffic.

During working hours, the Contractor may close one lane of traffic in accordance with an approved temporary traffic control plan.

If the Engineer determines the permitted lane closure hours adversely affect traffic, the Engineer may adjust the hours accordingly. The Engineer will notify the Contractor in writing of any change in the lane closure hours.

No lane closures will be allowed on a holiday or holiday weekend (including Columbus Day), or after 12:00 p.m. (noon) on a day prior to a holiday or holiday weekend. Holidays that occur on Friday, Saturday, Sunday, or Monday are considered a holiday weekend.

Complete closure of the roadway shall not be permitted.

1-07.24 Rights of Way

(July 23, 2015 APWA GSP)

Delete this section and replace it with the following:

Street Right of Way lines, limits of easements, and limits of construction permits are indicated in the Plans. The Contractor's construction activities shall be confined within these limits, unless arrangements for use of private property are made.

Generally, the Contracting Agency will have obtained, prior to bid opening, all rights of way and easements, both permanent and temporary, necessary for carrying out the work. Exceptions to this are noted in the Bid Documents or will be brought to the Contractor's attention by a duly issued Addendum.

Whenever any of the work is accomplished on or through property other than public Right of Way, the Contractor shall meet and fulfill all covenants and stipulations of any easement agreement obtained by the Contracting Agency from the owner of the private property. Copies of the easement agreements may be included in the Contract Provisions or made available to the Contractor as soon as practical after they have been obtained by the Engineer.

Whenever easements or rights of entry have not been acquired prior to advertising, these areas are so noted in the Plans. The Contractor shall not proceed with any portion of the work in areas where right of way, easements or rights of entry have not been acquired until the Engineer certifies to the Contractor that the right of way or easement is available or that the right of entry has been received. If the Contractor is delayed due to acts of omission on the part of the Contracting Agency in obtaining easements, rights of entry or right of way, the Contractor will be entitled to an extension of time. The Contractor agrees that such delay shall not be a breach of contract.

Each property owner shall be given 48 hours notice prior to entry by the Contractor. This includes entry onto easements and private property where private improvements must be adjusted.

The Contractor shall be responsible for providing, without expense or liability to the Contracting Agency, any additional land and access thereto that the Contractor may desire for temporary construction facilities, storage of materials, or other Contractor needs. However, before using any private property, whether adjoining the work or not, the Contractor shall file with the Engineer a written permission of the private property owner, and, upon vacating the premises, a written release from the property owner of each property disturbed or otherwise interfered with by reasons of construction pursued under this contract. The statement shall be signed by the private property owner, or proper authority acting for the owner of the private property affected, stating that permission has been granted to use the property and all necessary permits have been obtained or, in the case of a release, that the restoration of the property has been satisfactorily accomplished. The statement shall include the parcel number, address, and date of signature. Written releases must be filed with the Engineer before the Completion Date will be established.

1-08 PROSECUTION AND PROGRESS

Add the following new section and subsection:

1-08.0 Preliminary Matters (May 25, 2006 APWA GSP)

New Section

1-08.0(1) Preconstruction Conference (October 10, 2008 APWA GSP)

Prior to the Contractor beginning the work, a preconstruction conference will be held between the Contractor, the Engineer and such other interested parties as may be invited. The purpose of the preconstruction conference will be:

1. To review the initial progress schedule;
2. To establish a working understanding among the various parties associated or affected by the work;
3. To establish and review procedures for progress payment, notifications, approvals, submittals, etc.;
4. To establish normal working hours for the work;
5. To review safety standards and traffic control; and
6. To discuss such other related items as may be pertinent to the work.

The Contractor shall prepare and submit at the preconstruction conference the following:

1. A breakdown of all lump sum items;
2. A preliminary schedule of working drawing submittals; and
3. A list of material sources for approval if applicable.

1-08.1 Subcontracting

Section 1-08.1 is supplemented with the following:

(October 12, 1998 WSDOT GSP Option 1)

Prior to any subcontractor or lower tier subcontractor beginning work, the Contractor shall submit to the Engineer a certification (WSDOT Form 420-004) that a written agreement between the Contractor and the subcontractor or between the subcontractor and any lower tier subcontractor has been executed. This certification shall also guarantee that these subcontract agreements include all the documents required by the Special Provision **Federal Agency Inspection**.

A subcontractor or lower tier subcontractor will not be permitted to perform any work under the contract until the following documents have been completed and submitted to the Engineer:

1. Request to Sublet Work (Form 421-012), and
2. Contractor and Subcontractor or Lower Tier Subcontractor Certification for Federal-aid Projects (Form 420-004).

The Contractor's records pertaining to the requirements of this Special Provision shall be open to inspection or audit by representatives of the Contracting Agency during the life of the contract and for a period of not less than three years after the date of acceptance of the contract. The Contractor shall retain these records for that period. The Contractor shall also guarantee that these records of all subcontractors and lower tier subcontractors shall be available and open to similar inspection or audit for the same time period.

1-08.1(1) Prompt Payment, Subcontract Completion, and Return of Retainage Withheld

Section 1-08.1(1) is revised to read:

*(*****)*

The following procedures shall apply to all subcontracts entered into as a part of this Contract:

Requirements

1. The Prime Contractor or Subcontractor shall make payment to the Subcontractor not later than ten days after receipt of payment from the Contracting Agency for work satisfactorily completed by the Subcontractor, to the extent of each Subcontractor's interest therein.
2. Prompt and full payment of retainage from the Prime Contractor to the Subcontractor shall be made within 30 days after Subcontractor's Work is satisfactorily completed.
3. For purposes of this Section, a Subcontractor's work is satisfactorily completed when all task and requirements of the Subcontract have been accomplished and including any required documentation and material testing.
4. Failure by a Prime Contractor or Subcontractor to comply with these requirements may result in one or more of the following:
 - a. Withholding of payments until the Prime Contractor or Subcontractor complies
 - b. Failure to comply shall be reflected in the Prime Contractor's Performance Evaluation

- c. Cancellation, Termination, or Suspension of the Contract, in whole or in part
- d. Other sanctions as provided by the subcontract or by law under applicable prompt pay statutes.

Conditions

This clause does not create a contractual relationship between the Contracting Agency and any Subcontractor as stated in Section 1-08.1. Also, it is not intended to bestow upon any Subcontractor, the status of a third-party beneficiary to the Contract between the Contracting Agency and the Contractor.

Payment

The Contractor will be solely responsible for any additional costs involved in paying retainage to the Subcontractors. Those costs shall be incidental to the respective Bid Items.

Delete this section in its entirety, and replace it with the following:

1-08.4 Notice to Proceed and Prosecution of Work
(July 23, 2015 APWA GSP)

Notice to Proceed will be given after the contract has been executed and the contract bond and evidence of insurance have been approved and filed by the Contracting Agency. The Contractor shall not commence with the work until the Notice to Proceed has been given by the Engineer. The Contractor shall commence construction activities on the project site within ten days of the Notice to Proceed Date, unless otherwise approved in writing. The Contractor shall diligently pursue the work to the physical completion date within the time specified in the contract. Voluntary shutdown or slowing of operations by the Contractor shall not relieve the Contractor of the responsibility to complete the work within the time(s) specified in the contract.

When shown in the Plans, the first order of work shall be the installation of high visibility fencing to delineate all areas for protection or restoration, as described in the Contract. Installation of high visibility fencing adjacent to the roadway shall occur after the placement of all necessary signs and traffic control devices in accordance with 1-10.1(2). Upon construction of the fencing, the Contractor shall request the Engineer to inspect the fence. No other work shall be performed on the site until the Contracting Agency has accepted the installation of high visibility fencing, as described in the Contract.

1-08.5 Time for Completion

Section 1-08.5 is supplemented with the following:

(March 13, 1995 WSDOT GSP, Option 7)

This project shall be physically completed within *** 90 *** working days.

(August 14, 2013 APWA GSP, Option A)

Revise the third and fourth paragraphs to read:

Contract time shall begin on the first working day following the Notice to Proceed Date.

Each working day shall be charged to the contract as it occurs, until the contract work is physically complete. If substantial completion has been granted and all the authorized working days have been used, charging of working days will cease. Each week the Engineer will provide the Contractor a statement that shows the number of working days: (1) charged to the contract the week before; (2) specified for the physical completion of the contract; and (3) remaining for the physical completion of the contract. The statement will also show the nonworking days and any partial or whole day the Engineer declares as unworkable. Within 10 calendar days after the date of each statement, the Contractor shall file a written protest of any alleged discrepancies in it. To be considered by the Engineer, the protest shall be in sufficient detail to enable the Engineer to ascertain the basis and amount of time disputed. By not filing such detailed protest in that period, the Contractor shall be deemed as having accepted the statement as correct. If the Contractor is approved to work 10 hours a day and 4 days a week (a 4-10 schedule) and the fifth day of the week in which a 4-10 shift is worked would ordinarily be charged as a working day then the fifth day of that week will be charged as a working day whether or not the Contractor works on that day.

Revise the sixth paragraph to read:

The Engineer will give the Contractor written notice of the completion date of the contract after all the Contractor's obligations under the contract have been performed by the Contractor. The following events must occur before the Completion Date can be established:

1. The physical work on the project must be complete; and
2. The Contractor must furnish all documentation required by the contract and required by law, to allow the Contracting Agency to process final acceptance of the contract. The following documents must be received by the Project Engineer prior to establishing a completion date:
 - a. Certified Payrolls (per Section 1-07.9(5)).
 - b. Material Acceptance Certification Documents
 - d. Final Contract Voucher Certification
 - e. Copies of the approved "Affidavit of Prevailing Wages Paid" for the Contractor and all Subcontractors
 - f. Property owner releases per Section 1-07.24

1-09 MEASUREMENT AND PAYMENT

1-09.6 Force Account (October 10, 2008 APWA GSP)

Supplement this section with the following:

The Contracting Agency has estimated and included in the Proposal, dollar amounts for all items to be paid per force account, only to provide a common proposal for Bidders. All such dollar amounts are to become a part of Contractor's total bid. However, the Contracting Agency does not warrant expressly or by implication, that the actual amount of work will correspond with those estimates. Payment will be made on the basis of the amount of work actually authorized by Engineer.

1-09.9 Payments (March 13, 2012 APWA GSP)

Delete the first four paragraphs and replace them with the following:

The basis of payment will be the actual quantities of Work performed according to the Contract and as specified for payment.

The Contractor shall submit a breakdown of the cost of lump sum bid items at the Preconstruction Conference, to enable the Project Engineer to determine the Work performed on a monthly basis. A breakdown is not required for lump sum items that include a basis for incremental payments as part of the respective Specification. Absent a lump sum breakdown, the Project Engineer will make a determination based on information available. The Project Engineer's determination of the cost of work shall be final.

Progress payments for completed work and material on hand will be based upon progress estimates prepared by the Engineer. A progress estimate cutoff date will be established at the preconstruction conference.

The initial progress estimate will be made not later than 30 days after the Contractor commences the work, and successive progress estimates will be made every month thereafter until the Completion Date. Progress estimates made during progress of the work are tentative, and made only for the purpose of determining progress payments. The progress estimates are subject to change at any time prior to the calculation of the final payment.

The value of the progress estimate will be the sum of the following:

1. Unit Price Items in the Bid Form — the approximate quantity of acceptable units of work completed multiplied by the unit price.
2. Lump Sum Items in the Bid Form — based on the approved Contractor's lump sum breakdown for that item, or absent such a breakdown, based on the Engineer's determination.
3. Materials on Hand — 100 percent of invoiced cost of material delivered to Job site or other storage area approved by the Engineer.
4. Change Orders — entitlement for approved extra cost or completed extra work as determined by the Engineer.

Progress payments will be made in accordance with the progress estimate less:

1. Retainage per Section 1-09.9(1), on non FHWA-funded projects;
2. The amount of progress payments previously made; and
3. Funds withheld by the Contracting Agency for disbursement in accordance with the Contract Documents.

Progress payments for work performed shall not be evidence of acceptable performance or an admission by the Contracting Agency that any work has been satisfactorily completed. The determination of payments under the contract will be final in accordance with Section 1-05.1.

(March 13, 2012 APWA GSP)

Supplement this section with the following:

Lump sum item breakdowns are not required when the bid price for the lump sum item is less than \$20,000.

1-09.9(1) Retainage

Section 1-09.9(1) including title is deleted and replaced with the following:

(June 27, 2011 WSDOT GSP Option 1)

Vacant

1-10 TEMPORARY TRAFFIC CONTROL

1-10.1 General

The first paragraph of Section 1-10.1 is revised as follows:

*(*****)*

Traffic control plans have been provided for reference only. The Contractor shall provide site-specific traffic control plans to Snohomish County for review and approval. Plans shall be submitted for review no more than 14 calendar days following award of the contract. Notice to Proceed will not be given until the traffic control plans are approved. Plans shall be in accordance with the MUTCD and the WSDOT "Work Zone Traffic Control Guidelines". A minimum of 10 working days will be required for review. Plans will be developed by the Traffic Control Supervisor or a licensed civil engineer. The plans as provided by the Contractor shall include and not be limited to the following information:

- Minimum lane widths provided for vehicular travel.
- Location, legend, and size for all signage.
- Location of flagger stations.
- Lane closure tapers.
- Identification and spacing for traffic control devices.

The Contractor shall provide flaggers, signs, and other traffic control devices not otherwise specified as being furnished by the Contracting Agency. The Contractor shall erect and maintain all construction signs, warning signs, detour signs, and other traffic control devices necessary to warn and protect the public at all times from injury or damage as a result of the Contractor's operations which may occur on highways, roads, streets, sidewalks, or paths. No work shall be done on or adjacent to any traveled way until all necessary signs and traffic control devices are in place.

1-10.2 Traffic Control Management

1-10.2(1) General

Section 1-10.2(1) is supplemented with the following:

(January 8, 2016 WSDOT GSP Option 1)

Only training with WSDOT TCS card and WSDOT training curriculum is recognized in the State of Washington. The Traffic Control Supervisor shall be certified by one of the following:

The Northwest Laborers-Employers Training Trust
27055 Ohio Ave.
Kingston, WA 98346
(360) 297-3035

Evergreen Safety Council
12545 135th Ave. NE
Kirkland, WA 98034-8709
1-800-521-0778 or
(425) 814-3930

The American Traffic Safety Services Association
15 Riverside Parkway, Suite 100
Fredericksburg, Virginia 22406-1022
Training Dept. Toll Free (877) 642-4637
Phone: (540) 368-1701

1-10.4 Measurement

1-10.4(1) Lump Sum Bid for Project (No Unit Items)

(August 2, 2004 WSDOT GSP Option 1)

Section 1-10.4(3) is supplemented with the following:

The bid proposal contains the item "Project Temporary Traffic Control," lump sum and the additional temporary traffic control items listed below. The provisions of Section 1-10.4(1), Section 1-10.4(3), and Section 1-10.5(3) shall apply.

Section 1-10.4(3) is supplemented with the following:

(*****)

“Traffic Control Supervisor”, per lump sum.

“Flaggers and Spotters”, per hour.

“Portable Changeable Message Sign”, per hour.

1-10.5 Payment

1-10.5(1) Lump Sum Bid for Project (No Unit Items)

Section 1-10.5(1) is supplemented with the following:

(*****)

The lump sum bid for “Project Temporary Traffic Control”, per lump sum shall also include all costs associated with preparing and obtaining a traffic control permit from Snohomish County and preparing and receiving approval for the Traffic Control Plans, including all revisions and updates necessary throughout the project duration.

END OF DIVISION 1

DIVISION 2
EARTHWORK

2-01 CLEARING, GRUBBING, AND ROADSIDE CLEANUP

2-01.1 Description

Section 2-01.1 is supplemented with the following:

(*****)

Clearing and grubbing shall include trimming, removal and disposal of all trees or vegetation necessary to install the project items. Such operations shall be limited to only those items that must be removed for the project construction; vegetation and trees not affected by the construction shall not be removed or damaged. The Contractor shall confirm trimming and vegetation removal requirements within delineated wetland areas 72 hours prior to commencing clearing and grubbing work within those areas.

2-01.2 Disposal of Usable Materials and Debris

2-01.2(2) Disposal Method No. 2 – Waste Site

Section 2-01.2(2) is supplemented with the following:

(*****)

All material removed shall be hauled to a legal disposal site by the Contractor. The Contractor shall determine the suitability of the site to receive the materials and shall pay all fees associated with the disposal.

2-01.3 Construction Requirements

2-01.3(4) Roadside Cleanup

Section 2-01.3(4) is supplemented with the following:

(*****)

Roadside cleanup shall also include removing debris from the project site and dressing the area to original condition.

2-01.4 Measurement

Section 2-01.4 is replaced with the following:

(*****)

Measurement for all clearing, grubbing, and roadside cleanup will be by lump sum.

2-01.5 Payment

Section 2-01.5 is supplemented with the following:

(*****)

Payment will be made under the following:

“Clearing and Grubbing and Roadside Cleanup”, per lump sum

The lump sum bid price in the Proposal will be full compensation for the costs of all labor, tools, equipment, and materials necessary or incidental to perform the clearing, grubbing, and cleanup operations including all disposal fees.

2-02 REMOVAL OF STRUCTURES AND OBSTRUCTIONS

2-02.1 Description

Section 2-02.1 is supplemented with the following:

(*****)

The Contractor shall remove and dispose of any and all structures and obstructions as necessary for the construction of the project, including, but not limited to, boulders, concrete slabs, ecology blocks, buried logs, culvert pipe, and like items.

2-02.5 Payment

Section 2-02.5 is supplemented with the following:

(*****)

No payment will be made for removing and disposing of structures and obstructions. All costs for such removal shall be considered to the construction of the project and no additional compensations shall be paid. If, in the opinion of the Engineer, removal requires the use of specialized construction equipment, compensation will be made under the bid item “Minor Change”.

Payment will be made under the following:

“Removing Asphalt Conc. Pavement”, per square yard.

Sawcutting (full depth) for removal or adjustment of any material or item will be considered incidental to the bid item and will not be measured.

2-03 ROADWAY EXCAVATION AND EMBANKMENT

2-03.4 Measurement

Section 2-03.4 is supplemented with the following:

(*****)

Only one determination of the original ground elevation will be made on this project. Measurement for roadway excavation will be based on the original ground elevations recorded prior to the award of this contract. If discrepancies are discovered in the ground elevations, which will materially affect the quantities of earthwork, the original computations of earthwork quantities will be adjusted accordingly.

Earthwork quantities will be computed, either manually or by means of electronic data processing equipment, by use of the average end area method or by the finite element analysis method utilizing digital terrain modeling techniques.

Copies of the ground cross-section notes will be available for the bidder's inspection, before the opening of bids, at the Project Engineer's office located at:

Parametrix, Inc.
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374

Measurement for unsuitable foundation excavation incl. haul shall be determined by neat line dimensions and measured by cubic yard of material removed. Because the amount of such excavation is unknown, a quantity has been arbitrarily selected to provide a common bid base. The unit price submitted shall be used for all such excavation. Material that must be excavated to provide the required depth of utility trenches, structures, gravel subgrade, and other improvements, regardless of the nature of the material, shall not be considered as unsuitable foundation excavation. No measurement will be made for the material to replace the unsuitable material removed.

Compaction of any material in this section of the Special Provisions will be considered incidental to the bid item and will not be measured.

2-03.5 Payment

Section 2-03.5 is supplemented with the following:

(*****)

"Roadway Excavation Incl. Haul", per cubic yard.

The unit contract price for "Roadway Excavation Incl. Haul" per cubic yard shall be full pay for excavating, loading, hauling, and otherwise disposing of the materials per the lines and grades shown on the Contract Plans including excavation for driveway approaches, gravel borrow, and for all other work unless such excavation is specifically paid for under other bid items included in the Proposal.

2-09 STRUCTURE EXCAVATION

2-09.1 Description

Section 2-09.1 is supplemented with the following:

(*****)

Work shall include removal and replacement of unsuitable material from beneath conduit trenches or luminaire and wall foundations.

2-09.2 Materials

Section 2-09.2 is supplemented with the following:

(*****)

Material to replace unsuitable foundation materials shall be crushed surfacing base course meeting the requirements of Section 4-04 of the Standard Specifications.

2-09.3 Construction Requirements

Section 2-09.3 is supplemented with the following:

(*****)

Where deemed necessary by the Engineer, the Contractor shall remove unsuitable material from the bottom of trenches and foundations. All such material removed shall be hauled to a legal disposal site by the Contractor. The unsuitable material shall be replaced with crushed surfacing base course.

2-09.4 Measurement

Section 2-09.4 is supplemented with the following:

(*****)

Measurement for "Unsuitable Foundation Excavation Incl. Haul" will be by the cubic yard measured in place.

Since the need for and quantity of these items is not known at present, an amount has been arbitrarily entered on the Proposal to provide a common basis for bids.

2-09.5 Payment

Section 2-09.5 is supplemented with the following:

(*****)

Payment will be made under the following:

"Unsuitable Foundation Excavation Incl. Haul", per cubic yard

The unit bid price in the Proposal will be full compensation for the costs of all labor, tools, equipment, and materials necessary or incidental to excavate the unsuitable material and dispose at a legal site. The unit bid price shall also include all costs associated with furnishing, hauling, placing, and compacting the crushed surfacing material to replace the unsuitable foundation material.

END OF DIVISION 2

DIVISION 3

AGGREGATE PRODUCTION AND ACCEPTANCE

3-02 STOCKPILING AGGREGATES

3-02.2 GENERAL REQUIREMENTS

3-02.2(2) STOCKPILE SITE PROVIDED BY THE CONTRACTOR

Section 3-02.2(2) is supplemented with the following:

(*****)

If the Contractor chooses to stockpile crushed surfacing materials, borrow, and backfill materials on or near the site, the Contractor shall establish and maintain separate stockpile areas for:

1. Materials that are to be measured and paid for separately.
2. Materials which are incidental to other bid items.

3-02.4 MEASUREMENT

Section 3-02.4 is supplemented with the following:

(*****)

The specific materials in each stockpile will be measured as designated in the Standard Specifications and these Special Provisions.

3-02.5 PAYMENT

Section 3-02.5 is supplemented with the following:

(*****)

All costs of any work under Section 3-02 shall be incidental to and included in the unit contract prices for the various items in the Proposal, unless designated otherwise in these Special Provisions.

END OF DIVISION 3

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DIVISION 4

BASES

4-04 BALLAST AND CRUSHED SURFACING

4-04.4 Measurement

Section 4-04.4 is supplemented with the following:

(*****)

Measurement for “Crushed Surfacing Top Course” and “Crushed Surfacing Base Course” will be by the ton, except when the material is incidental to another bid item.

END OF DIVISION 4

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DIVISION 5

SURFACE TREATMENTS AND PAVEMENTS

5-04 HOT MIX ASPHALT

5-04.3 Construction Requirements

5-4.3(3) Hot Mix Asphalt Pavers

5-04.3(3)A Material Transfer Device/Vehicle (January 16, 2014 APWA GSP)

The first paragraph of this section is revised to read:

Additionally, a material transfer device or vehicle (MTD/V) is not required at the following locations *** Project Limits ***.

5-04.3(7) Preparation of Aggregates

5-04.3(7A) Mix Design

5-04.3(7)A2 Statistical or Nonstatistical Evaluation

Delete this section and replace it with the following:

(January 16, 2014 APWA GSP)

5-04.3(7)A2 Nonstatistical Evaluation

Mix designs for HMA accepted by Nonstatistical evaluation shall;

- Be submitted to the Project Engineer on WSDOT Form 350-042
- Have the aggregate structure and asphalt binder content determined in accordance with WSDOT Standard Operating Procedure 732 and meet the requirements of Sections 9-03.8(2) and 9-03.8(6).
- Have anti-strip requirements, if any, for the proposed mix design determined in accordance with WSDOT Test Method T 718 or based on historic anti-strip and aggregate source compatibility from WSDOT lab testing. Anti-strip evaluation of HMA mix designs utilized that include RAP will be completed without the inclusion of the RAP.

At or prior to the preconstruction meeting, the contractor shall provide one of the following mix design verification certifications for Contracting Agency review;

- The proposed mix design indicated on a WSDOT mix design/anti-strip report that is within one year of the approval date
- The proposed HMA mix design submittal (Form 350-042) with the seal and certification (stamp & signature) of a valid licensed Washington State Professional Engineer.
- The proposed mix design by a qualified City or County laboratory mix design report that is within one year of the approval date.

The mix design will be performed by a lab accredited by a national authority such as Laboratory Accreditation Bureau, L-A-B for Construction Materials Testing, The Construction Materials Engineering Council (CMEC's) ISO 17025 or AASHTO Accreditation Program (AAP) and shall supply evidence of participation in the AASHTO Material Reference Laboratory (AMRL) program.

At the discretion of the Engineer, agencies may accept mix designs verified beyond the one year verification period with a certification from the Contractor that the materials and sources are the same as those shown on the original mix design.

5-04.3(8) Mixing

5-04.3(8)A Acceptance Sampling and Testing – HMA Mixture

5-04.3(8)A1 General

(January 16, 2014 APWA GSP)

Delete this section and replace it with the following:

Acceptance of HMA shall be as defined under nonstatistical or commercial evaluation.

Nonstatistical evaluation will be used for all HMA not designated as Commercial HMA in the contract documents.

The mix design will be the initial JMF for the class of HMA. The Contractor may request a change in the JMF. Any adjustments to the JMF will require the approval of the Project Engineer and must be made in accordance with Section 9-03.8(7).

Commercial evaluation may be used for Commercial HMA and for other classes of HMA in the following applications: sidewalks, road approaches, ditches, slopes, paths, trails, gores, prelevel, and pavement repair. Other nonstructural applications of HMA accepted by commercial evaluation shall be as approved by the Project Engineer. Sampling and testing of HMA accepted by commercial evaluation will be at the option of the Project Engineer. Commercial HMA can be accepted by a contractor certificate of compliance letter stating the material meets the HMA requirements defined in the contract.

5-04.3(8)A4 Definition of Sampling Lot and Sublot

(January 16, 2014 APWA GSP)

Section 5-04.3(8)A4 is supplemented with the following:

For HMA in a structural application, sampling and testing for total project quantities less than 400 tons is at the discretion of the engineer. For HMA used in a structural application and with a total project quantity less than 800 tons but more than 400 tons, a minimum of one acceptance test shall be performed:

- i. If test results are found to be within specification requirements, additional testing will be at the engineer's discretion.
- ii. If test results are found not to be within specification requirements, additional testing as needed to determine a CPF shall be performed.

5-04.3(8)A5 Test Results
(January 16, 2014 APWA GSP)

The first paragraph of this section is deleted.

5-04.3(8)A6 Test Methods
(January 16, 2014 APWA GSP)

Delete this section and replace it with the following:

Testing of HMA for compliance of Va will be at the option of the Contracting Agency. If tested, compliance of Va will be use WSDOT Standard Operating Procedure SOP 731. Testing for compliance of asphalt binder content will be by WSDOT FOP for AASHTO T 308. Testing for compliance of gradation will be by WAQTC FOP for AASHTO T 27/T 11.

END OF DIVISION 5

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DIVISION 6
STRUCTURES

6-01 GENERAL REQUIREMENTS FOR STRUCTURES

6-01.2 Foundation Data

Section 6-01.2 is supplemented with the following:

(*****)

The Contractor should review the geotechnical recommendations report prepared for this project. Copies of the geotechnical recommendations report are available for review by prospective bidders at the location specified in Section 1-02.4 as supplemented in these Special Provisions.

6-02 CONCRETE STRUCTURES

6-02.3 Construction Requirements

6-02.3(25) Prestressed Concrete Girders

Change the third paragraph to read as follows:

(*****)

The Contracting Agency does not intend to perform a Quality Assurance Inspection.

Add the following to the various types of girders:

Hollow Core Slabs – Refers to precast, prestressed hollow core slabs that are machine extruded, with continuous open cores, in a casting yard under closely controlled mixing, placing, and curing conditions. The slabs shall be furnished in nominal 4-foot widths, and sawn to lengths and skews as shown on the Drawings. Hollow core slab soffits shall have a smooth steel-formed finish.

6-02.4 Measurement

Supplement Section 6-02.4 with the following:

(*****)

“Precast Prestressed Slab (8 In. Hollowcore Slab)” will be measured by the square foot.

6-02.5 Payment

Supplement section 6-02.5 with the following:

(*****)

“Precast Prestressed Slab (8 In. Hollowcore Slab)”, per square foot.

Payment will be payment in full for furnishing and placing all materials, and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified.

No separate or additional payment will be made for:

- Reinforcement, prestressing steel, and all other material contained within the slabs.
- Furnishing, transporting, and placing slabs.
- Grouting keyways and installing poured joint filler.
- Furnishing and installing neoprene bearing strips.

6-05 PILING

6-05.3 Construction Requirements

6-05.3(5) Manufacture of Steel Piles

(March 3, 2014 Bridge GSP)

Section 6-05.3(5) is supplemented with the following:

Each length of steel pipe pile shall be marked with paint stencil, no closer than six inches to the end of the pipe, with the name of the manufacturer, material specification and grade of pipe, steel heat number, nominal pipe diameter, and wall thickness.

Section 6-05.3(5) is supplemented with the following:

(August 3, 2015 WSDOT GSP Option 1)

Furnishing St. Piling

Welding for steel pipe piling shall conform to AWS D1.1/D1.1M, latest edition, Structural Welding Code, and Section 6-03.3(25), except that all weld filler metal shall be low hydrogen material selected from Table 4.1 in AASHTO/AWS D1.5M/D1.5:2010 Bridge Welding Code.

Welding and joint geometry for the seam, whether it be longitudinal or helical, shall be qualified in accordance with Clause 4, Qualification, of the AWS D1.1/D1.1M, latest edition, Structural Welding Code. In addition, charpy V-notch (CVN) testing in accordance with Clause 4, Part D, of the AWS D1.1/D1.1M, latest edition, Structural Welding Code, shall be performed. CVN testing shall include five tests at 0°F. The acceptance threshold for the five samples shall meet an average value of 20-foot-pounds CVN for the set of test coupons and a minimum value of 15-foot-pounds CVN for any individual test coupon. The Contractor may submit documentation of prior qualification to the Engineer to satisfy this requirement.

Dimensional tolerances shall conform to the material specification that the steel pipe piling is manufactured under, and, at a minimum, the following requirements:

1. Out-of-roundness shall be within 1-percent of the nominal outside diameter.
2. Deviation from a straight line, parallel to the centerline of the pile, shall not exceed 0.001 times the length of the pile.
3. The maximum radial offset of the strip/plate edges shall be 1/8-inch. The offset shall be transitioned with a taper weld and the slope shall not be less than a 1 in 2.5 taper.

4. The bead height of weld reinforcement shall not exceed 3/16-inch.
5. Misalignment of weld beads for double-sided welded pipe shall not exceed 1/8-inch.
6. The wall thickness shall not be less than 95-percent or greater than 110-percent of the specified nominal thickness.

All seams and skelp splices shall be complete penetration welds. Skelp splices in spiral welded (helical seam) pipe shall not be located within 12 inches of a girth shop or field weld.

All skelp splices shall be 100 percent radiographically or ultrasonically inspected in accordance with either API 5L Annex E Section E.4 or E.5, or Table 6.2 and Clause 6 Part E, F or G in AWS D1.1/D1.1M, latest edition, Structural Welding Code. Additionally, 10-percent of the total length of seam welds for both longitudinal and helical welded pipe, and one pipe diameter length of seam centered on any skelp splice intersection, shall be randomly inspected as specified above. If repairs are required in more than 10-percent of the welds examined, additional inspection shall be performed. The additional inspection shall be made on both sides of the repair for a length equal to 10-percent of the length of the pipe outside circumference. If repairs are required in more than 10-percent of welds examined in the second sample, 100-percent of the entire seam on the pile shall be inspected.

All seams and splices shall be 100 percent visually inspected in accordance with the acceptance criteria for statically loaded non-tubular connections in Table 6.1 of the AWS D1.1/D1.1M, latest edition, Structural Welding Code. Repairs shall conform to Section 5.26 of the AWS D1.1/D1.1M, latest edition, Structural Welding Code, using approved repair and weld procedures.

Each length of steel pipe pile shall be marked with paint stencil, no closer than six inches to the end of the pipe, with the name of the manufacturer, material specification and grade of pipe, steel heat number, nominal pipe diameter, and wall thickness.

6-06 BRIDGE RAILINGS

6-06.1 Description

Section 6-06.1 is supplemented with the following:

(*****)

This work shall also consist of fabrication and construction of pedestrian railing on both sides of the elevated structure as shown on the Plans and these Specifications.

6-06.2 Materials

Section 6-06.2 is supplemented with the following:

(*****)

Material for the "Pedestrian Railing" shall be galvanized steel in accordance with the standard plan referenced in the Plans, Standard Specifications, and in the appendices of these Specifications.

Attachment materials shall be per details shown on the structural plan sheets.

6-06.3 Construction Requirements

Section 6-06.3 is supplemented with the following:

(*****)

No railing shall be erected until the surface to which it is to be attached is completed.

Slip joints shall be as shown on the standard plan in the appendices. Railing installed without slip joints will be rejected and the Contractor shall install new railing at its own expense.

6-06.4 Measurement

Section 6-06.4 is supplemented with the following:

(*****)

“Pedestrian Railing” will be measured by the linear foot along the line and slope at the base of the completed railings.

6-06.5 Payment

Section 6-06.5 is supplemented with the following:

(*****)

“Pedestrian Railing”, per linear foot.

The unit contact price for “Pedestrian Railing” per linear foot shall be full pay for furnishing all labor, tools, equipment, and materials required, including but not limited to, railing, welding, fittings, grout, steel sleeve, concrete, slip joints, attachment to the elevated structure, and cleanup.

END OF DIVISION 6

DIVISION 8

MISCELLANEOUS CONSTRUCTION

8-01 EROSION CONTROL AND WATER POLLUTION CONTROL

8-01.3 Construction Requirements

Section 8-01.3 is supplemented with the following:

(*****)

The Contractor shall bear sole responsibility for damage to completed portions of the project and to property located off the project caused by erosion, siltation, runoff, or other related items during the construction of the project. The Contractor shall also bear sole responsibility for any pollution of rivers, streams, groundwater, or other water that may occur as a result of construction operations.

Any area not covered with established, stable vegetation where no further work is anticipated for a period of 15 days, shall be immediately stabilized with the approved erosion and sedimentation control methods (e.g., seeding and mulching, straw, plastic sheet). Where seeding for temporary erosion control is required, fast germinating grasses shall be applied at an appropriate rate (e.g., perennial rye applied at approximately 80 pounds per acre).

At no time shall more than one foot of sediment be allowed to accumulate within a catch basin. All catch basins and conveyance lines shall be cleaned at a time designated by the Construction Inspector. The cleaning operation shall not flush sediment-laden water into the downstream system. The cleaning shall be conducted using an approved vacuum truck capable of jet rodding the lines. The collection and disposal of the sediment shall be the responsibility of the Contractor at no cost to the Owner.

8-01.5 Payment

Section 8-01.5 is supplemented with the following:

(*****)

“Erosion/Water Pollution Control”, lump sum.

The lump sum bid price for “Erosion/Water Pollution Control” shall constitute full pay for all labor, materials, tools, and equipment necessary and incidental to the installation of erosion and sediment control facilities including, but not limited to, the following:

1. Erosion and sedimentation control installation and maintenance and replacement as required until project completion and approval.
2. Inlet protection of the storm drain system.

3. Maintenance of catch basins, storm drains, ditches, and other drainage courses, including immediate removal and disposal of accumulated sedimentation.
4. Compliance with all requirements of the NPDES Permit for the duration of the project including all required documentation and reporting.

8-20 ILLUMINATION, TRAFFIC SIGNAL SYSTEMS, INTELLIGENT TRANSPORTATION SYSTEMS, AND ELECTRICAL

8-20.1 Description

Section 8-20.1 is supplemented with the following:

(*****)

Work consists of installing a complete illumination system on the east/north side of Marine Drive. This work includes new conduit; j-boxes; foundations; luminaires with slip bases; LED fixtures; and boardwalk rail lighting..

The work will also include installation and connection to two new power sources and installation of new service cabinets as shown in the contract plans. The Contractor will work with Snohomish County PUD for connections to existing transformers fed from the overhead feed on the opposite side of the roadway. Contractor will perform all work elements and provide materials not performed by Snohomish County PUD.

8-20.1(1) Regulations and Code

Section 8-20.1(1) is supplemented with the following:

(*****)

All electrical equipment shall conform to the standards of the National Electrical Manufacturers Association (NEMA), FHWA IP-78-16, the Radio Manufacturers Association, the American Society for Testing and Materials (ASTM), the American Association of State Highway and Transportation Officials (AASHTO), the American National Standards Institute (ANSI), the National Electrical Safety Code (NESC), the International Municipal Signal Association (IMSA), whichever is applicable, and to other codes listed herein.

Where applicable, materials shall conform to the latest requirements of the Washington State Department of Labor and Industries and Snohomish County P.U.D.

Electrical Inspection

The Department of Labor and Industries' Electrical Inspector shall inspect and approve the electrical portions of the project. Before work begins, the Contractor shall contact the Department of Labor and Industries Electrical Inspector at (425) 290-1310 to coordinate a schedule of electrical inspection. Work shall be done in accordance with WAC 296-46B-010. This project shall conform to the current adopted version of the NEC. When electrical inspection of work is required, the Contractor shall notify the Electrical Inspector at least 2 days in advance. The Electrical Inspector's inspection and approval of all electrical work is required before final acceptance of the project.

8-20.1(2) Industry Codes and Standards

Section 8-20.1(2) is supplemented with the following:

(*****)

International Municipal Signal Association (IMSA), Post Office Box 53911115 North Main Street, Newark, NJ 14513.

National Electrical Safety Code (NESC), Secretary NESC, NESC Committee, IEEE Post Office Box 1331445 Hoes Lane, Piscataway, NJ 08855-1331.

8-20.2 Materials

Section 8-20.2 is supplemented with the following:

(*****)

All materials for the project shall be furnished by the Contractor.

Bedding material shall consist of sand.

8-20.2(1) Equipment List and Drawings

Section 8-20.2(1) is supplemented with the following:

(*****)

Manufacturer's data for materials proposed for use in the Contract that require approval shall be submitted in one complete package.

8-20.3 Construction Requirements

8-20.3(2) Excavating and Backfilling

Section 8-20.3(2) is supplemented with the following:

(*****)

The Contractor shall supply all trench necessary for the complete and proper installation of the illumination systems. Trenching shall conform to the following:

In paved areas, edges of the trench shall be saw cut the full depth of the pavement and saw cuts shall be parallel. All trenches for placement of conduit shall be as straight as practical to provide a minimum of pavement disturbance. The existing pavement shall be removed in an approved manner. The trench bottom shall be graded to provide a uniform grade.

All trenches shall provide a minimum 36-inch cover.

In travelled ways, bedding material shall be placed 3 inches beneath, and 3 inches over the conduits. Control density fill shall be placed and vibrated in place. The roadway shall be restored with crushed surfacing top course and asphalt concrete pavement to match the existing adjacent pavement section. The asphalt concrete surface cuts shall be given a tack coat of asphalt emulsion (CSS-1) or approved equal immediately before resurfacing, applied to the entire edge and full depth of the pavement cut. Immediately after compacting the new asphalt surface to conform to the adjacent paved surface, all joints between new and original

pavement shall be painted with asphalt emulsion (CSS-1), or approved equal, and covered with dry paving sand before the asphalt emulsion solidifies. See details on the Plans.

In untraveled ways, trenches shall be backfilled with bedding material as specified for trenches under the roadway, with the remaining depth of trench backfilled with compacted crushed surfacing top course. Trenches shall be restored with native material removed for the trench. See details on the Plans.

Backfill shall be carefully placed so that the backfilling operation will not disturb the conduit in any way. The backfill shall be thoroughly mechanically tamped in 8-inch layers with each layer compacted to 95 percent of maximum density in traveled ways, and 90 percent of maximum density elsewhere at optimum soil moisture content.

All conduits across Marine Drive shall be installed by directional bore per Section 8-20.3(5) of the Standard Specifications.

8-20.3(4) Foundations

Section 8-20.3(4) is supplemented with the following:

(*****)

Luminaire pole foundations shall be Type "B" per WSDOT Standard Plan J-28.30-03, with base type per Plan-, except as modified per notes and details on the Plans. Foundations shall be constructed in a single pour.

Drilled Shafts For Pole Foundations

This Special Provision covers the operations required to drill shafts for pole foundations, removal of all soil and rock materials encountered, disposal of all excavated materials, furnishing and placement of casing (if required), removal and disposal of any obstructions encountered, furnish and place steel reinforcement cages and concrete, and the work necessary to complete the drilled shaft construction, in accordance with these Special Provisions and as specified on the Plans.

Materials

Concrete

Concrete shall meet all requirements for Concrete Class 4000 as specified in Section 6-02, with the following exceptions:

1. The slump of the concrete shall be between 5 inches to 7 inches when tested in accordance with WSDOT Test Method No. 804 at the jobsite.
2. The Contractor may use a water-reducing admixture in accordance with Section 6-02.3(3), the manufacturer's written recommendations, and as directed by the Engineer in order to attain a slump of 5 inches to 7 inches.

Reinforcing Steel

All reinforcing steel shall meet the requirements of Section 9-07 and in accordance with the Plans.

Casing

1. The casing shall be of steel and of ample strength to withstand handling stresses and the external pressure of the casing soil and/or water.
2. The casing shall be watertight, smooth, and clean.
3. The inside diameter of the casing shall provide as a minimum the specified diameter of the shaft. No extra compensation will be allowed for concrete required to fill an oversized casing or an oversized excavation.

Construction Sequence

All excavation for the foundations in which the drilled shafts are to be constructed shall be completed before shaft construction begins. After shaft construction is completed, all loose or displaced materials shall be removed from around the shafts, leaving a clean solid surface to receive the footing concrete.

Shaft Excavation

1. Shafts shall be excavated to the required depth. The excavation shall be completed in a continuous operation using equipment capable of excavating through the type of material expected to be encountered. The concrete shall be placed immediately after the completion of shaft excavation and cleanout without any undue delay.
2. If the shaft excavation is stopped with the approval of the Engineer, the shaft shall be secured by the installation of a safety cover. It shall be the Contractor's responsibility to ensure the safety of the shaft and the surrounding soil and the stability of the sidewalls. A temporary casing should be used if necessary to ensure such safety and stability.
3. Where caving conditions are encountered, due to soft soils or water intrusion, no further excavation will be allowed until the Contractor selects a method to prevent ground movement. The Contractor may elect to place a temporary casing or use other methods approved by the Engineer.
4. The Contractor shall use appropriate means such as a clean-out bucket, to clean the bottom of the excavation such that a minimum of 50 percent of the base of each shaft will have less than 1 inch of sediment at the time of placement of the concrete. The maximum depth of sediment or any debris at any place on the base of the shaft shall not exceed 2 inches.
5. When unexpected obstructions, which require specialized equipment and/or labor are encountered, the Contractor shall notify the Engineer promptly and the obstructions shall be removed and the excavation continued as directed by the Engineer.

Excavation Inspection

1. The Contractor shall provide equipment for checking the dimensions and alignment of each permanent shaft excavation. The dimensions and alignment shall be determined by the Contractor under the direction of the Engineer.
2. Final shaft depths shall be measured with a suitable weighted tape or other approved methods after final clean-out.
3. Shaft cleanliness will be determined by the Engineer, by visual inspection.
4. The excavated shaft shall be approved by the Engineer prior to placing any steel or concrete into the shaft.

Reinforcing Steel Cage Construction and Placement

1. The reinforcing steel cage consisting of longitudinal bars, ties, cage stiffener bars, spacers, centralizers, and other necessary appurtenance shall be completely assembled and placed as a unit immediately after the shaft excavation is inspected and accepted prior to concrete placement. The reinforcing cage shall be rigidly braced to retain its configuration during handling and when lowered into the shaft, during placement of concrete and extraction of the casing from the shaft. No loose bars will be permitted. The reinforcing steel fabricator shall include bracing and any extra reinforcing steel required to fabricate the cage in the shop drawings.
2. If the bottom of the constructed shaft elevation is lower than the bottom of the shaft elevation in the Plans, a minimum of 1/2 of the longitudinal bars required in the upper portion of the shaft shall be extended the additional length. Tie bars shall be continued for the extra depth, spaced on 2-foot centers, and the stiffener bars shall be extended to the final depth. These bars may be lap spliced, or unspliced bars of the proper length may be used. Welding to the planned reinforcing steel will not be permitted unless specifically shown in either the Plans or Special Provisions.
3. The reinforcing steel in the shaft shall be tied and supported so that the reinforcing steel will remain within allowable tolerances given in this Specification. Concrete spacers or other approved noncorrosive spacing devices shall be used at sufficient intervals (near the bottom and at intervals not exceeding 5 feet up the shaft) to ensure concentric spacing for the entire cage length. Spacers shall be constructed of approved material equal in quality and durability to the concrete specified for the shaft.
4. The elevation of the top of the steel cage shall be checked before and after the concrete is placed. If the rebar cage is not maintained within the specified tolerances, corrections shall be made by the Contractor as directed by the Engineer. No additional shafts shall be constructed until the Contractor has modified his rebar cage support in a manner satisfactory to the Engineer.

Concrete Placement

Concrete placement shall commence within 2 hours after completion of the excavation and shall be placed in one continuous operation to the top of the shaft. Concrete shall be placed through a tremie. The tremie used shall consist of a tube of one-piece construction. Concrete shall be placed through a hopper at the top of the tube so that the concrete is deposited through the center of the reinforcing steel to prevent segregation of the aggregates and splashing of concrete on the reinforcement cage. The Contractor's proposed method for depositing concrete shall have approval of the Engineer prior to concrete placement. The concrete on the top 5 feet of the shaft shall be vibrated.

Casing Removal

During casing removal, a minimum 5-foot head of concrete must be maintained to balance the soil and water pressure at the bottom of the casing. This casing shall be well coated with form oil prior to concrete placement.

Construction Tolerances

1. The centerline of the drilled shaft shall be within 3 inches of Plan position in the horizontal plane, at the Plan elevation for the top of the shaft.
2. The vertical alignment of the shaft excavation shall not vary from the Plan alignment by more than 1/4 inch per foot of depth.
3. After all the concrete is placed, the top of the reinforcing steel cage shall be no more than 1/2 inch above and no more than 1/2 inch below the Plan position.
4. The minimum diameter of the drilled shaft shall be 1 inch less than the specified shaft diameter.
5. The top elevation of the shaft shall have a tolerance of $\pm 1/2$ inch from the Plan top of shaft elevation.
6. Excavation equipment and methods shall be designed so that the completed shaft excavation will have a flat bottom. The cutting edges of excavation equipment shall be normal to the vertical axis of the equipment within a tolerance of $\pm 3/8$ inch per 12 inches of diameter.

Drilled shaft excavations constructed in such a manner that the concrete shaft cannot be completed within the required tolerances are unacceptable. When approved, corrections may be made to an unacceptable drilled shaft excavation by any approved combination of the following methods:

1. Overdrill the shaft excavation to a larger diameter to permit accurate placement of the reinforcing steel cage with the required minimum concrete cover.
2. Increase the number and/or size of the steel reinforcement bars.

The approval of the correction procedures is dependent on analysis of the effect of the degree of misalignment and improper positioning. Correction methods may

be approved as design analysis indicate. Redesign drawings and computations prepared by the Contractor's Engineer shall be signed by a Professional Engineer licensed in the State of Washington. Materials and work necessary, including engineering analysis and redesign, to effect corrections for out-of-tolerance drilled shaft excavations shall be furnished at no cost.

Submittals

1. Before placing the reinforcing steel, the Contractor shall submit shop drawings to the Engineer as specified in Section 1-05.3 for the reinforcing cage.
2. Work shall not proceed until the appropriate submittals have been approved in writing by the Engineer.

8-20.3(5) Conduit

Section 8-20.3(5) is supplemented with the following:

(*****)

All conduits shall be Schedule 80 PVC, unless otherwise specified in the Plans.

All PVC conduits shall contain #8 bonded ground wire.

Where PVC conduit is installed:

1. 18-inch-radius elbows shall be used for conduit of 2-inch nominal diameter or less.
2. Standard sweep elbows shall be used for conduit with greater than 2-inch nominal diameter unless otherwise specified in the Plans.
3. Joints shall be connected with medium-grade gray cement solvent applied per the manufacturer's recommendations.
4. In conduit less than 2-inch-nominal diameter, pull ropes for wire installation shall be not less than 1/4-inch diameter. In conduit of 2-inch-nominal diameter or larger, pull ropes for wire installation shall be not less than 1/2-inch diameter.

Galvanized rigid steel conduit shall be used for the following:

1. All conduits placed aboveground.
2. All conduits placed between the service point and the service cabinet.
3. Where specified on the Plans.

Where rigid galvanized steel conduit is installed:

1. Insulated grounding end bushings shall have standard threading, extending around the entire circumference of the bushing.

Conduit stub-outs within cabinet foundations shall be placed so that they do not interfere with cabinet installation. Modification of the cabinet to accommodate stub-out placement is not allowed.

All conduits, including spare conduits, shall be installed with bushings. Rigid galvanized steel conduit shall be installed with insulated grounding bushings. PVC conduit shall be installed with molded one-piece end bell bushings.

All conduits, including spare conduits, shall be installed with plugs, which shall not be removed until installation of conductors or pull string. Upon installation of wiring, conduit shall be sealed with duct seal. Upon installation of the pull string, spare conduit shall be plugged.

8-20.3(6) Junction Boxes, Cable Vaults, and Pull Boxes

Section 8-20.3(6) is supplemented with the following:

(*****)

Junction boxes shall be installed so that the top of the box is even with the adjacent ground.

No junction box shall be located within the traveled way or driveway areas.

Junction box lids shall have grounding lugs and be mechanically and electrically bonded.

Wiring shall not be pulled into any conduit until all associated junction boxes have been adjusted to or installed in their final grade and location, unless installation is necessary to maintain system operation. If wire is installed for this reason, sufficient slack shall be left to allow for final adjustment.

Adjustments involving raising or lowering the junction boxes shall require conduit modification if the resultant clearance between top of conduit and the junction box lid becomes less than 6 inches or more than 8 inches in accordance with Standard Plan J-40.10-03. Wiring shall be replaced if sufficient slack is not maintained.

All voids resulting from the adjustment shall be backfilled and compacted in accordance with Section 2-09.3(1)E.

8-20.3(8) Wiring

Section 8-20.3(8) is revised as follows:

(*****)

The third paragraph is deleted and replaced with the following:

All splices in underground illumination circuits shall be installed in junction boxes. Each individual conductor shall then have an approved waterproof heat-shrink tube installed, which completely covers the compression connector and extends a minimum of 1/2 inch beyond each end of the compression connector. All conductor connections shall be offset from adjacent connections by a minimum of 1 inch. A final approved waterproof heat shrink tube shall then be installed over the pair of splices in each circuit.

The second sentence of the seventh paragraph is revised to read as follows:

Splice insulation shall be heat shrink.

Section 8-20.3(8) is supplemented with the following:

(*****)

At each junction box, all illumination wires shall be labeled with a PVC marking sleeve bearing the circuit number.

All wiring in conduit shall be installed with an approved lubricant.

All splices shall be made in the presence of the Engineer.

8-20.3(9) Bonding, Grounding

Section 8-20.3(9) is supplemented with the following:

(*****)

All appurtenances containing electrical conductors (junction boxes, luminaires, light standards, cabinets, metallic conduit, non-metallic conduit, etc.) shall be made mechanically and electrically secure to form a continuous system, which shall be effectively grounded.

All conduits, which are not galvanized steel, shall have bonding wires between junction boxes.

Junction box lids and frames shall be grounded in accordance with Department of Labor and Industries standards.

In addition to the conductors called for in the Contract, all conduit shall be installed with an equipment-grounding conductor sized per NEC 250-122 (No. 8 minimum).

Supplemental grounding shall be provided at light and signal standards. Foundations for these standards shall be installed with a bare No. 6 copper wire that is connected to the reinforcing cage with an approved acorn clamp or cadweld and routed to connect to the pole at the grounding lug.

8-20.3(10) Service, Transformer, and Intelligent Transportation System (ITS) Cabinets

Section 8-20.3(10) is supplemented with the following:

(*****)

The locations for the new services for the illumination systems are shown on the Plans.

The Contractor shall obtain 120/240 volt, 60 HZ, AC electrical services approved by Snohomish County PUD No. 1 as shown in the Plans for the illumination systems:

The service addresses are:

6121 Marine Drive, Marysville, WA 98271

4902 Marine Drive, Marysville, WA 98271

The Contractor shall furnish and install the conduit and conductors in accordance with the NEC from the electrical pedestal at the base of the existing PUD pole, as shown on the Plans, to inside the service panel with sufficient conductor length to make the necessary connections conforming to the details shown. The Contractor shall contact Snohomish County PUD prior to installation to obtain specific material requirements and installation procedures. Snohomish County PUD will make the final connection(s) between the electrical service and the power source by extending the conduit and using the conductors provided under this Contract as shown on the Plans.

Conductors used for power or illumination shall meet the following requirements:

1. Use single conductors, Class B stranded, annealed copper per ASTM B3, IPCBA-NEMA S-19-81, as currently amended.
2. Cross-linked polyethylene insulation jacket per U.L. Standard 854 for type USE and U.I. Standard 44 for type RHH-RHW.
3. Ampacity rating shall conform to current NEC requirements.

Service Connection Fees

The Contractor shall be responsible for making the necessary arrangements and payment of connection fees to the serving utility (Snohomish County Public Utility District No. 1, Customer Engineer, 2320 California Avenue, Everett, WA) to complete the service connection(s), and shall coordinate with the serving utility on exact locations.

An "Application for Utility Service" for each intersection will be mailed by the Contractor to the Snohomish County PUD No. 1 as the first order of work.

Add the following new section:

(*****)

8-20.3(13)F Boardwalk Lighting

New Section

KLIK Systems LEDPOD 50 lights shall be installed in a boardwalk gripping rail per manufacturer's installation instructions.

Lights shall be spaced at 24-foot intervals along each side of the boardwalk with the optic aiming towards the centerline of the boardwalk.

Boardwalk lighting system shall also include materials and installation of two Dimming WASP Indoor/Outdoor Occupancy Sensors (one at each end of boardwalk), installed per manufacturer's installation instructions and connected to the boardwalk lighting system.

8-20.3(17) "As-Built" Plans

Section 8-20.3(17) is supplemented with the following:

(*****)

Upon completion of the Project, the Contractor shall furnish an "as-built" drawing showing all pole locations, junction boxes, miscellaneous equipment, conductors, and field wires up to the

service cabinet, with a special symbol identifying those items that have been changed from the original Contract Drawings.

The “as-built” plans shall also indicate the horizontal and vertical location of all existing underground utilities encountered during construction of the project.

8-20.4 Measurement

Section 8-20.4 is supplemented with the following:

(*****)

Measurement for the illumination system will be measured by the lump sum.

8-20.5 Payment

Section 8-20.5 is supplemented with the following:

(*****)

Payment will be made under the following:

“Illumination System, Complete”, per lump sum.

The lump sum bid price in the Proposal will be full compensation for the costs of all labor, tools, equipment, and materials necessary or incidental to install a completely functional illumination system on Marine Drive. The lump sum price shall include, but not be limited to, trench and backfill with crushed surfacing, temporary patching if necessary, conduit and wire, junction boxes, foundations, poles, luminaires, boardwalk lighting system, service cabinets, connecting to power sources, and all other items for construction of the illumination system unless such items are specifically paid for under another pay item.

END OF DIVISION 8

DIVISION 9
MATERIALS

9-29 ILLUMINATION, SIGNAL, ELECTRICAL

9-29.1 Conduit, Innerduct, and Outerduct

Section 9-29.1 is supplemented with the following:

(*****)

Conduit fittings for steel conduit shall be coated with galvanizing repair paint in the same manner as conduit couplings. Electroplated fittings are not allowed.

Steel conduit entering concrete shall be wrapped in 2-inch-wide pipe wrap tape with a minimum 1-inch overlap for 12 inches on each side of the concrete face. Pipe wrap tape shall be installed per the manufacturer's recommendations.

9-29.1(2) Rigid Metal Conduit Fittings and Appurtenances

Section 9-29.1(2) is revised as follows:

(*****)

Delete "electroplated" from the first sentence.

Paragraph one is supplemented with the following:

Galvanizing repair paint requirements for conduit couplings shall also apply to end bushings.

Add the following after the fifth paragraph:

Conduit Coatings

GRS Conduit fittings shall be coated with galvanizing repair paint in the same manner as conduit couplings. Electroplated fittings are not allowed.

Conduit entering concrete shall be wrapped in 2-inch-wide pipe wrap tape with a minimum 1-inch overlap for 12 inches on each side of the concrete face. The tape shall have a synthetic rubber adhesive with a fungus inhibitor.

Surface Mounting Conduit Attachment Components

Conduit clamp shall be hot-dip, galvanized steel or stainless steel, and shall be one piece, two bolt units with locking nuts. The clamps shall be attached to the unistrut on both sides of the conduit with bolts and associated hardware. The minimum distance between adjacent clamps and between the clamp and the end of the unistrut shall be 1 inch.

Conduit Expansion and/or Deflection Fitting

Expansion fittings, deflection fittings, and expansion/deflection fittings embedded in concrete shall be PVC coated.

9-29.2 Junction Boxes, Cable Vaults, and Pull Boxes

Section 9-29.2 is supplemented with the following:

(*****)

Junction boxes, Type 1 and 2, shall be locking lid units conforming to WSDOT Standard Plan J-40.10-03. Junction boxes Type 4 and 5, shall be heavy-duty units conforming to WSDOT Standard Plan J-40.20-02.

All lids and frames shall be hot-dip galvanized.

9-29.2(1) Standard Duty and Heavy-Duty Junction Boxes

Section 9-29.2(1) is supplemented with the following:

(*****)

All junction box lids and frames shall be galvanized. Grounding lugs shall be stainless steel and shall be mechanically and electrically bonded.

9-29.6 Light and Signal Standards

9-29.6(1) Steel Light and Signal Standards

Replace Section 9-29.6(1)A with the following new section:

(*****)

9-29.6(1)A Decorative Light Standards

New Section

Light poles for the illumination systems shall be concrete manufactured by Centrecon with the following specifications:

1. Poles: Medium, octagonal, concrete, Type MBO-9 (Medium – Base Plate – Octagonal), pole height 29 feet-6 inches.
2. Pole Finish: No. 113 (Medium, exposed, grey).
3. Luminaire Arm: Type AE with an arm length of 6 feet.

9-29.10 Luminaires

Section 9-29.10 is supplemented with the following:

(*****)

Luminaires shall be LED units as manufactured by LEOTEK, model identification EC4-14M-MV-NW-2-GY-700.

Add the following new section:

(*****)

9-29.10(6) Boardwalk Lighting

New Section

KLIK Systems LEDPOD 50 lights shall have asymmetrical beam angle optic, with 111 system lumens and a 4000K color temperature. Lights shall fit a 1.5-inch-diameter gripping rail.

LEDPOD 50 lighting system shall include the materials and installation of wire, connectors, IP rated driver control box and voltage converter.

Boardwalk lighting system shall also include two Dimming WASP Indoor/Outdoor Occupancy Sensors (one at each end of boardwalk), model WSP-SM-24V-LWO-D-GY.

9-29.12 Electrical Splice Materials

Section 9-29.12 is supplemented with the following:

(*****)

All below-ground splices in the illumination system shall utilize epoxy resin cast type insulation employing clear rigid plastic molds.

9-29.24 Service Cabinets

Section 9-29.24 is supplemented with the following:

(*****)

Service cabinets shall meet the requirements of Section 9-29.24 of the Standard Specifications.

Service cabinets shall be pad mounted per the Plans.

Service cabinets and components shall be as specified for a Type D unit per the Plans.

The units shall employ a meter base for a meter per Snohomish County PUD requirements. The Contractor shall contact the Snohomish County PUD prior to manufacturing to ascertain all requirements of the PUD. Any cabinet modifications necessary to meet their requirements shall be made and paid for by the Contractor.

END OF DIVISION 9

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Appendix A

Davis-Bacon Wages

General Decision Number: WA160001 04/22/2016 WA1

Superseded General Decision Number: WA20150001

State: Washington

Construction Type: Highway

Counties: Washington Statewide.

HIGHWAY (Excludes D.O.E. Hanford Site in Benton and Franklin Counties)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---------------------|-------------------|
| 0 | 01/08/2016 |
| 1 | 02/19/2016 |
| 2 | 02/26/2016 |
| 3 | 03/04/2016 |
| 4 | 04/22/2016 |

CARP0001-008 06/01/2015

| | Rates | Fringes |
|--------------|----------|---------|
| CARPENTER | | |
| GROUP 1..... | \$ 27.61 | 14.00 |
| GROUP 2..... | \$ 41.86 | 14.49 |
| GROUP 3..... | \$ 32.97 | 14.00 |
| GROUP 4..... | \$ 31.94 | 14.00 |
| GROUP 5..... | \$ 73.44 | 14.00 |
| GROUP 6..... | \$ 35.02 | 14.00 |
| GROUP 7..... | \$ 36.72 | 14.00 |
| GROUP 8..... | \$ 33.27 | 14.00 |
| GROUP 9..... | \$ 35.02 | 14.00 |

CARPENTER & DIVER CLASSIFICATIONS:

GROUP 1: Carpenter
 GROUP 2: Millwright, machine erector
 GROUP 3: Piledriver - includes driving, pulling, cutting, placing collars, setting, welding, or creosote treated material, on all piling
 GROUP 4: Bridge carpenters
 GROUP 5: Diver Wet
 GROUP 6: Diver Tender, Manifold Operator, ROV Operator
 GROUP 7: Diver Standby, Bell/Vehicle or Submersible operator Not Under Pressure
 GROUP 8: Assistant Tender, ROV Tender/Technician
 GROUP 9: Manifold Operator-Mixed Gas

ZONE PAY:

| | | |
|--------|----------------|-----------------|
| ZONE 1 | 0-40 MILES | FREE |
| ZONE 2 | 41-65 MILES | \$2.25/PER HOUR |
| ZONE 3 | 66-100 MILES | \$3.25/PER HOUR |
| ZONE 4 | OVER 100 MILES | \$4.75/PER HOUR |

DISPATCH POINTS:

CARPENTERS/MILLWRIGHTS: PASCO (515 N Neel Street) or Main Post Office of established residence of employee (Whichever is closest to the worksite).

CARPENTERS/PILEDRIVER: SPOKANE (127 E. AUGUSTA AVE.) or Main Post Office of established residence of employee (Whichever is closest to the worksite).

CARPENTERS: WENATCHEE (27 N. CHELAN) or Main Post Office of established residence of employee (Whichever is closest to the worksite).

CARPENTERS: COEUR D' ALENE (1839 N. GOVERNMENT WAY) or Main Post Office of established residence of employee (Whichever is closest to the worksite).

CARPENTERS: MOSCOW (302 N. JACKSON) or Main Post Office of established residence of employee (Whichever is closest to the worksite).

DEPTH PAY FOR DIVERS BELOW WATER SURFACE:

50-100 feet \$2.00 per foot
101-150 feet \$3.00 per foot
151-220 feet \$4.00 per foot
221 feet and deeper \$5.00 per foot

PREMIUM PAY FOR DIVING IN ENCLOSURES WITH NO VERTICAL ASCENT:

0-25 feet Free
26-300 feet \$1.00 per Foot

SATURATION DIVING:

The standby rate applies until saturation starts. The saturation diving rate applies when divers are under pressure continuously until work task and decompression are complete. the diver rate shall be paid for all saturation hours.

WORK IN COMBINATION OF CLASSIFICATIONS:

Employees working in any combination of classifications within the diving crew (except dive supervisor) in a shift are paid in the classification with the highest rate for that shift.

HAZMAT PROJECTS:

Anyone working on a HAZMAT job (task), where HAZMAT certification is required, shall be compensated at a premium, in addition to the classification working in as follows:

LEVEL D + \$.25 per hour - This is the lowest level of protection. No respirator is used and skin protection is minimal.

LEVEL C + \$.50 per hour - This level uses an air purifying respirator or additional protective clothing.

LEVEL B + \$.75 per hour - Uses same respirator protection as Level A. Supplied air line is provided in conjunction with a chemical "splash suit".

LEVEL A +\$1.00 per hour - This level utilizes a fully encapsulated suit with a self-contained breathing apparatus or a supplied air line.

CARP0003-006 10/01/2011

SOUTHWEST WASHINGTON: CLARK, COWLITZ, KLICKITAT, LEWIS (Piledriver only), PACIFIC (South of a straight line made by extending the north boundary line of Wahkiakum County west to Willapa Bay to the Pacific Ocean), SKAMANIA AND WAHKIAKUM COUNTIES and INCLUDES THE ENTIRE PENINSULA WEST OF WILLAPA BAY

SEE ZONE DESCRIPTION FOR CITIES BASE POINTS

ZONE 1:

| | Rates | Fringes |
|---------------------|----------|---------|
| Carpenters: | | |
| CARPENTERS..... | \$ 32.04 | 14.18 |
| DIVERS TENDERS..... | \$ 36.34 | 14.18 |
| DIVERS..... | \$ 77.08 | 14.18 |
| DRYWALL..... | \$ 27.56 | 14.18 |
| MILLWRIGHTS..... | \$ 32.19 | 14.18 |
| PILEDRIVERS..... | \$ 33.04 | 14.18 |

DEPTH PAY:

50 TO 100 FEET \$1.00 PER FOOT OVER 50 FEET
 101 TO 150 FEET \$1.50 PER FOOT OVER 101 FEET
 151 TO 200 FEET \$2.00 PER FOOT OVER 151 FEET

Zone Differential (Add up Zone 1 rates):

Zone 2 - \$0.85
 Zone 3 - 1.25
 Zone 4 - 1.70
 Zone 5 - 2.00
 Zone 6 - 3.00

BASEPOINTS: ASTORIA, LONGVIEW, PORTLAND, THE DALLES, AND VANCOUVER, (NOTE: All dispatches for Washington State Counties: Cowlitz, Wahkiakum and Pacific shall be from Longview Local #1707 and mileage shall be computed from that point.)

ZONE 1: Projects located within 30 miles of the respective city hall of the above mentioned cities
 ZONE 2: Projects located more than 30 miles and less than 40 miles of the respective city of the above mentioned cities
 ZONE 3: Projects located more than 40 miles and less than 50 miles of the respective city of the above mentioned cities
 ZONE 4: Projects located more than 50 miles and less than 60 miles of the respective city of the above mentioned cities.
 ZONE 5: Projects located more than 60 miles and less than 70 miles of the respective city of the above mentioned cities
 ZONE 6: Projects located more than 70 miles of the respected city of the above mentioned cities

CARP0770-003 06/01/2015

| | Rates | Fringes |
|----------------------------|----------|---------|
| CARPENTER | | |
| CENTRAL WASHINGTON: | | |
| CHELAN, DOUGLAS (WEST OF | | |
| THE 120TH MERIDIAN), | | |
| KITTITAS, OKANOGAN (WEST | | |
| OF THE 120TH MERIDIAN) AND | | |
| YAKIMA COUNTIES | | |
| CARPENTERS ON CREOSOTE | | |
| MATERIAL..... | \$ 40.46 | 13.66 |
| CARPENTERS..... | \$ 40.36 | 13.66 |
| DIVERS TENDER..... | \$ 35.02 | 14.00 |
| DIVERS..... | \$ 73.44 | 14.00 |
| MILLWRIGHT AND MACHINE | | |
| ERECTORS..... | \$ 41.86 | 13.66 |
| PILEDRIIVER, DRIVING, | | |
| PULLING, CUTTING, PLACING | | |
| COLLARS, SETTING, WELDING | | |
| OR CRESOTE TREATED | | |
| MATERIAL, ALL PILING..... | \$ 40.61 | 13.66 |

(HOURLY ZONE PAY: WESTERN AND CENTRAL WASHINGTON - ALL CLASSIFICATIONS EXCEPT MILLWRIGHTS AND PILEDRIIVERS)

Hourly Zone Pay shall be paid on jobs located outside of the free zone computed from the city center of the following listed cities:

| | | |
|------------------|--------------|--------------|
| Seattle | Olympia | Bellingham |
| Auburn | Bremerton | Anacortes |
| Renton | Shelton | Yakima |
| Aberdeen-Hoquiam | Tacoma | Wenatchee |
| Ellensburg | Everett | Port Angeles |
| Centralia | Mount Vernon | Sunnyside |
| Chelan | Pt. Townsend | |

Zone Pay:

| | |
|----------------------|-------------|
| 0 -25 radius miles | Free |
| 26-35 radius miles | \$1.00/hour |
| 36-45 radius miles | \$1.15/hour |
| 46-55 radius miles | \$1.35/hour |
| Over 55 radius miles | \$1.55/hour |

(HOURLY ZONE PAY: WESTERN AND CENTRAL WASHINGTON - MILLWRIGHT AND PILEDRIIVER ONLY)

Hourly Zone Pay shall be computed from Seattle Union Hall, Tacoma City center, and Everett City center

Zone Pay:

| | |
|----------------------|-------------|
| 0 -25 radius miles | Free |
| 26-45 radius miles | \$.70/hour |
| Over 45 radius miles | \$1.50/hour |

 CARP0770-006 06/01/2015

| | Rates | Fringes |
|--|----------|---------|
| CARPENTER | | |
| WESTERN WASHINGTON: | | |
| CLALLAM, GRAYS HARBOR, ISLAND, JEFFERSON, KING, KITSAP, LEWIS (excludes piledrivers only), MASON, PACIFIC (North of a straight line made by extending the north boundary line of Wahkiakum County west to the Pacific Ocean), PIERCE, SAN JUAN, SKAGIT, SNOHOMISH, THURSTON AND WHATCOM COUNTIES | | |
| BRIDGE CARPENTERS..... | \$ 40.36 | 13.66 |
| CARPENTERS ON CREOSOTE MATERIAL..... | \$ 40.46 | 13.66 |
| CARPENTERS..... | \$ 40.36 | 13.66 |
| DIVERS TENDER..... | \$ 44.67 | 13.66 |
| DIVERS..... | \$ 93.56 | 13.66 |
| MILLWRIGHT AND MACHINE ERECTORS..... | \$ 41.86 | 13.66 |
| PILEDRIVER, DRIVING, PULLING, CUTTING, PLACING COLLARS, SETTING, WELDING OR CRESOTE TREATED MATERIAL, ALL PILING..... | \$ 40.61 | 13.66 |

(HOURLY ZONE PAY: WESTERN AND CENTRAL WASHINGTON - ALL CLASSIFICATIONS EXCEPT MILLWRIGHTS AND PILEDRIVERS)

Hourly Zone Pay shall be paid on jobs located outside of the free zone computed from the city center of the following listed cities:

| | | |
|------------------|--------------|--------------|
| Seattle | Olympia | Bellingham |
| Auburn | Bremerton | Anacortes |
| Renton | Shelton | Yakima |
| Aberdeen-Hoquiam | Tacoma | Wenatchee |
| Ellensburg | Everett | Port Angeles |
| Centralia | Mount Vernon | Sunnyside |
| Chelan | Pt. Townsend | |

Zone Pay:

| | |
|----------------------|-------------|
| 0 -25 radius miles | Free |
| 26-35 radius miles | \$1.00/hour |
| 36-45 radius miles | \$1.15/hour |
| 46-55 radius miles | \$1.35/hour |
| Over 55 radius miles | \$1.55/hour |

(HOURLY ZONE PAY: WESTERN AND CENTRAL WASHINGTON - MILLWRIGHT AND PILEDRIVER ONLY)

Hourly Zone Pay shall be computed from Seattle Union Hall, Tacoma City center, and Everett City center

Zone Pay:

| | |
|----------------------|-------------|
| 0 -25 radius miles | Free |
| 26-45 radius miles | \$.70/hour |
| Over 45 radius miles | \$1.50/hour |

WA160001 Modification 4
Federal Wage Determinations for Highway Construction

 ELEC0046-001 02/01/2016

CALLAM, JEFFERSON, KING AND KITSAP COUNTIES

| | Rates | Fringes |
|--------------------|----------|----------|
| CABLE SPLICER..... | \$ 46.87 | 3%+15.96 |
| ELECTRICIAN..... | \$ 45.77 | 3%+17.91 |

ELEC0048-003 01/01/2016

CLARK, KLICKITAT AND SKAMANIA COUNTIES

| | Rates | Fringes |
|--------------------|----------|---------|
| CABLE SPLICER..... | \$ 44.22 | 21.50 |
| ELECTRICIAN..... | \$ 40.20 | 21.11 |

HOURLY ZONE PAY:

Hourly Zone Pay shall be paid on jobs located outside of the free zone computed from the city center of the following listed cities:

Portland, The Dalles, Hood River, Tillamook, Seaside and Astoria

Zone Pay:

Zone 1: 31-50 miles \$1.50/hour
 Zone 2: 51-70 miles \$3.50/hour
 Zone 3: 71-90 miles \$5.50/hour
 Zone 4: Beyond 90 miles \$9.00/hour

*These are not miles driven. Zones are based on Delorme Street Atlas USA 2006 plus.

 ELEC0048-029 01/01/2016

COWLITZ AND WAHKIAKUM COUNTY

| | Rates | Fringes |
|--------------------|----------|---------|
| CABLE SPLICER..... | \$ 44.22 | 21.50 |
| ELECTRICIAN..... | \$ 40.20 | 21.11 |

ELEC0073-001 07/01/2015

ADAMS, FERRY, LINCOLN, PEND OREILLE, SPOKANE, STEVENS, WHITMAN
COUNTIES

| | Rates | Fringes |
|--------------------|----------|---------|
| CABLE SPLICER..... | \$ 34.10 | 16.68 |
| ELECTRICIAN..... | \$ 31.00 | 16.68 |

ELEC0076-002 09/01/2014

GRAYS HARBOR, LEWIS, MASON, PACIFIC, PIERCE, AND THURSTON
COUNTIES

| | Rates | Fringes |
|--------------------|----------|---------|
| CABLE SPLICER..... | \$ 37.94 | 23.36 |
| ELECTRICIAN..... | \$ 34.49 | 23.36 |

ELEC0112-005 06/01/2015

ASOTIN, BENTON, COLUMBIA, FRANKLIN, GARFIELD, KITTITAS, WALLA
WALLA, YAKIMA COUNTIES

| | Rates | Fringes |
|--------------------|----------|---------|
| CABLE SPLICER..... | \$ 40.74 | 18.65 |
| ELECTRICIAN..... | \$ 38.80 | 18.59 |

ELEC0191-003 06/01/2014

ISLAND, SAN JUAN, SNOHOMISH, SKAGIT AND WHATCOM COUNTIES

| | Rates | Fringes |
|--------------------|----------|---------|
| CABLE SPLICER..... | \$ 44.23 | 17.73 |
| ELECTRICIAN..... | \$ 40.21 | 17.73 |

ELEC0191-004 06/01/2014

CHELAN, DOUGLAS, GRANT AND OKANOGAN COUNTIES

| | Rates | Fringes |
|--------------------|----------|---------|
| CABLE SPLICER..... | \$ 40.82 | 17.63 |
| ELECTRICIAN..... | \$ 37.11 | 17.63 |

ENGI0302-003 06/01/2014

CHELAN (WEST OF THE 120TH MERIDIAN), CLALLAM, DOUGLAS (WEST OF THE 120TH MERIDIAN), GRAYS HARBOR, ISLAND, JEFFERSON, KING, KITSAP, KITTITAS, MASON, OKANOGAN (WEST OF THE 120TH MERIDIAN), SAN JUNA, SKAGIT, SNOHOMISH, WHATCOM AND YAKIMA (WEST OF THE 120TH MERIDIAN) COUNTIES

PROJECTS: CATEGORY A PROJECTS (EXCLUDES CATEGORY B PROJECTS, AS SHOWN BELOW)

Zone 1 (0-25 radius miles):

| | Rates | Fringes |
|----------------------------|----------|---------|
| Power equipment operators: | | |
| Group 1A..... | \$ 38.39 | 17.39 |
| Group 1AA..... | \$ 38.96 | 17.39 |
| Group 1AAA..... | \$ 39.52 | 17.39 |
| Group 1..... | \$ 37.84 | 17.39 |
| Group 2..... | \$ 37.35 | 17.39 |
| Group 3..... | \$ 36.93 | 17.39 |
| Group 4..... | \$ 34.57 | 17.39 |

Zone Differential (Add to Zone 1 rates):

Zone 2 (26-45 radius miles) - \$1.00

Zone 3 (Over 45 radius miles) - \$1.30

BASEPOINTS: Aberdeen, Bellingham, Bremerton, Everett, Kent, Mount Vernon, Port Angeles, Port Townsend, Seattle, Shelton, Wenatchee, Yakima

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1AAA - Cranes-over 300 tons, or 300 ft of boom (including jib with attachments)

GROUP 1AA - Cranes 200 to 300 tons, or 250 ft of boom (including jib with attachments); Tower crane over 175 ft in height, base to boom

GROUP 1A - Cranes, 100 tons thru 199 tons, or 150 ft of boom (including jib with attachments); Crane-overhead, bridge type, 100 tons and over; Tower crane up to 175 ft in height base to boom; Loaders-overhead, 8 yards and over; Shovels, excavator, backhoes-6 yards and over with attachments

GROUP 1 - Cableway; Cranes 45 tons thru 99 tons, under 150 ft of boom (including jib with attachments); Crane-overhead, bridge type, 45 tons thru 99 tons; Derricks on building work; Excavator, shovel, backhoes over 3 yards and under 6 yards; Hard tail end dump articulating off-road equipment 45 yards and over; Loader- overhead 6 yards to, but not including 8 yards; Mucking machine, mole, tunnel, drill and/or shield; Quad 9, HD 41, D-10; Remote control operator on rubber tired earth moving equipment; Rollagon; Scrapers-self propelled 45 yards and over; Slipform pavers; Transporters, all truck or track type

GROUP 2 - Barrier machine (zipper); Batch Plant Operator- Concrete; Bump Cutter; Cranes, 20 tons thru 44 tons with attachments; Crane-overhead, bridge type-20 tons through 44 tons; Chipper; Concrete Pump-truck mount with boom attachment; Crusher; Deck Engineer/Deck Winches (power); Drilling machine; Excavator, shovel, backhoe-3yards and under; Finishing Machine, Bidwell, Gamaco and similar equipment; Guardrail punch; Horizontal/directional drill operator; Loaders-overhead under 6 yards; Loaders-plant feed; Locomotives-all; Mechanics-all; Mixers-asphalt plant; Motor patrol graders-finishing; Piledriver (other than crane mount); Roto-mill, roto-grinder; Screedman, spreader, topside operator-Blaw Knox, Cedar Rapids, Jaeger, Caterpillar, Barbar Green; Scraper-self propelled, hard tail end dump, articulating off-road equipment-under 45 yards; Subgrade trimmer; Tractors, backhoes-over 75 hp; Transfer material service machine-shuttle buggy, blaw knox-roadtec; Truck crane oiler/driver-100 tons and over; Truck Mount portable conveyor; Yo Yo Pay dozer

GROUP 3 - Conveyors; Cranes-thru 19 tons with attachments; A-frame crane over 10 tons; Drill oilers-auger type, truck or crane mount; Dozers-D-9 and under; Forklift-3000 lbs. and over with attachments; Horizontal/directional drill locator; Outside hoists-(elevators and manlifts), air tuggers, strato tower bucket elevators; Hydralifts/boom trucks over 10 tons; Loader-elevating type, belt; Motor patrol grader-nonfinishing; Plant oiler- asphalt, crusher; Pumps-concrete; Roller, plant mix or multi-lift materials; Saws-concrete; Scrapers-concrete and carry-all; Service engineer-equipment; Trenching machines; Truck Crane Oiler/Driver under 100 tons; Tractors, backhoe 75 hp and under

GROUP 4 - Assistant Engineer; Bobcat; Brooms; Compressor; Concrete finish machine-laser screed; Cranes-A frame-10 tons and under; Elevator and Manlift-permanent or shaft type; Gradechecker, Stakehop; Forklifts under 3000 lbs. with attachments; Hydralifts/boom trucks, 10 tons and under; Oil distributors, blower distribution and mulch seeding operator; Pavement breaker; Posthole digger, mechanical; Power plant; Pumps, water; Rigger and Bellman; Roller-other than plant mix; Wheel Tractors, farmall type; Shotcrete/gunite equipment operator

Category B Projects: 95% of the basic hourly reate for each group plus full fringe benefits applicable to category A projects shall apply to the following projects. A Reduced rates may be paid on the following:

1. Projects involving work on structures such as buildings and bridges whose total value is less than \$1.5 million excluding mechanical, electrical, and utility portions of the contract.
2. Projects of less than \$1 million where no building is involved. Surfacing and paving included, but utilities excluded.
3. Marine projects (docks, wharfs, etc.) less than \$150,000.

HANDLING OF HAZARDOUS WASTE MATERIALS:

Personnel in all craft classifications subject to working inside a federally designated hazardous perimeter shall be elgible for compensation in accordance with the following group schedule relative to the level of hazardous waste as outlined in the specific hazardous waste project site safety plan.

H-1 Base wage rate when on a hazardous waste site when not outfitted with protective clothing

H-2 Class "C" Suit - Base wage rate plus \$.25 per hour.

H-3 Class "B" Suit - Base wage rate plus \$.50 per hour.

H-4 Class "A" Suit - Base wage rate plus \$.75 per hour.

Zone Differential (Add to Zone 1 rates):

Zone 2 (26-45 radius miles) - \$.70

Zone 3 (Over 45 radius miles) - \$1.00

BASEPOINTS: Aberdeen, Bellingham, Bremerton, Everett, Kent, Mount Vernon, Port Angeles, Port Townsend, Seattle, Shelton, Wenatchee, Yakima

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1AAA - Cranes-over 300 tons, or 300 ft of boom (including jib with attachments)

GROUP 1AA - Cranes 200 to 300 tons, or 250 ft of boom (including jib with attachments); Tower crane over 175 ft in height, base to boom

GROUP 1A - Cranes, 100 tons thru 199 tons, or 150 ft of boom (including jib with attachments); Crane-overhead, bridge type, 100 tons and over; Tower crane up to 175 ft in height base to boom; Loaders-overhead, 8 yards and over; Shovels, excavator, backhoes-6 yards and over with attachments

GROUP 1 - Cableway; Cranes 45 tons thru 99 tons, under 150 ft of boom (including jib with attachments); Crane-overhead, bridge type, 45 tons thru 99 tons; Derricks on building work; Excavator, shovel, backhoes over 3 yards and under 6 yards; Hard tail end dump articulating off-road equipment 45 yards and over; Loader- overhead 6 yards to, but not including 8 yards; Mucking machine, mole, tunnel, drill and/or shield; Quad 9, HD 41, D-10; Remote control operator on rubber tired earth moving equipment; Rollagon; Scrapers-self propelled 45 yards and over; Slipform pavers; Transporters, all truck or track type

GROUP 2 - Barrier machine (zipper); Batch Plant Operator-Concrete; Bump Cutter; Cranes, 20 tons thru 44 tons with attachments; Crane-overhead, bridge type-20 tons through 44 tons; Chipper; Concrete Pump-truck mount with boom attachment; Crusher; Deck Engineer/Deck Winches (power); Drilling machine; Excavator, shovel, backhoe-3 yards and under; Finishing Machine, Bidwell, Gamaco and similar equipment; Guardrail punch; Horizontal/directional drill operator; Loaders-overhead under 6 yards; Loaders-plant feed; Locomotives-all; Mechanics-all; Mixers-asphalt plant; Motor patrol graders-finishing; Piledriver (other than crane mount); Roto-mill, roto-grinder; Screedman, spreader, topside operator-Blaw Knox, Cedar Rapids, Jaeger, Caterpillar, Barbar Green; Scraper-self propelled, hard tail end dump, articulating off-road equipment-under 45 yards; Subgrade trimmer; Tractors, backhoes-over 75 hp; Transfer material service machine-shuttle buggy, blaw knox-roadtec; Truck crane oiler/driver-100 tons and over; Truck Mount portable conveyor; Yo Yo Pay dozer

GROUP 3 - Conveyors; Cranes-thru 19 tons with attachments; A-frame crane over 10 tons; Drill oilers-auger type, truck or crane mount; Dozers-D-9 and under; Forklift-3000 lbs. and over with attachments; Horizontal/directional drill locator; Outside hoists-(elevators and manlifts), air tuggers, strato tower bucket elevators; Hydralifts/boom trucks over 10 tons; Loader-elevating type, belt; Motor patrol grader-nonfinishing; Plant oiler- asphalt, crusher; Pumps-concrete; Roller, plant mix or multi-lift materials; Saws-concrete; Scrpers-concrete and carry-all; Service engineer-equipment; Trenching machines; Truck Crane Oiler/Driver under 100 tons; Tractors, backhoe 75 hp and under

GROUP 4 - Assistant Engineer; Bobcat; Brooms; Compressor; Concrete finish mahine-laser screed; Cranes-A frame-10 tons and under; Elevator and Manlift-permanent or shaft type; Gradechecker, Stakehop; Forklifts under 3000 lbs. with attachments; Hydralifts/boom trucks, 10 tons and under; Oil distributors, blower distribution and mulch seeding operator; Pavement breaker; Posthole digger, mechanical; Power plant; Pumps, water; Rigger and Bellman; Roller-other than plant mix; Wheel Tractors, farmall type; Shotcrete/gunite equipment operator

CATEGORY B PROJECTS: 95% OF THE BASIC HOURLY RATE FOR EACH GROUP PLUS FULL FRINGE BENEFITS APPLICABLE TO CATEGORY A PROJECTS SHALL APPLY TO THE FOLLOWING PROJECTS. REDUCED RATES MAY BE PAID ON THE FOLLOWING:

1. Projects involving work on structures such as buildings and bridges whose total value is less than \$1.5 million excluding mechanical, electrical, and utility portions of the contract.
2. Projects of less than \$1 million where no building is involved. Surfacing and paving including, but utilities excluded.
3. Marine projects (docks, wharfs, ect.) less than \$150,000.

HANDLING OF HAZARDOUS WASTE MATERIALS: Personnel in all craft classifications subject to working inside a federally designed hazardous perimeter shall be elgible for compensation in accordance with the following group schedule relative to the level of hazardous waste as outlined in the specific hazardous waste project site safety plan.

H-1 Base wage rate when on a hazardous waste site when not outfitted with protective clothing.

H-2 Class "C" Suit - Base wage rate plus \$.25 per hour.

H-3 Class "B" Suit - Base wage rate plus \$.50 per hour.

H-4 Class "A" Suit - Base wage rate plus \$.75 per hour.

ENGI0370-002 06/01/2015

ADAMS, ASOTIN, BENTON, CHELAN (EAST OF THE 120TH MERIDIAN),
COLUMBIA, DOUGLAS (EAST OF THE 120TH MERIDIAN), FERRY,
FRANKLIN, GARFIELD, GRANT, LINCOLN, OKANOGAN (EAST OF THE 120TH
MERIDIAN), PEND OREILLE, SPOKANE, STEVENS, WALLA WALLA, WHITMAN
AND YAKIMA (EAST OF THE 120TH MERIDIAN) COUNTIES

ZONE 1:

| | Rates | Fringes |
|--------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR | | |
| GROUP 1..... | \$ 26.16 | 13.55 |
| GROUP 2..... | \$ 26.48 | 13.55 |
| GROUP 3..... | \$ 27.09 | 13.55 |
| GROUP 4..... | \$ 27.25 | 13.55 |
| GROUP 5..... | \$ 27.41 | 13.55 |
| GROUP 6..... | \$ 27.69 | 13.55 |
| GROUP 7..... | \$ 27.96 | 13.55 |
| GROUP 8..... | \$ 29.06 | 13.55 |

ZONE DIFFERENTIAL (Add to Zone 1 rate): Zone 2 - \$2.00

Zone 1: Within 45 mile radius of Spokane, Pasco, Washington;
Lewiston, Idaho

Zone 2: Outside 45 mile radius of Spokane, Pasco,
Washington; Lewiston, Idaho

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bit Grinders; Bolt Threading Machine; Compressors
(under 2000 CFM, gas, diesel, or electric power); Deck
Hand; Fireman & Heater Tender; Hydro-seeder, Mulcher,
Nozzleman; Oiler Driver, & Cable Tender, Mucking Machine;
Pumpman; Rollers, all types on subgrade, including seal and
chip coatings (farm type, Case, John Deere & similar, or
Compacting Vibrator), except when pulled by Dozer with
operable blade; Welding Machine; Crane Oiler-Driver (CLD
required) & Cable Tender, Mucking Machine

GROUP 2: A-frame Truck (single drum); Assistant Refrigeration Plant (under 1000 ton); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Belt Finishing Machine; Blower Operator (cement); Cement Hog; Compressor (2000 CFM or over, 2 or more, gas diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Ditch Witch or similar; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, hydra-lift & similar; Gin Trucks (pipeline); Hoist, single drum; Loaders (bucket elevators and conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker, Hydra-Hammer & similar; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator (self-propelled); Railroad Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross & similar on construction job only); Tractor (Farm type R/T with attachment, except Backhoe); Tugger Operator

GROUP 3: A-frame Truck (2 or more drums); Assistant Refrigeration Plant & Chiller Operator (over 1000 ton); Backfillers (Cleveland & similar); Batch Plant & Wet Mix Operator, single unit (concrete); Belt-Crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Bending Machine; Bob Cat (Skid Steer); Boring Machine (earth); Boring Machine (rock under 8 inch bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning & Doping Machine (pipeline); Deck Engineer; Elevating Belt-type Loader (Euclid, Barber Green & similar); Elevating Grader-type Loader (Dumor, Adams or similar); Generator Plant Engineers (diesel or electric); Gunnite Combination Mixer & Compressor; Locomotive Engineer; Mixermobile; Mucking Machine; Posthole Auger or Punch; Pump (grout or jet); Soil Stabilizer (P & H or similar); Spreader Machine; Dozer/Tractor (up to D-6 or equivalent) and Traxcavator; Traverse Finish Machine; Turnhead Operator

GROUP 4: Concrete Pumps (squeeze-crete, flow-crete, pump-crete, Whitman & similar); Curb Extruder (asphalt or concrete); Drills (churn, core, calyx or diamond); Equipment Serviceman; Greaser & Oiler; Hoist (2 or more drums or Tower Hoist); Loaders (overhead & front-end, under 4 yds. R/T); Refrigeration Plant Engineer (under 1000 ton); Rubber-tired Skidders (R/T with or without attachments); Surface Heater & Plant Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead (with re-screening); Vacuum Drill (reverse circulation drill under 8 inch bit)

GROUP 5: Backhoe (under 45,000 gw); Backhoe & Hoe Ram (under 3/4 yd.); Carrydeck & Boom Truck (under 25 tons); Cranes (25 tons & under), all attachments including clamshell, dragline; Derricks & Stifflegs (under 65 tons); Drilling Equipment (8 inch bit & over) (Robbins, reverse circulation & similar); Hoe Ram; Piledriving Engineers; Paving (dual drum); Railroad Track Liner Operatoer (self-propelled); Refrigeration Plant Engineer (1000 tons & over); Signalman (Whirleys, Highline Hammerheads or similar); Grade Checker

GROUP 6: Asphalt Plant Operator; Automatic Subgrader (Ditches & Trimmers) (Autograde, ABC, R.A. Hansen & similar on grade wire); Backhoe (45,000 gw and over to 110,000 gw); Backhoes & Hoe Ram (3/4 yd. to 3 yd.); Batch Plant (over 4 units); Batch & Wet Mix Operator (multiple units, 2 & incl. 4); Blade Operator (motor patrol & attachments); Cable Controller (dispatcher); Compactor (self-propelled with blade); Concrete Pump Boom Truck; Concrete Slip Form Paver; Cranes (over 25 tons, to and including 45 tons), all attachments including clamshell, dragline; Crusher, Grizzle & Screening Plant Operator; Dozer, 834 R/T & similar; Drill Doctor; Loader Operator (front-end & overhead, 4 yds. incl. 8 yds.); Multiple Dozer Units with single blade; Paving Machine (asphalt and concrete); Quad-Track or similar equipment; Roller (finishing asphalt pavement); Roto Mill (pavement grinder); Scrapers, all, rubber-tired; Screed Operator; Shovel (under 3 yds.); Trenching Machines (7 ft. depth & over); Tug Boat Operator Vactor guzzler, super sucker; Lime Batch Tank Operator (REcycle Train); Lime Brain Operator (Recycle Train); Mobile Crusher Operator (Recycle Train)

GROUP 7: Backhoe (over 110,000 gw); Backhoes & Hoe Ram (3 yds & over); Blade (finish & bluetop) Automatic, CMI, ABC, Finish Athey & Huber & similar when used as automatic; Cableway Operators; Concrete Cleaning/Decontamination machine operator; Cranes (over 45 tons to but not including 85 tons), all attachments including clamshell and dragline; Derricks & Stiffleys (65 tons & over); Elevating Belt (Holland type); Heavy equipment robotics operator; Loader (360 degrees revolving Koehring Scooper or similar); Loaders (overhead & front-end, over 8 yds. to 10 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. & over); Whirleys & Hammerheads, ALL; H.D. Mechanic; H.D. Welder; Hydraulic Platform Trailers (Goldhofer, Shaurerly and Similar); Ultra High Pressure Waterjet Cutting Tool System Operator (30,000 psi); Vacuum Blasting Machine Operator

GROUP 8: Cranes (85 tons and over, and all climbing, overhead, rail and tower), all attachments including clamshell, dragline; Loaders (overhead and front-end, 10 yards and over); Helicopter Pilot

BOOM PAY: (All Cranes, Including Tower)
 180 ft to 250 ft \$.50 over scale
 Over 250 ft \$.80 over scale

NOTE:

In computing the length of the boom on Tower Cranes, they shall be measured from the base of the Tower to the point of the boom.

HAZMAT:

Anyone working on HAZMAT jobs, working with supplied air shall receive \$1.00 an hour above classification.

 ENGI0612-012 06/01/2014

LEWIS, PIERCE, PACIFIC (portion lying north of a parallel line extending west from the northern boundary of Wahkaikum County to the sea) AND THURSTON COUNTIES

ON PROJECTS DESCRIBED IN FOOTNOTE A BELOW, THE RATE FOR EACH GROUP SHALL BE 90% OF THE BASE RATE PLUS FULL FRINGE BENEFITS. ON ALL OTHER WORK, THE FOLLOWING RATES APPLY.

Zone 1 (0-25 radius miles):

| | Rates | Fringes |
|--------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR | | |
| GROUP 1A..... | \$ 38.39 | 17.40 |
| GROUP 1AA..... | \$ 38.96 | 17.40 |
| GROUP 1AAA..... | \$ 39.52 | 17.40 |
| GROUP 1..... | \$ 37.84 | 17.40 |
| GROUP 2..... | \$ 37.35 | 17.40 |
| GROUP 3..... | \$ 36.93 | 17.40 |
| GROUP 4..... | \$ 34.57 | 17.40 |

Zone Differential (Add to Zone 1 rates):
 Zone 2 (26-45 radius miles) = \$1.00
 Zone 3 (Over 45 radius miles) - \$1.30

BASEPOINTS: CENTRALIA, OLYMPIA, TACOMA

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1 AAA - Cranes-over 300 tons or 300 ft of boom
(including jib with attachments)

GROUP 1AA - Cranes- 200 tonsto 300 tons, or 250 ft of boom
(including jib with attachments; Tower crane over 175 ft in
height, bas to boom

GROUP 1A - Cranes, 100 tons thru 199 tons, or 150 ft of boom
(including jib with attachments); Crane-overhead, bridge
type, 100 tons and over; Tower crane up to 175 ft in height
base to boom; Loaders-overhead, 8 yards and over; Shovels,
excavator, backhoes-6 yards and over with attachments

GROUP 1 - Cableway; Cranes 45 tons thru 99 tons under 150 ft
of boom (including jib with attachments); Crane-overhead,
bridge type, 45 tons thru 99 tons; Derricks on building
work; Excavator, shovel, backhoes over 3 yards and under 6
yards; Hard tail end dump articulating off-road equipment
45 yards and over; Loader- overhead, 6 yards to, but not
including, 8 yards; Mucking machine, mole, tunnel, drill
and/or shield; Quad 9 HD 41, D-10; Remote control operator
on rubber tired earth moving equipment; Rollagon; Scrapers-
self-propelled 45 yards and over; Slipform pavers;
Transporters, all track or truck type

GROUP 2 - Barrier machine (zipper); Batch Plant Operator-
concrete; Bump Cutter; Cranes, 20 tons thru 44 tons with
attachments; Crane-Overhead, bridge type, 20 tons through
44 tons; Chipper; Concrete pump-truck mount with boom
attachment; Crusher; Deck engineer/deck winches (power);
Drilling machine; Excavator, shovel, backhoe-3 yards and
under; Finishing machine, Bidwell, Gamaco and similar
equipment; Guardrail punch; Loaders, overhead under 6
yards; Loaders-plant feed; Locomotives-all; Mechanics- all;
Mixers, asphalt plant; Motor patrol graders, finishing;
Piledriver (other than crane mount); Roto-mill, roto-
grinder; Screedman, spreader, topside operator-Blaw Knox,
Cedar Rapids, Jaeger, Caterpillar, Barbar Green;
Scraper-self- propelled, hard tail end dump, articulating
off-road equipment- under 45 yards; Subgrader trimmer;
Tractors, backhoe over 75 hp; Transfer material service
machine-shuttle buggy, Blaw Knox- Roadtec; Truck Crane
oiler/driver-100 tons and over; Truck Mount Portable
Conveyor; Yo Yo pay

GROUP 3 - Conveyors; Cranes through 19 tons with attachments; Crane-A-frame over 10 tons; Drill oilers-auger type, truck or crane mount; Dozer-D-9 and under; Forklift-3000 lbs. and over with attachments; Horizontal/directional drill locator; Outside Hoists-(elevators and manlifts), air tuggers, strato tower bucket elevators; Hydralifts/boom trucks over 10 tons; Loaders-elevating type, belt; Motor patrol grader-nonfinishing; Plant oiler- asphalt, crusher; Pump-Concrete; Roller, plant mix or multi-lfit materials; Saws-concrete; Scrapers, concrete and carry all; Service engineers-equipment; Trenching machines; Truck crane oiler/driver under 100 tons; Tractors, backhoe under 75 hp

GROUP 4 - Assistant Engineer; Bobcat; Brooms; Compressor; Concrete Finish Machine-laser screed; Cranes A-frame 10 tons and under; Elevator and manlift (permanent and shaft type); Forklifts-under 3000 lbs. with attachments; Gradechecker, stakehop; Hydralifts/boom trucks, 10 tons and under; Oil distributors, blower distribution and mulch seeding operator; Pavement breaker; Posthole digger-mechanical; Power plant; Pumps-water; Rigger and Bellman; Roller-other than plant mix; Wheel Tractors, farmall type; Shotcrete/gunite equipment operator

FOOTNOTE A- Reduced rates may be paid on the following:

1. Projects involving work on structures such as buildings and bridges whose total value is less than \$1.5 million excluding mechanical, electrical, and utility portions of the contract.
2. Projects of less than \$1 million where no building is involved. Surfacing and paving included, but utilities excluded.
3. Marine projects (docks, wharfs, etc.) less than \$150,000.

HANDLING OF HAZARDOUS WASTE MATERIALS: Personnel in all craft classifications subject to working inside a federally designated hazardous perimeter shall be eligible for compensation in accordance with the following group schedule relative to the level of hazardous waste as outlined in the specific hazardous waste project site safety plan.

H-1 Base wage rate when on a hazardous waste site when not outfitted with protective clothing, Class "D" Suit - Base wage rate plus \$.50 per hour.

H-2 Class "C" Suit - Base wage rate plus \$1.00 per hour.

H-3 Class "B" Suit - Base wage rate plus \$1.50 per hour.

H-4 Class "A" Suit - Base wage rate plus \$2.00 per hour.

ENGI0701-002 01/01/2015

CLARK, COWLITZ, KLICKKITAT, PACIFIC (SOUTH), SKAMANIA, AND
WAHAKIYAKUM COUNTIES

POWER EQUIPMENT OPERATORS: ZONE 1

| | Rates | Fringes |
|--------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR | | |
| GROUP 1..... | \$ 39.47 | 14.10 |
| GROUP 1A..... | \$ 41.44 | 14.10 |
| GROUP 1B..... | \$ 43.42 | 14.10 |
| GROUP 2..... | \$ 37.58 | 14.10 |
| GROUP 3..... | \$ 36.44 | 14.10 |
| GROUP 4..... | \$ 35.36 | 14.10 |
| GROUP 5..... | \$ 34.13 | 14.10 |
| GROUP 6..... | \$ 30.94 | 14.10 |

Zone Differential (add to Zone 1 rates):

Zone 2 - \$3.00

Zone 3 - \$6.00

For the following metropolitan counties: MULTNOMAH;
CLACKAMAS; MARION; WASHINGTON; YAMHILL; AND COLUMBIA;
CLARK; AND COWLITZ COUNTY, WASHINGTON WITH MODIFICATIONS AS
INDICATED:

All jobs or projects located in Multnomah, Clackamas and Marion Counties, West of the western boundary of Mt. Hood National Forest and West of Mile Post 30 on Interstate 84 and West of Mile Post 30 on State Highway 26 and West of Mile Post 30 on Highway 22 and all jobs or projects located in Yamhill County, Washington County and Columbia County and all jobs or projects located in Clark & Cowlitz County, Washington except that portion of Cowlitz County in the Mt. St. Helens "Blast Zone" shall receive Zone I pay for all classifications.

All jobs or projects located in the area outside the identified boundary above, but less than 50 miles from the Portland City Hall shall receive Zone II pay for all classifications.

All jobs or projects located more than 50 miles from the Portland City Hall, but outside the identified border above, shall receive Zone III pay for all classifications.

For the following cities: ALBANY; BEND; COOS BAY; EUGENE;
GRANTS PASS; KLAMATH FALLS; MEDFORD; ROSEBURG

All jobs or projects located within 30 miles of the respective city hall of the above mentioned cities shall receive Zone I pay for all classifications.

All jobs or projects located more than 30 miles and less than 50 miles from the respective city hall of the above mentioned cities shall receive Zone II pay for all classifications.

All jobs or projects located more than 50 miles from the respective city hall of the above mentioned cities shall receive Zone III pay for all classifications.

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1

Concrete Batch Plan and or Wet mix three (3) units or more; Crane, Floating one hundred and fifty (150) ton but less than two hundred and fifty (250) ton; Crane, two hundred (200) ton through two hundred ninety nine (299) ton with two hundred foot (200') boom or less (including jib, inserts and/or attachments); Crane, ninety (90) ton through one hundred ninety nine (199) ton with over two hundred (200') boom Including jib, inserts and/or attachments); Crane, Tower Crane with one hundred seventy five foot (175') tower or less and with less than two hundred foot (200') jib; Crane, Whirley ninety (90) ton and over; Helicopter when used in erecting work

Group 1A

Crane, floating two hundred fifty (250) ton and over; Crane, two hundred (200) ton through two hundred ninety nine (299) ton, with over two hundred foot (200') boom (including jib, inserts and/or attachments); Crane, three hundred (300) ton through three hundred ninety nine (399) ton; Crane, Tower Crane with over one hundred seventy five foot (175') tower or over two hundred foot (200') jib; Crane, tower Crane on rail system or 2nd tower or more in work radius

Group 1B

Crane, three hundred (300) ton through three hundred ninety nine (399) ton, with over two hundred foot (200') boom (including jib, inserts and/or attachments); Floating crane, three hundred fifty (350) ton and over; Crane, four hundred (400) ton and over

Group 2

Asphalt Plant (any type); Asphalt Roto-Mill, pavement profiler eight foot (8') lateral cut and over; Auto Grader or "Trimmer"; Blade, Robotic; Bulldozer, Robotic Equipment (any type); Bulldozer, over one hundred twenty thousand (120,000) lbs. and above; Concrete Batch Plant and/or Wet Mix one (1) and two (2) drum; Concrete Diamond Head Profiler; Canal Trimmer; Concrete, Automatic Slip Form Paver (Assistant to the Operator required); Crane, Boom Truck fifty (50) ton and with over one hundred fifty foot (150') boom and over; Crane, Floating (derrick barge) thirty (30) ton but less than one hundred fifty (150) ton; Crane, Cableway twenty-five (25) ton and over; Crane, Floating Clamshell three (3) cu. Yds. And over; Crane, ninety (90) ton through one hundred ninety nine (199) ton up to and including two hundred foot (200') of boom (including jib inserts and/or attachments); Crane, fifty (50) ton through eighty nine (89) ton with over one hundred fifty foot (150') boom (including jib inserts and/or attachments); Crane, Whirley under ninety (90) ton; Crusher Plant; Excavator over one hundred thirty thousand (130,000) lbs.; Loader one hundred twenty thousand (120,000) lbs. and above; Remote Controlled Earth Moving Equipment; Shovel, Dragline, Clamshell, five (5) cu. Yds. And over; Underwater Equipment remote or otherwise, when used in construction work; Wheel Excavator any size

Group 3

Bulldozer, over seventy thousand (70,000) lbs. up to and including one hundred twenty thousand (120,000) lbs.; Crane, Boom Truck fifty (50) ton and over with less than one hundred fifty foot (150') boom; Crane, fifty (50) ton through eighty nine (89) ton with one hundred fifty foot (150') boom or less (including jib inserts and/or attachments); Crane, Shovel, Dragline or Clamshell three (3) cu. yds. but less than five (5) cu. Yds.; Excavator over eighty thousand (80,000) lbs. through one hundred thirty thousand (130,000) lbs.; Loader sixty thousand (60,000) lbs. and less than one hundred twenty thousand (120,000) lbs.

Group 4

Asphalt, Screed; Asphalt Paver; Asphalt Roto-Mill, pavement profiler, under eight foot (8') lateral cut; Asphalt, Material Transfer Vehicle Operator; Back Filling Machine; Backhoe, Robotic, track and wheel type up to and including twenty thousand (20,000) lbs. with any attachments; Blade (any type); Boatman; Boring Machine; Bulldozer over twenty thousand (20,000) lbs. and more than one hundred (100) horse up to seventy thousand (70,000) lbs.; Cable-Plow (any type); Cableway up to twenty five (25) ton; Cat Drill (John Henry); Chippers; Compactor, multi-engine; Compactor, Robotic; Compactor with blade self-propelled; Concrete, Breaker; Concrete, Grout Plant; Concrete, Mixer Mobile; Concrete, Paving Road Mixer; Concrete, Reinforced Tank Banding Machine; Crane, Boom Truck twenty (20) ton and under fifty (50) ton; Crane, Bridge Locomotive, Gantry and Overhead; Crane, Carry Deck; Crane, Chicago Boom and similar types; Crane, Derrick Operator, under one hundred (100) ton; Crane, Floating Clamshell, Dragline, etc. Operator, under three (3) cu. yds. Or less than thirty (30) ton; Crane, under fifty (50) ton; Crane, Quick Tower under one hundred foot (100') in height and less than one hundred fifty foot (150') jib (on rail included); Diesel-Electric Engineer (Plant or Floating); Directional Drill over twenty thousand (20,000) lbs. pullback; Drill Cat Operator; Drill Doctor and/or Bit Grinder; Driller, Percussion, Diamond, Core, Cable, Rotary and similar type; Excavator Operator over twenty thousand (20,000) lbs. through eighty thousand (80,000) lbs.; Generator Operator; Grade-all; Guardrail Machines, i.e. punch, auger, etc.; Hammer Operator (Piledriver); Hoist, stiff leg, guy derrick or similar type, fifty (50) ton and over; Hoist, two (2) drums or more; Hydro Axe (loader mounted or similar type); Jack Operator, Elevating Barges, Barge Operator, self-unloading; Loader Operator, front end and overhead, twenty five thousand (25,000) lbs. and less than sixty thousand (60,000) lbs.; Log Skidders; Piledriver Operator (not crane type); Pipe, Bending, Cleaning, Doping and Wrapping Machines; Rail, Ballast Tamper Multi-Purpose; Rubber-tired Dozers and Pushers; Scraper, all types; Side-Boom; Skip Loader, Drag Box; Strump Grinder (loader mounted or similar type); Surface Heater and Planer; Tractor, rubber-tired, over fifty (50) HP Flywheel; Trenching Machine three foot (3') depth and deeper; Tub Grinder (used for wood debris);

Tunnel Boring Machine Mechanic; Tunnel, Mucking Machine;
 Ultra High Pressure Water Jet Cutting Tool System Operator;
 Vacuum Blasting Machine Operator; Water pulls, Water wagons
 Group 5

Asphalt, Extrusion Machine; Asphalt, Roller (any asphalt mix); Asphalt, Roto-Mill pavement profiler ground man; Bulldozer, twenty thousand (20,000) lbs. or less, or one hundred (100) horse or less; Cement Pump; Chip Spreading Machine; Churn Drill and Earth Boring Machine; Compactor, self-propelled without blade; Compressor, (any power) one thousand two hundred fifty (1,250) cu. ft. and over, total capacity; Concrete, Batch Plant Quality control; Concrete, Combination Mixer and compressor operator, gunite work; Concrete, Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete, Finishing Machine; Concrete, Grouting Machine; Concrete, Internal Full Slab Vibrator Operator; Concrete, Joint Machine; Concrete, Mixer single drum, any capacity; Concrete, Paving Machine eight foot (8') or less; Concrete, Planer; Concrete, Pump; Concrete, Pump Truck; Concrete, Pumpcrete Operator (any type); Concrete, Slip Form Pumps, power driven hydraulic lifting device for concrete forms; Conveyored Material Hauler; Crane, Boom Truck under twenty (20) tons; Crane, Boom Type lifting device, five (5) ton capacity or less; Drill, Directional type less than twenty thousand (20,000) lbs. pullback; Fork Lift, over ten (10) ton or Robotic; Helicopter Hoist; Hoist Operator, single drum; Hydraulic Backhoe track type up to and including twenty thousand (20,000) lbs.; Hydraulic Backhoe wheel type (any make); Laser Screed; Loaders, rubber-tired type, less than twenty five thousand (25,000) lbs.; Pavement Grinder and/or Grooving Machine (riding type); Pipe, cast in place Pipe Laying Machine; Pulva-Mixer or similar types; Pump Operator, more than five (5) pumps (any size); Rail, Ballast Compactor, Regulator, or Tamper machines; Service Oiler (Greaser); Sweeper Self-Propelled; Tractor, Rubber-Tired, fifty (50) HP flywheel and under; Trenching Machine Operator, maximum digging capacity three foot (3') depth; Tunnel, Locomotive, Dinkey; Tunnel, Power Jumbo setting slip forms, etc.

Group 6

Asphalt, Pugmill (any type); Asphalt, Raker; Asphalt, Truck Mounted Asphalt Spreader, with Screed; Auger Oiler; Boatman; Bobcat, skid steed (less than one (1) yard); Broom, self-propelled; Compressor Operator (any power) under 1,250 cu. ft. total capacity; Concrete Curing Machine (riding type); Concrete Saw; Conveyor Operator or Assistant; Crane, Tugger; Crusher Feeder; Crusher Oiler; Deckhand; Drill, Directional Locator; Fork Lift; Grade Checker; Guardrail Punch Oiler; Hydrographic Seeder Machine, straw, pulp or seed; Hydrostatic Pump Operator; Mixer Box (CTB, dry batch, etc.); Oiler; Plant Oiler; Pump (any power); Rail, Brakeman, Switchman, Motorman; Rail, Tamping Machine, mechanical, self-propelled; Rigger; Roller grading (not asphalt); Truck, Crane Oiler-Driver

IRON0014-005 07/01/2015

ADAMS, ASOTIN, BENTON, COLUMBIA, DOUGLAS, FERRY, FRANKLIN,
GARFIELD, GRANT, LINCOLN, OKANOGAN, PEND ORIELLE, SPOKANE,
STEVENS, WALLA WALLA AND WHITMAN COUNTIES

| | Rates | Fringes |
|-----------------|----------|---------|
| IRONWORKER..... | \$ 32.76 | 23.19 |

IRON0029-002 07/01/2015

CLARK, COWLITZ, KLICKITAT, PACIFIC, SKAMANIA, AND WAHKAIKUM
COUNTIES

| | Rates | Fringes |
|-----------------|----------|---------|
| IRONWORKER..... | \$ 34.12 | 23.04 |

IRON0086-002 07/01/2015

YAKIMA, KITTITAS AND CHELAN COUNTIES

| | Rates | Fringes |
|-----------------|----------|---------|
| IRONWORKER..... | \$ 32.76 | 23.19 |

IRON0086-004 07/01/2015

CLALLAM, GRAYS HARBOR, ISLAND, JEFFERSON, KING, KITSAP, LEWIS,
MASON, PIERCE, SKAGIT, SNOHOMISH, THURSTON, AND WHATCOM COUNTIES

| | Rates | Fringes |
|-----------------|----------|---------|
| IRONWORKER..... | \$ 40.04 | 23.19 |

LABO0001-002 06/01/2014

ZONE 1:

| | Rates | Fringes |
|---|----------|---------|
| Laborers: | | |
| CALLAM, GRAYS HARBOR, ISLAND, JEFFERSON, KING, KITSAP, LEWIS, MASON, PACIFIC (NORTH OF STRAIGHT LINE MADE BY EXTENDING THE NORTH BOUNDARY WAHKIAKUM COUNTY WEST TO THE PACIFIC OCEAN), PIERCE, SAN JUAN, SKAGIT, SNOHOMISH, THURSTON AND WHATCOM COUNTIES | | |
| GROUP 1..... | \$ 22.49 | 10.30 |
| GROUP 2..... | \$ 25.79 | 10.30 |
| GROUP 3..... | \$ 32.29 | 10.30 |
| GROUP 4..... | \$ 33.08 | 10.30 |
| GROUP 5..... | \$ 33.62 | 10.30 |

CHELAN, DOUGLAS (WEST OF THE 120TH MERIDIAN), KITTITAS AND YAKIMA COUNTIES

| | | |
|--------------|----------|-------|
| GROUP 1..... | \$ 18.95 | 10.30 |
| GROUP 2..... | \$ 21.76 | 10.30 |
| GROUP 3..... | \$ 23.85 | 10.30 |
| GROUP 4..... | \$ 24.43 | 10.30 |
| GROUP 5..... | \$ 24.85 | 10.30 |

BASE POINTS: BELLINGHAM, MT. VERNON, EVERETT, SEATTLE, KENT, TACOMA, OLYMPIA, CENTRALIA, ABERDEEN, SHELTON, PT. TOWNSEND, PT. ANGELES, AND BREMERTON

- ZONE 1 - Projects within 25 radius miles of the respective city hall
- ZONE 2 - More than 25 but less than 45 radius miles from the respective city hall
- ZONE 3 - More than 45 radius miles from the respective city hall

ZONE DIFFERENTIAL (ADD TO ZONE 1 RATES):
 ZONE 2 - \$1.00
 ZONE 3 - \$1.30

BASE POINTS: CHELAN, SUNNYSIDE, WENATCHEE, AND YAKIMA

- ZONE 1 - Projects within 25 radius miles of the respective city hall
- ZONE 2 - More than 25 radius miles from the respective city hall

ZONE DIFFERENTIAL (ADD TO ZONE 1 RATES):
 ZONE 2 - \$2.25

LABORERS CLASSIFICATIONS

GROUP 1: Landscaping and Planting; Watchman; Window Washer/Cleaner (detail clean-up, such as but not limited to cleaning floors, ceilings, walls, windows, etc., prior to final acceptance by the owner)

GROUP 2: Batch Weighman; Crusher Feeder; Fence Laborer; Flagman; Pilot Car

GROUP 3: General Laborer; Air, Gas, or Electric Vibrating Screed; Asbestos Abatement Laborer; Ballast Regulator Machine; Brush Cutter; Brush Hog Feeder; Burner; Carpenter Tender; Cement Finisher Tender; Change House or Dry Shack; Chipping Gun (under 30 lbs.); Choker Setter; Chuck Tender; Clean-up Laborer; Concrete Form Stripper; Curing Laborer; Demolition (wrecking and moving including charred material); Ditch Digger; Dump Person; Fine Graders; Firewatch; Form Setter; Gabian Basket Builders; Grout Machine Tender; Grinders; Guardrail Erector; Hazardous Waste Worker (Level C: uses a chemical "splash suit" and air purifying respirator); Maintenance Person; Material Yard Person; Pot Tender; Rip Rap Person; Riggers; Scale Person; Sloper Sprayer; Signal Person; Stock Piler; Stake Hopper; Toolroom Man (at job site); Topper-Tailer; Track Laborer; Truck Spotter; Vinyl Seamer

GROUP 4: Cement Dumper-Paving; Chipping Gun (over 30 lbs.); Clary Power Spreader; Concrete Dumper/Chute Operator; Concrete Saw Operator; Drill Operator (hydraulic, diamond, aiartrac); Faller and Bucker Chain Saw; Grade Checker and Transit Person; Groutmen (pressure) including post tension beams; Hazardous Waste Worker (Level B: uses same respirator protection as Level A. A supplied air line is provided in conjunction with a chemical "splash suit"); High Scaler; Jackhammer; Laserbeam Operator; Manhole Builder-Mudman; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete and rock, sandblast, gunite, shotcrete, water blaster, vacuum blaster); Pavement Breaker; Pipe Layer and Caulker; Pipe Pot Tender; Pipe Reliner (not insert type); Pipe Wrapper; Power Jacks; Railroad Spike Puller-Power; Raker-Asphalt; Rivet Buster; Rodder; Sloper (over 20 ft); Spreader (concrete); Tamper and Similar electric, air and glas operated tool; Timber Person-sewer (lagger shorer and cribber); Track Liner Power; Tugger Operator; Vibrator; Well Point Laborer

GROUP 5: Caisson Worker; Miner; Mortarman and Hodcarrier; Powderman; Re-Timberman; Hazardous Waste Worker (Level A: utilizes a fully encapsulated suit with a self-contained breathing apparatus or a supplied air line).

LABO0238-004 06/01/2014

PASCO AREA: ADAMS, BENTON, COLUMBIA, DOUGLAS (East of 120th Meridian), FERRY, FRANKLIN, GRANT, OKANOGAN, WALLA WALLA

SPOKANE AREA: ASOTIN, GARFIELD, LINCOLN, PEND OREILLE, SPOKANE, STEVENS & WHITMAN COUNTIES

| | Rates | Fringes |
|-------------------|----------|---------|
| LABORER (PASCO) | | |
| GROUP 1..... | \$ 22.25 | 10.95 |
| GROUP 2..... | \$ 24.35 | 10.95 |
| GROUP 3..... | \$ 24.62 | 10.95 |
| GROUP 4..... | \$ 24.89 | 10.95 |
| GROUP 5..... | \$ 25.17 | 10.95 |
| LABORER (SPOKANE) | | |
| GROUP 1..... | \$ 21.95 | 10.95 |
| GROUP 2..... | \$ 24.05 | 10.95 |
| GROUP 3..... | \$ 24.32 | 10.95 |
| GROUP 4..... | \$ 24.59 | 10.95 |
| GROUP 5..... | \$ 24.87 | 10.95 |

Zone Differential (Add to Zone 1 rate): \$2.00

BASE POINTS: Spokane, Pasco, Lewiston

Zone 1: 0-45 radius miles from the main post office.

Zone 2: 45 radius miles and over from the main post office.

LABORERS CLASSIFICATIONS

GROUP 1: Flagman; Landscape Laborer; Scaleman; Traffic Control Maintenance Laborer (to include erection and maintenance of barricades, signs and relief of flagperson); Window Washer/Cleaner (detail cleanup, such as, but not limited to cleaning floors, ceilings, walls, windows, etc. prior to final acceptance by the owner)

GROUP 2: Asbestos Abatement Worker; Brush Hog Feeder; Carpenter Tender; Cement Handler; Clean-up Laborer; Concrete Crewman (to include stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, pumpcrete machine, signaling, handling the nozzle of squeezecrete or similar machine, 6 inches and smaller); Confined Space Attendant; Concrete Signalman; Crusher Feeder; Demolition (to include clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector; Firewatch; Form Cleaning Machine Feeder, Stacker; General Laborer; Grout Machine Header Tender; Guard Rail (to include guard rails, guide and reference posts, sign posts, and right-of-way markers); Hazardous Waste Worker, Level D (no respirator is used and skin protection is minimal); Miner, Class "A" (to include all bull gang, concrete crewman, dumpman and pumpcrete crewman, including distributing pipe, assembly & dismantle, and nipper); Nipper; Riprap Man; Sandblast Tailhoseman; Scaffold Erector (wood or steel); Stake Jumper; Structural Mover (to include separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Track Laborer (RR); Truck Loader; Well-Point Man; All Other Work Classifications Not Specially Listed Shall Be Classified As General Laborer

GROUP 3: Asphalt Roller, walking; Cement Finisher Tender; Concrete Saw, walking; Demolition Torch; Dope Pot Firemen, non-mechanical; Driller Tender (when required to move and position machine); Form Setter, Paving; Grade Checker using level; Hazardous Waste Worker, Level C (uses a chemical "splash suit" and air purifying respirator); Jackhammer Operator; Miner, Class "B" (to include brakeman, finisher, vibrator, form setter); Nozzleman (to include squeeze and flo-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker (under 90 lbs.); Pipelayer, corrugated metal culvert; Pipelayer, multi-plate; Pot Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Railroad Equipment, power driven, except dual mobile power spiker or puller; Railroad Power Spiker or Puller, dual mobile; Rodder and Spreader; Tamper (to include operation of Barco, Essex and similar tampers); Trencher, Shawnee; Tugger Operator; Wagon Drills; Water Pipe Liner; Wheelbarrow (power driven)

GROUP 4: Air and Hydraulic Track Drill; Asphalt Raker; Brush Machine (to include horizontal construction joint cleanup brush machine, power propelled); Caisson Worker, free air; Chain Saw Operator and Faller; Concrete Stack (to include laborers when laborers working on free standing concrete stacks for smoke or fume control above 40 feet high); Gunitite (to include operation of machine and nozzle); Hazardous Waste Worker, Level B (uses same respirator protection as Level A. A supplied air line is provided in conjunction with a chemical "splash suit"); High Scaler; Laser Beam Operator (to include grade checker and elevation control); Miner, Class C (to include miner, nozzleman for concrete, laser beam operator and rigger on tunnels); Monitor Operator (air track or similar mounting); Mortar Mixer; Nozzleman (to include jet blasting nozzleman, over 1,200 lbs., jet blast machine power propelled, sandblast nozzle); Pavement Breaker (90 lbs. and over); Pipelayer (to include working topman, caulker, collarman, jointer, mortarman, rigger, jacker, shorer, valve or meter installer); Pipewrapper; Plasterer Tender; Vibrators (all)

GROUP 5 - Drills with Dual Masts; Hazardous Waste Worker, Level A (utilizes a fully encapsulated suit with a self-contained breathing apparatus or a supplied air line); Miner Class "D", (to include raise and shaft miner, laser beam operator on riases and shafts)

LABO0238-006 06/01/2014

COUNTIES EAST OF THE 120TH MERIDIAN: ADAMS, ASOTIN, BENTON, CHELAN, COLUMBIA, DOUGLAS, FERRY, FRANKLIN, GARFIELD, GRANT, LINCOLN, OKANOGAN, PEND OREILLE, STEVENS, SPOKANE, WALLA WALLA, WHITMAN

| | Rates | Fringes |
|------------------|----------|---------|
| Hod Carrier..... | \$ 24.32 | 10.95 |

LABO0335-001 06/01/2013

CLARK, COWLITZ, KLICKITAT, PACIFIC (SOUTH OF A STRAIGHT LINE MADE BY EXTENDING THE NORTH BOUNDARY LINE OF WAHAKIUM COUNTY WEST TO THE PACIFIC OCEAN), SKAMANIA AND WAHAKIUM COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| Laborers: | | |
| ZONE 1: | | |
| GROUP 1..... | \$ 28.65 | 10.05 |
| GROUP 2..... | \$ 29.25 | 10.05 |
| GROUP 3..... | \$ 29.69 | 10.05 |
| GROUP 4..... | \$ 30.07 | 10.05 |
| GROUP 5..... | \$ 26.15 | 10.05 |
| GROUP 6..... | \$ 23.73 | 10.05 |
| GROUP 7..... | \$ 20.53 | 10.05 |

Zone Differential (Add to Zone 1 rates):

Zone 2 \$ 0.65
 Zone 3 - 1.15
 Zone 4 - 1.70
 Zone 5 - 2.75

BASE POINTS: GOLDENDALE, LONGVIEW, AND VANCOUVER

ZONE 1: Projects within 30 miles of the respective city all.
 ZONE 2: More than 30 miles but less than 40 miles from the
 respective city hall.
 ZONE 3: More than 40 miles but less than 50 miles from the
 respective city hall.
 ZONE 4: More than 50 miles but less than 80 miles from the
 respective city hall.
 ZONE 5: More than 80 miles from the respective city hall.

LABORERS CLASSIFICATIONS

GROUP 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-House Man or Dry Shack Man; Choker Setter; Clean-up Laborers; Curing, Concrete; Demolition, Wrecking and Moving Laborers; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator Feeders; Median Rail Reference Post, Guide Post, Right of Way Marker; Fine Graders; Fire Watch; Form Strippers (not swinging stages); General Laborers; Hazardous Waste Worker; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Pittsburgh Chipper Operator or Similar Types; Railroad Track Laborers; Ribbon Setters (including steel forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Tie Back Shoring; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bullgang (above ground); Weight-Man- Crusher (aggregate when used)

GROUP 2: Applicator (including pot power tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean- up Nozzleman-Green Cutter (concrete, rock, etc.); Concrete Power Buggyman; Concrete Laborer; Crusher Feeder; Demolition and Wrecking Charred Materials; Gunite Nozzleman Tender; Gunite or Sand Blasting Pot Tender; Handlers or Mixers of all Materials of an irritating nature (including cement and lime); Tool Operators (includes but not limited to: Dry Pack Machine; Jackhammer; Chipping Guns; Paving Breakers); Pipe Doping and Wrapping; Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Sand Blasting (Wet); Stake-Setter; Tunnel-Muckers, Brakemen, Concrete Crew, Bullgang (underground)

GROUP 3: Asbestos Removal; Bit Grinder; Drill Doctor; Drill Operators, air tracks, cat drills, wagon drills, rubber-mounted drills, and other similar types including at crusher plants; Guniting Nozzleman; High Scalers, Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Manhole Builder; Powdermen; Concrete Saw Operator; Powdermen; Power Saw Operators (Bucking and Falling); Pumpcrete Nozzlemen; Sand Blasting (Dry); Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks, Tugger Operator; Tunnel-Chuck Tenders, Nippers and Timbermen; Vibrator; Water Blaster

GROUP 4: Asphalt Raker; Concrete Saw Operator (walls); Concrete Nozzelman; Grade Checker; Pipelayer; Laser Beam (pipelaying)-applicable when employee assigned to move, set up, align; Laser Beam; Tunnel Miners; Motorman-Dinky Locomotive-Tunnel; Powderman-Tunnel; Shield Operator-Tunnel

GROUP 5: Traffic Flaggers

GROUP 6: Fence Builders

GROUP 7: Landscaping or Planting Laborers

LABO0335-019 09/01/2013

| | Rates | Fringes |
|------------------|----------|---------|
| Hod Carrier..... | \$ 30.47 | 10.05 |

PAIN0005-002 07/01/2015

STATEWIDE EXCEPT CLARK, COWLITZ, KLICKITAT, PACIFIC (SOUTH), SKAMANIA, AND WAHKIAKUM COUNTIES

| | Rates | Fringes |
|----------------------------|----------|---------|
| Painters: STRIPERS..... | \$ 27.44 | 14.09 |

PAIN0005-004 03/01/2009

CLALLAM, GRAYS HARBOR, ISLAND, JEFFERSON, KING, KITSAP, LEWIS, MASON, PIERCE, SAN JUAN, SKAGIT, SNOHOMISH, THURSTON AND WHATCOM COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| PAINTER..... | \$ 20.82 | 7.44 |

PAIN0005-006 07/01/2015

ADAMS, ASOTIN; BENTON AND FRANKLIN (EXCEPT HANFORD SITE);
 CHELAN, COLUMBIA, DOUGLAS, FERRY, GARFIELD, GRANT, KITTITAS,
 LINCOLN, OKANOGAN, PEND OREILLE, SPOKANE, STEVENS, WALLA WALLA,
 WHITMAN AND YAKIMA COUNTIES

| | Rates | Fringes |
|---|----------|---------|
| PAINTER | | |
| Application of Cold Tar Products, Epoxies, Polyure thanes, Acids, Radiation Resistant Material, Water and Sandblasting..... | \$ 28.15 | 10.85 |
| Over 30'/Swing Stage Work.. | \$ 22.20 | 7.98 |
| Brush, Roller, Striping, Steam-cleaning and Spray.... | \$ 23.05 | 10.85 |
| Lead Abatement, Asbestos Abatement..... | \$ 21.50 | 7.98 |

*\$.70 shall be paid over and above the basic wage rates
 listed for work on swing stages and high work of over 30
 feet.

 PAIN0055-003 10/01/2015

CLARK, COWLITZ, KLICKITAT, PACIFIC, SKAMANIA, AND WAHKIAKUM
 COUNTIES

| | Rates | Fringes |
|---|----------|---------|
| PAINTER | | |
| Brush & Roller..... | \$ 22.97 | 9.85 |
| High work - All work 60 ft. or higher..... | \$ 23.72 | 9.85 |
| Spray and Sandblasting..... | \$ 23.57 | 9.85 |

 PAIN0055-006 11/01/2014

CLARK, COWLITZ, KLICKITAT, SKAMANIA and WAHKIAKUM COUNTIES

| | Rates | Fringes |
|---------------------------------------|----------|---------|
| Painters: | | |
| HIGHWAY & PARKING LOT STRIPER..... | \$ 33.43 | 11.08 |

PLAS0072-004 06/01/2015

ADAMS, ASOTIN, BENTON, CHELAN, COLUMBIA, DOUGLAS, FERRY,
FRANKLIN, GARFIELD, GRANT, KITTITAS, LINCOLN, OKANOGAN, PEND
OREILLE, SPOKANE, STEVENS, WALLA WALLA, WHITMAN, AND YAKIMA
COUNTIES

| | Rates | Fringes |
|--------------------------------|----------|---------|
| CEMENT MASON/CONCRETE FINISHER | | |
| ZONE 1..... | \$ 27.01 | 12.59 |

Zone Differential (Add to Zone 1 rate): Zone 2 - \$2.00

BASE POINTS: Spokane, Pasco, Lewiston; Wenatchee
Zone 1: 0 - 45 radius miles from the main post office
Zone 2: Over 45 radius miles from the main post office

PLAS0528-001 06/01/2015

CLALLAM, COWLITZ, GRAYS HARBOR, ISLAND, JEFFERSON, KING,
KITSAP, LEWIS, MASON, PACIFIC, PIERCE, SAN JUAN, SKAGIT,
SNOHOMISH, THURSTON, WAHKIAKUM AND WHATCOM COUNTIES

| | Rates | Fringes |
|--|----------|---------|
| CEMENT MASON | | |
| CEMENT MASON..... | \$ 38.52 | 15.43 |
| COMPOSITION, TROWEL MACHINE, GRINDER, POWER TOOLS, GUNNITE NOZZLE..... | \$ 39.02 | 15.43 |
| TROWLING MACHINE OPERATOR ON COMPOSITION..... | \$ 39.02 | 15.43 |

PLAS0555-002 06/01/2015

CLARK, KLICKITAT AND SKAMANIA COUNTIES

ZONE 1:

| | Rates | Fringes |
|--|----------|---------|
| CEMENT MASON | | |
| CEMENT MASONS DOING BOTH COMPOSITION/POWER MACHINERY AND SUSPENDED/HANGING SCAFFOLD.. | \$ 30.58 | 18.18 |
| CEMENT MASONS ON SUSPENDED, SWINGING AND/OR HANGING SCAFFOLD..... | \$ 30.58 | 18.18 |
| CEMENT MASONS..... | \$ 29.98 | 18.18 |
| COMPOSITION WORKERS AND POWER MACHINERY OPERATORS... | \$ 31.18 | 18.18 |

Zone Differential (Add To Zone 1 Rates):

Zone 2 - \$0.65
 Zone 3 - 1.15
 Zone 4 - 1.70
 Zone 5 - 3.00

BASE POINTS: BEND, CORVALLIS, EUGENE, MEDFORD, PORTLAND,
 SALEM, THE DALLES, VANCOUVER

ZONE 1: Projects within 30 miles of the respective city hall

ZONE 2: More than 30 miles but less than 40 miles from the
 respective city hall.

ZONE 3: More than 40 miles but less than 50 miles from the
 respective city hall.

ZONE 4: More than 50 miles but less than 80 miles from the
 respective city hall.

ZONE 5: More than 80 miles from the respective city hall

 TEAM0037-002 06/01/2014

CLARK, COWLITZ, KLICKITAT, PACIFIC (South of a straight line
 made by extending the north boundary line of Wahkiakum County
 west to the Pacific Ocean), SKAMANIA, AND WAHKIAKUM COUNTIES

Rates Fringes

Truck drivers:

| | | |
|--------------|----------|-------|
| ZONE 1 | | |
| GROUP 1..... | \$ 26.90 | 14.37 |
| GROUP 2..... | \$ 27.02 | 14.37 |
| GROUP 3..... | \$ 27.15 | 14.37 |
| GROUP 4..... | \$ 27.41 | 14.37 |
| GROUP 5..... | \$ 27.63 | 14.37 |
| GROUP 6..... | \$ 27.79 | 14.37 |
| GROUP 7..... | \$ 27.99 | 14.37 |

Zone Differential (Add to Zone 1 Rates):

Zone 2 - \$0.65
 Zone 3 - 1.15
 Zone 4 - 1.70
 Zone 5 - 2.75

BASE POINTS: ASTORIA, THE DALLES, LONGVIEW AND VANCOUVER

ZONE 1: Projects within 30 miles of the respective city
 hall.

ZONE 2: More than 30 miles but less than 40 miles from the
 respective city hall.

ZONE 3: More than 40 miles but less than 50 miles from the
 respective city hall.

ZONE 4: More than 50 miles but less than 80 miles from the
 respective city hall.

ZONE 5: More than 80 miles from the respective city hall.

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: A Frame or Hydra lift truck w/load bearing surface; Articulated Dump Truck; Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Concrete Pump Truck; Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations there of: up to and including 10 cu. yds.; Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Pickup Truck; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Water Wagons (rated capacity) up to 3,000 gallons; Transit Mix and Wet or Dry Mix - 5 cu. yds. and under; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Driver; Slurry Truck Driver or Leverman; Tireman

GROUP 2: Boom Truck/Hydra-lift or Retracting Crane; Challenger; Dumpsters or similar equipment all sizes; Dump Trucks/Articulated Dumps 6 cu to 10 cu.; Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer or doubles transporting equipment or wet or dry materials; Lumber Carrier, Driver-Straddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Transit mix and wet or dry mix trucks: over 5 cu. yds. and including 7 cu. yds.; Vacuum Trucks; Water truck/Wagons (rated capacity) over 3,000 to 5,000 gallons

GROUP 3: Ammonia Nitrate Distributor Driver; Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 30 cu. yds. includes Articulated Dump Trucks; Self-Propelled Street Sweeper; Transit mix and wet or dry mix truck: over 7 cu yds. and including 11 cu yds.; Truck Mechanic-Welder-Body Repairman; Utility and Clean-up Truck; Water Wagons (rated capacity) over 5,000 to 10,000 gallons

GROUP 4: Asphalt Burner; Dump Trucks, side, end and bottom dumps, including Semi-Trucks and Trains or combinations thereof: over 30 cu. yds. and including 50 cu. yds. includes Articulated Dump Trucks; Fire Guard; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

GROUP 5: Composite Crewman; Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds. includes Articulated Dump Trucks

GROUP 6: Bulk Cement Spreader w/o Auger; Dry Pre-Batch concrete Mix Trucks; Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains of combinations thereof: over 60 cu. yds. and including 80 cu. yds., and includes Articulated Dump Trucks; Skid Truck

GROUP 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 100 cu. yds., includes Articulated Dump Trucks; Industrial Lift Truck (mechanical tailgate)

 TEAM0174-001 06/01/2015

CLALLAM, GRAYS HARBOR, ISLAND, JEFFERSON, KING, KITSAP, LEWIS, MASON, PACIFIC (North of a straight line made by extending the north boundary line of Wahkiakum County west to the Pacific Ocean), PIERCE, SAN JUAN, SKAGIT, SNOHOMISH, THURSTON AND WHATCOM COUNTIES

| | Rates | Fringes |
|----------------|----------|---------|
| Truck drivers: | | |
| ZONE A: | | |
| GROUP 1:..... | \$ 32.18 | 17.27 |
| GROUP 2:..... | \$ 31.34 | 17.27 |
| GROUP 3:..... | \$ 28.53 | 17.27 |
| GROUP 4:..... | \$ 23.56 | 17.27 |
| GROUP 5:..... | \$ 31.73 | 17.27 |

ZONE B (25-45 miles from center of listed cities*): Add \$.70 per hour to Zone A rates.

ZONE C (over 45 miles from centr of listed cities*): Add \$1.00 per hour to Zone A rates.

*Zone pay will be calculated from the city center of the following listed cities:

| | | | |
|------------|---------------|------------|-----------|
| BELLINGHAM | CENTRALIA | RAYMOND | OLYMPIA |
| EVERETT | SHELTON | ANACORTES | BELLEVUE |
| SEATTLE | PORT ANGELES | MT. VERNON | KENT |
| TACOMA | PORT TOWNSEND | ABERDEEN | BREMERTON |

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1 - "A-frame or Hydralift" trucks and Boom trucks or similar equipment when "A" frame or "Hydralift" and Boom truck or similar equipment is used; Buggymobile; Bulk Cement Tanker; Dumpsters and similar equipment, Tournorockers, Tournowagon, Tournotrailer, Cat DW series, Terra Cobra, Le Tourneau, Westinghouse, Athye Wagon, Euclid Two and Four-Wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump Trucks, side, end and bottom dump, including semi-trucks and trains or combinations thereof with 16 yards to 30 yards capacity: Over 30 yards \$.15 per hour additional for each 10 yard increment; Explosive Truck (field mix) and similar equipment; Hyster Operators (handling bulk loose aggregates); Lowbed and Heavy Duty Trailer; Road Oil Distributor Driver; Spreader, Flaherty Transit mix used exclusively in heavy construction; Water Wagon and Tank Truck-3,000 gallons and over capacity

GROUP 2 - Bulllifts, or similar equipment used in loading or unloading trucks, transporting materials on job site; Dumpsters, and similar equipment, Tournorockers, Tournowagon, Turnotrailer, Cat. D.W. Series, Terra Cobra, Le Tourneau, Westinghouse, Athye wagon, Euclid two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump trucks, side, end and bottom dump, including semi-trucks and trains or combinations thereof with less than 16 yards capacity; Flatbed (Dual Rear Axle); Grease Truck, Fuel Truck, Greaser, Battery Service Man and/or Tire Service Man; Leverman and loader at bunkers and batch plants; Oil tank transport; Scissor truck; Slurry Truck; Sno-Go and similar equipment; Swampers; Straddler Carrier (Ross, Hyster) and similar equipment; Team Driver; Tractor (small, rubber-tired) (when used within Teamster jurisdiction); Vacuum truck; Water Wagon and Tank trucks-less than 3,000 gallons capacity; Winch Truck; Wrecker, Tow truck and similar equipment

GROUP 3 - Flatbed (single rear axle); Pickup Sweeper; Pickup Truck. (Adjust Group 3 upward by \$2.00 per hour for onsite work only)

GROUP 4 - Escort or Pilot Car

GROUP 5 - Mechanic

HAZMAT PROJECTS

Anyone working on a HAZMAT job, where HAZMAT certification is required, shall be compensated as a premium, in addition to the classification working in as follows:

LEVEL C: +\$.25 per hour - This level uses an air purifying respirator or additional protective clothing.

LEVEL B: +\$.50 per hour - Uses same respirator protection as Level A. Supplied air line is provided in conjunction with a chemical "splash suit."

LEVEL A: +\$.75 per hour - This level utilizes a fully-encapsulated suit with a self-contained breathing apparatus or a supplied air line.

*** TEAM0690-004 01/01/2016**

ADAMS, ASOTIN, BENTON, CHELAN, COLUMBIA, DOUGLAS, FERRY,
FRANKLIN, GARFIELD, GRANT KITTITAS, LINCOLN, OKANOGAN, PEND
OREILLE, SPOKANE, STEVENS, WALLA WALLA, WHITMAN AND YAKIMA
COUNTIES

Rates Fringes

Truck drivers: (AREA 1: SPOKANE ZONE CENTER: Adams, Chelan, Douglas, Ferry,
Grant, Kittitas, Lincoln, Okanogan, Pen Oreille, Spokane, Stevens, and
Whitman Counties

AREA 1: LEWISTON ZONE CENTER:
Asotin, Columbia, and Garfield Counties

AREA 2: PASCO ZONE CENTER:
Benton, Franklin, Walla Walla and Yakima Counties)

AREA 1:

| | | |
|----------------------|-----------------|--------------|
| GROUP 1 | \$ 20.17 | 16.69 |
| GROUP 2 | \$ 22.44 | 16.69 |
| GROUP 3 | \$ 22.94 | 16.69 |
| GROUP 4 | \$ 23.27 | 16.69 |
| GROUP 5 | \$ 23.38 | 16.69 |
| GROUP 6 | \$ 23.55 | 16.69 |
| GROUP 7 | \$ 24.08 | 16.69 |
| GROUP 8 | \$ 24.44 | 16.69 |

AREA 2:

| | | |
|----------------------|-----------------|--------------|
| GROUP 1 | \$ 22.17 | 16.69 |
| GROUP 2 | \$ 24.44 | 16.69 |
| GROUP 3 | \$ 24.94 | 16.69 |
| GROUP 4 | \$ 25.27 | 16.69 |
| GROUP 5 | \$ 25.38 | 16.69 |
| GROUP 6 | \$ 25.55 | 16.69 |
| GROUP 7 | \$ 26.08 | 16.69 |
| GROUP 8 | \$ 26.44 | 16.69 |

AREA 2

| | | |
|---------|----------|-------|
| GROUP 1 | \$ 21.77 | 15.19 |
| GROUP 2 | \$ 24.31 | 15.19 |
| GROUP 3 | \$ 24.42 | 15.19 |
| GROUP 4 | \$ 24.75 | 15.19 |
| GROUP 5 | \$ 24.86 | 15.19 |
| GROUP 6 | \$ 25.02 | 15.19 |
| GROUP 7 | \$ 25.56 | 15.19 |
| GROUP 8 | \$ 25.88 | 15.19 |

Zone Differential (Add to Zone 1 rate: Zone 1 + \$2.00)

BASE POINTS: Spokane, Pasco, Lewiston

Zone 1: 0-45 radius miles from the main post office.

Zone 2: Outside 45 radius miles from the main post office

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Escort Driver or Pilot Car; Employee Haul; Power Boat Hauling Employees or Material

GROUP 2: Fish Truck; Flat Bed Truck; Fork Lift (3000 lbs. and under); Leverperson (loading trucks at bunkers); Trailer Mounted Hydro Seeder and Mulcher; Seeder & Mulcher; Stationary Fuel Operator; Tractor (small, rubber-tired, pulling trailer or similar equipment)

GROUP 3: Auto Crane (2000 lbs. capacity); Buggy Mobile & Similar; Bulk Cement Tanks & Spreader; Dumptor (6 yds. & under); Flat Bed Truck with Hydraulic System; Fork Lift (3001-16,000 lbs.); Fuel Truck Driver, Steamcleaner & Washer; Power Operated Sweeper; Rubber-tired Tunnel Jumbo; Scissors Truck; Slurry Truck Driver; Straddle Carrier (Ross, Hyster, & similar); Tireperson; Transit Mixers & Truck Hauling Concrete (3 yd. to & including 6 yds.); Trucks, side, end, bottom & articulated end dump (3 yards to and including 6 yds.); Warehouseperson (to include shipping & receiving); Wrecker & Tow Truck

GROUP 4: A-Frame; Burner, Cutter, & Welder; Service Greaser; Trucks, side, end, bottom & articulated end dump (over 6 yards to and including 12 yds.); Truck Mounted Hydro Seeder; Warehouseperson; Water Tank truck (0-8,000 gallons)

GROUP 5: Dumptor (over 6 yds.); Lowboy (50 tons & under); Self-loading Roll Off; Semi-Truck & Trailer; Tractor with Steer Trailer; Transit Mixers and Trucks Hauling Concrete (over 6 yds. to and including 10 yds.); Trucks, side, end, bottom and end dump (over 12 yds. to & including 20 yds.); Truck-Mounted Crane (with load bearing surface either mounted or pulled, up to 14 ton); Vacuum Truck (super sucker, guzzler, etc.)

GROUP 6: Flaherty Spreader Box Driver; Flowboys; Fork Lift (over 16,000 lbs.); Dumps (Semi-end); Mechanic (Field); Semi-end Dumps; Transfer Truck & Trailer; Transit Mixers & Trucks Hauling Concrete (over 10 yds. to & including 20 yds.); Trucks, side, end, bottom and articulated end dump (over 20 yds. to & including 40 yds.); Truck and Pup; Tournarocker, DWs & similar with 2 or more 4 wheel-power tractor with trailer, gallonage or yardage scale, whichever is greater Water Tank Truck (8,001- 14,000 gallons); Lowboy(over 50 tons)

GROUP 7: Oil Distributor Driver; Stringer Truck (cable operated trailer); Transit Mixers & Trucks Hauling Concrete (over 20 yds.); Truck, side, end, bottom end dump (over 40 yds. to & including 100 yds.); Truck Mounted Crane (with load bearing surface either mounted or pulled (16 through 25 tons);

GROUP 8: Prime Movers and Stinger Truck; Trucks, side, end, bottom and articulated end dump (over 100 yds.); Helicopter Pilot Hauling Employees or Materials

Footnote A - Anyone working on a HAZMAT job, where HAZMAT certification is required, shall be compensated as a premium, in addition to the classification working in as follows:

LEVEL C-D: - \$.50 PER HOUR (This is the lowest level of protection. This level may use an air purifying respirator or additional protective clothing.

LEVEL A-B: - \$1.00 PER HOUR (Uses supplied air in conjunction with a chemical splash suit or fully encapsulated suit with a self-contained breathing apparatus.

Employees shall be paid Hazmat pay in increments of four(4) and eight(8) hours.

NOTE:

Trucks Pulling Equipment Trailers: shall receive \$.15/hour over applicable truck rate

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of

the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

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

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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

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

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

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

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

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

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

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END OF GENERAL DECISION

Appendix B

FHWA Amendment 1273

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS
FHWA-1273 -- Revised May 1, 2012

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and

mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may,

after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and

individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual

was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or

voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

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

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

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT
REQUIRED CONTRACT PROVISIONS
(Exclusive of Appalachian Contracts)

FEDERAL-AID CONSTRUCTION CONTRACTS

The Federal–Aid provisions are supplemented with the following:

XII. Cargo Preference Act

1. U.S. Department of Transportation Federal Highway Administration memorandum dated December 11, 2015 requires that all federal-aid highway programs awarded after February 15, 2016 must comply with the Cargo Preference Act and its regulation of 46 CFR 381.7 (a)-(b).

Appendix C

Chapter 9.05 TERO Code

Chapter 9.05

TERO CODE

Sections:

- 9.05.010 Introduction.
- 9.05.020 Glossary.

Article I. General Provisions

- 9.05.030 Purpose.
- 9.05.040 Notification.
- 9.05.050 TERO Commission members.
- 9.05.060 Powers of the Commission.
- 9.05.070 Recusal of Commission members.
- 9.05.080 Authority and responsibilities of TERO.
- 9.05.090 Inter-governmental relationships.
- 9.05.100 Native American preference – Employment.
- 9.05.110 Native American preference – Contracting and procurement.
- 9.05.120 Exclusions.
- 9.05.130 Conflict of interest.
- 9.05.140 Application of other law and policy.

Article II. Contractor Requirements

- 9.05.150 Preference provisions.
- 9.05.160 Compliance responsibility.
- 9.05.170 Compliance plan.
- 9.05.180 Contractor job qualifications and requirements.
- 9.05.190 Workforce.
- 9.05.200 Compliance monitoring.
- 9.05.210 Prohibited activities.
- 9.05.220 TERO fee.
- 9.05.230 Change order fee assessment.
- 9.05.240 Construction trade unions.

Article III. Tulalip Tribal Entities Construction Procurement

- 9.05.250 Preference requirements.
- 9.05.260 Federal funding – Preference.
- 9.05.270 Restrictive bidding.
- 9.05.280 Maximizing NAOB involvement.
- 9.05.290 Self-performance and contractor restrictions.
- 9.05.300 Monitoring responsibilities.
- 9.05.310 Conflict of interest.
- 9.05.320 Tulalip bid award process.
- 9.05.330 Competitive bid award.
- 9.05.340 Competitive “weight of award” bid process.
- 9.05.350 Requests for proposal (RFP).
- 9.05.360 Imminent need and emergency award process.
- 9.05.370 Bid collusion.

Article IV. Certification of Native American Owned Business (NAOB)

- 9.05.380 TERO NAOB certification.
- 9.05.390 Appeal of denied certification.
- 9.05.400 Brokers, vendors, suppliers and distributors.
- 9.05.410 Joint ventures.
- 9.05.420 Decertification.

Article V. Enforcement

- 9.05.430 Due process.
- 9.05.440 Complaint.
- 9.05.450 TERO jurisdiction determination.
- 9.05.460 Investigations.
- 9.05.470 Complaint process and determination.
- 9.05.480 Penalties and remedies.
- 9.05.490 Enforcement violation.
- 9.05.500 Property seizure provisions.
- 9.05.510 Appeals to TERO Commission.
- 9.05.520 Appeal of noncompliance by TERO.
- 9.05.530 Fee enforcement and collection.
- 9.05.540 Pre-hearing process.
- 9.05.550 Commission hearing.
- 9.05.560 Commission decision.
- 9.05.570 Appeals to Tulalip Tribal Court.
- 9.05.580 Legal representation.
- 9.05.590 Sovereign immunity.

9.05.010 Introduction.

The Tulalip Tribes Board of Directors finds that employment discrimination against Native Americans (hereafter Natives) persists despite a large number of Native and non-Native owned businesses employing skilled and nonskilled workers. The Tulalip Tribes Board of Directors further finds that jobs in businesses and other economic opportunities on or near the Tulalip Indian Reservation are important resources to which Natives have unique preferential rights and therefore, to implement the unique employment rights of Natives, established a Tribal Employment Rights Commission and Tulalip Tribal Employment Rights Office to achieve its goals and policies.

The Tulalip Tribes (hereafter the “Tribes”) enacts this chapter (hereafter the “code”) pursuant to its inherent sovereign powers to create law that promote unique employment and contracting preference that provide Native American and Tulalip Tribal member preference, on Indian lands within the jurisdiction of the Tulalip Tribes.

Under this code, the Tulalip Tribal Employment Rights Office (hereafter “TERO”) operates as an employment hiring agency. TERO provides preferential employee dispatch, referral services and skills training. TERO also has the authority to regulate and enforce preference in employment, contracting, and economic development opportunities under this code.

This code is separated into the following sections in order to provide comprehensive application of the employment and contracting laws as they apply within the TERO jurisdiction, as listed below:

- (1) Article I – General Provisions. Purpose and authority of TERO and general requirements of this code.
- (2) Article II – Contractor Requirements. Provides preference in contracting/employment.
- (3) Article III – Tulalip Tribal Entities Construction Procurement. Provides preference in contracting and procurement in all Tribal entities and divisions.
- (4) Article IV – Certification of Native American Owned Businesses (NAOB). All aspects of certification of Native American Owned Businesses.

(5) Article V – Enforcement. Allows enforcement of provisions of this code and outlines due process requirements.

This code repeals and replaces Tulalip Tribal Employment Rights Ordinance Nos. 60 and 89. Amendments to this code will be reviewed and approved first by the TERO Commission prior to approval and adoption by the Tulalip Tribes Board of Directors. [Res. 2014-446; Res. 2012-257].

9.05.020 Glossary.

This glossary has the definitions of the terms as they apply to the provisions of this code. Any word or term not defined in this section shall be used with the meaning of common or standard use as determined by a current edition of Webster’s Dictionary.

(1) “Agency” shall mean the main business organization; that may or may not have subdivisions or subsidiaries.

(2) “Board of Directors” means the governing body of the Tulalip Tribes that consists of seven elected Tribal member officials.

(3) “Business” means a company or other organization that buys and sells goods, makes products, or provides services.

(4) “Business necessity” means necessary job duties pertaining to industry standards or a legitimate business requirement that is necessary to perform certain work or complete a job.

(5) “Certification,” as it pertains in this code, means certifying that a business has a minimum percentage of Native American ownership to qualify as a NAOB.

(6) “Change order” means proposed changes in a contract outside the scope of work.

(7) “Civil Rights Commission” means a state organization that protects civil rights.

(8) “Commission” means the Tulalip TERO Commission, which consists of five elected Tribal members; that is the judicial body that oversees the TERO program.

(9) “Commissioner” means a member of the Tulalip Tribal Employment Rights Commission.

(10) “Company” shall mean business, corporation, or firm that is engaged in business.

(11) “Compliance plan” means a binding agreement between the contractor and TERO.

(12) “Compliance Officer” means a TERO representative who enforces TERO codes, rules and regulations.

(13) “Conduit” means a certified business which agrees to be named as a subcontractor on a contract in which such certified business does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other noncertified business.

(14) “Contract” means a formal legal binding agreement between two parties outlining deliverables and responsibilities.

(15) “Contracting agency” means the main organization or owner that is offering a contract and is responsible for compliance with the provisions of this code.

(16) “Contractor” means organization or individual that contracts with another organization to perform work.

(17) “Court” means the Tulalip Tribes Tribal Court.

(18) “Decertification” means the un-certifying of a NAOB by the Commission; removing the business off the NAOB registry, and denying preference.

(19) “Director” means the Director of TERO Department.

- (20) “Dispatch” means a TERO document that is given to an individual when they are sent out for employment at a job site or company.
- (21) “Due process” means the right to defend yourself against allegations through a fair non-biased process.
- (22) “EEOC” means the Equal Employment Opportunities Commission.
- (23) “Employee” means a person who works for another for payment or other compensation. For the purposes of this code, an employee is not an independent contractor. An employee may also be referred to as a “worker” in this code.
- (24) “Employer” means any individual, business, company, entity, contractor or subcontractor employing one or more persons.
- (25) “Employment discrimination” means discrimination on the basis of protected category that affects the terms, conditions and privileges of employment.
- (26) “Entities” shall mean subsidiaries or subdivisions of an organization or agency.
- (27) “Front” means a business that claims to be eligible for certification but is not in fact legitimately owned and controlled by a Native American.
- (28) “General contractor” means an organization or individual that contracts with another for the construction of a building, road or other facility.
- (29) “Immediate family member” means spouse, parents, children, grandparents, grandchildren, brothers and/or sisters, or any member of the immediate household.
- (30) “Injunctive order” means a Commission order to require a person to do or cease doing a specific action.
- (31) “Jurisdiction of TERO” means the power, right, or authority to interpret, apply and enforce the provisions of this code within the boundaries of the Tulalip Reservation and on Tribal projects that are located off Reservation.
- (32) “NAHASDA” means Native American Housing Assistance and Self-Determination Act that is a Federal law.
- (33) “NAOB” means Native American owned business that has been certified by Tulalip TERO.
- (34) “NAOB registry” means list of Native American owned businesses that have been certified by TERO.
- (35) “Native American” means any person who is a member of a Federally recognized Indian tribe, nation, or band, including members of Federally recognized Alaskan Native villages, communities or corporations.
- (36) “OFCCP” means the Office of Federal Contract Compliance Programs.
- (37) “Pass-through,” for the purpose of this code, means a business that does not have the expertise to self-perform any of the work, does not receive the benefit of mentoring or gaining knowledge, and subcontracts all the work out. This includes vendors that buy goods and resell them, that do not have their own stock, inventory or expertise on the products they sell.
- (38) “Personnel or human resource (HR) policies” means policies that govern the internal personnel policies of its employees.
- (39) “Preferred or preference employees” means employees who receive preference under the tier categories.
- (40) “Preference tier” means a list of the order in which preference is assigned.
- (41) “Qualified/technically qualified” means a company or person who, by possession of a recognized degree, certificate, or professional standing, or who has sufficient knowledge, training, experience, and has successfully demonstrated his ability to perform or complete the work, or the project.

- (42) “Recusal/recuse” means voluntarily stepping aside due to conflict of interest.
- (43) “Reservation” means all lands and waters within the exterior boundaries of the Tulalip Indian Reservation or within the jurisdiction of the Tulalip Tribes.
- (44) “Responsible bidder” means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, capability, capacity, and experience. A bidder who submits a bid or proposal below the bidder’s cost of performing the contract, producing the product, or providing the service shall not be considered a responsible bidder.
- (45) “Responsive bidder” means a party who submits a bid which meets the specifications and qualifications.
- (46) “Retaliation” means to hurt somebody in return or deliberately harm somebody in response or revenge or reciprocate for a harm or perceived harm that another person has done. Retaliation occurs when an employer or individual takes an adverse action against another individual.
- (47) “RFB” means request for bid.
- (48) “RFP” means request for proposal.
- (49) “Skills bank” means a database which holds applicants’ information for employment opportunities.
- (50) “Spouse” means a legally married husband or wife, or a legal domestic partner, but does not include a person separate or apart and who has filed in an appropriate court a petition for legal separation or dissolution of marriage or domestic partnership.
- (51) “Subcontractor” means an individual or business that signs a contract to perform part or all of the obligations of another’s contract.
- (52) “Suspend” means the suspension of a NAOB by the Commission.
- (53) “TERC” means Tribal Employment Rights Code.
- (54) “TERO” means Tribal Employment Rights Office.
- (55) “Tribal entity” means an entity, subdivision or business that is owned by or is under the direction of the Tribes.
- (56) “Tribal member” means any person who is an enrolled member of the Tulalip Tribes.
- (57) “Tribes” means the Tulalip Tribes.
- (58) “Unions” means an organization that represents a group of individuals in a specific trade.
- (59) “Violation” means noncompliance with requirements or violating prohibited activities in this code. [Res. 2014-446; Res. 2012-257].

Article I. General Provisions

9.05.030 Purpose.

The purpose of this code is:

- (1) To promulgate laws and rules for governing preference in employment and contracting within Tribal jurisdiction.
- (2) To assist with compliance under this code and enforce the laws governing employment preference and contracting preference.
- (3) To provide a fair, enforceable, and effective system for contracting, subcontracting and purchasing supplies, services, labor and materials, where any part of the work will be performed on the Reservation or on Tribal projects off the Reservation.

(4) To require contractors to utilize TERO dispatch in hiring within the boundaries of the Reservation or on Tribal projects off the Reservation.

(5) To require a 1.75 percent TERO fee on the total aggregate cost of all construction over \$10,000. [Res. 2012-257 § 1.1].

9.05.040 Notification.

TERO shall make good faith efforts to educate all employees, employers, contractors, and the public on TERO and employment, hiring and preference laws. All contracting agencies and entities are required to notify contractors/subcontractors of their obligations under the TERO Code. Failure to receive notification, or ignorance of law, is not a defense in any enforcement action under this code. [Res. 2012-257 § 1.2].

9.05.050 TERO Commission members.

The TERO Commission (hereafter the "Commission") is the administrative quasi-judicial body of five Tribal members who are elected by the Tulalip General Council, and shall serve under the guidance of the Tulalip Tribes Board of Directors (hereafter "Board of Directors").

The Commission serves as the quasi-judicial and regulatory authority delegated with:

- Enforcement of the provisions of the TERO Code and other Native preference codes or policies (hereafter "code") in accordance with applicable procedures.
- Implementation of the TERO quasi-judicial process.
- Overall guidance to the TERO program.

The Commissioners are subject to Chapter 1.15 TTC, Code of Ethics for Tulalip Tribal Commissioners, and other applicable policy or law.

(1) TERO Commissioner Candidate Qualifications. Every candidate seeking election to the TERO Commission must:

- (a) Be an enrolled Tulalip Tribal member.
- (b) Be 18 years of age or older.
- (c) Not have been found guilty of any felony, or a misdemeanor involving controlled substances or dishonesty, in any Tribal, State, or Federal Court within three years prior to the election.

(2) Terms of Office. The TERO Commissioners shall be elected by the general membership of the Tulalip Tribes at the semiannual General Council meeting and shall serve staggered three-year terms.

Newly elected Commissioners shall be sworn in by the Tulalip Board of Directors at the next regular monthly Board meeting or as designated by the BOD.

(3) Election of Executive Officers. Election of Executive Officers shall take place at the next TERO Commission meeting after new Commissioners have been sworn in by the Tulalip Board of Directors. Executive Officers will be nominated and elected by the Commissioners by majority vote. The positions of the Chairperson, Vice-Chairperson and Secretary shall be held until the following year when new Commissioners are sworn in.

(4) Duties of the Executive Officers.

- (a) The Chairperson shall:
 - (i) Call the meetings to order.
 - (ii) Preside over the meetings.
 - (iii) Sign all approved minutes and action items as needed.

- (iv) In urgent situations, call for a special meeting in lieu of a scheduled meeting.
 - (v) Recognize speakers with their hands raised to maintain order.
 - (vi) Limit the time on a certain topic to stay on task.
 - (vii) Maintain point of order in the event the topic or speaker is out of order or inappropriate.
- (b) Vice-Chairperson. In the absence of the Chairperson, the Vice-Chairperson shall proceed over the meeting.
- (c) The Secretary shall:
- (i) Take notes and keep minutes of all meetings.
 - (ii) Record motions verbatim.
 - (iii) Aide the Chairperson by compiling a list of the order of speakers.
 - (iv) Review drafted minutes for approval prior to the next Commission meeting.
 - (v) In the absence of the Chairperson and Vice-Chairperson, shall proceed over the meeting.
 - (vi) Keep Commission attendance, late arrivals and leaving early record.
 - (vii) Write Commission hearing decisions and order.

(5) Commissioner Vacancies. If a vacancy occurs on the Commission prior to the end of a term because of removal or resignation or for any other reason, the Board of Directors shall appoint the successor, unless the semiannual election is within four months, in which case a successor shall be elected at the next election. Candidates for such appointment and successors must meet all other qualifications for membership in the Commission.

Appointment or election to fill a vacant position shall be for the remainder of the term of the Commissioner being replaced.

(6) Resignation. A position on the TERO Commission shall be deemed vacant when a Commissioner resigns their position.

Any Commission member may resign at any time by delivering a written resignation to the Chairperson of the Commission, or if the Chair is resigning, to the Vice-Chair. The Commission shall provide notice to the Chairperson of the Tulalip Board of Directors and to the TERO Director. Such resignation shall be effective upon receipt, unless otherwise provided by the terms thereof and agreed to by the Commission.

(7) Removal. The Commission may recommend removing a Commissioner after majority vote, for the following reasons:

- (a) Inefficiency, negligence or carelessness in the performance of duty.
- (b) Conduct in bringing the Tribes in disrepute.
- (c) Soliciting or accepting bribes or favors.
- (d) The Commissioner fails to participate in three consecutive regular meetings without good cause, at the discretion of the other Commissioners.
- (e) Violations of laws and regulations.
- (f) Breach of confidentiality or conflict of interest.
- (g) Violation of the Commissioner Code of Ethics, Chapter 1.15 TTC.

(8) Removal Appeal. If the Commission recommends removal of a Commissioner, the Commission shall forward such recommendation and the grounds thereof to the Board of Directors. The Board shall review the recommendation and, if it concurs with the recommendation, they shall send out written notice of intent to remove the Commissioner and advise the Commissioner of their right to request a due process hearing prior to the removal becoming final. The request for a hearing must be received by the Tulalip Tribes Board of Directors Chairman no later than 10 days after the date of mailing of the notice of intent to remove the Commissioner. If no request for a hearing is received within 10 days, the removal shall be deemed final. If a timely request for a hearing is received, a hearing shall be scheduled and conducted in accordance with TTC 1.15.120. [Res. 2014-446; Res. 2012-257 § 1.3].

9.05.060 Powers of the Commission.

The Commission has the power, jurisdiction, and authority to:

- (1) Take all appropriate actions necessary to implement the provisions of this code.
- (2) Provide policy oversight and policy direction to the TERO Director.
- (3) Review policies, rules or regulations that may be in conflict with the provisions of the code and make amendment recommendations to the Board for approval.
- (4) Hold hearings and appeals in accordance with the provisions of the TERO Code.
- (5) Assist in presentations to educate the public on Native American employment and business preferential requirements.
- (6) Issue subpoenas, conduct hearings, order any relief or sanctions that are necessary and appropriate to enforce this code.
- (7) Review and recommend the annual TERO budget for Board of Directors approval. [Res. 2014-446; Res. 2012-257 § 1.4].

9.05.070 Recusal of Commission members.

No member of the Commission shall have contact with a complainant, witness or other interested parties regarding the specifics of an appeal prior to a Commission hearing. If a Commissioner is approached by a party, witness or any other interested person outside the formal hearing process, it shall be the duty of the Commissioner to explain they are prohibited from discussing any aspects of the complaint or appeal. If information pertaining to the appeal or matters at issue in a hearing is shared with a Commissioner, the Commissioner shall disclose the existence of such communications on the record prior to the hearing. If the communication involved sharing of evidence or argument regarding the appeal outside the hearing process, the Commissioner shall be recused from participating in the hearing.

A Commissioner shall not participate in any action, hearing, or decision where that Commissioner or their immediate family member has a financial or business interest (contractual or otherwise) in the transaction or entity involved in the hearing or is an employee of such entity. However, in appeals involving the Tulalip Tribes or its entities, Commissioners who are Tribal employees may participate unless they are an employee of the department or division of the Tribes that is involved in the contract or complaint at issue, or had other involvement in the actions that are the subject of the appeal, in which case recusal is required.

Commissioners may participate but must disclose on the record if any person with an interest in the hearing is, by blood or marriage, related by consanguinity in the third or fourth degree (uncles, aunts, nephews, great grandparents, cousins, great uncles and aunts and great-great grandparents).

In situations where recusal is not required, a Commissioner should nonetheless recuse themselves if the Commissioner believes that:

- (1) They cannot act fairly or without bias; or
- (2) There is an appearance that they cannot act fairly or without bias.

A Commissioner, the Commission, or other interested parties may request recusal of a Commissioner if they believe that a Commissioner is unable to act impartial and fair due to a relationship of any kind. In this circumstance, the other Commissioners may hear arguments and review evidence, including testimony, and make a determination on recusal by majority vote. The decision of the Commission shall be final and not subject to appeal.

Nothing in this code shall exclude a Commissioner from participating in or conducting business with the Tulalip Tribes, so long as the Commissioner is in compliance with Chapter 1.15 TTC, Code of Ethics for Tulalip Tribal Commissioners, or other applicable law and policy. [Res. 2014-446; Res. 2012-257 § 1.5].

9.05.080 Authority and responsibilities of TERO.

The TERO Department shall carry out the day-to-day administrative operations to enforce this code. The authority and duties shall include, but are not limited to, the following:

- (1) Implement and enforce the provisions of this code.
- (2) Administer the TERO program and budget.
- (3) Recommend regulations, amendments and agreements.
- (4) Develop, implement and enforce policies and procedures.
- (5) Investigate and process complaints alleging violations of this code to provide due process.
- (6) The Director shall represent TERO at Tulalip Board meetings, TERO Commission hearings and Tulalip Court proceedings.
- (7) Coordinate and provide reports for the Commission meetings.
- (8) Negotiate with contractors regarding their workforce requirements and TERO fee payment schedule.
- (9) Provide education and training options, eliminate barriers to employment, and enhance employment opportunities for Native Americans.
- (10) The TERO staff shall report administratively in accordance with the organizational chart, as approved by the Tulalip Board of Directors. [Res. 2014-446; Res. 2012-257 § 1.6].

9.05.090 Inter-governmental relationships.

(1) EEOC/OFCCP. The TERO Director, with approval from the Tulalip Board of Directors, is authorized to enter into cooperative relationships with Federal employment rights agencies, such as, but not limited to, Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Program (OFCCP). The purpose of entering into these agreements is to prevent discrimination in the workplace. Nothing in these agreements supersedes the authority of the TERO Director and/or staff to investigate, act, or refer complaints to the appropriate agency.

(2) Federal Requirements. Agencies shall ensure compliance with Federal preference or other preference regulations for projects using Federal funds. Such Federal requirements may restrict agencies from utilizing the TERO preference bidding process in certain circumstances, or utilizing other TERO processes that give specific Tribal preference under this code.

(3) NAHASDA Tribal Housing. Native American Housing Assistance and Self-Determination Act (NAHASDA) project wages shall not be paid less than those required by the U.S. Secretary of Labor under the Davis-Bacon Act (40 U.S.C.) for the locality in which the work is to be performed, or as per the Tribal wage scale rates approved by the Tulalip Tribes. [Res. 2014-446; Res. 2012-257 § 1.7].

9.05.100 Native American preference – Employment.

All contractors, businesses and employers operating within the boundaries of the Reservation, or on Tribal projects off the Reservation, shall give preference in hiring, promotion, training, layoffs, recall, and all other aspects of employment, unless other contractual agreements or Federal requirements restrict the preference specified below.

Preference shall be given in the order listed below:

- (1) Enrolled Tulalip Tribal members.
- (2) Spouses, parent of a Tribal member child, biological child born to an enrolled Tulalip Tribal member, current legal guardian of a Tribal member dependent child (with a proper letter of temporary or permanent legal guardianship from a court), or a Tribal member in a domestic partner relationship (with documentation).
- (3) Other Natives/Indians, which shall mean any member of a Federally recognized Indian tribe, nation or band, including members of Federally recognized Alaskan Native villages or communities.
- (4) Spouse of Federally recognized Native American.
- (5) Other. [Res. 2014-446; Res. 2012-257 § 1.8].

9.05.110 Native American preference – Contracting and procurement.

(1) All entities, businesses, companies, and contractors shall give preference to certified businesses on the TERO NAOB registry for procurement of goods and services and construction projects, and in compliance with applicable laws and policies as referred to in TTC 9.05.140. Preference is further restricted by the following:

When 100 percent of Tulalip Tribal funds are used for contracting or purchasing goods or services, bids shall be awarded to a Tulalip Tribal member NAOB, if qualified, and so long as the bid is responsive, responsible and within budget. For the purpose of this section, a “Tulalip Tribal member NAOB” is a business on the TERO NAOB registry that is 100 percent owned by a Tribal member or Tribal members, and shall be identified by TERO during the certification process in Article IV of this chapter. If there is no Tulalip Tribal member NAOB qualified or otherwise able to do the work, preference shall be followed.

(2) Preference in bidding may also be given to certified businesses on the TERO NAOB registry by restricting bidding, limiting competition and/or other bid preference provisions as specified in this code. [Res. 2012-257 § 1.9].

9.05.120 Exclusions.

(1) Homeowners that are building their own home are excluded from the construction contracting requirement. The definition of “home” as it applies in this section is defined as the main residence of an individual. Homeowners building secondary or multiple homes will not be eligible for the exclusion.

(2) Tribal, Federal and State projects where the work is performed by their regular permanent workforce are exempt from TERO requirements. However, TERO requirements shall apply to any work within these contracts that is contracted out. [Res. 2012-257 § 1.10].

9.05.130 Conflict of interest.

Any individuals shall be disqualified from any actions involving the decision process of employment or contracting where they have a personal interest or ownership in or involve an immediate family member. This may include personal relationships where there is a perception or appearance that they cannot act fair and without bias. [Res. 2012-257 § 1.11].

9.05.140 Application of other law and policy.

All persons, entities, agencies, contractors, and businesses under the jurisdiction of this code shall comply with all applicable Tribal laws and policies, including the Tribal Procurement Policies, and policies/SOPs that pertain to preference in employment, the workforce, workforce protection, contracting, and the purchase of goods and services. [Res. 2015-065; Res. 2014-446; Res. 2012-257 § 1.12].

Article II. Contractor Requirements

9.05.150 Preference provisions.

All businesses that advertise or solicit bids for projects, contracts, subcontracts, including written contracts to provide material, goods or services (procurement) shall give preference to qualified businesses listed on the TERO NAOB registry. Preference may be restricted or limited as required and/or allowed under this code.

The NAOB must be on the current TERO NAOB registry at or before the date the contract bid or proposal is due in order to qualify for preference on the contract.

The entity or contractor shall be prohibited from using excessive or unnecessary qualification criteria that exclude NAOBs.

This code shall not prevent the rejection of any bid or proposal on the grounds that the bid is nonresponsive or nonresponsible. [Res. 2014-446; Res. 2012-257 § 2.1].

9.05.160 Compliance responsibility.

All entities and/or persons engaged directly or indirectly in contracting are responsible to ensure that their contractors and subcontractors are in compliance with this code. [Res. 2012-257 § 2.2].

9.05.170 Compliance plan.

(1) All owners or contracting agencies and contractors, regardless of tier, shall be required to submit a TERO compliance plan within a minimum of 72 hours prior to commencing any work on the Reservation or on Tribal projects off the Reservation. No work shall commence until the compliance plan is approved by TERO. A compliance plan shall be used to monitor compliance with this code. Compliance plan requirements and goals may be tailored to the individual circumstances of the project or contractor in order to maximize TERO employment and NAOB contracting.

All contracting agencies/owners will be required to submit a contracting agency/owner compliance plan that will provide the TERO Department information regarding the project outline and total estimated project cost.

A compliance plan shall constitute a binding agreement, the terms of which shall be fully enforceable by TERO. Failure to obtain or adhere to the terms of an approved compliance plan, or supplying false information to TERO, shall subject the noncomplying party to monetary penalties of up to \$1,000 per violation per day. Penalties assessed may be appealed to the TERO Commission.

Contractors engaged in work without an approved compliance plan will be required to stop work until an acceptable plan for implementing their obligations has been submitted to TERO and has been approved.

If a contractor or subcontractor has failed to comply with the preference requirements, TERO and/or the Tribes shall not be liable for any losses incurred when a contractor is not permitted to commence work.

(2) Notwithstanding any other provisions to the contrary in this code, project specific compliance plan agreements may be executed between the Board and contractor or employer, to govern employment and contracting within the Tulalip Business Park development or Quil Ceda Village. The duration of a specific compliance plan agreement approved by the Board and a contractor or employer may be the term of the employer's lease or sublease, within the business park development or Quil Ceda Village. A project specific compliance agreement approved by the Board (a) may establish and govern the permanent or long term employment or contracting rights, responsibilities, liabilities, and obligations of the contractor or employer and subleases, contractors, subcontractors, vendors, and third party contracts of such contractor or employer under this code, (b) ensure due process for the contractor or employer, or (c) exempt the employer and any subleases, contractors, subcontractors, vendors, and third party contracts of such employer from other requirements, liabilities, and obligations of this code. [Res. 2014-446; Res. 2012-257 § 2.3].

9.05.180 Contractor job qualifications and requirements.

A contractor/subcontractor shall not create excessive and unnecessary job skill qualifications on TERO preference applicants, unless required by business necessity as determined by TERO. In this circumstance, the contractor/subcontractor shall submit a justification to TERO if requested by TERO. Nothing in this section shall preclude an applicant or TERO from challenging job requirements or criteria. TERO shall make a final determination on excessive and unnecessary job skill qualification, and require changes if necessary. [Res. 2012-257 § 2.4].

9.05.190 Workforce.

(1) **Hiring Requirements.** In accordance with the construction compliance plan, each contractor/subcontractor shall negotiate TERO preference hiring goals to maximize preference for positions outlined in the compliance plan.

Contractors/subcontractors shall not create unnecessary or excessive job skill requirements.

Employers shall give preference at all times so long as the worker is qualified. TERO may require a non-TERO worker be replaced if there is a qualified TERO worker available.

TERO reserves the right to negotiate up to 100 percent TERO hiring goals specifying the number of TERO workers the employer shall hire by craft and skill level.

Employers must contact TERO for employee dispatch 72 hours prior to commencing work to negotiate the workforce and to find qualified workers. If no TERO workers are available, the business may recruit from other resources. After receiving adequate justification, TERO will review and make a determination on a case-by-case basis to either approve or deny any exception from this requirement.

TERO is authorized in accordance with Article V of this chapter, Enforcement, to order removal and/or issue sanctions if any non-Native preference employees are not listed on the employer's approved compliance plan. In deciding whether the employee should be removed, the TERO shall consider whether any qualified Natives applied or were available for hire at the time the position was filled.

Apprenticeship programs and/or positions may be considered in meeting employment preference goals.

All construction contractors/employers shall compensate their employees at a rate not less than the approved Tulalip construction wage scale specified for their trade or the prevailing wage scale per contract requirements. If the company is signatory to a construction trade union, the current pay scale with benefits of that trade will be paid, unless otherwise specified through any other compliance plan or contract; provided, that it is not less than the Tulalip construction wage scale.

(2) **Permanent and Key Employee.** Prior to commencing work on the Tulalip Indian Reservation, a prospective employer and all contractors and subcontractors shall identify permanent and key employees.

(a) A permanent employee is one who is and has been on the employers' or contractors' annual payroll for a period of one year continuously, working in a regular position for the employer, or is an owner of the firm. An employee who is hired on a project by project basis shall not be considered a permanent employee.

(b) A key employee is one who is in a top supervisory position or performs a critical function such that an employer would risk likely financial damage or loss if that task were assigned to a person unknown to the employer. An employee who is hired on a project by project basis may be considered a key employee so long as they are in a top supervisory position or perform a critical function.

(c) TERO will review permanent and key employees on a case-by-case basis to ensure no actions were taken to circumvent the requirements of this section.

(d) Nonpreferred permanent and key employee(s) shall not exceed 20 percent of the workforce. Permanent and key employees are subject to TERO approval and TERO may require a position to be opened up to all preference workers.

(3) **Counseling and Support Programs.** TERO will work with the employer to provide referrals for TERO preference employees for counseling and other support services to assist in retaining employment when determined necessary.

(4) **Layoffs.** TERO preference employees shall not be laid off where non-TERO preference employees are still working. If the employer lays off employees by crews, classifications or other categories, qualified TERO preference employees shall be transferred to crews or positions that will be retained. This section does not apply to key or permanent employees. [Res. 2014-446; Res. 2012-257 § 2.5].

9.05.200 Compliance monitoring.

All entities engaged in any aspect of business within the TERO jurisdiction shall submit reports and other information, including but not limited to contract documents, TERO approved certified payroll and personnel records, if requested by TERO. TERO shall have the right to make on-site inspections in order to monitor an entity's compliance. [Res. 2012-257 § 2.6].

9.05.210 Prohibited activities.

Contractors/subcontractors shall not:

- (1) Submit false or fraudulent information to TERO or a Tribal agency.
- (2) Knowingly make a false statement, whether by affidavit, verified statement, report, or other representation to a Tribal official or employee as it relates to contracting under this code.
- (3) Operate as a front or pass through company.
- (4) Prevent or interfere with a contractor's or subcontractor's compliance with this code.

This list is not exhaustive and violations of any other provision in this code shall be deemed a prohibited activity, and contractors/subcontractors who engage in prohibited activities, or commit any other violation in this code, shall be subject to penalties in accordance with Article V of this chapter. TERO may request any and all documentation deemed necessary by TERO, and determine whether or not a violation has occurred. [Res. 2012-257 § 2.7].

9.05.220 TERO fee.

- (1) The TERO fee is assessed for the privilege of conducting business on the Reservation or on Tribal projects off the Reservation and for the cost of assistance and enforcement under this code.
- (2) Every project or contract with total aggregate price of \$10,000 or more will be assessed a TERO fee of 1.75 percent of the total gross contract price.
- (3) The contracting agency or general contractor shall be the responsible party for paying the entire TERO fee for the project.
- (4) Upon completion of the compliance plan, the TERO Department may invoice the general contractor or contracting agency for the TERO fee with payment due within 14 days of the invoice. Lack of an invoice shall not relieve any obligation to pay the required fee. The TERO fee shall be paid in full, prior to commencement of any work. However, where good cause is shown, TERO may authorize installment payments to be paid over the course of the contract.
- (5) Fee collection enforcement and property seizure provisions shall be pursuant to enforcement provisions in Article V of this chapter. [Res. 2012-257 § 2.8].

9.05.230 Change order fee assessment.

If for any reason the cost of the project increases or decreases, the contracting agency or general contractor shall notify TERO of this change and any additional TERO fee shall be assessed and paid or refunded. [Res. 2012-257 § 2.9].

9.05.240 Construction trade unions.

Nothing herein shall constitute Tulalip Tribes recognition of any union or endorsement of any union activity, and unions have no jurisdiction or authority over any activities operated pursuant to the sovereign authority of the Tulalip Tribal Government. An employer, contractor or subcontractor having a collective bargaining agreement with one or more labor unions must obtain written agreement from said unions indicating that they will comply with this code, and the rules, regulations and orders of the TERO Representative. Until such agreement is filed with the TERO Representative, the employer shall not commence work on the Tulalip Reservation.

- (1) Contents of Union Agreements. Every union agreement with a contractor must be filed with the TERO Representative and must provide:

- (a) Preferred Employee Preference. The union shall give absolute preference to preferred employees in job referrals regardless of which union referral list they are on.
- (b) Cooperation with the TERO Representative. The union shall cooperate with the TERO Representative in all respects.
- (c) Registration. The union shall establish a mechanism allowing preferred employees to register for job referral list by telephone or mail or in person, coordinating efforts through the TERO Representative.
- (d) Training Programs. The union shall establish entry apprenticeship programs, advanced apprenticeship program and a journey level upgrade.
- (e) The union shall provide direct entry into the union for all preferred employees who wish to join the union at a skill level (i.e. apprentice, journey, etc.) commensurate with their ability and skill.
- (f) Temporary Work Permits. The union shall grant temporary work permits to preferred employees who do not wish to join the union.
- (g) Special Provisions. The union shall provide special provisions for TERO clients through negotiations with the TERO Representative. [Res. 2014-446; Res. 2012-257 § 2.10].

Article III. Tulalip Tribal Entities Construction Procurement

9.05.250 Preference requirements.

All Tribal agencies, entities, divisions, departments, contractors, subcontractors and vendors that advertise or solicit bids for projects, contracts, and subcontracts, including purchase orders to provide material, goods or services shall give preference to a qualified NAOB on the TERO NAOB registry.

All businesses on the TERO NAOB registry must be given the opportunity to bid on the work in which they are qualified. The agency or contractor shall be prohibited from using excessive or unnecessary qualification criteria. [Res. 2014-446; Res. 2012-257 § 3.1].

9.05.260 Federal funding – Preference.

When Federal funding is utilized in a project, the agencies shall comply with Federal and other preference requirements if applicable. [Res. 2012-257 § 3.2].

9.05.270 Restrictive bidding.

The Tulalip Tribes finds that small business is historically underutilized within the jurisdiction of the Tulalip Tribes. The primary objective of this section is to promote and grow these businesses by providing additional opportunity within the jurisdiction of the TERO program.

(1) An agency, entity, department, contractor, or other business has discretion and may limit or restrict bidding to Tulalip Tribal member small business on identified projects. If the agency identifies a project that can be limited to small business and there are two or more certified, qualified Tulalip Tribal member small businesses on the TERO registry that are likely to submit responsive and responsible bids, then the agency shall restrict bidding to only Tulalip Tribal member small businesses as defined below.

“Small business” is defined by a Tulalip Tribal member NAOB with gross revenue less than \$1,000,000 as reported annually on its Federal income tax return or its return filed with the Department of Revenue over the previous year. Owners with interest in two or more businesses on the TERO NAOB registry do not qualify for small business category unless the combined gross revenues for the businesses do not exceed \$1,000,000. In order to qualify under this category, the business must provide the necessary documents for TERO determination, and certify, under penalty of perjury, that it is owned and operated independently from all other businesses.

(2) When there are two or more certified, qualified Tulalip Tribal member owned NAOBs on the TERO registry that are likely to submit responsive and responsible bids and there are no bidding requirements that would preclude such a restriction, the agency shall restrict bidding to only Tulalip Tribal member owned NAOBs.

(3) When there are two or more certified, qualified NAOBs on the TERO registry that are likely to submit responsive and responsible bids, then the agency may restrict bidding to only NAOBs. [Res. 2014-446; Res. 2012-257 § 3.3].

9.05.280 Maximizing NAOB involvement.

The Tribal contracting entity shall evaluate each contract on a case-by-case basis to divide the scope of work to achieve maximum involvement of contracting/subcontracting with NAOBs on the TERO registry. [Res. 2014-446; Res. 2012-257 § 3.4].

9.05.290 Self-performance and contractor restrictions.

(1) Tribal entities may require and ensure that a contractor/subcontractor is able to perform, and is actually performing, a minimum percentage of the work outlined in the bid documents. The minimum percentage, if any, shall be defined and determined by the entity letting the bid.

(2) No NAOB shall receive preference provisions or preference points offered by this code as both a general contractor and subcontractor, regardless of tier, on the same project. Additionally, when the request for bid or request for proposal includes minimum requirements for TERO participation related to subcontracting, no NAOB shall be counted twice in determining if a bidder meets the specified minimum requirements for the project. If a NAOB has interest or partnership with other NAOBs, only one of the NAOBs will be counted in determining if a bidder meets the specified minimum requirements for the project, regardless of tier. All provisions in this section shall be applied together and in their entirety. [Res. 2014-446; Res. 2012-257 § 3.5].

9.05.300 Monitoring responsibilities.

Each contracting agency shall be responsible for monitoring and enforcing preference implementation in contracting, employment, and training by its contractors and subcontractors. Monitoring under this section shall include monitoring and requiring performance in conformity with NAOB or non-NAOB bid submission information. Should incidents of noncompliance be found to exist, the agency or contractor shall take appropriate remedial action.

If the agency or contractor has not provided adequate monitoring or enforcement of preference they may be found in noncompliance and are subject to remedial actions and/or sanctions. Multiple violations will be reported to the appropriate management authority to implement corrective action in accordance with their respective personnel policy or ordinance.

If there is a contract performance issue with the quality of work of a NAOB, the relevant documentation must be submitted to TERO. In this circumstance, TERO may determine or direct one or all of the following:

- (1) The performance issue is “unfounded.”
- (2) Approve an exclusion from accepting bids from the same contractor on future projects.
- (3) Provide the contractor with recommendations in training to remedy the performance issue.
- (4) Decertification of the NAOB if the NAOB refuses or fails to remedy the performance issue. [Res. 2014-446; Res. 2012-257 § 3.6].

9.05.310 Conflict of interest.

Tribal employees or other Tribal officials shall be disqualified from any actions involving the decision process of awarding bids, contracts or purchases that they have a personal interest or ownership in or if the decision involves an immediate family member. Any conflict of interest violation may render a contract null and void. [Res. 2012-257 § 3.7].

9.05.320 Tulalip bid award process.

Some of the determining factors of awarding a bid that may be considered are, but not limited to: the contractor's capability, qualifications, scheduling, pricing and preference. All entities shall be required to utilize competitive bids or proposals as follows:

- (1) TTC 9.05.330, Competitive bid award.
- (2) TTC 9.05.340, Competitive "weight of award" bid process.
- (3) TTC 9.05.350, Requests for proposal (RFP).
- (4) TTC 9.05.360, Imminent need and emergency award process. [Res. 2012-257 § 3.8].

9.05.330 Competitive bid award.

Preference in the award of contracts and subcontracts that are let under a competitive bidding or proposal process (e.g., conventional bid construction contracts, material supply contracts) shall be provided as follows:

- (1) If the agency or contractor has restricted bidding or limited competition to only qualified NAOB firms in accordance with TTC 9.05.270, then the bid award shall be made to the NAOB firm with the lowest responsive and responsible bid.
- (2) If only one qualified NAOB submits a responsive bid or proposal, the agency or contractor shall proceed as follows:
 - (a) Accept the one responsive bid or proposal should the agency determine the one NAOB responsive bid or proposal is at an unusually favorable price; or
 - (b) Negotiate a reasonable price with the single qualified NAOB should the agency determine that delays caused by re-advertising the work would subject the project to higher costs; or
 - (c) Reject all bids and re-advertise for bids or proposals. The agency will determine whether to restrict or limit competition to NAOBs. If bidding is not restricted to NAOBs then the agency or contractor shall comply with the requirements in subsection (3) of this section.
- (3) If the agency or contractor has not restricted bidding or limited competition to only qualified NAOB firms in accordance with TTC 9.05.270, then the award shall be made to the certified, qualified NAOB with the lowest responsive bid if that bid is within budgetary limits established for the specific project or activity for which bids are being taken and no more than "X" higher than the bid prices of the lowest responsive bid from any qualified non-NAOB bidder. "X" is determined as follows: When the lowest responsive bid is:

| | X = lesser of |
|--|--|
| Less than \$100,000 | 10% of that bid, or a maximum of \$9,000 |
| At least \$100,000 but less than \$200,000 | 9% of that bid, or a maximum of \$16,000 |
| At least \$200,000 but less than \$300,000 | 8% of that bid, or a maximum of \$21,500 |
| At least \$300,000 but less than \$400,000 | 7% of that bid, or a maximum of \$25,000 |
| At least \$400,000 but less than \$500,000 | 6% of that bid, or a maximum of \$27,000 |
| At least \$500,000 but less than \$1 million | 5% of that bid, or a maximum of \$45,000 |
| At least \$1 million but less than \$2 million | 4% of that bid, or a maximum of \$72,000 |
| At least \$2 million but less than \$4 million | 3% of that bid, or a maximum of \$108,000 |
| At least \$4 million but less than \$7 million | 2% of that bid, or a maximum of \$126,000 |
| \$7 million or more | 1.5% of the lowest bid, with no dollar limit |

If a certified, qualified NAOB firm does not submit a responsive bid within the stated range of the total bid price of the lowest non-NAOB responsive bid, award shall be made to the non-NAOB bidder with the lowest responsive bid. [Res. 2014-446; Res. 2012-257 § 3.9].

9.05.340 Competitive “weight of award” bid process.

If the agency or contractor determines that it is appropriate to base award of the work upon a competitive “weight of award” bid process, award shall be made to the most responsive bidder with the highest total points awarded to them after taking all bid items into consideration. The agency or contractor shall clearly define the particulars of the “weight of award” rating system that provides for assignment of points for the relative merits of submitted bids. The bid documents shall identify all rated factors, including price or costs, or significant subfactors that will be considered in awarding the contract, and shall state the relative importance the agency or contractor places on each evaluation factor and/or subfactor. Prior to the award of contract an agency or contractor shall require that the most responsive bidder provide supportive documentation verifying submitted bid information. Should the bidder be unable to substantiate the stated bid information, then the agency or contractor shall disqualify the bidder and require the next most responsive bidder to submit this information for their bid.

(1) If the agency or contractor has restricted bidding or limited competition to only qualified NAOBs in accordance with TTC 9.05.270, then the bid award shall be made to the certified, qualified NAOB with the highest total points awarded.

(2) If only one qualified NAOB submits a responsive bid or proposal, the agency or contractor shall proceed as follows:

- (a) Accept the one responsive bid or proposal should the agency determine the NAOB responsive bid or proposal is at an unusually favorable price; or
- (b) Negotiate a reasonable price with the single qualified NAOB should the agency determine that delays caused by re-advertising the work would subject the project to higher costs; or
- (c) Reject all bids and re-advertise for bids or proposals without restricting or limiting competition to NAOBs. The agency will determine whether to restrict or limit competition to NAOBs. If bidding is not restricted to NAOBs then the agency or contractor shall comply with the requirements of subsection (3) of this section.

(3) If the agency or contractor has not restricted bidding or limited competition to only qualified NAOB firms in accordance with TTC 9.05.270, then the NAOB shall be given a bid preference. Such preference “Y” shall be given to certified, qualified NAOBs provided their bid is no more than “X” higher than the bid prices of the lowest responsive bid from any qualified non-NAOB bidder. “X” and “Y” shall be determined as follows:

When the lowest responsive bid is:

| | X = lesser of |
|--|--|
| Less than \$100,000 | 10% of that bid, or a maximum of \$9,000 |
| At least \$100,000 but less than \$200,000 | 9% of that bid, or a maximum of \$16,000 |
| At least \$200,000 but less than \$300,000 | 8% of that bid, or a maximum of \$21,500 |
| At least \$300,000 but less than \$400,000 | 7% of that bid, or a maximum of \$25,000 |
| At least \$400,000 but less than \$500,000 | 6% of that bid, or a maximum of \$27,000 |
| At least \$500,000 but less than \$1 million | 5% of that bid, or a maximum of \$45,000 |
| At least \$1 million but less than \$2 million | 4% of that bid, or a maximum of \$72,000 |
| At least \$2 million but less than \$4 million | 3% of that bid, or a maximum of \$108,000 |
| At least \$4 million but less than \$7 million | 2% of that bid, or a maximum of \$126,000 |
| \$7 million or more | 1.5% of the lowest bid, with no dollar limit |

Provided the requirements for “X” have been met, “Y” shall be determined as follows:

When the lowest responsive bid is:

| | Y = additional points awarded to Bidder calculated as |
|--|--|
| Less than \$100,000 | 10% of the points awarded to Bidder for Price |
| At least \$100,000 but less than \$200,000 | 9% of the points awarded to Bidder for Price |
| At least \$200,000 but less than \$300,000 | 8% of the points awarded to Bidder for Price |
| At least \$300,000 but less than \$400,000 | 7% of the points awarded to Bidder for Price |
| At least \$400,000 but less than \$500,000 | 6% of the points awarded to Bidder for Price |
| At least \$500,000 but less than \$1 million | 5% of the points awarded to Bidder for Price |
| At least \$1 million but less than \$2 million | 4% of the points awarded to Bidder for Price |
| At least \$2 million but less than \$4 million | 3% of the points awarded to Bidder for Price |
| At least \$4 million but less than \$7 million | 2% of the points awarded to Bidder for Price |
| \$7 million or more | 1.5% of the points awarded to Bidder for Price |

After the preference provisions have been added to the NAOBs’ proposals the bid award shall be made to the bidder with the highest total points awarded, provided the proposals are within the projected budget amount.

If a qualified NAOB does not submit a responsive bid satisfying the preference provision requirements, then the bid award shall be made to the bidder with the highest total points awarded. [Res. 2012-257 § 3.10].

9.05.350 Requests for proposal (RFP).

Preference in the award of contracts and subcontracts that are let under a request for proposal (RFP) shall be provided as follows:

If the agency or contractor selects its contractor(s) or subcontractor(s) through a request for proposal (RFP) process and has restricted bidding or limited competition to only qualified NAOBs in accordance with TTC 9.05.270, then the contract award shall be made to the qualified NAOB with the highest total points awarded for their proposal based upon the rating system as established in the RFP after taking all proposal items into consideration.

If only one qualified NAOB submits a responsive bid or proposal the agency or contractor may re-advertise the RFP without restricting or limiting competition to the NAOBs.

The agency or contractor shall clearly define the particulars concerning the RFP, including the rating system that provides for assignment of points for the relative merits of submitted proposals. The RFP documents shall identify all rated factors, including price or costs, or any significant subfactors that will be considered in awarding the contract, and shall state the relative importance the agency or contractor places on each evaluation factor and/or subfactor.

(1) If the RFP invites responses from qualified non-NAOBs, the agency or contractor shall set aside a minimum of 15 percent of the total number of available rating points for the provision of Native preference in the award of contracts and subcontracts. The percentage or number of points set aside for preference and the method for allocating these points shall be clearly defined in the RFP.

(2) An agency shall require contractors responding to an RFP issued as a part of this section to use the same point system as stated in the RFP when considering procurement of subcontracted work. The contractor shall set aside a minimum of 15 percent of the available rating points for the provision of Native preference in subcontracting. The

RFP shall explain the criteria to be used by the contractor in evaluating proposals submitted by subcontractors. [Res. 2012-257 § 3.11].

9.05.360 Imminent need and emergency award process.

Tribal entities may contract for imminent need and/or emergency repair or work on a time and materials basis. An “imminent need and/or emergency” shall be defined as repair or work that must be started within 24 hours of the time the entity first learned of the need for the repair or work. Each entity shall maintain a list of qualified contractors to utilize under these circumstances, and shall make a good faith effort to rotate qualified contractors used in an imminent need and/or emergency circumstance. [Res. 2012-257 § 3.12].

9.05.370 Bid collusion.

Bid collusion is strictly prohibited for contracts awarded under this code and subject to penalty and enforcement by TERO. Bid collusion shall include, but is not limited, to price fixing, bid rigging, allocation schemes, or any other action or inaction that restricts competition or impacts project pricing. Furthermore, any practice involving or comparable to informing a competitor of the amount of the bid or offering them an opportunity to underbid will be considered bid collusion.

If a Tribal entity determines that a contractor has engaged in bid collusion, the entity shall disqualify the bid and refer the matter to TERO. The Tribal entity shall provide TERO with all documentation supporting its determination. If TERO makes a finding that bid collusion did occur, penalties may be issued accordingly.

TERO reserves the right to exercise all available equitable and legal remedies, including withholding of contract payment. Additionally, the following specific penalties in accordance with Article V of this chapter, Enforcement, shall be followed.

(1) Cancellation of the contract and debarment from contracting or decertification with the Tribes for up to one year, debarment for up to three years may be imposed for willful repeated violations. Individuals debarred from contracting may not bid or participate in any Tribal contracts as owners or key employees of other companies during the period of debarment. In the event a contractor is engaged in work on the Reservation or on Tribal funded projects off the Reservation at the time they are found to have engaged in bid collusion, the contracting agency in its discretion may require that the contractor complete their current contracted work, and during this period, the contractor shall be suspended from bidding and/or performing any other work. The debarment period imposed shall commence when the current work is completed.

(2) Any contractor found to have engaged in bid collusion may be liable for damages for any losses suffered by another firm as determined and assessed by the TERO Commission.

Any contractor disputing a TERO determination on bid collusion may appeal in accordance with the procedures in Article V of this chapter. [Res. 2014-446; Res. 2012-257 § 3.13].

Article IV. Certification of Native American Owned Business (NAOB)

9.05.380 TERO NAOB certification.

An applicant seeking to be TERO certified for preference in contracting shall submit a complete certification application, along with the following documents:

- (1) Documentation of membership by a U.S. Federally recognized Native American tribe, nation or band, including members of Federally recognized Alaskan Native villages, communities and corporations and proof of at least 51 percent Native ownership.
- (2) Business license certifications, business structure documents (sole proprietor, partnerships, incorporations, LLC), insurance and bonding capabilities.
- (3) TERO shall require all other necessary licensing documentation specific for the service provided as determined by TERO.
- (4) TERO reserves the right to exempt certain requirements if deemed not necessary for the type of service provided.

(5) (Industry Standards) Portfolio that includes proof of the experience and staff expertise in the specific field listed, resume of jobs completed, and references.

(6) Business plan that includes proof of the experience and staff expertise in the specific field, projected financials and references.

(7) Any other documentation or pertinent information required by TERO. TERO shall have sole discretion in determining licensing requirements under this section.

For compliance and enforcement purposes, TERO shall require that each NAOB maintain and provide a Federal tax ID number to TERO and separate Tulalip business licenses for each separate business as required by TERO. TERO shall require each separate business to meet all NAOB certification requirements in this section.

(8) NAOB Ownership Requirements. The following factors shall be applied in identifying 100 percent Tulalip Tribal member owned business and minimum ownership requirements for the applicable certification categories. The purpose of this identification is for awarding contracts under TTC 9.05.110 and other restrictive bidding opportunities in this code.

(a) Percentage and Control.

(i) One Hundred Percent Tulalip Tribal Member NAOB. Must be 100 percent owned by a Tulalip Tribal member or members. The owner(s) must exercise majority control of the business and be substantially involved in the day-to-day management and operations.

(ii) NAOB. Must be 51 percent Native American owned and the majority owner must exercise majority control of the business and be substantially involved in the day-to-day management and operations.

(b) Value. The Native owner(s) must establish that they provide real value for their stated ownership interests by providing legal documents such as stock ownership, capital, assets, structure, management, control, financing and salary commensurate with the value of their ownership share.

(c) Profits. The Native owner(s) will receive a percentage of all profits equal to their ownership interest. Any provision that gives a non-Native owner a greater share of the profits, such as but not limited to management fees, equipment rental fees or bonuses, will result in decertification. Salary scales are subject to review by TERO to ensure the relative salaries being paid to Native and non-Native owners are consistent with the skills of the parties and are not being used to circumvent the requirements of this code.

(d) Technical Qualifications. The NAOB will be required to submit sufficient documentation to verify that it has the technical and administrative qualifications to be certified in the specific category requested including the Native owner(s) having the skill and expertise to perform the work.

All NAOBs shall report any changes of ownership or control status within 14 days after such changes have occurred. If at any time Native American ownership drops below 51 percent TERO reserves the right to decertify the company.

The TERO Department shall review the status of all certified NAOBs on an annual basis. Each NAOB shall update their information annually. Failure to provide information pursuant to these requirements shall constitute grounds to be decertified and taken off the NAOB registry. [Res. 2012-528; Res. 2012-257 § 4.1].

9.05.390 Appeal of denied certification.

Denial of NAOB certification by the TERO Department may be appealed to the TERO Commission. The written appeal must be received by TERO within 14 days of the denial notice. The Commission's decision is final and cannot be further appealed.

A firm that has been denied certification may not re-apply for a period of time as determined by the TERO Commission on a case-by-case basis. [Res. 2014-446; Res. 2012-257 § 4.2].

9.05.400 Brokers, vendors, suppliers and distributors.

In order to obtain certification under this code, brokers, vendors, suppliers and distributors must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment being provided are kept in stock and regularly sold or leased to the public in the usual course of business. Relevant documentation, as determined by TERO, shall be provided to TERO upon request. This requirement shall not apply where the applicant demonstrates proof that it is not customary and usual in the particular business industry to keep the materials, supplies, articles or equipment in stock. [Res. 2012-257 § 4.3].

9.05.410 Joint ventures.

Joint venture documents between certified NAOBs will be submitted and processed through the TERO Department for review. Joint ventures between a NAOB and a non-NAOB will be certified on a project by project basis if the NAOB can successfully demonstrate the following:

- (1) The Native American ownership and control complies with the requirements as defined in this section.
- (2) The NAOB has entered into the joint venture with the non-NAOB to provide limited backup capabilities such as bonding, specialized expertise, or capital.
- (3) The non-NAOB will mentor the NAOB to increase the expertise and value of the NAOB.

No joint venture shall qualify for preference if the Native American ownership in the joint venture is less than 51 percent or fails to demonstrate the majority control of the business at any time; which may result in a violation or decertification. The owners must have prior experience, training, occupational ties or sufficient knowledge in the business that the joint venture is engaged in such that they are qualified to serve in the senior level positions. [Res. 2012-257 § 4.4].

9.05.420 Decertification.

A NAOB is subject to decertification if the business engaged in prohibited activities or has changed its ownership and control so that it no longer meets the requirements for certification. Failure to notify TERO of changes in ownership, control, or operations shall also be grounds for decertification.

The TERO Commission may review and recommend corrective action or training for a NAOB with a multiple nonperformance contract issue or multiple violations of the TERO Code. If the NAOB refuses or does not comply with the Commission directive they may be decertified. [Res. 2012-257 § 4.5].

Article V. Enforcement

9.05.430 Due process.

All persons, agencies, departments, entities, and contractors shall have the rights to due process through a fair non-biased process. [Res. 2012-257 § 5.1].

9.05.440 Complaint.

(1) TERO Complaint. An aggrieved party (“complainant”) may file a written signed complaint stating the basis for an alleged violation of this code. The complaint must include a detailed account of the facts with supporting documentation and the remedy that they are seeking. The complaint must be filed at the TERO office within 14 days from the date of the last action or omission upon which the complaint is based. The TERO office shall serve the complaint on the respondent.

(2) Contracting Complaint. A contractor aggrieved by a decision of a contracting agency (“complainant”) must first file a written signed complaint with the contracting agency stating the basis of the alleged violation of this code. The complaint must include a detailed account of the facts with supporting documentation and the remedy that they are seeking. The complaint must be filed with the contracting agency no later than 14 days from the date of the action or omission upon which the complaint is based.

(3) Contracting Agencies Complaint Responsibilities. Upon receipt of a complaint under this section, the contracting agency shall:

- (a) Immediately initial and date when a complaint is received;
- (b) Communicate with the complainant within seven days to attempt to resolve the issue;
- (c) The agency or contractor shall take appropriate steps to remedy any noncompliance issues or violations of the code immediately upon notification;
- (d) If the matter is not resolved within 10 days of the initial complaint, the complainant may file a written complaint with TERO (see subsection (1) of this section) and shall serve the document on the contracting agency. [Res. 2014-446; Res. 2012-257 § 5.2].

9.05.450 TERO jurisdiction determination.

Upon receipt of a complaint, TERO shall conduct a preliminary review to determine if TERO has jurisdiction over the complaint.

If the TERO Department makes a determination that the complaint does not allege a violation of this code, the complaint shall be immediately dismissed, and/or referred to the proper department or agency. The complainant may appeal and seek review of this jurisdictional determination by the Commission by filing a written request for review within 14 days of the date of the dismissal. The complainant shall state in writing the nature of the complaint and the reasons they believe TERO has jurisdiction. The Commission shall review the file at the next scheduled TERO Commission meeting at which the complainant may attend and be heard on the issue of jurisdiction. The Commission will make a jurisdiction determination. The decision of the Commission is final and not subject to further appeal. [Res. 2012-257 § 5.3].

9.05.460 Investigations.

The TERO staff shall have full investigative authority as deemed necessary to determine whether a violation of any provision of this code has occurred or to aid in prescribing rules, regulations, and guidelines hereunder.

All reported incidents shall be investigated under the following guidelines:

- (1) All information shall be kept confidential to the fullest extent possible, unless disclosure is required for further investigation, or during a hearing or appeal. However, TERO shall not allow the goal of confidentiality to be a deterrent to an effective investigation.
- (2) TERO will not allow retaliation against any parties that may be included in the investigation or complaint process.
- (3) An employer may not be held liable for such acts of its employees, if the employer is able to establish that they took immediate and appropriate corrective action.

If a covered employer or contractor refuses to permit TERO staff from entering onto business premises during business hours or from reasonably inspecting or copying documents, the Director may impose a violation with fines.

If the TERO Director is forced to seek enforcement of a Commission subpoena in Tribal Court, the Court shall order, in addition to the penalties authorized by this code, the assessment of attorney's fees and costs against the party found in violation of the Commission subpoena. [Res. 2012-257 § 5.4].

9.05.470 Complaint process and determination.

Upon determination that TERO has jurisdiction over the matter, TERO staff will meet with the complainant within seven days of receiving the complaint. TERO shall attempt to remedy the issue through mediation with both parties within 10 days of first receipt of the complaint. If the parties are unable to resolve the dispute through mediation, TERO shall begin a formal investigation within seven days of the close of mediation. During the investigation, TERO shall review all pertinent documentation and any additional information, if any, and shall gather written statements from both parties. The complainant has the burden to prove that a violation of this code did in fact occur.

Both parties shall also have the responsibility to provide all relevant documentation. TERO has 21 days to complete the investigation.

Within seven days of the completion of the investigation, TERO shall notify the complainant and responding party in writing of the findings and the basis for such findings, and remedies ordered.

If TERO finds insufficient evidence to establish that a violation occurred, the file shall be closed and notice of closure shall be provided to both parties. [Res. 2014-446; Res. 2012-257 § 5.5].

9.05.480 Penalties and remedies.

TERO shall have the authority to issue citations with a warning, assess penalties and other remedies. Upon a finding of a violation of this code, under the direction of the TERO Director, the TERO staff shall have the authority to assess the following penalties and remedies:

- (1) Impose a remedial civil penalty not to exceed \$5,000 per violation;
- (2) Order any employer to remedy the situation;
- (3) Issue a stop work or removal order;
- (4) Order the payment of back pay and/or punitive damages;
- (5) Order the payment of documented lost profits;
- (6) Any other penalties authorized under specific sections of this code;
- (7) Withhold payment until the violation is remedied;
- (8) Suspension or termination of the contract;
- (9) Debarment from contracting with the Tribes for up to one year; debarment for up to three years may be imposed for willful repeated violations. Individuals debarred from contracting may not bid or participate in any Tribal contracts as owners or employees of other companies during the period of debarment;
- (10) Denial of certification;
- (11) Suspension of certification; and/or
- (12) Decertification.

If the Director believes that immediate action is necessary to prevent irreparable harm resulting from an alleged violation of this code, the Director may request the Commission to issue a temporary order for immediate interim injunctive relief not to exceed 14 days.

Penalties shall be imposed by TERO with a written notice to the person or business. The TERO orders or penalties may be appealed to the TERO Commission in accordance with TTC 9.05.520.

All monetary penalties shall be paid within 30 days from date of the citation. If a party fails to file a timely appeal or comply with a TERO order, TERO may petition the Tribal Court for an order of enforcement.

In cases involving a challenge to employment or contracting decisions or actions by the Tribes, Tribal entities or Tribal officials acting within the scope of their authority, remedies shall be limited to nonmonetary injunctive relief and payment of documented lost wages or lost profits. [Res. 2014-446; Res. 2012-257 § 5.6].

9.05.490 Enforcement violation.

The Director shall have authority to seek enforcement in Tribal Court, if necessary. The Tribal court shall have jurisdiction over proceedings brought by the Director to enforce TERO orders, and may assess attorney fees and

costs, and such other sanctions in addition to those contained in the order, that the court deems just and reasonable. [Res. 2014-446; Res. 2012-257 § 5.7].

9.05.500 Property seizure provisions.

If at any stage in the fee assessment process there is good reason to believe there is a danger the party will remove itself or its property from the jurisdiction of the Tulalip Tribal Court, and TERO will not be able to collect monetary damages or TERO fees that are owed, the Director may petition the Court pursuant to the Court's rules and procedures to attach property to secure compliance or for such other relief as is necessary and appropriate to protect the rights of affected parties.

If a party has failed to pay monetary damages imposed, or fails to comply with any order of the Commission or the Court, the Director may petition the Court to hold such party in default. The Tribal Court shall have authority to authorize the Tribal Police to seize property of the defaulting party to satisfy obligations under a valid TERO order. [Res. 2012-257 § 5.8].

9.05.510 Appeals to TERO Commission.

Any party that is dissatisfied or aggrieved by a decision from TERO may file a written appeal to the Commission within 14 days from the date of receipt of the decision. The appeal notice shall state the reasons for the appeal and shall have a copy of the decision or order attached. If the party fails to respond within the 14 days they shall lose all rights to challenge or appeal, and the decision or order shall be final and be enforced immediately.

The Commission shall review the files and determine if they will hold a hearing on the case, or if they can decide the case based on the written materials submitted by the TERO and the complainant. If the Commission determines that a hearing is unnecessary, the Commission shall issue an order stating the basis for its decision. A hearing shall be afforded in all cases when a timely appeal is filed by an individual or entity challenging a TERO noncompliance order imposing sanctions, or penalties. [Res. 2012-257 § 5.9].

9.05.520 Appeal of noncompliance by TERO.

Any party that believes an action by the TERO staff is in excess of the authority granted under this code may file a complaint with the Commission. The complaint must be filed no later than 14 days from the date of the action upon which the complaint is based. The complainant shall have the burden of proof. [Res. 2012-257 § 5.10].

9.05.530 Fee enforcement and collection.

If a required fee is not paid within one month of receipt of the invoice a citation shall be issued. If necessary a TERO Commission hearing shall be scheduled, and the TERO Department may issue a stop work or payment order. Interest will accrue from 60 days past the due date at a rate of 12 percent annually. [Res. 2012-257 § 5.11].

9.05.540 Pre-hearing process.

(1) Review of TERO Files. The responding party shall have the right to review the case file of the TERO Department by scheduling a visit during regular working hours at any point after receiving notice of a hearing. However, TERO shall have the right to excise proprietary information, the identity of confidential informants or confidential information from the file which will not be relied upon in the presentation of TERO's case.

(2) Continuance. Any party can request a continuance of a TERO hearing. The party must show good cause for continuing the hearing. [Res. 2012-257 § 5.12].

9.05.550 Commission hearing.

When there is a TERO determination that expeditious action is required to preserve the rights of the individuals, a TERO hearing will be scheduled as soon as possible. Commission hearings will be open, unless either party can show good cause to close the procedures to the public.

The roles and responsibilities of the parties are, but not limited to, as listed below:

- (1) Burden of Proof. Parties aggrieved by a TERO order shall have the burden of proof by a preponderance of the evidence that TERO was incorrect in finding a violation of this code or the regulations adopted under it, or that any proposed penalty, sanction, award, or required action ordered by TERO is incorrect or unwarranted.
- (2) Presiding Officer. As presiding official, the Chairperson of the Commission will control the proceedings and shall take whatever action is necessary to ensure an equitable, orderly, and expeditious hearing.
- (3) TERO Representation. TERO staff shall present the requirements of the TERO Code in all Commission hearings even if the hearing was initiated by a complaint filed by a private individual.
- (4) Respondent. The respondent shall be present for the entire hearing to represent themselves.
- (5) Failure to Appear. If either party fails to appear, the Commission will review all pertinent information and make their decision with the testimony presented.
- (6) Commission Quorum. In the absence of a quorum at a Commission hearing, a case filed by a complainant will be postponed until a later date. In the case of a citation appeal all charges shall be dismissed.
- (7) Prohibition against Reprisals. All parties shall have a right to testify, without fear of reprisal or retaliation. [Res. 2014-446; Res. 2012-257 § 5.13].

9.05.560 Commission decision.

The Commission findings shall be in writing and issued within 14 days after the hearing. The decision shall be effective and enforceable immediately.

(1) Penalties and Remedies Authorized. If the action appealed is from a noncompliance order or decision, the Commission may uphold the TERO order or decision, overturn the TERO order or decision, or reduce the TERO recommended penalties. The TERO Commission shall not have the authority to increase the total amount of monetary penalties or damages issued under the TERO order except for justified adjustments in back pay or lost profit amounts. If the appeal is from a TERO finding that no violation occurred and the TERO Commission reverses the TERO decision and finds a violation did occur, the Commission shall have authority to issue any remedies that the TERO Director is authorized to issue under TTC 9.05.490. [Res. 2012-257 § 5.14].

9.05.570 Appeals to Tulalip Tribal Court.

Any party that is dissatisfied or aggrieved by a final decision of the TERO Commission may file an appeal to the Tulalip Tribal Court. The appeal shall be taken by filing a written notice of appeal with the Tribal Court and attaching the TERO Commission decision that is being appealed. The appeal must be filed within 10 days of the date of issuance of the TERO Commission decision. The notice of appeal shall be served on all parties on or before the date due for filing the appeal.

All appeals to Tribal Court shall be decided based on the record of the TERO Commission hearing or decision. Upon filing of an appeal, the TERO Commission shall transfer the Commission hearing or decision record to the Tribal Court. The appellant shall pay the costs of copying the TERO Commission record. The appellant shall have the burden of proof on appeal. The jurisdiction of the Tribal Court in appeals of TERO Commission decisions shall be limited to reversing the TERO Commission and directing a new Commission hearing with appropriate instructions where the TERO Commission decision is found to be arbitrary, capricious or clearly erroneous. There shall be no further appeal from a decision of the Tulalip Tribal Court. [Res. 2012-257 § 5.15].

9.05.580 Legal representation.

If any party retains an attorney they must give a 14-day notice to TERO of their intent to have legal representation. At that time TERO will request the Reservation Attorney to represent TERO in all further matters. [Res. 2012-257 § 5.16].

9.05.590 Sovereign immunity.

Nothing in this code is intended to waive or alter the sovereign immunity of the Tribes, Tribal departments, entities or employees acting in their official capacities. [Res. 2012-257 § 5.17].

Appendix D

Contract Plans

