

INFORMATIONAL PROPOSAL (For information only, not to be used for bidding)

NEBRASKA DEPARTMENT OF ROADS
LETTING DATE : February 06, 2003

CALL ORDER: F24 CONTRACT ID: 6321

CONTROL NO./SEQ. NO.: 61321 /000 PROJECT NO.: ER-80-3(128)

TENTATIVE START DATE: 03/31/03 CONTRACT TIME: 216 CALENDAR DAYS

LOCATION: I-80, WESTERN CANAL BRIDGE WEST OF OGALLALA
IN COUNTY: KEITH

BIDDER

GROUP 1 GRADING
GROUP 3 CONCRETE PAVEMENT
GROUP 6 BRIDGE AT STA. 108+05 LT.
GROUP 6A BRIDGE AT STA. 108+05 RT.
GROUP 6B BRIDGE AT STA. 108+05 LT.
GROUP 6C BRIDGE AT STA. 108+05 RT.
GROUP 7 GUARDRAIL
GROUP 7B FENCING
GROUP 10 GENERAL ITEMS

THIS PROPOSAL CONTAINS A DBE GOAL OF 5.0 %.

SEE SPECIAL PROVISIONS FOR GROUP TIES

NOTES

THE TOTAL AMOUNT OF WORK WHICH WILL BE ACCEPTED IN THIS LETTING IS LIMITED TO \$_____.
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THE NUMBER OF _____ CONTRACTS WHICH WILL BE ACCEPTED IN THIS LETTING IS LIMITED TO ____.
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NOTICE TO ALL BIDDERS

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

The U.S. Department of Transportation (DOT) 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 the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

LETTING QUESTIONS

Prior to the letting, any questions pertaining to the Special Provisions or the plans for this project should be directed to Construction Division personnel at (402) 479-4568 or (402) 479-4529.

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

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ATTACHMENTS

- A. Employment Preference for Appalachian Contracts
(included in Appalachian contracts only)

I. GENERAL

1. 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 piece-work, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

Section I, paragraph 2;
Section IV, paragraphs 1, 2, 3, 4, and 7;
Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 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 DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

- a. discriminate against labor from any other State, possession, or territory of the United States (except for employment

preference for Appalachian contracts, when applicable, as specified in Attachment A), or

- b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

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 and 41 CFR 60) 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 Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American 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 State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his 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, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO 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 minority group employees.

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 minority groups 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 minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group 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, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group 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 his 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 his avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

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. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

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 minority group and women employees 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 his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. 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 best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best 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 SHA 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 minority and women 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 minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246 (Rev. 3-94)

tive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. 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.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. 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 completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

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

(1) The number 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;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA 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. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

a. All mechanics and laborers 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 (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) 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. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, 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 paragraphs 4 and 5 of this Section IV.

b. 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.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

(3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification 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 DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour 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.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional 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. Said 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.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

a. 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 or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a 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.

4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

a. Apprentices:

(1) 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 DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/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 Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees 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 employee 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 listed in 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 or subcontractor 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-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) 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 journeyman-level 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 for

the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) 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 DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. 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.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level 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-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor 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. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under a approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. 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.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor 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, as 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 SHA contracting officer 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.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages:
In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her 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, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies 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 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found 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 and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form

desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such 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 the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of worked performed, as specified in the applicable wage determination incorporated into the contract.

e. 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 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, 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 SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions 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.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of

Form FHWA-1273 (Rev. 3-94)

the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

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 State. 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).

a. "Its own organization" shall be construed to include only workers employed and paid directly 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, assignee, or agent of the prime contractor.

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 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 VII 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 SHA 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 SHA 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 SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

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 SHA 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. 333).

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. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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, the following notice 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:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

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 not more than \$10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**1. Instructions for Certification - Primary Covered Transactions:**

(Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary 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 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 primary 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 department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant know-

ingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary 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," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary 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 primary 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 Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. 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.

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.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement 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;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
- d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary 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 Covered Transactions:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

- 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," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- 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.

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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

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 Covered Transactions:

- 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 participation in this transaction 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.

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(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 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 recipients shall certify and disclose accordingly.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE
ACTION TO ENSURE EQUAL EMPLOYMENT
OPPORTUNITY
(EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area are as follows:

GOALS FOR MINORITY PARTICIPATION IN EACH TRADE

Economic Area	Goal %	Economic Area	Goal %
103 Sioux City, IA:		Non-SMSA Counties	5.3
SMSA Counties:		IA Adams, IA Audubon, IA Cass,	
7720 Sioux City, IA-NE	1.9	IA Fremont, IA Harrison, IA Mills,	
IA Woodbury, NE Dakota		IA Montgomery, IA Page, IA Shelby,	
Non-SMSA Counties	1.2	IA Taylor, NE Burt, NE Cass, NE Colfax,	
IA Cherokee, IA Crawford, IA Ida,		NE Dodge, NE Platte, NE Saunders,	
IA Monona, IA O'Brien, IA Plymouth,		NE Washington	
IA Sioux, NE Antelope, NE Cedar,		144 Grand Island, NE:	
NE Cuming, NE Dixon, NE Knox,		Non-SMSA Counties	1.4
NE Madison, NE Pierce, NE Stanton,		NE Adams, NE Arthur, NE Blaine,	
NE Thurston, NE Wayne, SD BonHomme,		NE Boone, NE Boyd, NE Brown,	
SD Clay, SD Union, SD Yankton		NE Buffalo, NE Chase, NE Cherry,	
142 Lincoln, NE:		NE Clay, NE Custer, NE Dawson,	
SMSA Counties:		NE Dundy, NE Franklin, NE Frontier,	
4360 Lincoln, NE	2.8	NE Furnas, NE Garfield, NE Gosper,	
NE Lancaster		NE Grant, NE Greeley, NE Hall, NE	
Non-SMSA Counties	1.9	Hamilton, NE Harlan, NE Hayes,	
NE Butler, NE Fillmore, NE Gage,		NE Hitchcock, NE Holt, NE Hooker,	
NE Jefferson, NE Johnson, NE Nemaha,		NE Howard, NE Kearney, NE Keith,	
NE Otoe, NE Pawnee, NE Polk, NE		NE Keya Paha, NE Lincoln, NE Logan,	
Richardson, NE Saline, NE Seward,		NE Loup, NE McPherson, NE Merrick,	
NE Thayer, NE York		NE Nance, NE Nuckolls, NE Perkins,	
143 Omaha, NE:		NE Phelps, NE Red Willow, NE Rock,	
SMSA Counties:		NE Sherman, NE Thomas, NE Valley,	
5920 Omaha, NE-IA	7.6	NE Webster, NE Wheeler	
IA Pottawattamie, NE Douglas,		145 Scottsbluff, NE:	
NE Sarpy		Non-SMSA Counties	5.3
		NE Banner, NE Box Butte, NE Chey-	
		enne, NE Dawes, NE Deuel, NE	
		Garden, NE Kimball, NE Morrill,	
		NE Scotts Bluff, NE Sheridan, NE	
		Sioux, WY Goshen	

GOALS AND TIMETABLES FOR FEMALE PARTICIPATION IN EACH TRADE

Timetables	Goals (Percent)
From April 1, 1980 until further notice	6.9

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is by county.

November 3, 1980

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)**

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer Identification Number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice, which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the **Federal Register** in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its action. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
 - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 - h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
 9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
 10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
 The contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
 12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
 13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
 14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the

work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

Supplemental Reporting Requirements

- A. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate the number of minority and non-minority group members and women employed in each work classification on the project.
- B. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Highway agency and the Federal Highway Administration.
- C. The Contractor and each covered subcontractor will submit to the State Highway agency, for the month of July, for the duration of the project, a report (Form PR-1391) "Federal-aid Highway Construction Contractors Annual EEO Report), indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. If on-the-job training is being required by "Standard Federal Equal Employment Opportunity Specifications" the contractor will be required to furnish (Form FHWA 1409) "Federal-aid Highway Construction Contractor's Semi-Annual Training Report".

Equal Employment Opportunity Policy

The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

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, or national origin. 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, preapprenticeship, and/or on-the-job training.

GENERAL DECISION **NE020002** 03/01/02 NE2
 General Decision Number **NE020002**

Superseded General Decision No. NE010002

State: Nebraska

Construction Type:
 HEAVY
 HIGHWAY

County(ies):

ADAMS	FURNAS	NANCE
ANTELOPE	GAGE	NEMAHA
ARTHUR	GARDEN	NUCKOLLS
BANNER	GARFIELD	OTOE
BLAINE	GOSPER	PAWNEE
BOONE	GRANT	PERKINS
BOX BUTTE	GREELEY	PHELPS
BOYD	HALL	PIERCE
BROWN	HAMILTON	PLATTE
BUFFALO	HARLAN	POLK
BURT	HAYES	RED WILLOW
BUTLER	HITCHCOCK	RICHARDSON
CEDAR	HOLT	ROCK
CHASE	HOOVER	SALINE
CHERRY	HOWARD	SAUNDERS
CHEYENNE	JEFFERSON	SCOTTS BLUFF
CLAY	JOHNSON	SEWARD
COLFAX	KEARNEY	SHERIDAN
CUMING	KEITH	SHERMAN
CUSTER	KEYA PAHA	SIOUX
DAKOTA	KIMBALL	STANTON
DAWES	KNOX	THAYER
DAWSON	LANCASTER	THOMAS
DEUEL	LINCOLN	THURSTON
DIXON	LOGAN	VALLEY
DODGE	LOUP	WAYNE
DUNDY	MADISON	WEBSTER
FILLMORE	MCPHERSON	WHEELER
FRANKLIN	MERRICK	YORK
FRONTIER	MORRILL	

HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects, and railroad construction; bascule, suspension & spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; other major bridges)

SAUNDERS COUNTY (WEST OF HWY. #109 EXTENDED NORTH AND SOUTH TO THE COUNTY LINE)

Modification Number	Publication Date
0	03/01/2002

COUNTY(ies):

ADAMS	FURNAS	NANCE
ANTELOPE	GAGE	NEMAHA

ARTHUR	GARDEN	NUCKOLLS
BANNER	GARFIELD	OTOE
BLAINE	GOSPER	PAWNEE
BOONE	GRANT	PERKINS
BOX BUTTE	GREELEY	PHELPS
BOYD	HALL	PIERCE
BROWN	HAMILTON	PLATTE
BUFFALO	HARLAN	POLK
BURT	HAYES	RED WILLOW
BUTLER	HITCHCOCK	RICHARDSON
CEDAR	HOLT	ROCK
CHASE	HOOKER	SALINE
CHERRY	HOWARD	SAUNDERS
CHEYENNE	JEFFERSON	SCOTTS BLUFF
CLAY	JOHNSON	SEWARD
COLFAX	KEARNEY	SHERIDAN
CUMING	KEITH	SHERMAN
CUSTER	KEYA PAHA	SIOUX
DAKOTA	KIMBALL	STANTON
DAWES	KNOX	THAYER
DAWSON	LANCASTER	THOMAS
DEUEL	LINCOLN	THURSTON
DIXON	LOGAN	VALLEY
DODGE	LOUP	WAYNE
DUNDY	MADISON	WEBSTER
FILLMORE	MCPHERSON	WHEELER
FRANKLIN	MERRICK	YORK
FRONTIER	MORRILL	

SUNE2002E 06/16/1999

	Rates	Fringes
CARPENTER	13.30	
CEMENT FINISHER	12.50	
ELECTRICIAN	11.90	
FLAGGER	7.60	
FORM SETTER	10.80	
LABORER	8.30	
MANHOLE BUILDER	10.20	
MECHANIC	12.95	
PAINTER	8.35	
PILE DRIVER LEADPERSON	8.35	
POWER EQUIPMENT OPERATORS:		
Asphalt distributor	9.65	
Asphalt paving machine	12.35	
Asphalt paving machine (screed)	10.45	
Asphalt roller, self-propelled	11.20	
Backhoe excavator (track type)	12.55	
Concrete finishing machine or slip		
form paver	12.80	
Concrete saw operator	11.20	
Concrete cure machine	9.20	
Concrete texture machine	9.20	
Bulldozer or push tractors:		
Less than 115 drawbar h.p.	11.60	
115 drawbar h.p. and over	12.80	
Material stockpiler	10.20	
Motor grader (finisher)	13.15	
Motor grader (rough)	10.90	

Power broom operator	9.15
Roller or compactor, earthwork, self-propelled	10.05
Scraper	12.40
Traveling plant stabilization	11.60
Water tankers:	
Under 6000 gallons	9.65
6000 gallons and over	11.20
All purpose spreader	9.50
Clamshell, dragline, crane, pile driver/shovel	13.60
Dredge pump	9.50
Front end loaders:	
4 cu. yds. or less	11.40
Over 4 cu. yds.	12.10
Hydrohammer	9.60
Loader/backhoe (rubber-tired)	9.85
Power grader machine (trimmer & profiler)	12.80
Skid steer loader	9.50
Tractor (farm type)	9.50
Trenching machine	9.85
Stationary plant (base or stabili- zation)	11.75
Stationary plant (asphalt or concrete)	12.75
Crusher (including those with integral screening plant)	11.75
TRUCK DRIVERS:	
Single axle	8.40
Tandem axle	9.65
Semi-trailer or lowboy	10.85
Transit mix	9.65
WELDER	12.25

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

In the listing above, the "SU" designation means that rates listed under that identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations

indicate unions whose rates have been determined to be prevailing.

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, D. C. 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, D. C. 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, D. C. 20210

4.) All decisions by the Administrative Review Board are final.
END OF GENERAL DECISION

**SPECIAL PROVISIONS
FOR
FEDERAL AID
PROJECT NO. ER-80-3(128)**

GENERAL CONDITIONS

Sealed bids for the work contemplated in this proposal form will be received at the office of the Nebraska Department of Roads in Room 104 of the Central Office Building at 1500 Highway 2 at Lincoln, Nebraska, on February 6, 2003, until 1:30 P.M.

Bids submitted by mail should be addressed to the Nebraska Department of Roads, c/o Contract Lettings Section, P.O. Box 94759, Lincoln, NE 68509-4759.

The 1997 English Edition of the Standard Specifications for Highway Construction, including all amendments and additions thereto effective at the date of the contract, are made a part of these Special Provisions, through reference.

The Supplemental Specifications to the 1997 English Edition of the Standard Specifications for Highway Construction dated July 12, 2001, including all amendments and additions thereto effective at the date of the contract, are made part of these Special Provisions, through reference.

The Required Contract Provisions, Form FHWA 1273, (Rev. 4-93), and the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity and Standard Federal Equal Employment Opportunity Construction Contract Specifications dated November 3, 1980, are attached to and are a part of this proposal form. The Standard Labor Classifications and Descriptions for Highway Construction dated September 1, 1996, are made a part of these special provisions, through reference.

The General Wage Decision issued under the Davis-Bacon and Related Acts is attached to and is a part of this proposal form.

The attention of bidders is directed to the Required Contract Provisions covering subletting or assigning the contract.

GROUPS 1, 3, 6 OR 6B, 6A OR 6C, 7, 7B AND 10 ARE TIED TOGETHER AND BIDDING PROPOSAL FORMS FOR THIS WORK WILL BE ISSUED AND A CONTRACT AWARDED TO A CONTRACTOR WHO IS QUALIFIED FOR BRIDGES.

GROUP 6B IS AN ALTERNATE FOR GROUP 6.

GROUP 6C IS AN ALTERNATE FOR GROUP 6A.

BIDDERS ARE TO SUBMIT THEIR LOWEST BID ONLY.

**DISADVANTAGED BUSINESS ENTERPRISES
(S1-8-0801)**

A. Policy

The Contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have a "level playing field" and equal opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this contract. Consequently, the disadvantaged business requirements of 49 CFR Part 26 are hereby made a part of and incorporated by this reference into this contract.

B. Disadvantaged Business Enterprises Obligation

The Contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have a "level playing field" and equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have a "level playing field" and equal opportunity to compete for and perform contracts. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of FHWA assisted contracts.

Failure of the Contractor to carry out the requirements set forth above shall constitute breach of contract and, after the notification of the FHWA, may result in termination of the agreement or contract by the State or such remedy as the State deems appropriate.

**USE OF DISADVANTAGED BUSINESS ENTERPRISES
(S1-9-0801)**

I. INTRODUCTION: The specific requirements of the use of Disadvantaged Business Enterprises, hereinafter referred to as DBEs, are set forth in these Required Contract Provisions and are imposed pursuant to 49 CFR Part 26.

A. Definitions:

1. Whenever "NDR" is used within these special provisions it shall refer to the Nebraska Department of Roads.
2. For the purpose of these special provisions, the following definitions will apply:
 - a. Disadvantaged Business Enterprise (DBE) means a for profit small business concern, as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it, which is independently owned and controlled by one or more socially and economically disadvantaged individuals.
 - b. Owned and controlled means a business:

- (1) Which is at least 51 percent (51%) owned by one or more socially and economically disadvantaged individuals or women, or, in the case of a public owned business, such individuals must own at least 51 percent (51%) of each class of voting stock and 51 percent of the aggregate of all stock outstanding.
 - (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged owners.
- c. Socially and economically disadvantaged individual means a person who is a citizen (or lawful permanent resident) of the United States, and who is:
- (1) "African American," which includes persons having origins in any of the Black racial groups of Africa;
 - (2) "Hispanic American," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (3) "Native American," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (4) "Asian-Pacific American," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (5) "Subcontinent Asian American," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - (6) A Woman;
 - (7) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

II. DBE CONTRACT GOALS:

- A. DBE goals are set by the NDR for specific contracts. The specific DBE contract goals are stated on the Required DBE Participation Form included in the proposal. The Contractor must meet or exceed the goal or demonstrate good faith efforts to meet the goal. Requirements for submission of DBE good faith effort information are contained in Section IV of these special provisions.

- B. A current list of certified DBE Contractors will be posted on the NDR website (www.dor.state.ne.us). Only the DBE firms whose names appear on the list will be considered in meeting the contract goal for this project. The DBE firms will be considered only for the items of work listed under the heading, "Nature of Business". DBE firms may request to have additional items of work added to their "Nature of Business"; however, no items of work will be added after 5:00 p.m., ten (10) calendar days preceding the letting.
- C. Contractors shall, as a minimum, seek DBE subcontractors in the same geographic area in which they seek subcontractors generally for a given solicitation. If the contractor cannot meet the DBE goals using DBEs from the normal area, the contractor will expand its search to a reasonably greater geographic area.
- D. Contractors are required to make good faith efforts to replace a DBE subcontractor that is unable to perform with another DBE. In order to ensure compliance with this requirement, any substitution of DBE subcontractors after execution of the contract must be approved by the NDR.
- E. Contractors are also encouraged to use the services of banks owned and controlled by minorities and women; however, this will not be counted toward the contract DBE goal.

III. MEETING DBE CONTRACT GOAL CRITERIA: The award of the contract will be made upon satisfaction of the requirements of these special provisions. The apparent low bidder must either meet or exceed the DBE goals for the contract or satisfy the NDR that good faith efforts were made to meet the goals.

- A. REQUIRED DBE PARTICIPATION INFORMATION: All bidders are required to submit to the NDR the "Required DBE Participation Form" with their bid proposal on the form provided in this proposal.
- B. THE REQUIRED DBE PARTICIPATION FORM SHALL INCLUDE:
 - 1. The names and addresses of the DBE subcontractors that will actually participate in meeting the contract goal.
 - 2. A complete description (by item number or group, etc.) of the work each named DBE subcontractor will perform.
 - 3. The dollar amount of participation by each named DBE subcontractor.
 - 4. Written and signed documentation from the bidder of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
 - 5. The apparent low bidder must submit written and signed confirmation from each DBE that it is participating in the contract as provided in the prime contractor's commitment, BY 5:00 P.M. ON THE FIRST WEDNESDAY FOLLOWING THE LETTING. IF THE WEDNESDAY FALLS ON A STATE HOLIDAY, THE TIME WILL BE EXTENDED UNTIL 10:00 A.M. ON THE NEXT OFFICIAL WORKING DAY OF THE NEBRASKA DEPARTMENT OF ROADS.
 - 6. If the contract goal is not met, evidence of good faith efforts.

- C. THE PROPOSAL WILL NOT BE READ IF THE "REQUIRED DBE PARTICIPATION FORM" IS NOT INCLUDED.

IF NO DBE PARTICIPATION IS INTENDED, THE FORM MUST INDICATE THAT GOOD FAITH EFFORT DOCUMENTATION WILL BE SUBMITTED. A BLANK FORM THAT IS SIGNED WILL BE INTERPRETED AS MEANING NO DBE PARTICIPATION IS INTENDED AND WILL BE READ.

LISTING OPTIONS AND/OR ALTERNATES FOR DBE SUBCONTRACTORS AND/OR ITEMS OR GROUPS OF WORK TO BE PERFORMED IS NOT ALLOWED, AND WILL CAUSE THIS BID TO BE DECLARED NON-RESPONSIVE.

REQUIRED DBE INFORMATION SHALL NOT BE SUBJECT TO REVISION AFTER BIDS ARE OPENED.

- D. The information submitted on the DBE Participation Form will be verified by the NDR. Errors in addition will be treated in accordance with current NDR specifications and procedures.
- E. If the use of non-certified firms or the use of DBE firms not certified for the type of work indicated results in under achievement of the goal, the bid will be declared non-responsive.
- F. If, at any time prior to execution of the contract, previously undetected errors result in under-achievement of the goal, the low bidder, along with the other bidders on the project, will be given 5 days from receipt of notification by the NDR to submit good faith information as outlined in Section IV of these specifications.
- G. REQUIRED BIDDERS LIST INFORMATION: All bidders must provide to the NDR the identity of all firms who bid or quote subcontracts on DOT-assisted projects, including both DBEs and non-DBEs. This information must be provided with the bid proposal on a form provided to the contractors by the NDR Contracts Office.

IV. GOOD FAITH DETERMINATION: It is the low bidder's responsibility to meet the DBE contract goals or to provide sufficient information to enable the NDR to determine that, prior to bidding, the low bidder actually made good faith efforts to meet such goals.

- A. The NDR will, in the "Apparent Low Bidder" listing (available 24 hours after bid opening) identify all projects which contain a DBE goal. The listing will indicate the apparent low bidder's status in attaining the goal, i.e. "Contractor Meets DBE Goal," or "Contractor Requires Good Faith Determination."
- B. If the low bidder's "Required DBE Participation Form" submitted with the bid indicates the DBE contract goal will be met, and the NDR concurs, the contract will proceed toward award and the low bidder need not submit any further DBE information prior to award.
- C. Good Faith Information Submittal: If the contract DBE goals have not been met, the "Apparent Low Bidders" listing will reflect that the apparent low bidder is required to submit good faith effort information. Complete and accurate documented information to support a good faith efforts determination MUST BE SUBMITTED BY 5:00 P.M. ON THE FIRST WEDNESDAY FOLLOWING THE LETTING. IF THE WEDNESDAY FALLS ON

A STATE HOLIDAY, THE TIME WILL BE EXTENDED UNTIL 10:00 A.M. ON THE NEXT OFFICIAL WORKING DAY OF THE NEBRASKA DEPARTMENT OF ROADS.

- D. Any other bidder on the contract who requires a good faith effort submittal must also follow the time frames set forth in "C" above if they wish to be considered for award of the contract. Any bidder who does not meet the submittal deadlines, WILL BE NOT BE ELIGIBLE FOR AWARD OF THE CONTRACT. (The only exception is a case where the apparent low bidder who met the goal initially is declared ineligible for the award for reasons other than DBE goal attainment.) If this results in a new apparent low bidder who did not initially meet the goal, ALL other bidders on the contract indicating good faith effort will be notified, and given 5 days after receipt, to submit complete information to support their good faith efforts. Bidders are cautioned by the NDR to retain documentation of their good faith efforts until an award is made, or all bids are rejected.
- E. The NDR will review all information submitted to determine whether the apparent low bidder actually made good faith efforts to meet the contract goal. The decision as to whether the good faith efforts are acceptable will be made jointly by a committee comprised of the NDR' Highway Civil Rights Coordinator, the Contracts Letting Manager, and the Legal Counsel.

A NDR determination that the low bidder's information failed to show acceptable good faith efforts shall be cause for declaring the low bid non-responsive. In making a determination, information submitted by other bidders will be considered. If the low bid is declared non-responsive, the above procedure will be applied to the next lowest bid, and other higher bids if necessary, until a bid is found that meets the goal, or establishes that good faith efforts were made to meet it. NDR reserves the right to reject all bids and readvertise the contract if none of the bids result in a satisfactory level of DBE participation at a reasonable price.

- F. Establishing Good Faith Efforts: To demonstrate good faith efforts to meet the DBE contract goals, documentation shall be maintained and submitted to the NDR as set forth above. Such documentation may include any or all of the following: (This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.)
1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all Certified DBE firms that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE firms to respond to the solicitation. The bidder must determine with certainty if the DBE firms are interested, by taking steps to follow up initial solicitations.
 2. Selecting portions of the work to be performed by DBE firms in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform work items with its own workforce.
 3. Providing interested DBE firms with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

4. (1) Negotiating in good faith with interested DBE firms. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers, and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation should include the names, addresses, and telephone numbers of DBE firms that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE firms to perform the work.

(2) A bidder using good business judgement would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE firms, is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBE firms if the price difference is excessive or unreasonable.
 5. Not rejecting DBE firms as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection, or non-solicitation of bids in the contractor's efforts to meet the project DBE goal.
 6. Making efforts to assist interested DBE firms in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
 7. Making efforts to assist interested DBE firms in obtaining necessary equipment, supplies, materials, or related assistance or services.
 8. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- G. If the NDR's preliminary finding is that the bidder did not demonstrate a satisfactory effort to meet the contract goal, the bidder may appeal the decision by submitting a written request for reconsideration within three (3) days of the decision. The bidder may then present information either in a written narrative supporting its good faith effort submittal, or may appear in person. Any new information not included in the original submittal will not be used in the final determination. The appeal will be heard by a Hearing Officer appointed by the NDR' Director. The Hearing Officer will be an individual who is knowledgeable about the DBE Program and its good faith efforts provision, but who had no part in the initial decision.

The Hearing Officer will hear the appeal within five (5) days of receipt of the written request, and will issue a written decision within three (3) days after the appeal. The reconsideration process is administratively final and has no further appeal.

V. COMMERCIALLY USEFUL FUNCTION:

- A. A contractor may count toward its DBE goals only expenditures to DBE firms that perform a commercially useful function in the work of a contract. A DBE firm is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of the work of a contract, and carrying out its responsibilities by actually performing, managing, and supervising the work involved. The DBE firm must also be responsible for materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable), and paying for the material.

Guidelines:

1. As a general rule, it is expected that workers on a DBE subcontract shall be regular employees of the DBE subcontractor, and shall be listed on the subcontractor's payroll. A regular employee is a person who would normally be working for the DBE firm on any other subcontract with any other prime contractor, and whose immediate past employment has not been with the prime contractor on the present project, or with the renter-lessor of equipment being used on the present project.
2. On DBE subcontracts, the DBE must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE will not be considered to be performing a commercially useful function. (If a DBE subcontracts part of its work to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.)

Operators of leased specialized equipment are included under this provision. In any case, all employees shall be listed on the DBE firm's payroll and paid by that firm.
3. In addition, a DBE subcontractor shall be required to designate a project superintendent/foreman who is a regular employee of the subcontractor, and who shall be active in the day-to-day management of the project.
4. DBE subcontractors who purchase supplies and materials from the prime contractor, which are to be incorporated into the project WILL NOT count toward the established DBE contract goals.
5. TWO PARTY CHECKS: The NDR does not prohibit the practice of a DBE firm and a prime contractor using two party checks, so long as the prime contractor acts solely as a guarantor, and the funds do not come from the prime contractor. Two party checks cannot be used unless formal written requests to do so from the DBE firm and the prime contractor are delivered to the NDR Disadvantaged Business Enterprise Office and the NDR DBE Office gives its written approval to do so. The NDR will closely monitor the use of two party checks to avoid abuse of this practice.

VI. PROHIBITED PRACTICES:

- A. An area of special concern is exclusive arrangements between the prime contractor and DBE subcontractors. The DBE subcontractors must be willing to contract with more than one prime contractor.
- B. Any subcontracting arrangement which artificially inflates DBE participation is not acceptable. Of utmost concern are the interjection of DBE middlemen or passive conduits and arrangements in which a DBE subcontractor is acting essentially as a broker.

VII. ADMINISTRATION OF THE DBE PROGRAM:

- A. The Nebraska Department of Roads intends to achieve its annual overall DBE participation goal with a "narrowly tailored" DBE Program that meets the "strict scrutiny" requirements as defined by case law. The NDR will adhere to all of the rules and regulations of the DOT's DBE Program Regulations as contained in CFR 49 part 26.

It is the intention of the NDR that DBE subcontractors be independent companies, and function in the same capacity as majority contractors. It is not the intention of the NDR to be involved with "in name only" DBE subcontractors who are not providing a commercially useful function to the highway industry. The following will be used in administering the DBE Program.

Situation #1:

Prime Contractor "A" subcontracts to a DBE subcontractor, who performs the work with its own workforce (the employees work on a full-time basis for the DBE firm, or were hired from a union hall, employment service, or other hiring sources by the DBE firm, and are supervised by a full-time employee of the DBE), and uses its own equipment, or equipment rented or leased from an equipment dealer. Prime Contractor "A" is not involved in the DBE firm's operation, other than coordinating when the work is to be performed, and/or other normal industry practices of contracts between a prime contractor and a subcontractor.

THIS IS THE IDEAL SITUATION, IS TOTALLY ACCEPTABLE, AND IS WITHIN THE INTENT OF THE DBE PROGRAM.

Situation #2:

Prime Contractor "A" subcontracts to a DBE firm, that performs the work with its own workforce, (the employees work on a full-time basis for the DBE firm, or were hired from a union hall, employment service, or other sources by the DBE firm for the project, and are supervised by a full-time employee of the DBE). The DBE firm uses equipment owned by a majority contractor, (either Prime Contractor "A", or some other majority contractor), on a long-term rent or lease arrangement at rates consistent with normal industry standards, and not leased on an "as equipment is needed" basis. This situation would be no different than the DBE firm leasing or renting equipment from a commercial equipment supplier. Many majority contractors lease equipment, and the action is standard industry practice. THIS IS TOTALLY ACCEPTABLE, AND IS WITHIN THE INTENT OF THE DBE PROGRAM.

Situation #3:

A DBE firm is a subcontractor to Prime Contractor "A", on a NDR project. When it is time for the subcontract work to be performed, the work is actually performed using Prime Contractor "A's" equipment, work force, and supervisory personnel. The DBE firm then makes a certified payroll using the names of Prime Contractor "A's" employees. Basically, the subcontract work was performed by Prime Contractor "A". While the NDR cannot tell the DBE subcontractor who to hire, or where to obtain equipment, we find this to be a very close association with the prime contractor, and the DBE's owner is not considered to be in control of the DBE firm, or the project in question. This situation described is not considered to be a commercially useful function, and may be subject to any of the administrative actions as cited in Section VIII, C. below.

Note: If a DBE subcontractor is performing work on a project with his own equipment, workforce and supervisory personnel, and an equipment failure or unusual circumstance occurs, and the prime contractor rents or loans equipment and/or employees on a short-term basis to the DBE, the NDR could find this acceptable as long as this only occurs occasionally and is kept to an absolute minimum.

Situation #4:

A DBE firm is a subcontractor to Prime Contractor "A" on a NDR project. When it is time for the subcontract work to be performed, the work is actually done using the workforce, equipment, and supervisory personnel of a majority contractor, Contractor "B". The DBE firm makes a certified payroll showing Contractor "B's" employees. While the NDR cannot tell the DBE subcontractor who to hire, or where to obtain equipment, this condition is not considered to be within the intent of the DBE Program. In reality, majority Contractor "B" is the one that performed the work. The NDR does not consider this to be a commercially useful function, as Prime Contractor "A" is actually subcontracting to majority Contractor "B", in an unapproved status, rather than the DBE firm. This situation described is not considered to be a commercially useful function, and may be subject to any of the administrative actions as cited in Section VIII, C. below.

Situation #5:

Prime Contractor "A" is buying supplies from a DBE supplier or contractor to fulfill the DBE goal. This is only acceptable if the DBE firm is a true supplier. The mere fact that the DBE firm purchases the material from another supplier, then adds some cost and sells the material to a prime contractor, does not constitute the DBE as being a supplier. A supplier must have an inventory and be generally recognized as a material supplier. This situation described may be subject to any of the administrative actions as cited in Section VIII, C. below.

Situation #6:

A DBE firm is a subcontractor to Prime Contractor "A". When it is time for the subcontract work to be performed, the DBE firm brings in its workforce to do the work, and uses equipment already at the site that belongs to Prime Contractor "A". The DBE subcontractor says it is leasing the equipment from Prime Contractor "A". The NDR will closely review this arrangement. This situation resembles a "specific equipment lease" where the equipment is made available on a convenience basis to the DBE firm. The test is whether or not the DBE firm can use the equipment at the DBE's convenience, and not be tied to the availability of the equipment by Prime Contractor "A". If the equipment lease arrangement indicates the DBE firm has total control of the equipment, but in fact Prime Contractor "A" controls the equipment, the NDR would question the relationship to determine whether or not a commercially useful function had been provided. This situation described may be subject to any of the administrative actions cited in Section VIII, C. below.

The above situations are very broad and general. While it is known that many different situations may arise, these are basic guidelines used to administer the DBE Program.

The NDR is more than willing to discuss particular situations with either DBE firms or prime contractors prior to a letting in the hope of developing DBE firms.

VIII. INVESTIGATORY POWERS, ADMINISTRATIVE PROCEDURES FOR ENFORCEMENT AND PENALTIES

A. INVESTIGATORY POWERS:

1. The NDR specifically reserves the right and power to investigate, monitor and/or review all actions taken, statements made, documents submitted, by any contractor, subcontractor or DBE firm under the terms of these provisions.

B. ADMINISTRATIVE PROCEDURES FOR ENFORCEMENT:

Whenever the NDR believes a contractor, subcontractor or DBE firm may not be operating in compliance with the terms of these provisions, the NDR will conduct an investigation. If the NDR finds any person or entity not in compliance with these provisions, the NDR will notify such person or entity in writing as to the specific instances or matters found to be in non-compliance. At the option of the NDR, the person or entity shall then be allowed a reasonable time to correct any deficiencies noted, and to come into compliance. In the event that the person or entity cannot, thereafter, come into compliance, or fails or refuses to do so, then the NDR may impose one or more of the penalties hereafter provided for. It is specifically provided by the NDR that any person or entity will be found to be out of compliance with these provisions if an investigation reveals any violation or act of such serious or compelling nature that the violation or act indicates a serious lack of business integrity or honesty.

C. PENALTIES:

1. In the event the NDR finds any contractor, subcontractor, or DBE firm, to be out of compliance with these provisions, the NDR may impose one or more of the following sanctions:

- a. Termination of the contract.
- b. The DBE firm may be decertified and/or suspended from participating in the NDR' DBE Program.
- c. The prime contractor may not be able to count the work performed toward his project DBE goal, and if possible to do so, may need to subcontract other work on the project to DBE subcontractors to achieve the goal.
- d. The contract items involved may be considered for a monetary reduction equal to the amount of work not done by the DBE subcontractor.
- e. The prime contractor may be suspended and/or debarred.
- f. If at any time during the life of the contract, it is determined that the contractor is out of compliance with these provisions, the NDR may withhold payment of progress payments.
- g. If at the completion of the project, the contractor is determined to be out of compliance, the NDR may sustain damages, the exact extent of which would be difficult or impossible to ascertain and, therefore, in order to liquidate such damages, the monetary difference between the amount stated by the contractor and the amount actually paid to the DBEs will be deducted from the contractor's payment as liquidated damages. These damages would be in addition to any liquidated damages assessed in accordance with Subsection 108.08 of the Standard Specifications.
- h. Referral to the Attorney General for possible prosecution for fraud.
- i. Other action as appropriate, within the discretion of the NDR.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL
(S1-9-0801)**

ALL BIDDERS SHALL SUBMIT WRITTEN ASSURANCE THAT THE MINIMUM GOAL FOR DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION WILL BE MET. THE REQUIRED DBE PARTICIPATION FORM INCLUDED IN THIS PROPOSAL SHALL BE USED. The bidder shall submit the name and address of the DBE(s), a complete description of the participation by the DBE(s), and the dollar value of the participation. If the bidder cannot meet the minimum goal for DBE participation, as specified herein, the bidder shall submit complete documentation of its efforts, following the time limits set forth in IV. A., "Good Faith Information Submittal". These efforts shall include but not be limited to those stated previously in IV. E., "Establishing Good Faith Efforts".

Bidders that fail to meet DBE goals or fail to demonstrate sufficient good faith efforts shall be declared non-responsive and ineligible for award of the contract.

Bidders shall assume the responsibility of determining if they are the apparent low bidders by contacting the Nebraska Department of Roads, Contract Lettings Section in Lincoln,

Nebraska. Such information is made public 24 hours after the announced time for opening bids. This information is available from the NDR' Internet web site (<http://www.dor.state.ne.us/>).

The contract shall be awarded to the lowest responsive responsible bidder.

The standard NDR' procedure concerning subcontractors and suppliers shall apply.

The DBE firms identified at the time of bid opening are the firms to whom subcontracts will be issued. The work subcontracted to be done, and the amount to be paid for the work, shall be as identified at the time of bid opening.

If the prime contractor desires to alter this list after execution of the contract, it must demonstrate to the NDR that the listed DBE firm(s) is unable to perform, and provide the necessary written justification for approval. Justification must also include written documentation from the affected DBE firm(s) stating their position on the prime contractor's request. There must be a solid basis for any change.

Any substitution of the named DBE firms must be approved by the Department of Roads Disadvantaged Business Enterprise Office. Substitution of DBE's will only be allowed when the DBE firm(s) is not able to perform because of default or over-extension on other jobs or other similar justification. A prime contractor's ability to negotiate a more advantageous contract with another subcontractor is not considered as a valid basis for change.

PRIOR TO FINAL PAYMENT THE FOLLOWING FORMS MUST BE COMPLETED AND SUBMITTED TO THE NDR DISADVANTAGED BUSINESS ENTERPRISE OFFICE.

- A. DR Form 441, DBE I. This form shall be filled out by the prime contractor, indicating the DBE firms used, actual work performed, and actual amount of money paid to the DBE Firms.
- B. DR Form 442, DBE II. This form shall be filled out by the DBE subcontractor, indicating the name of the DBE firm, actual work performed, and actual amount of money received from the prime contractor.
- C. The above referenced forms are available from the NDR' Disadvantaged Business Enterprise Office, upon request. The forms are also available electronically from the NDR' Internet web site (<http://www.dor.state.ne.us/>).

The Code of Federal Regulations, Title 49, Part 26 and the Nebraska Department of Roads' Disadvantaged Business Enterprise (DBE) Program, are hereby made a part of and incorporated by this reference into this proposal. Copies of these documents are available, upon request, from the Nebraska Department of Roads, Disadvantaged Business Enterprise Office, P.O. Box 94759, Lincoln, Nebraska 68509-4759.

SUBLETTING OR ASSIGNING OF CONTRACT (S1-9-0801)

Prior to beginning work, a copy of all executed subcontracts, written agreements and/or lease agreements used to meet DBE goals shall be submitted to the construction engineer for forwarding to the minority business office. These copies must contain prices.

PROMPT PAYMENT CLAUSE:

The prime contractor shall include a "Prompt Payment Clause" as a part of every subcontract (including second tier subcontracts) for work and material. The "Prompt Payment Clause" will require payment to all subcontractors for all labor and material, for work completed, within twenty (20) calendar days of receipt of progress payments from the NDR for said work. The "Prompt Payment Clause" will also stipulate the return of retainage within thirty (30) calendar days after the subcontractor achieves the specified work as verified by payment from the NDR.

The failure by the prime contractor to carry out the requirements of the "Prompt Payment Clause" and/or timely return of retainage, without just cause, is a material breach of this contract, which may result in the NDR withholding the amount of payment from the prime contractor that should have been paid to the subcontractor, termination of this contract, or other such remedy as the NDR deems appropriate.

NOTE: The prime contractor may withhold payment only for just cause, and must notify the NDR in writing of its intent to withhold payment prior to actually withholding payment. The prime contractor shall not withhold, delay or postpone payment without first receiving written approval from the NDR.

**DBE GOAL CREDIT
(S1-9-0801)**

It is the intent of the NDR to assure eligible DBE firms have a "level playing field" and equal opportunity to participate in federal-aid contracts, and maintain the integrity of the DBE program. DBE participation is counted toward goals as follows:

When a DBE firm participates in a contract, only the value of the work actually performed by the DBE firm counts toward the goal.

1. The entire amount of that portion of a construction contract that is performed by the DBE firm's own forces is counted toward the goal. This includes the cost of supplies and materials obtained by the DBE firm for the work of the contract, including supplies purchased or equipment leased by the DBE, but not supplies or equipment the DBE purchases or leases from the prime contractor or its affiliate.

Example: A DBE firm furnishing and erecting steel or concrete superstructure members, furnishing and driving piling for bridge structures, furnishing and placing prestressed concrete deck panels, and furnishing and placing panels for retained earth walls will be considered a commercially useful function for attaining contract goals for disadvantaged business enterprise (DBE) participation unless the supplies or materials are purchased from the prime contractor or its affiliate.

When a DBE subcontractor is responsible for substantially constructing a complete structure the total value of the subcontract may be credited to the DBE goal.

Paragraph 8.a. (5) of Subsection 109.07 in the 1997 English Edition of the Standard Specifications is void and superseded by the following:

When applicable a DR Form 441, "Identification of DBE Goal Achievement".

B. Manufacturers, Suppliers, and Haulers:

DBE Manufacturers may be given 100% credit towards the DBE goal for products they produce for the contract.

DBE Suppliers may be given 60% credit towards the DBE goal for products they furnish for the contract.

DBE Haulers may be given 100% credit towards a DBE goal for the delivery fees charged.

A DBE firm certified as both a supplier and hauler may be given 60% credit for supplying a given product and 100% credit for hauling that same product.

See the DBE Goal Credit Table for a guide to DBE credit.

DESCRIPTIONS (S1-9-0801)

Manufacturer - To be certified as a manufacturer, a DBE firm must operate or maintain 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.

Supplier - A DBE supplier, or regular dealer, is a firm that owns, operates, or maintains 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. To be a supplier or regular dealer, the firm must 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.

A DBE firm may be a supplier or regular dealer in such bulk products as petroleum products, steel, cement, gravel, stone, or asphalt without owning a place of business if the DBE firm both owns and operates distribution equipment for the products. Any supplementing of a DBE supplier's or regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

Hauler - The DBE firm must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract. There cannot be a contrived arrangement for the purpose of meeting DBE goals.

The DBE firm must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

The DBE firm receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

The DBE firm may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE firm that leases trucks from another DBE firm receives credit for the total value of the transportation services the lessee DBE firm provides on the contract.

The DBE firm may also lease trucks from a non-DBE firm, including an owner-operator. The DBE firm that leases the trucks from a non-DBE firm is entitled to credit only for the fee or commission it receives as a result of the lease agreement. The DBE firm does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE firm.

For the purposes of the above paragraphs, a lease must indicate that the DBE firm 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 DBE firm, so long as the lease gives the DBE firm absolute priority for the use of the leased truck. Leased trucks must display the name and identification number of the DBE firm.

If a DBE firm performs in the manner outlined above, it will be performing a commercially useful function.

Pass-throughs and/or brokering will not be tolerated. A pass-through/brokering situation is one in which a DBE firm contracts to haul materials for a project, then hires another hauler to actually perform on the contract.

CERTIFICATION (S1-9-0801)

Certain DBE's may be certified in multiple classifications as manufacturers, suppliers, and haulers. The certification will be limited by the products being manufactured, supplied, or hauled.

For example, a manufacturer of certain steel products or aggregates, may also be a supplier of products they store or deliver, but do not manufacture.

A supplier of bulk products, such as aggregates or fuel, may also be certified as a hauler.

DBE GOAL CREDIT TABLE

DBE Manufacturer & DBE Hauler	100% Credit for Materials & 100% Credit for Hauling
DBE Manufacturer & Non-DBE Hauler	100% Credit for Materials & No Credit for Hauling
Non-DBE Manufacturer & DBE Hauler	No Credit for Materials & 100% Credit for Hauling
DBE Supplier & DBE Hauler	60% Credit for Materials & 100% Credit for Hauling
DBE Supplier & Non-DBE Hauler	60% Credit for Materials & No Credit for Hauling
Non-DBE Manufacturer & DBE Hauler	No Credit for Materials & 100% Credit for Hauling

**CERTIFICATION FOR FEDERAL-AID CONTRACTS
(S1-11-0801)**

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 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 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 such 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.

STATUS OF UTILITIES

The following information is current as of October 9, 2002.

Utility facilities, aerial and/or underground may exist within this project. The contractor shall determine to his satisfaction the extent of utility occupancy and utility conflict for facilities located within the construction areas.

At this time, no utilities have been required to relocate their facilities.

Any utility adjustments or interruption of service for the convenience of the Contractor shall be the sole responsibility of the Contractor.

To arrange for utilities to locate and flag their underground facilities, contact The Diggers Hotline of Nebraska at 1-800-331-5666.

No utility conflicts are anticipated.

Any work necessary will be concurrent with construction.

**STATUS OF RIGHT-OF-WAY
(S1-16-0801)**

According to the best information available, all necessary right-of-way has been acquired.

**SUBCONTRACTOR BIDDERS LIST INFORMATION
(S1-43-0801)**

All bidders must complete and submit with the bidding proposal, the "Subcontractor Bidders List" form provided by the NDR Contracts office.

Bidders must identify all firms who bid or quote subcontracts on all projects. If no bids or subcontractor quotations are received, the "Subcontractor Bidders List" must be submitted with the bidding documents and the bidder must indicate on the face of the "Subcontractor Bidders List" that no bids or subcontractor quotations were received.

**CONTROL OF WORK
(S1-43-0901)**

Subsection 105.08 in the 1997 Standard Specifications is void and replaced by the following:

105.08 - Authority and Duty of the Inspector

Department inspectors are authorized to inspect all work performed and all materials furnished. Such inspection may extend to the preparation, fabrication, or manufacture of the materials. The inspector has the authority to reject work or materials until any issues can be decided, including the right to suspend work. The inspector is not authorized to alter or waive the provisions of the contract or act as a supervisor for the Contractor.

105.13 – Tentative Acceptance of Portions of the Project

Paragraph 3.a. of Subsection 105.13 is amended by deleting the word "normal".

**LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC
(S1-43-1001)**

107.14 – Opening of Sections of the Project to Traffic

Subsection 107.14 Paragraphs 2.b.(1) and (2) are void and replaced by the following:

- 2.b. (1) Whenever the Department permits the public use of a highway undergoing construction, repair, or maintenance in lieu of a detour route, the Contractor shall not be held responsible for damages to those portions of the project upon which the Department permitted public use, when such damages are the result of no proximate act or failure to act on the part of the Contractor.

- (2) If the traveling public should cause damage to the roadway, the Contractor shall assist the State in identifying the responsible party and the Contractor shall as a minimum if present at the time of the damage record pertinent information regarding the accident. (Who caused the damage; when the damage occurred; and how the damage occurred.)

107.15 – Contractor’s Responsibility for Work

Subsection 107.15 is amended by adding Paragraph 1.b.(3) as follows:

- (3) The Contractor shall not be held responsible for damage caused by the traveling public on those portions of the project where the Department has permitted public use of the road in lieu of using a detour route and the damage as not the result of any proximate act or failure to act on the part of the Contractor.

MEASUREMENT AND PAYMENT (S1-43-0901)

109.08 – Acceptance, Final Payment, and Termination of Contractor’s Responsibility

Subsection 109.08 Paragraph c. amended by deleting the word “normal”.

Subsection 109.08 Paragraph d. is void and replaced by the following:

- d. If the traveling public should cause damage to the roadway the Contractor shall assist the State in identifying the responsible party and the Contractor shall as a minimum if present at the time of the damage record pertinent information regarding the accident. (Who caused the damage; when the damage occurred; and how the damage occurred.)

PLANS AND WORKING DRAWINGS (S1-41-0801)

The last sentence in Paragraph 5. of Subsection 105.02 in the Standard Specifications is void and superseded by the following:

The Contractor shall furnish the Engineer as many copies of working drawings as are required in each Division specifying submission of working drawing, or seven copies (8 copies if the submission is a precast structure or element), if the quantity is not specified.

Paragraph 6.c. of Subsection 105.02 is void and superseded by the following:

- c. (1) The project number, structure number, control number and project location as it appears on the plans, shall be shown on each sheet of all shop drawings.

AWARD AND EXECUTION OF CONTRACT

The first sentence of Subsection 103.03 in the Standard Specifications is void and superseded by the following:

The bidder to whom the contract is awarded shall furnish within 7 days after the award, a contract bond, in a sum equal to the full amount of the contract.

The first sentence of Subsection 103.04 is void and superseded by the following:

The contract shall be signed by the successful bidder and returned, together with a satisfactory bond, within 7 days from the date of award.

Paragraph 1.a. of Subsection 103.05 is void and superseded by the following:

- a. Fails to file an acceptable performance bond within 7 days from the date of award.

SPECIAL PROSECUTION AND PROGRESS (Migratory Birds)

Cliff swallows may inhabit the area and may appear in mid-March and inhabit the area through the summer. To avoid the problem of cliff swallows nesting on the structures contained in this project, the Contractor can either net the exposed surfaces or remove early nesting material by high-pressure spraying, twice a week, through the nesting season. Once work is completed on an exposed surface, that area no longer needs to be netted or sprayed. The work of netting or spraying the structures will not be measured for payment, but shall be considered subsidiary to other items of work for which direct payment is made.

SPECIAL PROSECUTION AND PROGRESS (Phasing)

The Contractor will be required to construct the westbound structure as Phase 1, as shown in the plans. The eastbound structure shall be considered as Phase 2.

The temporary broken concrete riprap berm, shown in the plans as running from the east abutment of the new westbound bridge to the east abutment of the existing eastbound bridge, shall be constructed as quickly as possible in Phase 1. This is to provide protection for the new east abutment of the westbound bridge in the event of high water flows during this portion of construction.

This temporary broken concrete riprap berm shall not be removed in Phase 2 until the existing eastbound bridge is removed and the upstream channel has been realigned. The temporary broken concrete riprap berm shall be incorporated into the final channel lining.

Construction of this temporary broken concrete riprap berm will not be measured and paid for but shall be considered subsidiary to the bid item "Broken Concrete Riprap".

CONSTRUCTION DETAILS

REMOVE ASPHALT SURFACE

Section 203 in the Standard Specifications is amended to provide that asphalt crossover to be removed adjacent to the inside 3' asphalt shoulder to be left in place shall be wheel-cut and the asphalt shoulder left with a neat and vertical face. The removal of the asphalt surface shall also include the removal of the embankment associated with the crossovers at Station 80+25 to 93+88 Lt. and Rt. and Station 113+25 to 127+20 Lt. and Rt. After the embankment has been removed, these areas shall be graded to the details shown in the typical sections. All material when removed shall become the property of the Contractor.

The work of wheel-cutting the asphalt and the removing of the embankment and the required grading will not be measured and paid for directly but shall be considered subsidiary to the item "Remove Asphalt Surface".

FUEL COST ADJUSTMENT PAYMENT (S2-1-0801)

Section 205 in the Standard Specifications and Supplemental Specifications is amended to include the following:

Payment will be made to the contractor for monthly fluctuations in the cost of diesel fuel used in performing the items of work, "Excavation", "Excavation, Borrow", "Excavation, Established Quantity", and/or "Earthwork Measured in Embankment" when the fuel cost fluctuates by more than 10% from the base price defined below. Payments may be positive, negative, or nonexistent depending on the circumstances. Payments or deductions will only be calculated on that portion of the fuel cost fluctuation that exceeds the 10% specified above.

Payments or deductions for the fuel cost adjustment will be included in the contractor's progress estimates; and the payment or deduction authorized for each estimate will be based upon the algebraic difference between the quantities for "Excavation", "Excavation, Borrow", "Excavation, Established Quantity", and/or "Earthwork Measured in Embankment" on the current estimate and the quantities shown on the previous estimate.

The fuel cost adjustment for the current estimate will be computed according to the following formula:

$FCA = QFD$ where

FCA = Fuel cost adjustment, in dollars;

Q = The algebraic difference between the quantities (in cubic yards or cubic meters) for "Excavation", "Excavation, Borrow", "Excavation, Established Quantity", and/or "Earthwork Measured in Embankment" on the current estimate and the quantities shown on the previous estimate;

F = English
The fuel use factor for diesel fuel, in gallons per cubic yard. For the items of work "Excavation", "Excavation, Borrow", and "Excavation, Established Quantity", "F" shall be equal to .15. For the item of work "Earthwork Measured in Embankment", "F" shall be equal to .20.

Metric

The fuel use factor for diesel fuel, in liters per cubic meter. For the items of work "Excavation", "Excavation, Borrow", and "Excavation, Established Quantity", "F" shall be equal to .74. For the item of work "Earthwork Measured in Embankment", "F" shall be equal to 1.00.

D = Allowable price differential.

The allowable price differential, "D", for the current estimate will be computed according to the following formula:

When the current price, P, is greater than the base price, P(b).

$$D = P - 1.10P(b), \text{ but not less than zero.}$$

When the current price, P, is less than the base price, P(b).

$$D = P - .90P(b), \text{ but not greater than zero.}$$

In either case, P(b) shall be the base diesel price, in dollars per gallon (liter), defined as the average of the minimum and maximum prices for No. 2 Diesel Fuel (Oklahoma) published in the first issue of "*Platt's Oilgram Price Report*" for the month in which bids for the work were received.

In either case, P, shall be the current diesel price, in dollars per gallon (liter), defined as the average of the minimum and maximum prices for No. 2 Diesel Fuel (Oklahoma) published in the first issue of "*Platt's Oilgram Price Report*" for the month in which the progress estimate is generated.

GENERAL CLEARING AND GRUBBING (S2-2-0801)

Paragraph 1. of Subsection 202.03 in the Supplemental Specifications is amended to provide that General Clearing and Grubbing shall include all tree removal.

Paragraphs 2.a., b., and c. of Subsection 202.03 in the Supplemental Specifications are void.

Paragraph 3. of Subsection 202.04 in the Supplemental Specifications is void and superseded by the following:

3. All tree removal is subsidiary to the pay item "General Clearing and Grubbing".

SUBGRADE PREPARATION

Subsection 302.04 of the Standard Specifications is amended to provide that the work of subgrade preparation as well as all water applied as directed by the Engineer will not be measured for payment, but shall be considered subsidiary to the item 12" Concrete Pavement.

EARTH SHOULDER CONSTRUCTION

Subsection 304.04 of the Standard Specifications is amended to provide that the work of shoulder construction as well as all water applied as directed by the Engineer will not be measured for payment, but shall be considered subsidiary to the item 12" Concrete Pavement.

SUBGRADE PREPARATION (S3-1-0801)

Paragraph 2.a. of Subsection 302.03 in the Standard Specifications is amended to include that trimming on narrow, irregular or roadway grading of 1/2 mile (0.8 km) or less may be accomplished using conventional methods.

BITUMINOUS FOUNDATION COURSE

Paragraph 2. of Subsection 307.02 in the Standard Specifications is void and superseded by the following:

Material used in constructing Bituminous Foundation Course, shall be obtained from an existing stockpile site located at the Ogallala Maintenance Yard.

All salvaged bituminous material that is to be used in the bituminous foundation course, whether from an existing stockpile or from the Contractors' stockpile on the project, shall be reprocessed just prior to the placement on the subgrade so that all material shall pass a 1 ½ inch (37.5 mm) sieve.

CHANNELIZING BLOCK

This work shall consist of the contractor furnishing, installing, maintaining, and removing reflectorized channelizing blocks.

The channelizing block shall consist of a Yellow housing with 2 reflectors on each side. The housing size is approximately 2 ½" x 13" x 7 ½". (63 mm x 330 mm x 19 mm).

Each reflector will be approximately 2.4 sq. inches in reflective area. (15 sq. cm.) The channelizing block shall be installed inline with the tubular posts and raised pavement markers at the following spacing:

1. Tubular Post Spacing 110' (33 m): Install channelizing block 35' (11 m) each side of tubular post (i.e. Tubular post - 35' (11 m) space - channelizing block - 40' (11 m) space - channelizing block - 35' (11 m) space - Tubular post.
2. Tubular Post Spacing 50' (15 m), or 30' (9 m): Install channelizing block midway between each tubular post.

Channelizing blocks shall be Astro Optics CD, a Davidson Plastics' Brick, or an approved equivalent. The channelizing block shall be installed as per manufacturer recommendations.

Channelizing blocks, which have become dislodged from position due to traffic or other action, shall be properly repositioned and reattached within 24 hours. Channelizing blocks which cannot be cleaned or which are broken shall be replaced.

The work will be measured for payment on an individual unit basis for each channelizing block initially installed. No direct payment will be made for channelizing blocks repositioned and/or reattached or replaced. Payment will be made at the contract unit price per each for the item, "Channelizing Block". This price shall be full compensation, for installing channelizing blocks, for maintaining channelizing blocks in position, for replacing channelizing blocks, and for removing channelizing blocks upon completion of the work, and for all equipment, labor, tools, materials, and incidentals necessary to complete the work.

TRAFFIC CONTROL MANAGEMENT

Description and General Requirements

Paragraph 1. of Subsection 422.01 of the Specifications is void and superseded by the following:

1. This work consists of furnishing, installing at the locations shown on the plans, operating, maintaining, and when work is complete, removing the temporary traffic control devices described in this Section. This work shall also consist of providing Traffic Control Management by furnishing one or more qualified individuals who shall be specifically responsible for performing or supervising the installation, inspection, maintenance, and removal of those devices.
2. When project conditions warrant, the Engineer may suspend the need for Traffic Control Management and will notify the Contractor accordingly. The Contractor shall be given at least three days' notice of the suspension, but the work may be suspended in a lesser

time if mutually acceptable to the Department and the Contractor. During periods when no payment is being made for Traffic Control Management under this Special Provision, this provision will not apply.

Paragraphs 2.i., 2.j.(2)(ii), and 2.k. of Subsection 422.01 of the Specifications are void; and Paragraph 2. of Subsection 422.01 of the Specifications and Supplemental Specifications is amended to include the following:

- p.(1) The Contractor shall designate an individual other than the project superintendent, to be the Traffic Control Manager for the project. This person shall be certified as a Traffic Control Supervisor or Traffic Control Technician by the American Traffic Safety Services Association (ATSSA). Other certifications may be accepted if approved by the Engineer. The Traffic Control Manager shall also possess a current Flagger Certification Card. Copies of the Traffic Control Manager's certifications shall be provided to the Engineer prior to the installation of any traffic control devices on the project.
- (2) The Contractor may also designate one or more Assistant Traffic Control Managers for the project. These individuals shall be qualified by certification as a Traffic Control Technician by the American Traffic Safety Services Association (ATSSA) or other training or qualification satisfactory to the Engineer.
- q. The Traffic Control Manager or Assistant Traffic Control Manager shall be available and reasonably accessible (within 30 minutes) to the project during normal working hours on every day that work is being performed on the project and always on call at other times. During other than normal working hours, these individuals shall respond and be on the project within 60 minutes of notice being given that traffic control items on the project are in need of attention. The Contractor may elect to have an employee or employees perform this function simultaneously on more than one project, but shall not be relieved from the sanctions or disincentives that may be imposed for failure to meet the deadlines specified herein.
- r. The Traffic Control Manager's or Assistant Traffic Control Manager's activities on the project shall be dedicated to the purpose of monitoring and maintaining the traffic control devices. The performance of other crafts or trades will be permitted, but shall be secondary to the performance of duties associated with traffic control.
- s. The Contractor shall provide prior to the installation of any traffic control devices on the project two to four telephone numbers where the Traffic Control Manager or an Assistant Traffic Control Manager may be reached 24 hours a day, seven days a week.
- t. The Traffic Control Manager or Assistant Traffic Control Manager shall have available at all times an approved, current version of the Traffic Control Plan.
- u. If corrective action is not taken by the Contractor within the times specified in Paragraph 2.q., the Engineer may suspend all work on the project until the problem is corrected. The Engineer shall make reasonable allowance for existing weather conditions in the case of materials whose installation is governed by temperature or other atmospheric conditions.

Construction Methods

Subsection 422.03 of the Standard Specifications is amended to include the following:

19. The Traffic Control Manager's or Assistant Traffic Control Manager's duties shall include:
 - a. Insuring that all traffic control devices are functioning properly, are clean, and are correctly located as shown on the Traffic Control Plan or as directed by the Engineer. This provision in no way restricts the cleaning, repair, and maintenance of traffic control devices to the Traffic Control Manager or his or her assistants.
 - b. Inspecting all traffic control devices on every calendar day that traffic control devices are in place, whether in use or covered. Inspections shall take place a minimum of twice daily, and at least two inspections shall be eight hours apart. However, during or following periods of inclement weather or when the situation warrants for other reasons, inspections shall be done more frequently. At least 1 inspection each week shall occur during hours of darkness. The Traffic Control Manager or Assistant Traffic Control Manager shall perform the inspections.
 - c. Monitoring the cleaning and maintenance of all traffic control devices and the placement of temporary pavement markings.
 - d. Completing a Traffic Control Inspection form provided by the Engineer at the completion of each inspection. These forms shall be submitted daily to the Engineer, either in person or via facsimile transmission.
 - e. Monitoring flagging operations on the project. The Traffic Control Manager or Assistant Traffic Control Manager shall not act as a flagger, except in an emergency or when providing relief for short periods of time.
 - f. Coordinating all traffic control operations, including those of subcontractors and suppliers.
 - g. Coordinating traffic-related activities with the appropriate law enforcement, fire, and emergency medical agencies.
 - h. Attending all project scheduling meetings.

Method of Measurement

Subsection 422.04 of the Standard Specifications and Supplemental Specifications is amended to include the following:

21. (1) Traffic Control Management is measured by the day for the actual number of days management and inspection are required and provided. Payment will only be made for one day of Traffic Control Management during each midnight-to-midnight period regardless of the number of Traffic Control Managers or assistants required to adequately perform the work.
- (2) No measurement will be made when the Engineer has suspended the need for Traffic Control Management and notified the Contractor accordingly.

Basis of Payment

Paragraph 1. of Subsection 422.05 of the Standard Specifications and Supplemental Specifications is amended to include the following:

Traffic Control Management

Day (d)

Paragraph 15. of Subsection 422.05 of the Supplemental Specifications is renumbered to be Paragraph 16. Subsection 422.05 of the Standard Specifications and Supplemental Specifications is amended to include the following:

15. With regard to inspection, maintenance, and repair of temporary traffic control devices, an assessment in the amount of \$500 per occurrence per day shall be charged to the Contractor when any of the following occur (these assessments shall be in addition to any other liquidated damages which may be assessed):
 - a. The Contractor fails to respond within the timeframe specified in Paragraph 2.q. of the amended Subsection 422.01 of the Standard Specifications. Response time shall begin when:
 - 1) The Engineer notifies the Contractor of deficiencies in person;
 - 2) The Engineer makes notification of deficiencies via the 24-hour phone number(s) provided by the Contractor; or
 - 3) The Engineer leaves a message or receives no answer at the number(s) provided;
 - b. The Contractor fails to begin corrective actions to repair, replace, remove, relocate, or clean any traffic control devices or pavement markings within two hours of the completion of an inspection that uncovers deficiencies or within two hours of notification of deficiencies by the Engineer.
 - c. The Contractor fails to begin corrective actions to repair, replace, remove, relocate, or clean any traffic control devices or pavement markings within two hours of documented notification by an official law enforcement agency.
 - d. The Contractor fails to make or report the inspections prescribed in this specification.
 - e. The Engineer observes and documents any occurrence of the Contractor or his or her subcontractors flagrantly disregarding the necessary maintenance of traffic control devices that are in obvious need of attention.

IMPACT ATTENUATOR SYSTEM

Paragraph 18. of Subsection 422.03 of the Standard Specifications is void and superseded by the following:

The Contractor shall furnish, install an impact attenuator system at the location shown in the plans. The system shall meet NCHRP 350 standards for test-level 3 (TL-3).

The following products are impact attenuator systems that may or may not meet the requirements above. QuadGuard, manufactured by Energy Absorption Systems and distributed

by the John Thomas Company at 1-(888) 447-7263, TAU-11, manufactured by Barrier Systems Inc. at 1-(888) 800-3691, TRACC manufactured by Trinity Industries: at 1-(800) 644-7976.

The system shall be furnished and installed as specified by the manufacturer. The manufacturer shall certify, in a letter to the Engineer, that the system was installed correctly. Along with the certification, the manufacturer shall send maintenance instructions for the installed system.

The impact attenuators and relocate impact attenuators shall be measured as single units of the size and type shown in the plans and these Special Provisions, and shall be paid for at the contract unit price per each for the item "Impact Attenuator" and "Relocate Impact Attenuator". This price shall be considered full compensation for all work required to install the complete Impact Attenuator System.

The Impact Attenuator, when no longer needed, shall be removed, salvaged and delivered to the State of Nebraska Maintenance Yard in Ogallala, Nebraska.

CROSSOVER LIGHTING SYSTEM

Background

Two crossover lighting systems exist at the Western Canal Bridge west of Ogallala. Each crossover lighting system is complete (except for a meter at the service pole) and is ready to be energized in early Spring 2003. Each crossover lighting system consists of the following:

<u>Crossover Lighting System, Sta. 87+00</u>	<u>State Stock No.</u>
6 Ea. – 45' Tenon Top Pole	52-40105
6 Ea. – 400 Watt HPS Offset Luminaire	52-33440
6 Ea. – Power Foundation	52-33340
6 Ea. – Breakaway Transformer Base	52-17124
6 Sets – Carriage Bolts (4/Set)	52-33075
6 Sets – Connecting Bolts (4/Set)	52-33050
1 Ea. – 2 Pole – 30A Breaker Disconnect on 25' Wood Pole	

<u>Crossover Lighting System, Sta. 120+00</u>	<u>State Stock No.</u>
6 Ea. – 45' Tenon Top Pole	52-40105
6 Ea. – 400 Watt HPS Offset Luminaires	52-33440
6 Ea. – Power Foundation	52-33340
6 Ea. – Breakaway Transformer Base	52-17124
6 Sets – Carriage Bolts (4/Set)	52-33075
6 Sets – Connecting Bolts (4/Set)	52-33050
1 Ea. – 2 Pole – 30A Breaker Disconnect on 25' Wood Pole	

Upon completion of an "Energy Use Contract" with the State of Nebraska in early Spring 2003 the Utility (Nebraska Public Power District – Ogallala) will provide a meter at each crossover to energize the six lights.

The contractor will be responsible for the electrical energy used by the lights at each crossover; compensation to be made under the item "Operation and Maintenance of Crossover Lighting System."

At the completion of construction when traffic has been redirected back onto the normal driving lanes, the crossover lighting system shall be removed by the contractor. All poles, luminaries, breakaway devices, and power-installed foundations comprising the crossover lighting systems shall be removed, separated as individual components, cleaned, properly prepared, and delivered to the Department of Roads' Supply Yard at 5001 South 14th Street, Lincoln, Nebraska. Contact Stock Control Manager, Mr. Dave Feddern, at 479-4322 or his assistant, Mr. Tony Kabat, at 479-4315 forty-eight hours prior to delivery.

The two wood service poles with breaker disconnect and meter socket will not be salvaged but will become the property of the contractor and must be removed from the project.

All items must be accounted for and returned in good working condition. The contractor must replace missing or damaged components before final payment can be made. Items to be returned must be prepared as follows:

- a. Poles shall be free of internal wiring and have their handhole cover in place.
- b. Luminaires must have their photo-control in place and the mounting access hole covered with duct tape.
- c. Breakaway transformer bases shall have all bolts, nuts, and washers attached.
- d. Power foundations shall be thoroughly cleaned and have all bolts, nuts, and washers attached.

All items being delivered to the State yard for insertion into State stock must be accompanied by a properly completed Department of Roads' Form 147 "Stock Return for Credit." This form will be signed by the project manager and must be presented to the yard foreman at the time the materials are delivered. ***The contractor will not be allowed to "offload" any material if all of the above requirements are not complied with.***

Any void resulting from power foundation removal shall be backfilled with clean soil and compacted to a density equal to that of the surrounding earth.

Abandon existing direct buried cable in place.

Method of Measurement and Basis of Payment

A Crossover Lighting System as described in the plans and these special provisions, removed and returned to Lincoln when no longer needed as determined by the Engineer, shall be measured for payment as a single unit and paid at the contract unit price, per each, for the item "Remove Crossover Lighting System, Sta. ****." This price and payment shall be full compensation for removing, preparing, and delivering all materials to the Lincoln Supply Yard; placing the materials in the yard at the location(s) designated by the yard supervisor and for all materials, labor, equipment, tools and incidentals necessary to complete the work.

OPERATION AND MAINTENANCE OF CROSSOVER LIGHTING SYSTEMS

The contractor will be responsible for the proper operation and maintenance of the crossover lighting systems from the time the project is started until construction is complete and the project has been accepted. Operation and maintenance under this project will also include providing electrical energy for the lights at both crossovers.

If for any reason a crossover lighting unit fails or is "knocked down", it shall be repaired or replaced and put back in working order before dusk of the day following the day that the contractor is advised of the failure. Replacement parts (*poles, mast arms, breakaway bases, power foundations, and luminaires*) will be available at the Nebraska Department of Roads supply yard in Lincoln. It will be the contractor's responsibility to pick up any needed replacement parts (*excluding lamps*) from the supply yard in Lincoln and to protect these items from damage during transportation and installation.

New HPS lamps for all units, if needed, will be supplied by the contractor.

If the contractor fails to correct the reported failure of the system as stipulated above, the Department of Roads will hire a local contractor to perform the work and the cost will be assessed to the project contractor.

All costs resulting from the repair or replacement of lighting units damaged as the result of negligence or carelessness on the part of the contractor will be deducted from monies owed him.

Operation and maintenance of the two crossover lighting systems shall be measured for payment per day for the number of days the systems are in operation under this contract.

Basis of Payment

Payment will be made at the contract unit price per day for the item "Operation and Maintenance of Crossover Lighting System, Sta. ****." This price and payment shall be full compensation for all repairs, replacements, installations, rentals, fees, transportation, labor, equipment, tools, and incidentals necessary to maintain all lights at the crossover in working order as set forth in the plans, specifications, and these special provisions and for all electrical energy used by the lights at the crossover.

TEMPORARY TRAFFIC CONTROL DEVICES (S4-9-1201)

Paragraphs 2.a. of Subsection 422.05 in the Standard Specifications is void and superseded by the following:

2.a. If signs are not returned or are returned damaged, and the damage is beyond reasonable "wear and tear" and the damage was caused by the Contractor, then the Contractor shall be charged the value of the missing or damaged items. These charges shall be deducted from monies due the Contractor upon final payment.

**TYPE B HIGH INTENSITY WARNING LIGHTS
(S4-9-1002)**

All references in the plans to Type B High Intensity Warning Lights shall be considered void. The plans will not be revised to reflect this change.

**CONTRACTOR FURNISHED SIGNS
(S4-11-0202)**

“Contractor Furnished Signs” shall consist of approved retroreflective fluorescent orange or white signs mounted on NCHRP-350 approved traffic control devices, i.e. Type III Barricades or Plastic Drums. The Contractor furnished sign, mounted on a traffic control device, shall together be NCHRP-350 Test Level 3 approved. The signs shall be of the size and shape required by the plans. The color and design of the signs shall be as required by the MUTCD and the NDR Traffic Engineering Division. Sign legends and symbols shall be of professional quality workmanship and in uniformity with the Standard Highway Signs design guide. Contractor furnished Signs shall meet the requirements of the American Traffic Safety Services Association (ATSSA), “Quality Standard for Work Zone Traffic Control Devices”, hand printing or poor workmanship shall not be allowed.

Rigid sign substrates that have been approved to NCHRP 350 (TL-3) mounted on a traffic control device may be used.

Retroreflective orange fluorescent sheeting used for Contractor Furnished Signs shall be 3M diamond grade, Avery Dennison 6500 sheeting or other approved equal material.

Subsection 422.03 is amended by adding Paragraph 1.h.

“Contractor Furnished Signs” shall be installed as shown in the plans, or as directed by the Engineer. “Contractor Furnished Signs” shall be installed as prescribed in the MUTCD.

Paragraph 1.a. of Subsection 422.04 is amended to include the following:

NCHRP approved signs mounted on a traffic control device shall be measured by the each for the item “Contractor Furnished Signs”.

Paragraph 1. of Subsection 422.05 is amended to include the following:

Pay Item	Pay Unit
Contractor Furnished Sign	Each (ea)

TEMPORARY PAVEMENT MARKING (Surface Preparation)

Section 1069 in the Standard Specifications is amended to include the following:

Prior to the initial placement of the markings, temporary paint, Type II tape or raised pavement markers, the pavement upon which the markings are to be placed shall be dry, cleaned and properly prepared by shot blasting, as a minimum, and to the extent recommended by the manufacturer so that all contaminants, loose debris, and other foreign material are completely removed. Surface preparation for any subsequent application shall consist of air blasting and brushing the roadway surface to remove all loose dirt, mud or other debris and to dry the surface. Each additional application of paint shall be applied over the previously painted stripes.

Initial surface preparation requiring shot blasting shall be paid at the contract unit price per linear foot for the item "Temporary Pavement Marking, Surface Preparation". Surface preparation for repainting, consisting of air blasting and brushing, shall be subsidiary to other items for which payment is made.

LOCAL MATERIAL SOURCES (S5-1-0801)

Information regarding possible sources of local materials is available at the Materials and Research Division of the Department of Roads, Lincoln, Nebraska.

SURFACING UNDER GUARDRAIL

Amend Section 503 in the Standard Specifications and Supplemental Specifications to include Surfacing Under Guardrail.

At the contractor's option, the surfacing may be constructed using Class "47B-3000" Concrete, Class "AX-3000" Concrete, Class "PR-3000" Concrete (Class 47B-20 Concrete, Class AX-20 Concrete, Class PR-20 Concrete), or any commercially produced hot mix asphaltic concrete, which has been approved by the Engineer. These materials may be used interchangeably during the course of the work except that surfacing at any individual location must be completed with the same material with which the work was begun.

If concrete is used in the surfacing, it shall reach a minimum strength of 3000 psi (20 Mpa) before opening to traffic.

Amend Subsection 302.04 in the Standard Specifications to provide that the work of subgrade preparation, as well as all water applied for surfacing under guardrail will not be measured for payment, but shall be considered subsidiary to the item "Surfacing Under Guardrail".

Subsection 503.05 in the Standard Specifications is amended to provide that P.G. binder used in the asphaltic concrete will not be measured for payment, but shall be considered subsidiary to the item "Surfacing Under Guardrail".

Amend Subsection 304.04 in the Standard Specifications to provide that the work of shoulder construction, as well as all water applied for surfacing under guardrail will not be measured for payment, but shall be considered subsidiary to the item "Surfacing Under Guardrail."

Subsection 504.04 in the Standard Specifications is amended to provide that the application of a tack coat, including furnishing emulsified asphalt, will not be measured for payment, but shall be considered subsidiary to the item "Surfacing Under Guardrail".

The work and materials required for any drainage curb placed on surfacing under guardrail will not be measured and paid for, but will be considered subsidiary to the item "Surfacing Under Guardrail".

The work and materials required for surfacing under guardrail will be paid for at the contract unit price per square yard (square meter) for the item "Surfacing Under Guardrail". Payment will be full compensation for the work prescribed in these Special Provisions and the Standard Specifications.

TINING (S6-19-0203)

Paragraph 5.d. of Subsection 603.03 of the Standard Specifications is void and superseded by the following:

Description

When required by the plans or Special Provisions, the Contractor shall tine texture the concrete pavement surface using the following methods:

Construction Methods

1. The surface of the concrete pavement shall be dragged with wet burlap, carpet, or canvas belt before tining.
2. Mainline Tining-Longitudinal
 - a. Mainline paving shall be tined with a metal device 23 feet (7 meters) in length with a single row of tines.
 - b. The tines shall be of such dimensions as to produce grooves parallel to the centerline of the road approximately 1/8 inch (3 mm) wide and 1/8 inch (3 mm) deep spaced at 3/4 inch (19 mm) on center. A 2 inch (50 mm) to 3 inch (75 mm) wide strip of pavement surface shall be protected from surface grooving for the length of and centered along the longitudinal joint.
 - c. The tining device shall be mechanically operated and shall cover the full pavement width in a single pass at a uniform speed and depth centered on the longitudinal joint. Longitudinal tining shall be accomplished by equipment with horizontal and vertical string line controls to ensure straight grooves.
 - d. Hand tining will be allowed on irregular areas or areas inaccessible to the tining machine as shown in the 6 inch (155 mm) to 16 inch (405 mm) Concrete Pavement Plan. A tine rake shall be used for hand tining. The use of a corrugated bull float or other device that creates a smooth finish between the grooves will not be permitted.

3. When authorized, pavement texture damaged by rain and pavements not textured to the specified requirements shall be textured only after the concrete has attained its designed strength. The texturing shall be done with diamond grinding equipment specifically designed to grind and texture concrete pavements. The cutting head shall be at least 36 inches (915 mm) wide and capable of producing the depth and spacing indicated in 2.b.

TIE BARS FOR CONCRETE PAVEMENT (S6-19-0203)

Paragraph 4.k. of Subsection 603.03 in the Standard Specifications is amended to include the following:

TIE BAR SPACING FOR LONGITUDINAL JOINTS *					
#5 X 30" Grade 40 Bars					
Slab Thickness	2-Lane Roadway		Roadways w/3 or More Lanes		30' Top System
	Shoulder Joint Bar Spacing	Centerline Joint Bar Spacing	Shoulder Joint Bar Spacing	Lane Joint Bar Spacing	Centerline Joint Bar Spacing
10" or Less	33"	33"	33"	24 ¾"	33"
Greater than 10"	33"	24 ¾"	33"	16 ½" **	24 ¾"

* Tie bar spacing may vary ± 1 " from the nominal spacing shown. The number of tie bars per 16'-6" panel shall remain constant.

** Depth of tie bar placement for dwelled pavement shall be (T/2) less 1 ½".

TIE BAR SPACING FOR LONGITUDINAL JOINTS *					
#5 X 30" Grade 60 Bars					
Slab Thickness	2-Lane Roadway		Roadways w/3 or More Lanes		30' Top System
	Shoulder Joint Bar Spacing	Centerline Joint Bar Spacing	Shoulder Joint Bar Spacing	Lane Joint Bar Spacing	Centerline Joint Bar Spacing
10" or Less	49 ½"	49 ½"	49 ½"	33"	49 ½"
Greater than 10"	49 ½"	33"	49 ½"	24 ¾"	33"

* Tie bar spacing may vary ± 1 " from the nominal spacing shown. The number of tie bars per 16'-6" panel shall remain constant.

No tie bar shall be installed closer than ½ the tie bar spacing to a transverse joint.

Paragraph 4.k.(3)(ii) of Subsection 603.03 in the Standard Specifications and Supplemental Specifications is void and superseded by the following:

(ii) To minimize tie bar breakage, before placing the adjacent lane the tie bars shall be bent to a position that is at least 45 degrees to the longitudinal joint. The free end of the bar shall not be within six inches horizontally of the location of the transverse joint to avoid corner cracking when the joint is sawed. The free end of the bar shall also be positioned so that it does

not interfere with the movement of any dowel bar in the transverse joint. Bars that are broken by bending or that are loose in their socket must be replaced or secured.

DOWELED CONCRETE PAVEMENT (S6-20-0203)

Section 603 in the Supplemental Specifications and the Standard Specifications is amended to include Doweled Concrete Pavement.

Transverse Joints for doweled concrete pavement shall be constructed perpendicular to the roadway on 16'-6" (5 meter) centers.

The dowel bars shall meet the requirements of Section 1022.

The dowel bars shall be placed within a tolerance of 1/4 inch (6 mm) in both the horizontal and vertical planes. The Contractor shall check with a suitable template approved by the Engineer, the placement of each assembly and the position of the bars within the assembly. If the assembly is found to be placed outside any one of the tolerances, the placement shall be corrected.

Dowels for transverse joints furnished in approved assemblies shall be suitable for the joint layout shown in the plans. The assemblies shall be dipped in MC-70, RC-70, RC-250, CRS-1, CRS-2, CSS-1H, HFMS-2h, or HFMS-2s prior to delivery to the work site.

For areas with pavement widening, the Department requires that dowel baskets be placed in all contraction joints which are 6 feet (1.8 m) or wider.

When basket assemblies are used, the baskets shall be placed at all transverse joints where doweled concrete is required, and shall be securely pinned to the grade to prevent any movement during the paving operation. Pins shall be placed at a maximum distance of three feet (1 meter) apart and shall be a minimum of 12 inches (300 mm) in length. All lateral support braces, which would restrict movement of the dowel bars, shall be cut after the baskets are secured and prior to placing the concrete.

Assemblies that are damaged prior to placement shall not be used. Assemblies damaged after placement shall be replaced prior to paving.

If normal vibration is found inadequate to thoroughly consolidate the plastic concrete within and around the dowel basket assemblies, additional hand vibration or other procedures may be required by the Engineer.

Precautions shall be taken to assure that the sawed contraction joint is located directly over the center of the dowel bars.

CRACKS IN CONCRETE PAVEMENT (S6-20-0901)

Transverse cracks which form in the concrete pavement panels between load transfer joints shall be secured with a minimum of 1 1/2 inch x 18 inch (38 mm x 450 mm) epoxy coated deformed reinforcing bars as shown in the plans. The reinforcing bars shall conform to the requirements of Sections 1020 and 1021. The dowel bars shall be secured using a resin adhesive listed on NDOR approved products list. No payment will be made for this work.

PRECAST/PRESTRESSED CONCRETE STRUCTURAL UNITS (S7-5-0302)

Table 705.03 in Section 705 in the Standard Specifications is void and superseded by the following:

Table 705.03

Required Concrete Sampling and Testing		
Test	Contractor Test Samples*	Department Correlation Test Samples
Yield ASTM C138 Air meter measuring bowl.	One per day	One per 10 Contractor tests (for each mix)
Air content ASTM C 231 (0.8% variation allowed)	One per load	One every 5 production days. (for each mix)
Concrete Temperature ASTM C 1064	One per load	One every 5 production days. (for each mix)
Concrete Compressive Strength		
28-day strength ASTM C 31 Section 9.3 Cure	Two cylinders – each from a different load; and one from the last load	One set of two cylinders every 5 production days. (for each mix)
56-day strength (Used only if 28-day strength is less than specified.) ASTM C 31 Section 9.3 Cure	Two cylinders – each from a different load and from same load as 28-day break.	N/A
<p>* At least 6 cylinders shall be made each production day and at least 2 cylinders are required from each load.</p> <p>* Cylinders shall be 4 inches (100 mm) by 8 inches (200 mm).</p> <p>* Contractor test samples and Department correlation test samples shall be taken independently.</p>		

**DIRECT TENSION INDICATORS
(S7-6-0902)**

Paragraph 10.h. of Subsection 708.03 in the Nebraska Standard Specifications is void and superseded by the following:

h. Direct Tension Indicators (DTIs):

- (1) High strength fasteners shall be installed using Direct Tension Indicators (DTIs).
- (2) Self-indicating (Squirter) type DTIs that meet the requirements of ASTM F959/F959M shall be used.
- (3) DTIs shall be installed in accordance with Division II, Article 11.5.6.4.7 of the AASHTO Standard Specifications, 16th edition.
- (4) The Contractor shall provide to the Engineer a detailed inspection instructions prepared by the manufacturer for approval.
- (5) At the start of work, representative samples shall be submitted to the NDOR Materials and Research Division for testing in the tension calibration device to demonstrate that the DTIs supplied are within the compression load ranges in Table 3 of ASTM F959/F959M.
- (6) Installation and tightening of individual bolts with Squirter DTIs shall be in accordance with manufacturer instructions.
- (7) The Direct Tension Indicators shall be stored in an environment that preserves the surface condition supplied by the manufacturer.
- (8) Reuse of Direct Tension Indicators is not allowed.

**SHEAR CONNECTORS
(S7-7-1002)**

Shear connectors are now to be installed according to OSHA Instruction, Directive No. CPL 2-1.34 dated March 22, 2002.

Section 708 in the Standard Specifications is amended as follows:

1. Paragraph 24. of Subsection 708.03 is void.
2. Paragraph 3. of Subsection 708.04 is void.
3. Paragraphs 1. and 5. of Subsection 708.05 are void.

CONCRETE BRIDGE FLOORS (S7-8-1102)

Paragraph 2.b. of Subsection 706.03 in the Standard Specifications is void and superseded by the following:

- b. Bridge floor concrete shall not be placed when the ambient air or concrete temperature is above 90°F (32°C).

Table 706.01 in Subsection 706.03 is void and superseded by the following:

Table 706.01

Temperature and Wind Velocity Limitations	
Air Temperature in the Shade	Maximum Wind Velocity
90°F (32°C)	10 mph (16 kph)
77°F (25°C)	16 mph (25 kph)
68°F (20°C)	22 mph (35 kph)
59°F (15°C)	28 mph (45 kph)
50°F (10°C)	40 mph (65 kph)

ELASTOMERIC BEARINGS

Description

This work shall consist of furnishing and installing elastomeric bearings at the locations shown in the plans. The bearing shall consist of a grade 3, 60 durometer, elastomeric pad conforming to the requirements of Section 1068 of the Standard Specifications.

The bearing shall be fabricated and certified by the manufacturer. The certification shall include all required test reports and shall state that all materials used in the fabrication comply with the requirements of this Specification.

Testing shall be in accordance with the AASHTO Standard Specifications for Highway Bridges. The Engineer shall be allowed to witness all testing and approve the testing agency or other parties involved in the testing operation.

The elastomeric bearings shall be suitably packaged to prevent damage during shipment and storage.

Method of Measurement

The elastomeric bearings are measured by the each.

Basis of Payment

Payment for each elastomeric bearing is full compensation for all work prescribed herein.

SEEDING

Subsection 803.02 in the 1997 English Edition of the Standard Specifications is amended to include the following:

Type "B"	Minimum Purity (%)	Broadcast or Hydraulic Seeder Application Rate in lb. of Pure Live Seed/Acre	Approved Mech. Drill Application Rate in lb. of Pure Live Seed/Acre
Perennial Ryegrass – Linn.	85		10
K-31 Fescue	85		15
Western Wheatgrass – Flintlock	85		12
Sheeps Fescue	85		8
Sand Lovegrass – NE-27, Native	90		2
Blue Grama – NE, KS, CO	35		2
Buffalograss – Sharps 2, Cody	80		6
Blue Flax	90		3
Oats/Wheat	90		15

All seed shall be origin Nebraska, adjoining states, or as specified. A contractor proposing to use a substitute variety, or origin shall submit for the engineer's consideration a seed tag representing the seed which shows the variety, origin and analysis of the seed.

Rates of application of commercial inorganic fertilizer shall be:

	Rate of Application Per Acre (Minimum)
Available Nitrogen (N ₂) -----	32 or 36 lb.
Available Phosphoric Acid (P ₂ O ₅) -----	92 or 96 lb.

Rate of application of granular sulphur coated urea fertilizer shall be:

Nitrogen (total available) -----	60 lb.
----------------------------------	--------

The contractor may, at his option, apply granular urea formaldehyde in lieu of the sulphur coated urea fertilizer at the following rate:

Nitrogen (total available) -----	60 lb.
----------------------------------	--------

EROSION CONTROL

Subsection 807.02 in the 1997 English Edition of the Standard Specifications is amended to include the following:

	Minimum Purity (%)	Application rate in lb. of Pure Live Seed/1000 yd. ²
For all erosion control – use the same seed mix and rate as shown for Type B seeding.		

All seeds shall be origin Nebraska, adjoining states, or as specified. A contractor proposing to use a substitute variety or origin shall submit for the engineers consideration a seed tag representing the seed, which shows the variety, origin and analysis of the seed.

Rate of application of inorganic fertilizer shall be:

	Rate of Application Per 1000 yd. ² (Min.)
Available Nitrogen (N ₂) -----	8 or 9 lb.
Available Phosphoric Acid (P ₂ O ₅) -----	23 or 24 lb.

Rate of application of granular sulphur coated urea fertilizer or urea-formaldehyde fertilizer shall be:

	Rate of Application Per 1000 yd. ² (Min.)
Nitrogen (Total Available) -----	18 lb.

EROSION CONTROL TYPE AAAA

This work shall consist of placing a soil retention blanket, seed, fertilizer and soil fill at the locations shown in the plans and as directed by the engineer.

Paragraph 1. of Subsection 807.02 in the Standard Specifications is void and superseded by the following:

The soil retention blanket for Erosion Control "AAAA" shall be as shown on the approved products list for Erosion Control "AAAA".

Filter fabric is not required for this installation. Seed and fertilize the area. Install the "AAAA" erosion control material. Soil fill the erosion control material and reseed the area and rake in lightly.

Paragraph 2. of Subsection 807.02 of the Standard Specifications is void and superseded by the following:

The pins for the "AAAA" erosion control material shall be a minimum of 8 or 9 gauge wire, u-shaped pins with 8"-10" legs and a 1" or 2" throat.

GUARDRAIL END TREATMENT, TYPE I (S9-2-0202)

Section 902 in the Standard Specifications is amended to include "Guardrail End Treatment, Type I".

This work consists of furnishing and installing a guardrail end treatment system according to the details and at the locations shown in the plans.

The Contractor has the option of installing one of the following systems:

- 1.) ET-2000; Manufactured by Trinity Industries, Inc.
2525 N. Stemmons Freeway
Dallas, TX 75207
(800) 644-7976
- 2.) BEST; Manufactured by Road Systems, Inc.
3616 Old Howard County Airport
Big Springs, TX 79720
(915) 263-2435
- 3.) SKT-350; Manufactured by Road Systems, Inc.
3616 Old Howard County Airport
Big Springs, TX 79720
(915) 263-2435

The Contractor will be required to furnish two sets of shop plans to the Department of the system to be installed. The guardrail end treatment shall be installed in accordance with the recommendations of the manufacturer.

Payment shall be full compensation for all work required to provide and install the system.

TEMPORARY FENCE

When the existing right of way fence is removed before the new one is built, the contractor shall install and maintain a temporary right of way fence.

In areas where the new right of way fence can be constructed without conflicts, the new fence shall be completed before the existing fence is removed.

Right of way fence construction shall be accomplished and completed in one quadrant at a time, for removal, temporary fence, and new right of way fence.

The temporary fence can be let down to allow access during a day's construction but shall be replaced if work crews are not in the area. The temporary fence must be in place at the end of each day's operation.

The contractor shall furnish the temporary fence and fence materials. The fence material shall be a lightweight orange colored plastic and be at least 4 feet high. The contractor will also furnish metal "T" posts and ties. The post shall be set at approximately 10 feet intervals and the fabric tied with 3 ties per post.

After the new right of way fence is in place, the temporary fence may be removed.

The work of installing, maintaining, and-removing the temporary fence will not be paid for directly, but shall be subsidiary to the item "Right of Way Fence".

TEMPORARY GUARDRAIL

Section 902 in the 1997 English Edition of the Standard Specifications is amended to include that the contractor shall furnish and install two Bridge Approach Sections, W-Beam Guardrail and two Guardrail End Treatment Type I, as shown in the plans for the Temporary Guardrail.

The temporary guardrail shall be in place prior to the commencement of head to head traffic. The temporary guardrail shall be removed and reset on the reconstructed bridge preceding the head to head traffic switching sides. When traffic has resumed normal operations, the temporary guardrail shall be removed, salvaged and delivered to the State of Nebraska Maintenance Yard in Ogallala, Nebraska.

This work shall be measured and paid for by the Lump Sum for the item "Temporary Guardrail". This price shall be full compensation for all work prescribed.

REMOVE GUARD RAIL

Section 903 in the 1997 English Edition of the Standard Specifications is amended to include that all guard rail removed and salvaged shall be delivered to the State of Nebraska Maintenance Yard in Ogallala, Nebraska.

47B CONCRETE PAVEMENTS AND 47BD CONCRETE FOR BRIDGES (S10-4-0902)

General

Section 1002 in the 1997 Standard Specifications and Supplemental Specifications is amended to include the following:

For the purpose of this Special Provision, Type IPN shall mean Type IP cement made with 15 to 25 percent natural pozzolan and Type IPF shall mean Type IP cement made with 15 to 25 percent Class F fly ash. All cements must conform to the requirements of Section 1004 in the 1997 Standard Specifications and Supplemental Specifications.

47BD Concrete for Bridges and Barriers

The 47BD concrete used in bridge decks, approach slabs, bridge rails, and barriers shall be proportioned using one of the alternates shown in Table I.

TABLE I (ENGLISH)
CLASS 47BD CONCRETE PROPORTIONS

Alt.	Cement Type	Pounds of Cement per Cu.Yd.	Pounds of Class F Fly Ash	Air Content Percent		Pounds of Total Agg. per Cu.Yd.		Ratio of Total Agg. Percent	Type of Coarse Agg.****
				Min.	Max.	Min.	Max.		
1	I or II	590	130 Min.	5.0	7.5	2530	2950	30±3	Limestone
2	IPN	658	0*	5.0	7.5	2530	2950	30±3	Limestone
3	IPF	658	0**	5.0	7.5	2530	2950	30±3	Limestone
4	I or II	658***	0***	5.0	7.5	2530	2950	30±3	Limestone

TABLE I (METRIC)
CLASS 47BD CONCRETE PROPORTIONS

Alt.	Cement Type	Kg of Cement per Cu. Meter	Kg of Class F Fly Ash	Air Content Percent		Kg of Total Agg. per Cu.Meter		Ratio of Total Agg. Percent	Type of Coarse Agg.****
				Min.	Max.	Min.	Max.		
1	I or II	350	77 Min.	5.0	7.5	1500	1750	30±3	Limestone
2	IPN	390	0*	5.0	7.5	1500	1750	30±3	Limestone
3	IPF	390	0**	5.0	7.5	1500	1750	30±3	Limestone
4	I or II	390***	0***	5.0	7.5	1500	1750	30±3	Limestone

* Class C or F fly ash may be substituted in the mix design provided the total pozzolan content does not exceed 25 percent. The mix may be modified by substituting an amount of fly ash equal to the weight of cement removed.

** No additional fly ash substitution is allowed.

*** Total alkali content shall not exceed 3 lbs./yd.³ (1.8 Kg/m³)

**** Quartzite from an approved source may be substituted for limestone.

Water reducing and set retarding admixtures shall be used in accordance with the manufacturer's recommendations of dosage rates.

47B Concrete Pavements

The 47B concrete used in concrete pavements shall be proportioned using one of the alternates shown in Table II.

TABLE II (ENGLISH)
CLASS 47B CONCRETE PAVEMENT PROPORTIONS

Alt.	Cement Type	Pounds of Cement per Cu.Yd.	Pounds of Class F Fly Ash	Air Content Percent		Pounds of Total Agg. per Cu.Yd.		Ratio of Total Agg. Percent	Type of Coarse Agg.****
				Min.	Max.	Min.	Max.		
1	I or II	510	110 Min.	5.0	7.5	2876	3130	30±3	Limestone
2	IPN	564*	0*	5.0	7.5	2876	3130	30±3	Limestone
3	IPF	564**	0**	5.0	7.5	2876	3130	30±3	Limestone
4	I or II	564***	0***	5.0	7.5	2876	3130	30±3	Limestone

TABLE II (METRIC)
CLASS 47B CONCRETE PAVEMENT PROPORTIONS

Alt.	Cement Type	Kg of Cement per Cu. Meter	Kg of Class F Fly Ash	Air Content Percent		Kg of Total Agg. per Cu.Meter		Ratio of Total Agg. Percent	Type of Coarse Agg.****
				Min.	Max.	Min.	Max.		
1	I or II	303	65 Min.	5.0	7.5	1706	1857	30±3	Limestone
2	IPN	335*	0*	5.0	7.5	1706	1857	30±3	Limestone
3	IPF	335**	0**	5.0	7.5	1706	1857	30±3	Limestone
4	I or II	335***	0***	5.0	7.5	1706	1857	30±3	Limestone

* Class C or F fly ash may be substituted in the mix design provided the total pozzolan content does not exceed 25 percent. The mix may be modified by substituting an amount of fly ash equal to the weight of cement removed.

** No additional fly ash substitution is allowed.

*** Total alkali content shall not exceed 3 lbs./yd.³ (1.8 Kg/m³)

**** Quartzite from an approved source may be substituted for limestone.

Water reducing admixtures shall be used in accordance with the manufacturer's recommendations of dosage rates.

FLY ASH (S10-5-0801)

Subsection 1008.01 in the Standard Specifications is void and superseded by the following:

Fly ash shall be Class C or F meeting the requirements of ASTM C 618.

STRUCTURAL STEEL (S10-5-0801)

Section 1045 of the Standard Specifications is amended to include the following:

1045.03 -- Steel Plate Substitution

The Contractor may use either English or Metric steel plates in accordance with Table 1045.01.

Table 1045.01			
English-Metric Steel Plate Substitution Table			
Metric (millimeters)	English (inches)	Metric (millimeters)	English (inches)
9	3/8	32	1 1/4
10	3/8	35	1 3/8
11	7/16	38	1 1/2
12	1/2	40	1 5/8
14	9/16	45	1 3/4
16	11/16	50	2
18	3/4	55	2 1/4
20	13/16	60	2 3/8
22	7/8	70	2 3/4
25	1	80	3 1/4
28	1 1/8	90	3 1/2
30	1 1/4		

REPAIR OF DAMAGED METALLIC COATINGS (S10-5-0801)

Paragraph 2. of Subsection 1061.01 in the Standard Specifications is void and superseded by the following:

2. The material used for repair shall provide a minimum coating thickness of at least 50 µm with one application.

**DOWEL BARS
(S10-5-0801)**

Subsection 1022.02 in the Standard Specifications is amended to include the following:

In addition to these certificates, two 1.8 meter samples of the coated bar (for tension testing and bend testing) of each size bar and each heat number shall be sent to the NDR Materials and Research Laboratory, Lincoln, Nebraska. These bars will be properly identified with tags showing the size and heat number.

**CORRUGATED METAL PIPE
(S10-5-0801)**

Table 1035.01 in Section 1035 of the Supplemental Specifications is amended by deleting the title "Steel and Aluminum Culvert Thickness".

**METAL FLARED-END SECTIONS
(S10-5-0801)**

Table 1036.01 in Section 1036 of the Supplemental Specifications is amended by deleting the title "Steel and Aluminum Flared-End Thickness".

**REINFORCED CONCRETE PIPE, MANHOLE RISERS,
AND FLARED-END SECTIONS
(S10-5-0801)**

Paragraph 3.a. of Subsection 1037.02 in the Supplemental Specifications is void and superseded by the following:

3.a. Round reinforced concrete pipe shall conform to the requirements of AASHTO M 170-95 with the exception of the minimum circumferential reinforcing (in²/ft. (mm²/m) of pipe wall) for 15, 21, and 24 inch (380, 460, 600 mm) Class III pipe, as shown below:

Paragraph 3.b. of Subsection 1037.02 is void and superseded by the following:

b. AASHTO M 170-95 Specifications are modified as follows:

Paragraph 4. of Subsection 1037.02 is void and superseded by the following:

4. Reinforced concrete arch pipe shall conform to the requirements of AASHTO M 206-95.

Paragraph 5. of Subsection 1037.02 is void and superseded by the following:

5. Reinforced concrete elliptical pipe shall conform to the requirements of AASHTO M 207-95.

Paragraph 7. of Subsection 1037.02 is void and superseded by the following:

7. Concrete flared-end sections shall be of the design shown in the plans and in conformance with the applicable requirements of AASHTO M 170-95, Class II pipe, AASHTO M 206-95, Class A-II pipe, or AASHTO M 207-95, Class HE-II pipe for the diameter of pipe which it is to be installed.

HIGH TENSILE BOLTS, NUTS, AND WASHERS (S10-5-1001)

Subsection 1058.02 in the Supplemental Specifications is void.

Paragraph 4.b.(5) in the Standard Specifications is void and superseded by the following:

- (5) The bolt, nut, and washer assembly shall be assembled in a Skidmore-Wilhelm calibrator or an acceptable equivalent device. For bolts that are too short to be assembled in the calibrator, see Subsection 1058.03, Paragraph 4.b.(9).

ELASTOMERIC BEARINGS AND LAMINATED BEARING PADS (S10-5-0202)

Paragraph 2. of Subsection 1068.02 in the Standard Specifications is void and superseded by the following:

2. Certification shall be furnished in accordance with NDR's *Materials Sampling Guide*.

Paragraph 3. of Subsection 1068.02 is void.

STEEL BARS FOR CONCRETE REINFORCEMENT (S10-5-1201)

Section 1020 in the Standard Specifications is void and superseded by the following:

1020.01 - Description

Steel tie bars for longitudinal joint reinforcement in concrete pavements shall be epoxy coated and deformed Grade 40 or 60 billet steel as shown in the plans, specifications or Special Provisions.

1020.02 - Material Characteristics

1. Billet-steel bars shall conform to the requirements of ASTM A 615/A 615M.
2. Epoxy coatings shall conform to the requirements in Section 1021 of the Standard Specifications and Supplemental Specifications.

1020.03 - Acceptance Requirements

Acceptance shall be based on sampling, testing, and certification requirements in accordance with the NDR *Materials Sampling Guide*.

**PROPOSAL GUARANTY
(S1-38-0801)**

As an evidence of good faith in submitting a proposal for this work or for any portion thereof as provided in the proposal form, the bidder must file with his proposal a bid bond, which must be executed on the Department of Roads' Bid Bond form, in the amount of 5 percent of the amount bid for any group of items or collection of groups for which the bid is submitted. Any alterations, conditions or limitations added to the Department of Roads' Bid Bond form will be unacceptable and cause the bid not to be opened and read.

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