
PROJECT AGREEMENT SCHEDULES

Execution Version

August 24, 2015

MICHIGAN DEPARTMENT OF TRANSPORTATION

**DELIVERY OF FREEWAY LIGHTING AS A DESIGN-BUILD-FINANCE-OPERATE-
MAINTAIN PROJECT**

SCHEDULE 1 - DEFINITIONS AND INTERPRETATIONS

- 1.1 AAA Rules** has the meaning given in Section 3 of Schedule 4 – Dispute Resolution Procedure of this Agreement.
- 1.2 Acceptable Letter of Credit** means a standby letter of credit:
- (a) issued by a financial institution rated in the top two categories by two of the three (3) Rating Agencies or at least A-: VIII or better according to A.M. Best's Financial Strength Rating and Financial Size Category;
 - (b) in form approved by MDOT in its good faith discretion;
 - (c) payable promptly, conditioned only on presentment from MDOT to the issuer of a sight draft drawn on the letter of credit and a certificate stating that MDOT has the right to draw under the letter of credit in the amount of the sight draft, up to the amounts due to MDOT;
 - (d) that allows multiple draws;
 - (e) that names MDOT beneficiary; and

that provides a scheduled expiration date no earlier than 6 months after the scheduled end of the Term (or, if it expires earlier than such date, permits a drawing of the full amount of the letter of credit if the letter of credit is not renewed or extended at least 20 Business Days prior to its stated expiration date).

- 1.3 Account Balances** means all amounts standing to the credit of any bank account held by or on behalf of Project Company (excluding the Handback Account), or the value of any letter of credit issued in substitution for any bank account previously held by Project Company (excluding the Handback Account), at the Expiry Date.
- 1.4 Affiliate** means in respect of a Person means any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person, where "control" means, with respect to the relationship between or among two or more Persons, the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a person, whether through the ownership of voting securities, as trustee, personal representative or executor, by statute, contract, credit arrangement or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such person.
- 1.5 Additional Remedy Period** has the meaning given in Section 4.6(f) of Schedule 3 – Payment Mechanism.
- 1.6 Agreed Remedy Period** has the meaning given in Section 4.6(b) of Schedule 3 – Payment Mechanism.

- 1.7 Agreement or Project Agreement** means this agreement including all Schedules and Exhibits.
- 1.8 Annual Escalation** means the Consumer Price Index (BES Series ID: CUURA208SA0) for the Detroit Metro Region (Detroit-Ann Arbor-Flint, MI), as published by the United States Department of Labor, Bureau of Labor Statistics, for which the base year is 1982-84 = 100, or if such publication ceases to be in existence, a comparable index selected by MDOT and approved by the Project Company, acting reasonably. If such index is revised so that the base year differs from that specified above, the Annual Escalation Rate shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Bureau of Labor Statistics otherwise alters its method of calculating such index, including modifying the cities representing the Detroit Metro region, the Parties shall mutually determine appropriate adjustments in the affected index.
- 1.9 Applicable Law** means any federal State or local statute, law, code, regulation, ordinance, rule, common law, judgment, judicial or administrative order, decree, directive, or other requirement having the force of law or other governmental restriction (including those resulting from the initiative or referendum process) or any similar form of decision of or determination by any Governmental Entity, in each case, as amended, revised, supplemented or otherwise modified from time to time.
- 1.10 Applicable Standards** includes all applicable codes, standards, manuals, advisory circulars and references referenced within this Agreement and Part 3, Volume I, Applicable Standards and Reference Information Documents, in each case, as amended, revised, supplemented or otherwise modified from time to time.
- 1.11 Approved Purposes** means any purpose in connection with the Project and any other transportation facility, owned and operated by MDOT in Michigan.
- 1.12 As-Built Drawings** means the as-built drawings prepared by the Project Company in compliance with the Technical Requirements.
- 1.13 Background Information** includes all Intellectual Property owned by Project Company prior to submitting a Proposal.
- 1.14 Bankruptcy Event** means any of the following events:
- (a) a receiver, receiver manager or other encumbrance holder taking possession of or being appointed over, or any distress, execution or other process being levied or enforced upon, the whole or any material part of the assets of an entity;
 - (b) any proceedings with respect to the entity being commenced under the Bankruptcy Law and if such proceedings are commenced against and are disputed by the entity, such proceedings are not discontinued, withdrawn, dismissed or otherwise remedied within 40 Business Days of such proceedings being instituted;
 - (c) the entity making an assignment for the benefit of its creditors, being declared bankrupt or committing an act of bankruptcy, becoming insolvent, making a proposal or otherwise taking advantage of provisions for relief under the Bankruptcy Law or similar legislation

in any jurisdiction, or any other type of insolvency proceedings being commenced by or against the entity under the Bankruptcy Law or otherwise and, if proceedings are commenced against the entity and are disputed by the entity, such proceedings are not stayed, dismissed or otherwise remedied within 40 Business Days of such proceedings being instituted;

- (d) in any voluntary or involuntary case seeking liquidation, reorganization or other relief with respect to the entity or its debts under any Bankruptcy Law or foreign bankruptcy, insolvency or other similar law now or hereafter in effect, this Agreement or any of the other Project Documents is rejected, including a rejection pursuant to 11 USC § 365 or any successor statute; or
- (e) the entity ceasing to carry on business.

1.15 Bankruptcy Law means the United States Bankruptcy Code, 11 U.S.C. 101 et seq. as amended from time to time and any successor statute thereto. “Bankruptcy Law” also includes any similar state law relating to bankruptcy, insolvency, the rights and remedies of creditors, the appointment of receivers or the liquidation of companies and estates that are unable to pay their debts when due.

1.16 Base Case Equity IRR means

1.17 Books and Records means any and all documents, books, records, papers, or other information relating to the Project, the Project Operations or the Premises including:

- (a) all design and construction documents, and operations and maintenance documents including drawings, specifications, submittals, subcontracts, subconsultant agreements, purchase orders, invoices, schedules, meeting minutes, budgets, forecasts, change orders, plans (including the Project Management Plan), reports and manuals;
- (b) daily time sheets and supervisor’s daily reports, union agreements, insurance, welfare and benefits records, payroll registers, earning records, payroll tax forms, invoices and requisitions, equipment records, payment certificates, cancelled checks, job cost reports, job payroll ledges, general ledger, cash disbursement journal;
- (c) income statements, balance sheets, statements of cash flow and changes in financial position, details regarding operating income, expenses, capital expenditures and budgeted operating results;
- (d) all budgets, certificates, Claims, contract agreements, correspondence, data (including test data), documents, expert analyses, facts, files, information, investigations, materials, notices, plans, projections, proposals, records, reports, requests, samples, schedules, settlements, statements, studies, surveys, tests, test results, traffic information (including volume counts, classification counts, origin and destination data, speed and travel time information and vehicle jurisdiction data) analyzed, categorized, characterized, created, collected, generated, maintained, processed, produced, prepared, provided, recorded, stored or used by Project Company, Project Company Related Entities or any of their representatives; and
- (e) with respect to clauses (a) – (c), any information that is stored electronically or on computer-related media, including in the electronic document management system;

provided however, that nothing in this Agreement shall require the disclosure by any Party of Books and Records that is protected by the attorney-client or other legal privilege based upon an opinion of counsel reasonably satisfactory to the other Party.

1.18 Business Day means any day other than a Saturday, a Sunday, a statutory holiday in the State of Michigan or any day on which banks are not open for business in the city of Detroit.

1.19 Category 1 Defect means any Defect which is not an Incident but otherwise poses a risk to health or safety including those items specified in Appendix A to Schedule 3 – Payment Mechanism as Category 1 Defects.

1.20 Category 2 Defect means any Defect which is not a Category 1 Defect including those items specified in Appendix A to Schedule 3 – Payment Mechanism as Category 2 Defects.

1.21 Change means:

- (a) with respect to the D&C Works, any change to the Technical Requirements including any addition, decrease, omission, deletion, removal or modification from the D&C Works which result from such change to the Technical Requirements;
- (b) with respect to the O&M Works, any change to the O&M Requirements including any addition, decrease, omission, deletion, removal or modification to or from the O&M Works which result from such change to the O&M Requirements; and
- (c) any change to the Improved Freeway Lighting System, including any addition, decrease omission, deletion, removal or modification to or from Improved Freeway Lighting System,

excluding any change of the type referred to in clauses (a) through (c):

- (d) which does not increase the capital cost of the D&C Works, the cost of performing the O&M Works or the achievement of Substantial Completion; or
- (e) in connection with the Major Projects described Article 4 of the D&C Requirements or the Conversion Work.

1.22 Change in Control means, with respect to a Person:

- (a) means, with respect to a person, any change in ownership, whether beneficial or otherwise, of any of the shares or Units of ownership of such person, or in the direct or indirect power to vote or transfer any of the shares or units of ownership of such person, where the effect of such change is to result in control of the decisions made by or on behalf of such person subsequently being with a different entity or entities than prior to such change;
- (b) any other change in respect of the power to elect a majority of the directors of the person or otherwise control the decisions made on behalf of such Person; or

- (c) any other change of direct or indirect power to direct or cause the direction of the management, actions or policies of such Person.

Notwithstanding clauses (a) – (c), the following shall not constitute a Change in Control:

- (d) a change in possession of the power to direct or control the management of Project Company or a material aspect of its business due solely to a bona fide transaction involving beneficial interests in the ultimate parent organization of an Equity Member, (but not if the Equity Member is the ultimate parent organization), provided, however, that this exception shall not apply if the transferee in such transaction is, at the time of the transaction, suspended or debarred, subject to an agreement for voluntary exclusion, or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or State department or agency;
- (e) an upstream reorganization or transfer of direct or indirect interests in Project Company so long as there occurs no change in the entity with ultimate power to direct or control or cause the direction or control of the management of Project Company;
- (f) a transfer of interests between managed funds that are under common ownership or control, except a change in the management or control of a fund that manages or controls Project Company;
- (g) an equity transfer, where the transferring Equity Member and the transferee are under the same ultimate parent organization ownership, management and control before and after the transfer;
- (h) a change in possession of the power to direct or control the management of Project Company or a material aspect of its business due solely to bona fide open market transactions in securities effected on a recognized public stock exchange, including such transactions involving an initial public offering;
- (i) the exercise of minority veto or voting rights (whether provided by Applicable Law, by Project Company's organizational documents or by related member or shareholder agreements or similar agreements) over major business decisions of Project Company, provided that if such minority veto or voting rights are provided by shareholder or similar agreements, MDOT has received copies of such agreements; or
- (j) the grant of Security Documents, in strict compliance with this Agreement, or the exercise of Lender remedies thereunder, including foreclosure.

- 1.23 Change in Law** means (a) any repeal (in whole or in part) of, or amendment or modification to, any Applicable Law by, any Governmental Entity or any written change in interpretation or application of, any Applicable Law, in each case, after the Setting Date, or (b) the adoption or enactment of any new Applicable Law by any Governmental Entity after the Setting Date, in each case in clauses (a) and (b), that is materially inconsistent with any existing Applicable Law or any existing interpretation or application of, any such Applicable Law in effect prior to the Setting Date; excluding, however, (i) any repeal of, or amendment or modification to, or written change in interpretation or application of, an Applicable Law, or any new Applicable Law, in each case, that is passed or adopted but not yet effective as of the Setting Date, (ii) any repeal of, or amendment or modification to, or written change in interpretation

or application of, or the adoption or enactment of, state tax laws of general application (it being understood that any change in state tax laws shall not be deemed of general application if it is solely directed at, and the effect of which is solely borne by, the Project Company) and (iii) any repeal of, or amendment or modification to, or written change in interpretation or application of, or adoption or enactment of, state labor laws.

- 1.24 Change Order** has the meaning given in Section 2.1 of Schedule 2 – Change Procedure.
- 1.25 Change Work** has the meaning given in Schedule 15 – Direct Costs.
- 1.26 Change Response** has the meaning given in Section 2.4 of Schedule 2 – Change Procedure.
- 1.27 Change Request** has the meaning given in Section 2.9 of Schedule 2 – Change Procedure
- 1.28 Claim** means any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity) made:
- (a) in connection with this Agreement, the Project or Relevant Infrastructure; and
 - (b) at law or for specific performance, in equity, restitution, payment of money (including damage) and extension or time or other form of relief.
- 1.29 Collateral Agent** means the financial institution listed or otherwise designated to act as trustee or agent on behalf of or at the direction of the Lenders in the Security Documents or intercreditor agreement or similar document with respect to the Project Debt, a copy of which shall be delivered by Project Company to MDOT.
- 1.30 Commercially Reasonable Insurance Rates** means an amount up to 120% of the greater of (a) rates that a reasonable and prudent risk manager for a Person seeking to insure comparable risks would conclude are justified by the risk protection afforded, and (b) the rates for the relevant Insurance Policy assumed in the Financial Model.
- 1.31 Commercial and Financial Close** means the execution of this Agreement by the Project Company and MDOT and the closing of the financing for the Project, in accordance with Section 9 of the ITP.
- 1.32 Commercial and Financial Close Date** means the date of Commercial and Financial Close.
- 1.33 Commercial and Financial Close PMP** means the Project Management Plan included in Part 2 of Schedule 16 to the Project Agreement.
- 1.34 Compensable Delay Event** means any of the following:
- (a) the implementation of an MDOT Change excluding any Change Orders issued by MDOT following a Request for Change Proposal;
 - (b) any breach by MDOT of any of MDOT’s obligations under this Agreement;

- (c) a Contamination Relief Event;
- (d) a Relevant Change in Law;
- (e) a NEPA Event;
- (f) compliance by the Project Company with an order or direction of an Emergency Service Provider in an Emergency;
- (g) the preemption, confiscation, diversion, destruction or other interference in possession or performance of materials or services by a Governmental Entity in connection with an Emergency or any condemnation or other taking by eminent domain of any material portion of the Premises, the Freeway Lighting System or the D&C Work;
- (h) a change in standards impacting the D&C Works with which MDOT directs Project Company to comply under Section 32.2; or
- (i) failure of MDOT to provide responses to proposed schedules, plans, design documents, and other Submittals and matters submitted to MDOT after the Commercial and Financial Close Date for which response is required under this Agreement as an express prerequisite to the Project Company's right to proceed or act, within the time periods indicated in this Agreement, following delivery of notice from the Project Company requesting such action in accordance with the terms and requirements of this Agreement;
- (j) discovery at, near or on the Right of Way of any archeological, paleontological or cultural resources (including historic properties), excluding any such substance or resources known to the Project Company as of the Setting Date;
- (k) discovery at, near or on the Right of Way of any Threatened or Endangered Species (regardless of when the species was listed as threatened or endangered), excluding any such presence of species known to the Project Company as of the Setting Date;
- (l) Vandalism;
- (m) loss or damage to the Relevant Infrastructure caused by MDOT Fault;
- (n) issuance of a temporary restraining order, preliminary injunction or other form of interlocutory relief by a court of competent jurisdiction that prohibits prosecution of any portion of the D&C Work; and
- (o) subject to Project Company complying with its obligations under Section 13.2(c), performance of works in the vicinity of the Right of Way by the Interface Parties that materially and directly disrupts and interferes with Project Operations occurring on the Right of Way.

1.35 Compensable Relief Event means any of the following:

- (a) the implementation of an MDOT Change excluding any Change Orders issued by MDOT following a Request for Change Proposal;
- (b) any breach by MDOT of any of MDOT's obligations under this Agreement;

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- (c) a Contamination Relief Event;
- (d) a NEPA Event;
- (e) a Relevant Change in Law;
- (f) any deliberate or negligent act or omission of MDOT or any MDOT Person or any failure by MDOT or any MDOT Person to take commercially reasonable steps to perform its activities in a manner which minimizes undue interference with Project Company's performance of the O&M Work, except to the extent:
 - (i) MDOT or the MDOT Person is acting in accordance with a recommendation or instruction of Project Company or any Project Company Related Entity;
 - (ii) any such act, omission or failure was contemplated in this Agreement; or
 - (iii) the consequences of any such act, omission or failure would have been prevented by the proper performance of Project Company's obligations under this Agreement;
- (g) compliance by the Project Company with an order or direction of an Emergency Service Provider in an Emergency;
- (h) a change in standards impacting the O&M Works or the Improved Freeway Lighting System with which MDOT directs Project Company to comply under Section 32.2;
- (i) any Change in Law;
- (j) failure of MDOT to provide responses to proposed schedules, plans, design documents, and other Submittals and matters submitted to MDOT after the Commercial and Financial Close Date for which response is required under this Agreement as an express prerequisite to the Project Company's right to proceed or act, within the time periods (if any) indicated in this Agreement, or if no time period is indicated, within a reasonable time, taking into consideration the nature, importance and complexity of the submittal or matter, following delivery of notice from the Project Company requesting such action in accordance with the terms and requirements of this Agreement;
- (k) discovery at, near or on the Right of Way of any archeological, paleontological or cultural resources (including historic properties), excluding any such substance or resources known to the Project Company as of the Setting Date;
- (l) discovery at, near or on the Right of Way of any Threatened or Endangered Species (regardless of when the species was listed as threatened or endangered), excluding any such presence of species known to the Project Company as of the Setting Date;
- (m) Vandalism;
- (n) loss or damage to the Relevant Infrastructure caused by MDOT Fault;

- (o) issuance of a temporary restraining order, preliminary injunction or other form of interlocutory relief by a court of competent jurisdiction that prohibits prosecution of any portion of the O&M Work; and
- (p) subject to Project Company complying with its obligations under Section 13.2(c), performance of works in the vicinity of the Right of Way by the Interface Parties that materially and directly disrupts and interferes with Project Operations occurring on the Right of Way.

1.36 Compensation Amount means the amount, if any, owing to Project Company under Articles 28-32 on account of occurrence of a Compensable Delay Event, Compensable Relief Event or Force Majeure Event (as applicable).

1.37 Confidential Information means all confidential and proprietary information means Personal Information, and information that a party has designated as confidential and which is supplied, or to which access is granted, to or on behalf of the other party (whether before or after the date of this Agreement), either in writing, or in any other form, directly or indirectly pursuant to discussions with the other party and includes all analyses, compilations, studies and other documents whether prepared by or on behalf of a party which contain or otherwise reflect or are derived from such designated information.

1.38 Construction Easement means non-permanent easements, other than those provided by MDOT, that Project Company determines are desirable to perform the D&C Works.

1.39 Construction Schedule has the meaning given in Section 15.1.

1.40 Construction Status Report has the meaning given in Section 15.3(a).

1.41 Construction Work means all work to build or construct, make, form, manufacture, furnish, install, supply, deliver, or equip the Project, excluding Design Work.

1.42 Contamination means the presence of any Hazardous Substance, chemical compound, mineral, gas, metal, carbon, radioactive isotope, organic material or other substance in the environment, including naturally occurring substances, where the presence of any of the foregoing substances in the environment is at concentrations which exceed applicable standards as set by Applicable Laws or where monitoring, remediation or removal of such any of the foregoing substances is otherwise required pursuant to Applicable Laws. If Contamination is present in soil, rock, surface water or groundwater, then the soil, rock, surface water or groundwater, as applicable, containing the Contamination shall also be deemed to be Contamination for the purposes of this Agreement.

1.43 Contamination Relief Event means Contamination in, over, under or emanating from the Premises or which has migrated onto the Premises from land or premises adjoining the Premises after the Commercial and Financial Close Date excluding Contamination attributable to Project Company Hazardous Substances:

- (a) which is Known Pre-Existing Contamination;

- (b) to the extent exacerbated by the Project Company or any Project Company Partner in performing the Project Operations;
- (c) which Project Company is required to manage or mitigate against the risk of in accordance with this Agreement; or
- (d) which a contractor, acting in accordance with Good Industry Practice, would have taken preventative measures to prevent or minimize.

1.44 Contract Year means each of:

- (a) the period from the Commercial and Financial Close Date to the next September 30th;
- (b) each subsequent period of 12 calendar months commencing on October 1st and ending on September 30th; and
- (c) the period from October 1st in the year in which this Agreement expires or is terminated (for whatever reason) to and including the Expiry Date.

Any computation made on the basis of a Contract Year shall be adjusted on a pro rata basis to take into account any Contract Year of less than 365 or 366 days, whichever is applicable.

1.45 Contract means any agreement entered into by the Project Company with any other Contractor in connection with the Project Operations, or any such agreement, supplement or amendment at a lower tier, between a Contractor and its lower tier Contractor or a supplier and its lower tier supplier, at all tiers.

1.46 Contractor means any Person with whom the Project Company has entered into any Contract to perform any part of the Project Operations or provide any materials, equipment or supplies for the Project, on behalf of the Project Company, and any other Person with whom any Contractor has further subcontracted any part of the Work, at all tiers. The term “Contractor” includes the D&C Contractors and the O&M Contactor, if any.

1.47 Conversion Work means the reconfiguration and rehabilitation of existing PLD substations and other electrical distribution infrastructure to be performed by DTE throughout the Detroit area to provide 277/480V, delivered using a transformer where needed, power on the MDOT side of the power meter at the panel locations described in Table 4.3 of Section 4.3(b) of the D&C Requirements.

1.48 Corridor TTCP of CTTCP has the meaning given in Section 5.3 of the D&C Requirements.

1.49 Cost to Complete means the remaining cost to construct the Project in compliance with the requirements of the Project Documents consistent with the design submitted by the Project Company in its approved Project Management Plan.

1.50 Covered Area means the geographical area described in the solicitation from which this Agreement resulted.

- 1.51 Cumulative Annual Escalation Rate** means the Annual Escalation compounded over time with the base month being the month during which the Commercial and Financial Close Date occurs. The calculation should be performed annually in March each year of the Term as of the value for February in the CPI-U table divided by the month of Commercial and Financial Close. The Cumulative Annual Escalation Rate will apply for calculations made starting April 1st of the year the calculation was performed through March 30th of the following year. For example, the Cumulative Annual Escalation Rate for April 1, 2020 through March 30, 2021 for the Service Payments would be calculated as: Annual Escalation Rate as of February 2020 divided by the Annual Escalation Rate as of the month Commercial and Financial Close occurs.
- 1.52 DBE Program** means the MDOT Disadvantaged Business Enterprise Program adopted pursuant to 49 C.F.R. Part 26.
- 1.53 Deduction** means a reduction to:
- (a) any Milestone Payment in accordance with Article 1(b) of Schedule 3 – Payment Mechanism; and
 - (b) any Service Payment in accordance with Article 2 of Schedule 3 – Payment Mechanism,
- or either of them as the context requires.
- 1.54 Defect** means:
- (a) any Element which does not comply with the requirements of this Agreement; or
 - (b) any fault, or omission in an Element that is not consistent or is incompatible with its age, function, performance and use when properly maintained in accordance with Good Industry Practice.
- 1.55 Delay Costs** means indirect costs incurred by Project Company as a sole and direct result of a delay, including extended overhead, unabsorbed home office overhead, idle labor and equipment costs, additional storage costs, and labor and material cost escalation, but excluding costs relating to the Project Debt and as otherwise calculated under Schedule 15 – Costs Schedule.
- 1.56 Delay Event** means any of the following events or circumstances that occur during the D&C Term:
- (a) a Force Majeure Event; or
 - (b) a Compensable Delay Event.
- 1.57 Designated Senior Person** means the representative of MDOT and Project Company listed in Schedule 9 – Key Contractors and Key Personnel Requirements.
- 1.58 D&C Construction Documents or Construction Documents** has the meaning defined in Section 3.5 of the General Technical Requirements.

1.59 D&C Contract means:

- (a) the Project Agreement, where the Project Company will self-perform the D&C Works; or
- (b) the contract for the D&C Works entered into between Project Company and the D&C Contractor dated on or about the date of this Agreement where Project Company will not self-perform the D&C Works; and
- (c) any other contract between Project Company and a builder for the undertaking of the D&C Works.

1.60 D&C Contract Price means the price for performing the D&C Works under the D&C Contract as set out in the Financial Model.**1.61 D&C Contractor** means the Project Company or the persons engaged by Project Company in accordance with the D&C Contract being, at the date of this Agreement Aldridge Electric Inc. or any other person who, in addition or substitution, is engaged by Project Company to undertake all, or substantially all of the D&C Works.**1.62 D&C Deduction** means a Deduction calculated in respect of a D&C Failure calculated in accordance with Article 5 of Schedule 3 – Payment Mechanism.**1.63 D&C Failure** means each event designated with a “C” or a “D” in the “Use” column of the Noncompliance Table which occurs during the D&C Term.**1.64 D&C Performance Security** means:

- (a) the Performance Bond; and
- (b) the Payment Bond,

or either of them as the context requires.

1.65 D&C Requirements means the requirements in Part 2, Volume 2, Part B – D&C Requirements.**1.66 D&C Term** means the period starting on the day after the Commercial and Financial Close Date and ending at 11:59 p.m. on the Substantial Completion Date.**1.67 D&C Term O&M Work** means the operations, maintenance, rehabilitation and other work to be performed and services to be provided by Project Company prior to Substantial Completion as described in the O&M Requirements, as such work and services may from time to time be varied in accordance with this Agreement, but specifically excluding the Governmental Activities.**1.68 D&C Work Value** means an amount equal to the D&C Contract Price minus the aggregate of (w) the Cost to Complete, (x) any Milestone Payments that became payable prior to the Expiry Date; (y) and Service Payments that became payable prior to the Expiry Date and (z) any Deduction accrued prior to the Expiry Date that has, in each case, not been deducted from any Milestone Payment or Service Payment (as applicable).

- 1.69 D&C Works** means the Design Work, the Construction Work all other work necessary for the design, construction, completion and commissioning of the Improved Freeway Lighting System including any Changes and any rectification of Defects in the Improved Freeway Lighting System.
- 1.70 Default Notice** has the meaning given in Section 34.3(b).
- 1.71 Design Work** means all work related to the design, redesign, engineering or architecture for the Project.
- 1.72 Designated Lane** means any mainline travel-lane, shoulder or ramp within the Right-of-Way in use by traffic, including any lane, shoulder or area which functions as an emergency stopping lane.
- 1.73 Director** means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
- 1.74 Direct Costs** means the direct costs calculated in accordance with Schedule 15 - Direct Costs.
- 1.75 Direct Personnel Expenses** has the meaning given in Section 2.1 of Schedule 15 - Direct Costs.
- 1.76 Directive Letter** means the letter described in Section 2.2 of Schedule 2 - Change Procedure.
- 1.77 Disadvantaged Business Enterprise or DBE** means a for-profit small business concern
- (a) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 1.78 Dispute** has a meaning given in Schedule 4 - Dispute Resolution Procedure.
- 1.79 Dispute Resolution Procedure** has the meaning given in Section 1 of Schedule 4 - Dispute Resolution Procedure.
- 1.80 Dispute Review Board** has the meaning given in Section 3 of Schedule 4 - Dispute Resolution Procedure.
- 1.81 Distribution** means:
- (a) whether in cash or in kind, any:
- (i) distribution to Equity Members, an Affiliate of the Project Company or other distribution in respect of Units;

- (ii) redemption or purchase of Units or reduction of limited liability company capital or the amount of an Equity Member's contribution stated in the articles of organization or any other reorganization or variation to limited liability company capital;
- (iii) payment in respect of Junior Debt (whether of fees, principal, interest including capitalized interest and interest on overdue interest, breakage costs, or otherwise and whether or not such items are included or excluded from the definition of Junior Debt);
- (iv) payment, loan, contractual arrangement, including any management agreement or payment in respect thereof or transfer of assets or rights, in each case to the extent made or entered into after the date of this Agreement and not in the ordinary course of business and on commercially reasonable terms including to any Equity Member, or any Affiliate of any Equity Member;
- (v) conferral of any other benefit which is not conferred and received in the ordinary course of business and on commercially reasonable terms, including to any Equity Member, any Affiliate of any Equity Member or the Project Company; and
- (vi) other payment to any Equity Member, any current or former Affiliate of any Equity Member or the Project Company howsoever arising and whether made pursuant to the terms of an agreement or otherwise or in respect of any class of Units or other securities of or interests in the Project Company if, in any such case, such payment would not have been made were it not for the occurrence of any Refinancing or Change in Control; or

A Distribution shall be calculated in a manner that is consistent with the calculation of the Base Case Equity IRR.

1.82 Draft PMP has the meaning given in Section 3.6 of the General Technical Requirements.

1.83 Early Termination means the termination of this Agreement for any reason prior to the expiration of the Term.

1.84 Element means any portion of the Project Operations, Improved Freeway Lighting System or Freeway Lighting System (as applicable), including equipment, materials, products, operating systems, or related process tools.

1.85 Emergency means any situation, event, occurrence, multiple occurrences or circumstances

(a) that:

- (i) constitutes or may constitute a hazard to or jeopardizes or may jeopardize or pose a threat to health and safety of any persons or any part of or the whole of the Relevant Infrastructure;

- (ii) causes or may cause material damage or harm to property, buildings and/or equipment;
- (iii) constitutes a hostage situation or state of emergency declared as such by the MDOT Representative or MDOT (acting reasonably);
- (iv) materially interferes with or prejudices or may materially interfere with or prejudice the safe operation of the Relevant Infrastructure or the conduct of Governmental Activities; or
- (v) constitutes a period of transition to or from war,

and which, in the good faith opinion of MDOT, requires immediate action to prevent and/or mitigate the occurrence (or risk of occurrence) of the foregoing; or

- (b) which gives rise to an emergency, as determined by any statutory body including (notwithstanding the generality of the foregoing) an Emergency Service Provider.

1.86 Emergency Service Provider means any police service, fire fighting service, ambulance service, armed forces or other authority with emergency service authority pursuant to Applicable Law which may require access to the Premises from time to time.

1.87 Employer Identification Number means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

1.88 Environmental Approvals means any Permits, Licenses and Approvals relating to environmental matters including the NEPA Documents.

1.89 Environmental Laws means all Applicable Laws relating to public health or the protection of the environment or Threatened or Endangered Species.

1.90 Equity IRR means the post-Income Tax internal rate of return on equity investment over the full term assuming no early termination or extension of this Agreement, projected for the Improved Freeway Lighting System as of any date after the Commercial and Financial Close Date during the Term, using the Financial Model as updated (including as to the financial performance of the Improved Freeway Lighting System) so as to be current immediately prior to the date of projection, and taking into account Distributions made and projected to be made.

1.91 Equity Letters of Credit means a form of security provided in accordance with Section 42.1 and Article 9 of the ITP which must:

- (a) be issued by a financial institution with a credit rating of "A" or better according to Standard & Poors Rating Services, a division of The McGraw-Hill Companies, Inc. and with an office in the State of Michigan.
- (b) be payable promptly, conditional only on written presentment from MDOT to the issuer of a sight draft drawn on the letter of credit and a certificate stating that MDOT has the right to draw under the letter of credit in the amount of the sight draft, up to the amount due to MDOT, without requirement to present the original letter of credit;

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- (c) provide an expiration date not earlier than one year from date of issue;
- (d) allow for multiple draws; and
- (e) name MDOT beneficiary and not provide for any other dual or multiple beneficiaries.

1.92 Equity Member means (a) each Person with a direct equity interest in the Project Company (whether as a member, partner, joint venture member, or otherwise but excluding passive limited partners that have no management or operational role in Project Company), and (b) each Person that will hold a 10% or greater indirect interest in the Project Company.

1.93 Equity Members Funding Agreements means any loan agreement, credit agreement or other similar financing agreement or subordination agreement providing for or evidencing Equity Member Debt.

1.94 ESP has the meaning given in Section 3.4 of Schedule 3 – Payment Mechanism.

1.95 Exempt Refinancing means:

- (a) any Refinancing that was fully and specifically identified and taken into account in the Financial Model and calculation of the Service Payment;
- (b) amendments, modifications, supplements or consents to the Financing Documents, and the exercise by a Lender of rights, waivers, consents and similar actions;
- (c) movement of monies between the Project accounts in accordance with the terms of Financing Documents;
- (d) any of the following acts by a Lender of senior lien priority Project Debt: (i) the syndication of any of such Lender's rights and interests in the senior Financing Documents; (ii) the grant by such Lender of any rights of participation, or the disposition by such Lender of any of its rights or interests, in respect of the senior Financing Documents in favor of any other Lender of senior lien Project Debt or any other investor; or (iii) the grant by such Lender of any other form of benefit or interest in either the senior Financing Documents or the revenues or assets of the Project Company, whether by way of security or otherwise, in favor of any other Lender of senior lien Project Debt or any investor; or
- (e) periodic resetting and remarketing of tax-exempt or taxable bonds that bear interest at a variable or floating rate and are money market eligible under SEC Rule 2a-7.

1.96 Existing Defect means any Category 1 Defect identified by Project Company in its PMP no later than 90 days after the Commercial and Financial Close Deadline.

1.97 Expiry Date has the meaning given in Article 2.

1.98 Extended Force Majeure Termination Amount has the meaning given in Schedule 6 – Termination Compensation.

- 1.99 Federal Requirements** means the provisions required to be part of federal-aid construction contracts by Applicable Law, including those federal Laws identified in Schedule 12 – Federal and State Requirements.
- 1.100 FHWA** means the Federal Highway Administration
- 1.101 Final Acceptance** means the stage when:
- (a) the balance of the D&C Works not completed as part of Substantial Completion have been completed, including correcting all Minor Deficiencies specified in the Substantial Completion Certificate or notified to Project Company under Article 16;
 - (b) Project Company has done everything which this Project Agreement requires Project Company to do as a condition precedent to Final Acceptance;
 - (c) Project Company has acquired and properly stored, or arranged for immediate availability, a reasonable inventory of all spare parts, spare components, spare equipment, special tools, materials, expendables and consumables necessary for operation and maintenance of the Project during the O&M Term as identified in the O&M Plan;
 - (d) all Submittals required by the Project Management Plan or Project Documents to be submitted to MDOT in accordance with the Submittal Requirements prior to Final Acceptance have been submitted to and approved by MDOT, in the form and content required by the Project Management Plan or Project Documents, as applicable;
 - (e) the MMIS is operational and meets the requirements of Technical Requirements;
 - (f) MDOT has received a complete set of the As-Built Drawings and any as-built survey sheets for the Project in form and content required by the Technical Requirements;
 - (g) MDOT has received the final certifications regarding suspension or debarment as set forth in Section 12.4 of the Agreement;
 - (h) there exist no uncured Project Company Defaults that are the subject of a notice, and no event exists that would be a Project Company Default with the giving of notice (except any Project Company Default for which Final Acceptance will affect its full and complete cure); and
 - (i) Project Company has done everything which this Agreement requires Project Company to do as a condition precedent to Final Acceptance.
- 1.102 Final Acceptance Certificate** means the certificate to be issued by the MDOT Representative in accordance with Section 17.3(a)(i).
- 1.103 Final Acceptance Deadline** means 60 Business Days after the Substantial Completion Date.
- 1.104 Final Acceptance Date** means the date on which Final Acceptance is achieved as such date is evidenced by the Final Acceptance Certificate.

- 1.105 Final PMP** has the meaning given in Section 3.6 of the General Technical Requirements.
- 1.106 Final System Condition Report** has the meaning given in Section 24.6.
- 1.107 Financial Model**, as of any date, means the financial model submitted by the Project Company, agreed between MDOT and the Project Company and included in Schedule 14 – Financial Model to the Agreement, as updated by the most recent Financial Model Update.
- 1.108 Financial Model Update** has the meaning given in Section 4.2.
- 1.109 Financing Delay Costs** means an amount equal to interest payments on the Senior Debt Service Amount accrued and paid or which became payable in accordance with the Funding Agreements during the period of delay by Project Company or any Project Company Partner to the Senior Lenders up to and including such date, which, but for the Compensable Delay Event or Compensable Relief Event, would have been paid by MDOT to Project Company.
- 1.110 Financing Documents** means the Funding Agreements and the Security Documents.
- 1.111 Fixed O&M Costs** means the sum of those fixed costs:
- (a) incurred by the O&M Contractor with respect to insurance premiums, office rental and office expenses, equipment hire costs, depreciation on items of equipment used by Project Company in the performance of the O&M Works excluding:
 - (b) equipment incorporated into the Relevant Infrastructure and not capable of being demobilized and remobilized to a different site or portion of the Relevant Infrastructure or to another project excluding:
 - (i) third party accounting, audit and legal costs; and
 - (ii) any costs payable by Project Company to the O&M Contractor for the provision of labor,
- and which are:
- (c) incurred directly by the O&M Contractor during the O&M Term in meeting its obligations in accordance with this Agreement and solely and directly attributable to the Project and which are not reasonably capable of being deferred or avoided by the O&M Contractor; and
 - (d) evidenced in writing to the reasonable satisfaction of the MDOT Representative.
- 1.112 Flood Event** means a “flood” (as defined by the Federal Emergency Management Agency) where flood waters at the Premises reach two (2) or more acres of normally dry land measured, at or in excess of: (a) for the period commencing on the Commercial and Financial Close Date up to and including the earlier of (i) the Substantial Completion Date and (ii) early termination of this Agreement, the one percent annual recurrence interval flood event (or its equivalent, successor

measurement); or (b) for the period commencing the day subsequent to the Substantial Completion Date up to and including the end of the Term, the one percent annual recurrence interval flood event (or its equivalent, successor measurement), for each water crossing of the Project.

1.113 FOIA means the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq.

1.114 Force Majeure Event means any of the following events or circumstances which directly cause either Party to be unable to perform all or a material part of its obligations under this Agreement:

- (a) war (including civil war or revolution) invasion, violent act of foreign enemy or armed conflict, military or armed blockade or military or armed takeover;
- (b) nuclear, chemical or biological contamination unless the source or cause of the contamination is brought to or near the Relevant Infrastructure by Project Company or Project Company Related Entities;
- (c) ionizing or radioactive radiation, nuclear explosion that causes direct physical damage to the Relevant Infrastructure;
- (d) any act of terrorism, riot, insurrection, civil commotion or sabotage that causes direct physical damage to, or otherwise directly causes interruption to construction or direct losses during operation of, the Relevant Infrastructure;
- (e) Flood Event, fire, explosion, gradual inundation caused by natural events, a tornado with an enhanced Fujita Score Rating of EF2, sinkhole caused by natural events, or landslide caused by natural events;
- (f) a Seismic Event;
- (g) a private sector strike of general application which occurs outside the Premises and that materially impacts delivery to the Premises of equipment and construction materials during the Term;
- (h) the failure of any Governmental Entity or utility company having operational jurisdiction in the area in which the Facility is located to provide and maintain Utilities to the Freeway Lighting System upstream of the connection point to the Premises that are required to perform this Agreement; or
- (i) an act or omission of any Governmental Entity which renders it impossible for Project Company to perform all or substantially all of its obligations under this Agreement (other than as a consequence of a breach by Project Company of its obligations under this Agreement) for a continuous period of not less than 40 Business Days (for greater certainty, the non-issuance of, or the imposition of any conditions or limitations in, any of the Project Company Permits, Licenses and Approvals shall not constitute an “act of any Governmental Entity”),

which occurs at or directly in the vicinity of the Premises or the Freeway Lighting System which directly causes Project Company to be unable to comply with all or a material part of its

obligations in accordance with this Agreement where the event or its consequences was not caused or contributed to by Project Company or a Project Company Related Entity.

1.115 Force Majeure Termination Event has the meaning given in Section 33.2 of the Project Agreement.

1.116 Freeway Lighting System means the existing freeway lighting system described in Section 1.2 of the General Technical Requirements.

1.117 Funding Agreements means:

- (a) except as set forth in clause (b), the documents listed as Funding Documents in Schedule B (Initial Funding Agreements) of the Lenders' Direct Agreement executed on or about Commercial and Financial Close (excluding, for the avoidance of doubt, any Equity Members Funding Agreement), together with any other document designated by the Parties acting jointly as a Funding Agreement, and (b) any amendment, supplement, variation or waiver of any of the foregoing agreements or instruments, on account of a Refinancing or for any other reason; and
- (b) in the case of Self-Finance, any documents used by the Project Company to secure its investment in the Project, including investment committee minutes or approvals, Project Company board minutes or approval, internal memos outlining the investment or any other documents signed by Project Company management affirming the investment.

1.118 GAAP means generally accepted accounting principles in effect and consistently applied in the United States (including the accounting recommendations published in the Handbook of the American Institute of Certified Public Accountants).

1.119 General Technical Requirements has a meaning given in Part 2, Volume II, Part A, General Technical Requirements.

1.120 Good Industry Practice means an acknowledged and acceptable measure of quantitative or qualitative value or an established procedure to be followed for a given operation within the given industry. These practices will generally be in the form of a written code, standard, or specification by a creditable association.

1.121 Governmental Activities means the provision of all governmental services and the conduct of all activities provided in connection or otherwise associated with the Premises and the Freeway Lighting System by any Governmental Entity or Emergency Service Provider, and includes MDOT Activities.

1.122 Governmental Entity means the government of the United States of America, the State of Michigan, the cities and counties within the State and any other agency, or subdivision of any of the foregoing, including any federal, state, or municipal government, and any court, agency, special district, commission or other authority exercising executive, legislative, judicial, regulatory, administrative or taxing functions of, or pertaining to, the government of the United States of America, the State of Michigan or the cities and counties within the State. Governmental Entity does not include MDOT.

- 1.123 Handback** means the stage when the Project Company has done everything that this Agreement requires to enable the Project Company to handover the Relevant Infrastructure to meet the Handback Requirements at the end of the Term.
- 1.124 Handback Account** has the meaning given in Article 24.
- 1.125 Handback Requirements** has the meaning set out in Section 24.1.
- 1.126 Hazardous Substance** means any contaminant, pollutant, dangerous substance, toxic substance, liquid waste, industrial waste, gaseous waste, hauled liquid waste, hazardous material, or hazardous substance as defined or identified pursuant to any Applicable Law.
- 1.127 Handback Works** has the meaning given in Section 24.2(a)(iii).
- 1.128 Handback Works Costs** has the meaning given in Section 24.2(a)(iv).
- 1.129 Improved Freeway Lighting System** means the entire physical infrastructure and capital improvements to the Freeway Lighting System to be designed, constructed, commissioned and completed by Project Company on the Premises in accordance with this Agreement.
- 1.130 Incident or Safety Incident** means any Defect which is not an Incident which:
- (a) poses a risk of immediate or potential threat to:
 - (i) health or safety on or relating to the Relevant Infrastructure;
 - (ii) the structural integrity or safety of any part of the Relevant Infrastructure;
 - (b) prevents the Project roadway or any part of it from being open to the public for the safe continuous and efficient passage of vehicles; or
 - (c) otherwise requires an urgent response to:
 - (i) protect or repair the Relevant Infrastructure, other property or the public;
 - (ii) provide access to Emergency Services Provider or traffic control; or
 - (iii) prevent any occurrence which could cause or involves:
 - (i) damage to or destruction of the Relevant Infrastructure or other; or
 - (ii) personal injury to the public or compromises the safety of any person.
- 1.131 Indexed** means, with respect to an amount at any time, means that the amount is adjusted as of each January 1, commencing January 1, 2016 by:
- (a) multiplying it by the Annual Escalation Rate for the immediately preceding March; and
 - (b) dividing it by the Annual Escalation Rate for March 2015

1.132 Institutional Lender means:

- (a) the United States of America, any state thereof or any agency or instrumentality of either of them, any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects;
- (b) any (i) bank, trust company (whether acting individually or in a fiduciary capacity), savings and loan organization or insurance company organized and existing under the laws of the United States of America or any state thereof, (ii) foreign insurance company or bank qualified to do business as such, as applicable under the laws of the United States of America or any state thereof, or (iii) pension fund, foundation or university or college endowment fund (provided that an entity described in this clause (b) only qualifies as an Institutional Lender if it is subject to the jurisdiction of state and federal courts in the State in any actions);
- (c) any “qualified institutional buyer” under Rule 144(a) under the U.S. Securities Act of 1933 or any other similar Law hereinafter enacted that defines a similar category of investors by substantially similar terms;
- (d) any purchaser of debt securities the proceeds of which are used to finance the Project that are not publicly offered pursuant to the exception to registration provided in Section 4(2) of the U.S. Securities Act of 1933; or
- (e) any other financial institution or entity designated by Project Company and approved in writing by MDOT (provided that such institution or entity, in its activity under this Agreement, is acceptable under then current guidelines and practices of MDOT);
provided, however, that each such entity (other than entities described in clause (c) and clause (d) of this definition), or combination of such entities if the Institutional Lender is a combination of such entities, shall have individual or combined assets, as the case may be, of not less than \$1 billion. The foregoing dollar minimums shall automatically increase at the beginning of each calendar year by the percentage increase, if any, in the Annual Escalation Rate during the immediately preceding calendar year, determined by comparing the Annual Escalation Rate most recently published for the immediately preceding year with the Annual Escalation Rate most recently published for the second preceding year.

1.133 Insurance Policies means all of the insurance policies Project Company and Project Company Partners are required to carry pursuant to Article 41.

1.134 Insurance Proceeds means all proceeds from Insurance Policies payable to the Project Company (or that should have been payable to the Project Company but for the Project Company’s breach of any obligation under this Agreement to take out or maintain such insurance) on or after the Expiry Date.

1.135 Intellectual Property means, in connection with a specified subject matter, on a worldwide basis, all registered or unregistered trademarks, trade names, patents, copyrights, trade secrets, designs, rights of publicity, mask work rights, utility models and other industrial or intangible property rights of a similar nature, all grants and registrations worldwide in connection with the foregoing and all other rights with respect thereto existing other than pursuant to grant or registration; all applications for

any such grant or registration, all rights of priority under international conventions to make such applications and the right to control their prosecution, and all amendments, continuations, divisions and continuations-in-part of such applications; and all corrections, reissues, patents of addition, extensions and renewals of any such grant, registration or right.

1.136 Intellectual Property Rights means all Intellectual Property in or associated with the Project Data and all the Intellectual Property which, or the subject matter of which, is at any time before or after Commercial and Financial Close Date, created, brought into existence, acquired, used or intended to be used by Project Company, any Project Company Related Party or by other third parties (for such third parties' use by or on behalf of or for the benefit of Project Company) for any or all of the purposes of:

- (a) the D&C Works(excluding Intellectual Property Rights of third parties, such as CAD software, that is used only in the process of design and construction);
- (b) the O&M Work;
- (c) any other Project Operations; or
- (d) this Agreement.

1.137 Interface Parties has the meaning given in Section 13.2.

1.138 ISO means International Organization for Standardization.

1.139 ITP means the documents titled Instructions to Proposers with respect to the Project issued by MDOT on August 25, 2014 as amended, revised, supplemented or otherwise modified from time to time.

1.140 ITS or ITS Systems means MDOT's Intelligent Transportation System and all equipment, cable, conduit and supporting facilities related to it.

1.141 Junior Debt mean indebtedness owing by the Project Company to any of its Equity Members or Affiliates of Equity Members which ranks subordinate in all respects to the Debt, excluding:

- (a) all amounts not actually paid to the Project Company by cash advance, rights entitling the Project Company to a cash advance, or other consideration;
- (b) all fees, including commitment fees, standby fees or other fees, paid or to be paid by the Project Company, other than to any Equity Member or any Affiliate of an Equity Member; and
- (c) capitalized interest, and interest on overdue interest.

1.142 Key Contract means:

- (a) any D&C Contract;
- (b) any O&M Contract;

- (c) the Contract between the D&C Contractor and its lead engineering Contractor; or
- (d) any Contract for lighting parts supplies the value of the works under which:
 - (i) exceeds \$1,000,000; or
 - (ii) when aggregated with the value of the works under each other Contract previously entered into by that the same Contractor will result in the total value of those contracts exceeding \$1,000,000.

1.143 Key Contractor means each contractor under any Key Contract.

1.144 Key Personnel means those individuals appointed by Project Company and approved by MDOT from time to time to fill the “Key Personnel” positions identified in the Technical Requirements. The specific individuals appointed by Project Company and approved by MDOT to initially fill certain of the Key Personnel positions are identified in Schedule 9 – Key Contractors and Personnel Requirements.

1.145 Known Pre-Existing Contamination means all Pre-Existing Contamination to the extent and of the nature identified in the Reference Information Documents.

1.146 Lane Closure means any Designated Lane (or part thereof) that, as a result of any Project Operations, is:

- (a) closed by the Project Company using scheduled or unscheduled maintenance of traffic activities;
- (b) rendered unavailable for use by traffic at the prevailing travel speeds as a result of Incidents or processes related to Project Operations;
- (c) reduced in operational width to less than 11 feet with a lateral distance (“shy distance”) of less than 2 feet from the delineated edge of the lane to an acceptable work zone limit delineation, such as edge of pavement, temporary concrete barrier, face of guardrail, or any other type of temporary barrier; or
- (d) cannot be used by traffic at the prevailing travel speeds.

1.147 Lane Closure Notification Process means the submittal of a notice to impact traffic to the MDOT Representative in accordance with the timeframes identified in Schedule 16, Part B, Section 5.2.

1.148 Lane Rental means the amount calculated in accordance with Article 3 of Schedule 3 – Payment Mechanism.

1.149 Lane Rental Group 1 is composed of those roadways listed in Exhibit B of the Technical Requirements where documented traffic congestion has a high level of impact on mobility during certain periods.

1.150 Lane Rental Group 2 is composed of those roadways listed in Exhibit B of the Technical Requirements where documented traffic congestion has a moderate to high level of impact on mobility during certain periods.

- 1.151 Lane Rental Rate** has the meaning given in Section 3.2 of Schedule 3 – Payment Mechanism.
- 1.152 Legal Proceeding** means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Agreement, and all appeals therefrom.
- 1.153 Lenders** mean any person or entity that provides Project Debt, together with their successors and assigns, or is appointed by any person referred to as its agent or trustee in connection with the Project Debt.
- 1.154 Lenders’ Liabilities** means, at the relevant time, the aggregate of (without double counting): all principal, interest, banking fees and premiums on financial insurance policies, costs and expenses and other amounts properly incurred owing or outstanding to the Lenders by the Project Company under or pursuant to the Financing Documents on the Expiry Date, including any prepayment costs, make-whole amounts or breakage costs.
- 1.155 Lenders’ Direct Agreement** means the agreement between MDOT, the Lenders and Project Company entitled “Lenders’ Direct Agreement” executed on or about the Commercial and Financial Close Deadline.
- 1.156 Liability** includes any debt, obligation, damage, losses, liabilities, penalties, fines, assessments, claims, actions, costs, expenses (including the cost of legal or professional services), loss (whether direct or indirect), proceedings, demands and charges whether arising under statute, contract or at common law,) expense, loss (whether direct or indirect), compensation, charge or liability of any kind (including fines or penalties), actual, prospective or contingent and whether or not currently ascertainable and whether arising under or for breach of contract, in tort (including negligence), restitution, pursuant to statute or otherwise under at law.
- 1.157 Libor 1 Year Rate** mean the Libor 1 Year Rate published by the Wall Street Journal. In the event the Wall Street Journal stops publishing the Libor 1 Year rate, then both parties will mutually select an alternative rate of similar duration.
- 1.158 Longstop Date** means the date which is 6 months after the Substantial Completion Deadline.
- 1.159 Maintenance Management Information System or MMIS** means the system described in Article 3 of the O&M Requirements.
- 1.160 Maintenance TTCP** has the meaning given in Section 5.2 of the D&C Requirements.
- 1.161 Maximum Milestone Payment** means the payment to be made by MDOT to Project Company calculated in accordance with Section 1(a) of Schedule 3 - Payment Mechanism.
- 1.162 MDOT** means the Michigan Department of Transportation.

- 1.163 MDOT Activities** means the provision of all governmental services and the conduct of all activities performed in or associated with roads under the jurisdiction of the State of Michigan and other services of a similar nature.
- 1.164 MDOT Change** means a Change carried under a Directive Letter, a Change Order issued in response to a Request for Change Proposal under Section 2.3 of Schedule 2 – Change Procedure or any other Change deemed to be an MDOT Change under this Agreement, excluding any Change following a Change Request by Project Company.
- 1.165 MDOT Default** has the meaning given in Section 35.1.
- 1.166 MDOT Energy Payment** means the Actual Electricity Consumption multiplied by the MDOT Electricity Price.
- 1.167 MDOT Electricity Price** means \$0.10/kWh
- 1.168 MDOT Fault** means:
- (a) a breach by MDOT of any of its obligations (other than payment obligations) under this Agreement;
 - (b) a breach of any representation by MDOT under this Agreement;
 - (c) willful misconduct of a MDOT Person; or
 - (d) a grossly negligent act or omission of a MDOT Person.
- 1.169 MDOT Payment** has the meaning given in Section 22.10.
- 1.170 MDOT Person** means any of MDOT’s agents, consultants, subconsultants, contractors, and subcontractors of any tier, whether or not engaged with the Project, and its or their directors, officers and employees, but excluding Project Company and Project Company Related Entities.
- 1.171 MDOT Representative** means the Person nominated as such in Schedule 9 – Key Contractors and Personnel Requirements or such other person as may be appointed from time to time to replace that Person in accordance with Section 8.1.
- 1.172 MDOT Termination Amount** has the meaning given in Schedule 6 – Termination Compensation.
- 1.173 Michigan Auditor of State** means any auditor within the office of Commission Audit or their designee to audit all or any part of the Project Operations.
- 1.174 Milestone** means the milestones set out in Table 1 of Schedule 3 - Payment Mechanism.
- 1.175 Milestone Payment** means the amount calculated for each Milestone in accordance with Section 1(a) of Schedule 3 - Payment Mechanism.

1.176 Milestone Payment Deduction means an amount equal to the sum of the Milestone Payment Deductions calculated as provided in Section 1(b) of Schedule 3 - Payment Mechanism.

1.177 Minimum Conditions means:

- (a) the relevant Element is in a state or condition that allows that Element to be used for the purpose designated under this Agreement, Applicable Law and Good Industry Practice;
- (b) all Users who are entitled to enter, leave, occupy or use the Premises or the Project roadway (as applicable) are able to do so safely and conveniently using normal access routes, at all times including compliance with Applicable Law and Good Industry Practice; and
- (c) there is no material impact on:
 - (i) the performance of any MDOT Activities;
 - (ii) the performance of the Improved Freeway Lighting System; or
 - (iii) the performance of the O&M Works by Project Company.

1.178 Minor Deficiencies means

- (a) any Defect which occurs after Project Company submits Notice under Section 16.1; and
- (b) notwithstanding clause (a) and whether the Defect has been previously identified, any Defects and items of outstanding work (including in relation to seasonal work) in connection with the work required to achieve Substantial Completion which would not result in a Minimum Condition being breached.

1.179 Minority includes:

- (a) Black (all person having origins in any of the Black African racial groups not of Hispanic origin);
- (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture of origin, regardless of race);
- (c) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, South East Asia, the Indian Subcontinent, or the Pacific Islands); and
- (d) 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 and participation or community identification).

1.180 Mitigate means, following the occurrence of a Noncompliance Event:

- (a) restoring the surrounding area to a state or condition such that in the reasonable opinion of the MDOT Representative, the area is free of conditions which might otherwise create a safety hazard for drivers, pedestrians or other Users of MDOT Right of Way; and

- (b) sufficiently reducing the risk during the remainder of the Remedy Period that further damage, nonperformance, safety hazards or adverse consequences caused by the Noncompliance Event might occur.

1.181 Mitigation Period means, with respect to each Noncompliance Event, the mitigation period specified in Appendix A of Schedule 3 – Payment Mechanism in respect of the relevant Noncompliance Event.

1.182 Model Variation Event has the meaning given in Section 4.2.

1.183 Monthly Report has the meaning given in Section 4.2 of the General Technical Requirements.

1.184 NEPA means National Environmental Policy Act, 42 U.S.C. § 4321 et seq., as amended and as it may be amended from time to time.

1.185 NEPA Event means:

- (a) legal action being taken in respect of the NEPA Documents;
- (b) review or revocation of by FHWA, or change to, the NEPA Documents; or
- (c) any review or revocation of, or change to, a Permits, License or Approval directly resulting from the circumstances specified in clauses (a) and (b),

except to the extent resulting from any change by Project Company in the design of the Project in Project Company's Proposal or from any act or omission on the part of Project Company.

1.186 NEPA Documents means the documents set forth in Exhibit H to the Technical Requirements.

1.187 New Category 1 Defect means any Category 1 Defect which is not an Existing Defect.

1.188 New Category 2 Defect means any Category 2 Defect which is not an Existing Defect.

1.189 Noncompliance Event means a D&C Failure and an O&M Failure or either of them, as the context requires.

1.190 Noncompliance Points means the points that may be assessed for certain Noncompliance Events by Project Company, as set out in Article 4 of Schedule 3 – Payment Mechanism).

1.191 Noncompliance Table means the table set out in Appendix A of Schedule 3 – Payment Mechanism.

1.192 Non-Appropriation Event means:

- (a) the legislature of the State fails to appropriate money, or otherwise for payments due under this Agreement, by July 31 of the relevant fiscal year in an amount sufficient to pay the MDOT Payments; and

- (b) the legislature of the State by express terms of a statute in effect with respect to the relevant fiscal year provides that, of the funds appropriated for the MDOT Payments, either no amount or only an amount that is insufficient to pay the MDOT Payments may be used for payments due pursuant to this Agreement by July 31 of a fiscal year,

A Non-Appropriation Event shall be deemed to occur on August 1 of a fiscal year in which a Non-Appropriation Event as described in (a) occurs. In the case of a Non-Appropriation Event described in (b) above, a Non-Appropriation Event shall be deemed to occur on the due date of any MDOT Payment which cannot be paid when due because an insufficient amount was appropriated.

1.193 Notice has the meaning given in Section 47.1.

1.194 O&M means operations and maintenance.

1.195 O&M Contract means:

- (a) the Project Agreement, where the Project Company will self-perform the O&M Works; or
- (b) the contract for the O&M Works entered into between Project Company and the O&M Contractor dated on or about the date of this Agreement where Project Company will not self-perform the O&M Works; and
- (c) any other contract between Project Company and a service provider for to undertake the O&M Works.

1.196 O&M Contract Price means the price for performing the O&M Works (excluding any price for performing the D&C Term O&M Work) under the O&M Contract as set out in the Financial Model.

1.197 O&M Contractor means the Project Company or the persons engaged by Project Company in accordance with the O&M Contract being, at the date of this Agreement Cofely Services Inc. or any other person who, in addition or substitution, is engaged by Project Company to undertake all, or substantially all of the O&M Works.

1.198 O&M Deduction means a Deduction calculated in respect of an O&M Failure calculated in accordance with Article 5 of Schedule 3 – Payment Mechanism.

1.199 O&M Failure means each event designated with a “C” or an “O” in the “Use” column of the Noncompliance Table which occurs during the O&M Term.

1.200 O&M Payment Bond means a bond in the form of Section 2 of Schedule 11 – Forms of Performance Security in the amount of 25% of the O&M Contract Price.

1.201 O&M Performance Bond means a bond in the form of Section 1 of Schedule 11 – Forms of Performance Security in the amount of 25% of the O&M Contract Price.

1.202 O&M Performance Security means:

- (a) the O&M Performance Bond; and

(b) the O&M Payment Bond,

or either of them as the context requires.

1.203 O&M Plan has the meaning given in Article 2 – O&M Plan, of the O&M Requirements.

1.204 O&M Rectification Costs means, in respect of any termination of this Agreement that occurs after Substantial Completion, all Liability that MDOT determines it is reasonably likely to incur as a direct result of the termination of this Agreement, including:

(a) those costs (internal and external) that MDOT is reasonably likely to incur as a direct result of carrying out any process to request tenders from any parties interested in entering into a contract with MDOT to carry out maintenance work in respect of the Project (on similar terms contemplated herein), including all costs related to the preparation of tender documentation, evaluation of tenders and negotiation and execution of relevant contracts;

(b) those costs reasonably expected to be incurred by MDOT in relation to:

(i) remediation or, if remediation is not possible or would cost more than renewal, renewal of any defective Project Operations;

(ii) rectification or cure of any breach of this Agreement or the Project Documents by Project Company or any Project Company Related Entity; and

(iii) on the assumption that this Agreement had not been terminated, those costs reasonably projected to be incurred for the remainder of the Term in order to ensure that the Project complies with the requirements of this Agreement, but only to the extent such projected costs exceed the costs assumed in the Financial Model,

including, for the avoidance of doubt, any amount which, but for the termination of this Agreement, either should have been deposited with MDOT in accordance with the terms of this Agreement.

1.205 O&M Requirements means:

(a) in the case of D&C Term O&M Work, the requirements in Part C, Article 1 of the Technical Requirements; and

(b) in the case of O&M Term O&M Work, Part 2, Volume 2, Part C – O&M Requirements.

1.206 O&M Term means the period commencing upon the Service Commencement Date and ending on the Expiry Date.

1.207 O&M Term O&M Work means the operations, maintenance, rehabilitation and other work to be performed and services to be provided by Project Company to be performed during the O&M Term as described in the O&M Requirements, as such work and

services may from time to time be varied in accordance with this Agreement, but specifically excluding the Governmental Activities.

- 1.208 O&M Work** means the D&C Term O&M Work and the O&M Term O&M Work or either of them as the context requires.
- 1.209 Occupational and Public Safety Plan** has the meaning given in Section 3.7 of the General Technical Requirements.
- 1.210 Occupational Safety and Health Act** means the Occupational Safety and Health Act of the United States, 1970.
- 1.211 Open Book Basis** means, consistent with the confidentiality requirements in Article 40, allowing MDOT to review all underlying assumptions, data, documents and information associated with the Financial Model and each updated Financial Model, pricing or compensation or adjustments thereto, costs of the Project Operations, costs claimed with respect to Relevant Events, schedule, composition of equipment spreads, equipment rates (including rental rates), labor rates and benefits, productivity, estimating factors, design and productivity allowance, contingency and indirect costs, risk pricing, discount rates, interest rates, inflation and deflation rates, swap and hedge rates, insurance rates, bonding rates, letter of credit fees, overhead, profit, traffic volumes, and other items reasonably required by MDOT to satisfy itself as to validity or reasonableness.
- 1.212 Original Substantial Completion Deadline** means the date 2 years after the Commercial and Financial Close Date.
- 1.213 Party** means either MDOT or Project Company, and **Parties** means both MDOT and Project Company.
- 1.214 Payment Bond** means a bond in the form of Section 1 of Form F to the ITP in the amount of 100% of the D&C Contract Price plus 100% of the price for performing the D&C Term O&M Work.
- 1.215 Payment Mechanism** means the mechanism for payment of the Milestone Payments and Service Payments as set forth in Schedule 3 – Payment Mechanism.
- 1.216 Payment Statement** has the meaning given in Section 22.4(d).
- 1.217 Performance Security** means the Equity Letter of Credit, the D&C Performance Security and the O&M Performance Security, as described in Article 42 or each of them as the context requires.
- 1.218 Performance Bond** means a bond in the form of Section 1 of Form F to the ITP in the amount of 25% of the D&C Contract Price plus 25% of the price for performing the D&C Term O&M Work.
- 1.219 Permits, Licenses and Approvals** means all permissions, consents, approvals, certificates, permits, licenses, agreements and authorizations (including sales tax exemption certificates), registrations, notices, exemptions, waivers, filings and authorizations (whether statutory or otherwise) from and with any third parties

required to perform the Project Operations in accordance with this Agreement and as required by Applicable Law in order to authorize Project Company to perform all or any part of the Relevant Infrastructure or take actions required to complete obligations in connection with this Agreement.

1.220 Persistent Project Company Default means Project Company incurs:

- (a) in any one (1) Month, 520 Noncompliance Points;
- (b) in any three (3) consecutive Months, 750 Noncompliance Points;
- (c) in any Contract Year, 980 Noncompliance Points; or
- (d) if the sum of the differences between the TECq values and the AECq values for the contract year is less than 80% of the annual Energy Reduction Target described in Part A, Section 3.4(b) of the Technical Requirements.

and Project Company either (a) fails to deliver to MDOT, within 30 Business Days after such Notice is delivered, a remedial plan meeting the requirements for approval in Section 34.6 or (b) fails to fully comply with the remedial plan or specific elements of, or actions required under, the remedial plan approved under Section 34.6.

1.221 Person means any individual, corporation, joint venture, limited liability company, company, firms, associations, joint venture, corporations, voluntary association, partnership, trust, unincorporated organization or Governmental Entity and other legal entities.

1.222 Personal Information means information which is collected, acquired, obtained by the Project Company, any Contractors or MDOT in relation to or in the course of providing the Project Operations, and includes any information about an identifiable individual other than contact information, which is the name, position name or title, business telephone number, business address, business email or business fax number of the individual.

1.223 PMP Annual Submission Schedule has the meaning given in Section 3.6 of the General Technical Requirements.

1.224 Pre-Existing Contamination means any Contamination of the Premises which is in existence at the Setting Date.

1.225 Pre-Refinancing Equity IRR means the blended nominal post-tax Equity IRR calculated immediately prior to the Refinancing on a version of the Financial Model updated for the actual revenue and cost performance of the Project up to the Refinancing date.

1.226 Prefinal System Condition Report has the meaning given in Section 24.2(b).

1.227 Premises means the parcels of Right of Way upon which the Relevant Infrastructure is to be designed, constructed, operated and maintained, as well as other areas in the vicinity used by Project Company in the execution of their work in compliance with this Agreement, for which ownership is to remain at all times under MDOT control.

- 1.228 Preliminary System Condition Report** has the meaning given in Section 24.2(a).
- 1.229 Project** has the meaning given in Article 1 of the General Technical Requirements.
- 1.230 Project Company** means Freeway Lighting Partners, LLC, a limited liability company organized and existing under the laws of Delaware, and its permitted successors and assigns.
- 1.231 Project Company Default** has the meaning given in Section 34.1.
- 1.232 Project Company Default Termination Amount** has the meaning given in Schedule 6 – Termination Compensation.
- 1.233 Project Company Fault** means:
- (a) a breach by the Project Company of any of its obligations under this Agreement;
 - (b) a breach of any representation or warranty made by the Project Company under this Agreement;
 - (c) a breach of Applicable Law or any Permit, License or Approval by the Project Company or any Project Company Related Entity;
 - (d) reckless or willful misconduct of the Project Company or any Project Company Related Entity; or
 - (e) a negligent or other culpable act or omission of the Project Company or any Project Company Related Entity.
- 1.234 Project Company’s Interest** means all right, title and interest of the Project Company in, to, under or derived from this Agreement, including the Project Company’s right, title and interest in and to the Relevant Infrastructure, Project Management Plan, Contracts, submittals, claims and Intellectual Property.
- 1.235 Project Company Partner** means:
- (a) the D&C Contractor;
 - (b) the O&M Contractor;
 - (c) each Contractor; and
 - (d) employees, agents, officers, directors, shareholders (but excluding shareholders of publicly traded companies), representatives, consultants, successors, assigns and invitees of any of the parties in clauses (a) – (d).
- 1.236 Project Company Hazardous Substance** means the (a) release(s) of Hazardous Substances attributable to the actions, omissions, negligence, willful misconduct, or breach of applicable Law or contract by any Project Company-Related Entity, provided that the removal of Hazardous Substances by Project Company or a Project Company-Related Entity in accordance with the requirements of the Agreement shall not be a “Project Company Hazardous Material”; (b) release(s) of Hazardous Substances

arranged to be brought onto the Premises or elsewhere by any Project Company Related Entity; regardless of cause, (c) use, containment, storage, management, handling, transport and disposal of any Hazardous Substances by any Project Company Related Entity in violation of the requirements of the Project Documents or any applicable Law or Governmental Approval; or (d) presence of Hazardous Substances in, on or under the Premises (including presence in surface water, groundwater, soils, or subsurface strata) which is exacerbated by a Project Company Fault or (e) Known Pre- Existing Contamination.

1.237 Project Company Initiated Change means any Change resulting from a Change Request issued under Section 2.9 of Schedule 2 – Change Procedure.

1.238 Project Company Related Entity means:

- (a) each Project Company Partner; and
- (b) each Equity Member.

1.239 Project Company Representative means the Person nominated as such in Schedule 9 – Key Contractors and Personnel Requirements or such other person as may be appointed from time to time to replace that Person in accordance with has a meaning given in Section 8.2.

1.240 Project Data means:

- (a) all design data;
- (b) all drawings, reports, documents, plans, software, formulae, calculations and other data relating to the performance of the O&M Works; and
- (c) any other materials, documents and or data acquired, brought into existence or used in relation to the Project Operations or this Agreement, other than the Background Information and other than Intellectual Property Rights of third parties, such as CAD software, that is used only in the process of design and construction.

1.241 Project Debt means bona fide indebtedness (including subordinated indebtedness) for or in respect of funds borrowed (including bona fide indebtedness with respect to any financial insurance issued for funds borrowed) or for the value of goods or services rendered or received, the repayment of which has specified payment dates and is secured by one or more Security Documents including principal, capitalized interest, accrued interest, customary and reasonable lender, financial insurer, agent and trustee fees, costs, expenses and premiums with respect thereto, payment obligations under interest rate and inflation rate hedging agreements or other derivative facilities with respect thereto, reimbursement obligations with respect thereto, lease financing obligations, make-whole amounts, and breakage costs but excluding:

- (a) indebtedness of Project Company or any shareholder, member, partner or joint venture member of Project Company that is secured by anything less than the entire Project Company Interest, such as indebtedness secured only by an assignment of economic interest in Project Company or of rights to cash flow or dividends from Project Company;

- (b) any increase in indebtedness to the extent resulting from an agreement or other arrangement Project Company enters into or first becomes obligated to repay after it was aware (or should have been aware, using reasonable due diligence) of the occurrence or prospective occurrence of an event of termination, including Project Company's receipt of a notice of termination for convenience under Section 36.1 and occurrence of a MDOT Default of the type entitling Project Company to terminate this Agreement; and
- (c) any debt for which notice has not been given from the Collateral Agent to MDOT (together with the related Financing Documents).

1.242 Project Documents means:

- (a) this Agreement;
- (b) the D&C Contract;
- (c) the O&M Contract;
- (d) the Performance Security;
- (e) the Financing Documents;
- (f) the Equity Members Funding Agreements;
- (g) the Lenders' Direct Agreement; and
- (h) any other document or agreement entered into under or for the purposes of supplementing, replacing, amending or novating, any of them or any other documents as the parties agree is a Project Document.

1.243 Project Finance means a structure where the debt financing (provided by banks or the bond market) is raised on a project-specific basis, relying primarily on the underlying Agreement and the various subcontracts for security and on the specific Project cash flows for repayment, and with limited (or no) recourse to the parent company.

1.244 Project Know-How means all ideas, concepts, alternatives, methodologies, processes, recommendations and suggestions developed by or through Project Company or any Project Company Partner and revealed to or discovered by MDOT whether before or after Commercial and Financial Close, which may be connected in any way to the Project.

1.245 Project Management Plan or PMP has the meaning given in Article 3 of the General Technical Requirements as updated or amended in accordance with the Agreement and includes all Sub-Plans. The Project Management Plan at Commercial and Financial Close Date is the Commercial and Financial Close PMP.

1.246 Project Operations means:

- (a) the performance of the D&C Work
- (b) the performance of the O&M Work and

(c) the performance of all other obligations of Project Company under this Agreement.

1.247 Project Right of Entry has the meaning given in Section 13.1.

1.248 Proposal has the meaning given in the ITP.

1.249 Proposal ESP means the ESP included in the Financial Model as at the Commercial and Financial Close Deadline.

1.250 Proposal Technical Commitments the elements of the Project Management Plan which exceed the Technical Requirements as set out in Schedule 8 – Proposal Technical Commitments.

1.251 Qualifying Institution means:

- (a) a United States trust company, insurance company, investment company, pension fund or institution which manages at least \$500 million in assets, including entities wholly owned by any of the foregoing;
- (b) a United States bank, saving and loan institution, insurance company,
- (c) an investment company, employee benefit plan or other institution that manages at least \$500 million in securities and would be a “qualified institutional buyer” under United States securities laws or regulations, including entities wholly owned by any of the foregoing;
- (d) an institution which is recognized or permitted under the law of any member state of the European Economic Area (“EEA”) or the Organization for Economic Cooperation and Development (“OECD”) to carry on the business of a credit institution within OECD member states or, in the case of the EEA, to carry on the business of a credit institution pursuant to Council Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions or which is otherwise permitted to accept deposits in the United Kingdom or any other EEA member state; or
- (e) any other institution MDOT designates in writing as a “Qualifying Institution”.

1.252 Qualifying Refinancing means any Refinancing that will give rise to a Refinancing Gain excluding any Exempt Refinancing.

1.253 Qualified Investor means any Person that is compliant with Rule 501 of Regulation D as defined by the U.S. Securities and Exchange Commission.

1.254 Quality Management Plan has the meaning given in Section 3.9 – Quality Management Plan (QMP) of the General Technical Requirements.

1.255 Quarter means:

- (a) the period commencing on the Service Commencement Date and ending on the day before the first Quarterly Date during the O&M Term
- (b) each 3 month period commencing on a Quarterly Date; and

- (c) the period commencing on the last Quarterly Date during the O&M Term and ending on the Expiry Date.

1.256 Quarterly Date means every January 1, April 1, July 1 and October 1 during the O&M Term.

1.257 Rating Agency means any of Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., Moody's Investors Service, Inc., or Fitch Investors Service, Inc.

1.258 Reference Information Documents or RIDs means any and all drawings, reports, studies, data, documents, or other information, provided or made available to Project Company or any Project Company Related Entity by MDOT or any MDOT Person, or which was obtained from or through any other sources prior to the Commercial and Financial Close Date.

1.259 Refinancing means:

- (a) any amendment, variation, novation, supplement or replacement of any Financing Document (other than any Equity Members Funding Agreement);
- (b) the exercise of any right, or the grant of any waiver or consent, under any Financing Document (other than any Equity Members Funding Agreement);
- (c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, any Financing Document (other than any Equity Members Funding Agreement) or the creation or granting of any other form of benefit or interest in either a Financing Document (other than any Equity Members Funding Agreement) or the contracts, revenues or assets of the Project Company whether by way of security or otherwise; or
- (d) any other arrangement put in place by the Project Company or another person which has an effect which is similar to any of clauses (a)(i) to (a)(iii) or which has the effect of limiting the Project Company's ability to carry out any of clauses (a)(i) to (a)(iii)(e)(iii) above.

1.260 Refinancing Gain means an amount equal to the greater of zero and $\{(A-B)-C\}$, where:

A = the net present value using the Base Case Equity IRR as the discounting rate of the Distributions projected immediately prior to the Refinancing (taking into account the effect of the Refinancing and using the Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made over the remaining term of this Agreement following the Refinancing;

B = the net present value using the Base Case Equity IRR as the discounting rate of the Distributions projected immediately prior to the Refinancing (but without taking into account the effect of the Refinancing and using the Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made over the remaining term of

this Agreement following the Refinancing; and

C = any adjustment required to raise the Pre-Refinancing Equity IRR to the Base Case Equity IRR.

1.261 Relevant Change in Law means a discriminatory Change in Law which principally affects or principally relates only to the design, construction, operation, maintenance or rehabilitation of the Improved Freeway Lighting Systems.

1.262 Relevant Event has the meaning given in Section 28.1.

1.263 Relevant Infrastructure means:

- (a) during the D&C Term, the Premises, the Freeway Lighting System, the D&C Works and O&M Works to be performed during the O&M Term; and
- (b) during the O&M Term, the Premises, and the Improved Freeway Lighting System and the O&M Works to be performed during the O&M Term.

1.264 Relief Events means any of the following events or circumstances if it occurs on or after the Service Commencement Date and to the extent, in each case, that it interferes adversely with, or causes a failure of, the performance of the O&M Work:

- (a) a Force Majeure Event;
- (b) any Compensable Relief Event.

1.265 Remedy means, following the occurrence of a Noncompliance Event, resolving and curing the Noncompliance Event in a way that Project Company is in full compliance with this Agreement.

1.266 Remedy Period means, with respect to each Noncompliance Event, the relevant period within which Project Company shall Remedy a Noncompliance Event as specified in Appendix A of Schedule 3 – Payment Mechanism.

1.267 Rental Assessment Rate means the amount, as shown in Table 3 - Lane Rental Rate, of Schedule 3 – Payment Mechanism which represents the cost for each Lane Closure.

1.268 Report of Property Damage means a report in the form of Schedule 17 – Report of Department Property Damage.

1.269 Reputable Insurer means an insurance company that is rated in the top two categories by two of the three (3) Rating Agencies or at least A-: VIII or better according to A.M. Best's Financial Strength Rating and Financial Size Category, except as otherwise approved in writing by MDOT in its good faith discretion.

1.270 Request for Proposals means the request for Proposals issued by MDOT for the Project on August 25, 2014.

1.271 Request for Change Proposal means a Notice issued by MDOT to Project Company setting forth a proposed MDOT Change and requesting Project Company's assessment

of cost, financial, schedule, Technical Requirements and other impacts as set forth in Section 2.3 of Schedule 2 – Change Procedure.

- 1.272 Required Contract Provisions** means the “Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273,” included in Appendix D of Schedule 12 – Federal and State Requirements.
- 1.273 Required Sub-Plans or Sub-Plans** has the meaning given in Section 3.1 of the General Technical Requirements.
- 1.274 Response** has the meaning given in Section 26.3(b).
- 1.275 Restricted Periods** are the specified times during which Lane Rental Rates applies for a Lane Rental Group 1 or Group 2 roadway listed in Exhibit B of the Technical Requirements.
- 1.276 Restricted Zones** means roadway sections within the Premises where Lane Closures are restricted at certain times to reduce traffic congestion. Restricted Zones are listed in Exhibit B of the Technical Requirements.
- 1.277 Retention Amount** has the meaning given in Section 17.4(a).
- 1.278 Right of Way** means the real property (which term is inclusive of all estates and interests in real property) within the Detroit Metro Region that is necessary for ownership and operation of the Project (includes permits). The term specifically excludes any Construction Easements.
- 1.279 Rule and Regulation** means the bylaws, guidelines, policies, regulations, rules, standards, safety management system and security management system requirements, or similar instruments or requirements, adopted by the State of Michigan,, or a similar Governmental Entity, from time to time in relation to the regulation of the design, construction, operation and maintenance, safety and security of, as well as the rates and conditions of any other transportation facility, owned and operated by MDOT in Michigan.
- 1.280 Satisfactory Completion** means:
- (a) MDOT finds the relevant Project Operations completed in accordance with the Agreement;
 - (b) all required paperwork, including material certifications, payrolls, etc., has been received and approved by MDOT; and,
 - (c) MDOT has inspected and accepted the relevant aspect of the Project Operations.
- 1.281 Scheduled Expiry Date** means the date which is 15 years after the Commercial and Financial Close Date.
- 1.282 Seismic Event** means the trembling or shaking movement of the earth’s surface that produces ground motions at the Premises to, temporary or permanent works of the

Project or if following Substantial Completion, exceeds the design requirements and directly impacts and causes damage to the permanent works of the Project.

- 1.283 Security Documents** means any mortgage, deed of trust, pledge, lien, indenture, trust agreement, hypothecation, assignment, collateral assignment, financing statement under the Uniform Commercial Code of any jurisdiction, security instrument or other charge or encumbrance of any kind, including any lease in the nature of a security instrument, given to any Lender as security for Project Debt or Project Company's obligations pertaining to Project Debt and encumbering the Project Company's Interest.
- 1.284 Senior Debt Service Amount** means the debt service payments that are senior to all other debt obligations in the cash flow waterfall.
- 1.285 Service Commencement Date** means the 1st day of operations of the Improved Freeway Lighting System by Project Company after the later of the Substantial Completion Date and the Substantial Completion Deadline.
- 1.286 Service Failure** has the meaning given in Schedule 3 – Payment Mechanism
- 1.287 Service Payment** has the meaning given in Article 2 of Schedule 3 – Payment Mechanism.
- 1.288 Setting Date** means the date 20 Business Date prior to the Proposal due date posted in Exhibit B of the ITP, which date is February 27, 2015.
- 1.289 Small Business Concern** means, with respect to firms seeking to participate as DBEs in DOT- assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in Sec. 26.65(b).
- 1.290 Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is -
- (a) any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
 - (b) any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

- (iv) “Asian-Pacific Americans,” 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, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- (v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) Women;
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

1.291 Step-In Event has the meaning given in Section 21.1(a).

1.292 Step-In Rights mean MDOT’s step-in rights in the case of a Step-In Event as set out in Section 21.1.

1.293 Submittal means any document, written work product or other written or electronic end product or item required under this Agreement to be delivered or submitted to MDOT. “Submittal” does not include notice of a Delay Event or Relief Event or Notices with respect to Disputes.

1.294 Submittal Requirements means the submittal requirements set out in Article 46.

1.295 Substantial Completion means the stage when:

- (a) the D&C Works are complete in accordance with this Agreement except for Minor Deficiencies;
- (b) the Improved Freeway Lighting Systems meets the required lighting performance criteria specified in Section 1.3 of the D&C Requirements;
- (c) all Submittals required by the Project Management Plan or Project Documents to be submitted to MDOT prior to Substantial Completion (including the O&M Plan) have been submitted to and approved by MDOT in accordance with the Submittal Requirements, in the form and content required by the Project Management Plan or Project Documents, as applicable;
- (d) all Insurance Policies required for the O&M Term under this Agreement have been obtained and are in full force and effect;
- (e) Project Company has received, and paid all associated fees for, all applicable Permits, Licenses and Approvals and other third-party approvals required for use and operation of the O&M Works, such Permits, Licenses and Approvals and other third-party approvals are in full force and effect, and there exists no uncured material violation of the terms and conditions of any such Permits, Licenses and Approvals or other third-party approvals;

- (f) there exists no uncured Project Company Default that is the subject of a notice, unless (i) Substantial Completion will effect its full and complete cure, (ii) with respect to any non-monetary default, Project Company has a right to cure and is diligently pursuing cure within the applicable cure period or (iii) with respect to any monetary defaults, the amount in question is disputed and Project has timely submitted such matter for resolution under Schedule 4 - Dispute Resolution Procedures;
- (g) the O&M Performance Security has been obtained and is in full force and effect and Project Company has delivered the same to MDOT;
- (h) if any Governmental Entity with jurisdiction requires any form of certification of design, engineering or construction with respect to the Project or any portion thereof, including any certifications from the engineer of record] and architect of record for the Project, Project Company has caused such certificates to be executed and delivered and has concurrently issued identical certificates to MDOT;
- (i) Project Company has delivered to MDOT all manufacturer warranties required under, and in the form and content specified by the Technical Provisions; and
- (j) Project Company has done everything which this Agreement requires Project Company to do as a condition precedent to Substantial Completion.

1.296 Substantial Completion Certificate means the certificate to be issued by the MDOT Representative in accordance with Section 16.2.

1.297 Substantial Completion Date means the date on which Substantial Completion is achieved as such date is evidenced by the Substantial Completion Certificate.

1.298 Substantial Completion Deadline means the Original Substantial Completion Deadline as such date is extended in accordance with this Agreement.

1.299 Substituted Entity means any Person selected by Lenders and approved by MDOT in accordance with the Agreement to perform all or a portion of Project Company's obligations and succeed to the Project Company's rights under this Agreement.

1.300 Systems means the Freeway Lighting System and the Improved Freeway Lighting System or either as the context requires.

1.301 Taxes means federal, State, local or foreign income, margin, gross receipts, sales, use, excise, transfer, consumer, license, payroll, employment, severance, stamp, business, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Internal Revenue Code of 1986, as amended), customs, permit, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, registration, value added, alternative or add-on minimum, estimated or other taxes, levies, imposts, duties, fees or charges imposed, levied, collected, withheld or assessed at any time, whether direct or indirect, relating to, or incurred in connection with, the Project, the performance of the Project Operations, the Milestone Payments, Service Payments, other compensation or act, business, status or transaction of Project Company, including any interest, penalty or addition thereto, and including utility rates or rents, in all cases whether disputed or undisputed.

- 1.302 Technical Requirements** means the D&C Requirements, the O&M Requirements and the General Technical Requirements included in Part 1 Schedule 16 – Technical Requirements or any of them as the context requires.
- 1.303 Temporary Repair** means, where a Defect occurs, works of a temporary nature that are undertaken in accordance with Section 4.6 of Schedule 3 – Payment Mechanism and do not constitute Remedy but satisfy the Minimum Conditions and substantially make good the relevant Defect until a Remedy can be undertaken.
- 1.304 Temporary Traffic Control Plan or TTCP** has the meaning given in Section 5.3 of the D&C Requirements.
- 1.305 Term** has the meaning given in Section 2.1.
- 1.306 Termination Amount** means the Extended Force Majeure Termination Amount, the MDOT Default Termination Amount or the Project Company Default Termination Amount (as applicable).
- 1.307 Threatened or Endangered Species** means any species listed by the USFWS as threatened or endangered pursuant to the Endangered Species Act, as amended, 16 U.S.C. §§ 1531, et seq. or any species listed as threatened or endangered pursuant to the Michigan Endangered Species Protection Act, MCL 324.36501 et seq.
- 1.308 Traffic Management Plan or TMP** has the meaning given in the Technical Provisions.
- 1.309 Transition Plan** has the meaning given in Section 37.3.
- 1.310 Tunnels** means one of eight locations in the Project where the lighting must be designed and constructed to operate under IES RP-22 criteria.
- 1.311 Tunnel and Tunnel Approach Lighting Criteria** means IES RP-22
- 1.312 Uninsurable Risk** means a risk that is required to be insured in accordance with this Agreement and for which insurance is available at the Commercial and Financial Close Date but:
- (a) becomes unavailable in the recognized international insurance market in connection with that risk by a Reputable Insurer; or
 - (b) in connection with which the insurance premium payable for insuring that risk with a Reputable Insurer becomes, after the Commercial and Financial Close Date, at such a level or the terms and conditions are such that the risk is not generally being insured against by private sector providers of facilities globally similar to the Improved Freeway Lighting System,
 - (c) provided that the uninsurability in accordance with clause (a) or (b) is not caused by any act or omission of Project Company or a Project Company Related Entity.
- 1.313 Units** means units or other equity interests of any class in the capital of the Project Company.

- 1.314 USDOL** means United States Department of Labor.
- 1.315 Users** means any persons who drive on a Project roadway or access the Premises. Users include MDOT personnel, contracted personnel, contractors, and the general public.
- 1.316 Utilities** means any and all utility services and installations including gas, water, sanitary sewer, storm sewers, electricity, steam, chilled water, telephone, and telecommunications, and all piping, wiring, conduit, and other fixtures in connection with such utilities.
- 1.317 Utility Company** means the owner or operator of any Utility Infrastructure.
- 1.318 Utility Infrastructure** means privately, publicly or cooperatively owned lines, facilities or systems for transmitting or distributing electricity, data, communications, gas, oil and petroleum products, water, storm water or sewage or other similar commodity or substance which serve the public directly or indirectly, including underground, surface and overhead facilities as well as facilities which use common poles, ducts or conduits on a shared basis, and all related infrastructure.
- 1.319 Utility Work** means temporary and permanent installation, protection, removal and relocation works relating to Utility Infrastructure carried out in connection with or as part of the Relevant Infrastructure, including installation, protection, removal and relocation of poles, pole lines, conduits, gas pipes, oil pipes, sewers and tile lines, and related and ancillary works.
- 1.320 Vandalism** means theft, willful or malicious damage to the Freeway Lighting System or Improved Freeway Lighting System (excluding graffiti) by a third party that:
- (a) could not reasonably be expected to have been avoided or mitigated by the Project Company as part of the Project Company's obligations under this Agreement; and
 - (b) does not arise from or was not contributed to, directly or indirectly, by any Project Company Fault.
- 1.321 Vehicle Damage** means any loss or damage to the Relevant Infrastructure directly caused by a third party vehicle accident which:
- (a) could not reasonably be expected to have been avoided or mitigated by the Project Company as part of the Project Company's obligations under this Agreement; and
 - (b) does not arise from or was not contributed to, directly or indirectly, by any Project Company Fault.
- 1.322 Warning Notice** has the meaning given in Section 34.4.
- 1.323 Work** means the O&M Work and the D&C Work or either of them as the context requires.
- 1.324 WorkZone Traffic Control Plan or WZTCP** has the meaning given in Section 5.3 of the D&C Requirements.

SCHEDULE 2 - CHANGE PROCEDURE**2.1** Definition Of and General Requirements Relating To Change Orders

- (a) This Schedule 2 concerns (i) Directive Letters unilaterally issued by MDOT (ii) Change Orders issued by MDOT following a Request for Change Proposal by MDOT; and (iii) Change Orders issued by MDOT following a Change Request by Project Company.
- (b) The term “Change Order” shall mean a written amendment to the terms and conditions of this Agreement to effect a Change issued in accordance with this Schedule 2.
- (c) A Change Order shall not be effective for any purpose unless executed by MDOT in accordance with this Agreement.
- (d) Change Requests may only be made by Project Company in accordance with Section 2.9 of this Schedule 2.

2.2 MDOT right to issue Directive Letter

- (a) MDOT may, at any time and from time to time issue a Change Order directing Project Company to proceed with the Change (Directive Letter).
- (b) The Directive Letter will state that it is issued under this Section 2.2 of this Schedule 2, will describe the Change, any Direct Costs payable and any extension of time to any Milestone Deadline or the Substantial Completion Deadline.
- (c) The fact that a Directive Letter was issued by MDOT shall not be considered evidence that in fact an MDOT Change occurred. The determination whether an MDOT Change in fact occurred shall be based on an analysis of the original requirements of this Agreement and a determination as to whether the Directive Letter in fact constituted a Change.

2.3 Request for Change Proposal

- (a) If MDOT desires to initiate or evaluate whether to initiate a Change Order, then MDOT may issue a Request for Change Proposal. The Request for Change Proposal shall set forth the nature, extent and details of the proposed Change.
- (b) Within 5 Business Days after Project Company receives a Request for Change Proposal, or such longer period reasonably determined by MDOT having regard to the nature of the Change requested, MDOT and Project Company shall consult to define the proposed scope of the Change.
- (c) Within 5 Business Days after the initial consultation, or such longer period reasonably determined by MDOT having regard to the nature of the Change requested, MDOT and Project Company shall consult concerning the estimated financial, schedule and other impacts of the Change.

2.4 Project Company Response to Request for Change Proposal

- (a) Within 20 Business Days of receipt of the Request for Change Proposals or such longer period reasonably determined by MDOT having regard to the nature of the Change requested, Project Company shall provide MDOT a Change Response which sets out:
- (i) whether, in Project Company's opinion, the MDOT Change constitutes a Compensable Delay Event or a Compensable Relief Event in which case any entitlement to an extension of time, Direct Costs, Financing Delay Costs or relief in accordance with this Agreement must be claimed in accordance with Article 28 - Article 32 (as applicable) and any Claim for such relief must not also be included in the Change Response or the costs of undertaking the Change;
 - (ii) all activities associated with the Request for Change Proposal, including a description of additions, decreases, omissions, deletions, removals or modifications to the existing requirements of this Agreement (including the Technical Requirements, Substantial Completion Deadline, the Handback Works or the Handback Requirements) or the Relevant Infrastructure;
 - (iii) Project Company's detailed estimate of the Direct Costs of carrying out the proposed Change. The cost estimate shall set out the estimated Direct Costs in such a way that a fair evaluation can be made. It shall include a breakdown for labor, materials, equipment, overhead (which includes all indirect costs) and profit, unless MDOT agrees otherwise. If the work is to be performed by Contractors and if the work is sufficiently defined to obtain Contractor quotes, Project Company shall obtain quotes (with breakdowns showing cost of labor, materials, equipment, overhead and profit) on the Contractor's stationery and shall include such quotes as back-up for Project Company's estimate. No mark-up shall be allowed in excess of the amounts allowed under Schedule 15 - Direct Costs of this Agreement. Project Company shall identify all conditions with respect to prices or other aspects of the cost estimate, such as pricing contingent on firm orders being made by a certain date or the occurrence or non-occurrence of an event;
 - (iv) the proposed manner of payment in accordance with Section 5 of Schedule 15 – Direct Costs;
 - (v) any net cost savings and schedule savings to which MDOT is entitled under Schedule 15 – Direct Costs and the timing and method for realizing such cost or schedule savings including where the effect of the Change is to decrease, delete or remove scope, a summary narrative and documentation substantiating, any actual, direct and documented increases in Project Company's costs arising out of such reductive Change as may affect the determination of net cost savings under Schedule 15 – Direct Costs; and
 - (vi) any other relevant information related to carrying out the proposed Change, (a "Change Response").

2.5 MDOT Response to Change Response

- (a) MDOT and Project Company (on its own behalf and on behalf of its Contractors) shall endeavor to negotiate, in good faith, a reasonable cost for each Change Order including any Direct Costs to which Project Company is entitled in accordance with Schedule 15 – Direct Costs, the timing and method for payment of any such compensation or if applicable, any net cost savings and schedule savings to which MDOT is entitled under Schedule 15 – Direct Costs and the timing and method for realizing such cost savings.
- (b) If MDOT and Project Company are able to reach agreement on a Change Order, MDOT may issue a Change Order on the terms agreed.
- (c) If MDOT and Project Company are unable to reach agreement on a Change Order, MDOT may, in its sole discretion, resolve the Dispute according to the Dispute Resolution Procedures without issuing a Directive Letter, or deliver to Project Company a Directive Letter pursuant to Section 2.2 of this Schedule 2 directing Project Company to proceed with the performance of the Project Operations in question notwithstanding such disagreement.

2.6 Performance of Change Order by Project Company

- (a) If (1) the Parties agree a Request for Change Proposal in accordance with Section 2.5(a) of this Schedule 2 and MDOT issues a Change Order or (2) MDOT issues a Directive Letter under Section 2.2 of this Schedule 2, Project Company must implement the Change in accordance with the Change Order.
- (b) If MDOT issues a Directive Letter under Section 2.5(b) of this Schedule 2 or Project Company disputes a Directive Letter under Section 2.2 of this Schedule 2, pending final resolution of the relevant Change Order according to the Dispute Resolution Procedures, (a) Project Company shall implement the Change in accordance with the Change Order, with the right to submit the issue of entitlement to a Change Order to Dispute Resolution in accordance with Schedule 4 – Dispute Resolution Procedures.
- (c) Project Company shall maintain and deliver to MDOT, upon request, contemporaneous records for all work performed which Project Company believes constitutes extra work (including non-construction work), until all Disputes regarding entitlement or cost of such work are resolved.

2.7 Direct Costs Payable

- (a) MDOT shall be responsible for payment of the Direct Costs agreed upon and reflected in the Change Order or determined through the Dispute Resolution Procedures.
- (b) Where the effect of the Change is to decrease, delete or remove scope MDOT shall be entitled to:
 - (i) seventy-five percent (75%) of the net cost savings, if any, attributable to any reductive MDOT Change and one hundred percent (100%) of the net savings in financing costs associated with any savings in capital costs determined in accordance with Schedule 15 – Direct Costs, which Project Company shall pay to MDOT (a) as periodic payments over the Term, (b) as an adjustment to the

Service Payment over the O&M Term, or (c) through any combination of the above, as selected by MDOT, in its sole discretion. MDOT also may also deduct such amounts in accordance with Section 22.3(a)(ii); and

- (ii) MDOT shall be entitled to one hundred percent (100%) of the effect, if any, of the proposed Change on shortening the Construction Schedule and

2.8 Updated Documents

- (a) Project Company must submit to MDOT three paper copies, three electronic versions in .pdf format and three electronic versions in original format of the following documents following completion of any Change Order or Directive Letter (if and to the extent applicable given the nature of the Change):
- (b) all final drawings, specifications, models, samples and calculations used to undertake the Change; and
- (c) amended versions of any Project Document necessary to identify and incorporate the Change.

2.9 Project Company Initiated Change

- (a) Project Company at any time may issue a Change Request in a form approved by MDOT that proposes a Change and satisfies the requirements of Section 2.4 of this Schedule 2 (“Change Request”).
- (b) MDOT may direct a Change in accordance with Project Company’s Change Request by issuing a Change Order in which case:
 - (i) Project Company will carry out the Change in accordance with the Change Order, at its own cost and risk and without any entitlement to make a Claim against MDOT;
 - (ii) fifty (50%) of any savings that the analysis indicates will occur for the remainder of the Term MDOT shall obtain its share of the savings in the manner described in Section 2.7(b)(i) of this Schedule 2; and
 - (iii) any incremental increase in MDOT’s overhead, administrative and out-of-pocket costs resulting such Change Order will recoverable in accordance with Section 22.3(a)(ii).

2.10 No Change Order Based on Course of Conduct or Order by Unauthorized Person

No course of conduct or dealings between the parties nor express or implied acceptance of any Change, and no claim that MDOT has been unjustly enriched shall be the basis for any Claim, request for additional compensation or extension of a Milestone. Further, Project Company shall undertake, at its risk, work included in Change Order or other authorization issued by a person in excess of that person’s authority as provided herein, or included in any oral request. Project Company shall be deemed to have performed such work as a volunteer and at its sole cost. In addition, MDOT may require Project Company to remove or otherwise undo any such work, at Project Company’s sole cost.

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SCHEDULE 3 - PAYMENT MECHANISM

ARTICLE 1. MILESTONE PAYMENTS

(a) The Milestone Payment for each Milestone (as set out in Table 1 - Milestone Table) shall be calculated using the following formula:

$$MP = MMP - A1, \text{ where}$$

MP = Milestone Payment;

MMP = the amount equal to the Maximum Milestone Payment applicable to the relevant Milestone (as set out in Table 1: Milestone Table); and

A1 = Milestone Payment Deductions as specified in Article 1(b).

Table 1: Milestone Table

| | Milestone Date | Maximum Milestone Payment |
|--------------------|--|----------------------------------|
| Milestone 1 | Date on which the requirements in Section 2.2 of the General Technical Requirements are satisfied. | \$6 million |
| Milestone 2 | Later of the Substantial Completion Date and October 31, 2015. | \$6 million |

(b) The following Milestone Payment Deductions will be deducted from each Milestone Payment, provided, however, that the Milestone Payment cannot be less than zero:

- (i) Each Milestone Payment will be reduced to the extent Project Company is unable to provide evidence of incorporating D&C Work with a value at least equal to the sum of the Maximum Milestone Payments for the relevant Milestone(s) into the Improved Freeway Lighting System. The Deduction to the Milestone Payment will be the difference between the Maximum Milestone Payment and the value of the incorporated D&C Work evidenced by the Project Company and accepted by MDOT.
- (ii) Each Milestone Payment will be reduced by any D&C Deductions.
- (iii) Each Milestone Payment will be reduced by the amount of any Lane Rental.

ARTICLE 2. SERVICE PAYMENTS

(a) The following Service Payment will be made to the Project Company during the O&M Term each Quarter and payable in accordance with Article 22 of the Project Agreement:

$$\text{SERVICE PAYMENT}_Q = (\text{ESP}_Q \times f_p \times f_t) + ((60\% \times \text{AP}_Q \times \text{INF}) + (40\% \times \text{AP}_Q)) - \text{A1}_Q - \text{A2}_Q - \text{A3}_Q$$

ESP_q = Energy Savings Payment is defined as the difference in energy consumption between MDOT’s Theoretical Energy Consumption and Actual Electricity Consumption in the relevant Quarter multiplied by the Set Electricity Price. MDOT will continue to pay the electricity price to the relevant Utility Company for actual usage. The ESP will be calculated as follows:

ESP_q = SEP x (TEC_q – AEC_q) where

SEP = Set Electricity Price (\$0.065/kWh)

TEC_q = Theoretical Electricity Consumption for the Quarter based on 33,398,000 kWh per year at the following quarterly distribution:

| | |
|---------|---------------|
| JAN-MAR | 8,785,000 kWh |
| APR-JUN | 7,540,000 kWh |
| JUL-SEP | 7,864,000 kWh |
| OCT-DEC | 9,209,000 kWh |

During partial Quarters at the beginning and the end of the O&M Term, a pro-rata share of TEC_q based on the actual number of days in the partial Quarter should be used.

AEC_q = Actual Electricity Consumption as metered by the relevant Utility Company for the previous Quarter;

f_p = Performance factor adjusting Theoretical Electricity Consumption to reflect the actual performance achieved by Project Company; factor is based on the percentage of the system that is not operating over the reporting period)

$$= 1 - \frac{\sum_{i=1}^n (t_{ix} w_i)}{\sum_{i=1}^n (t_{iy} w_i)} \text{ where}$$

t_{ix} = time each luminaire is reported in MMIS as incorrectly illuminated during period

t_{iy} = time each luminaire is scheduled to be illuminated over period

w_i = rated wattage for each luminaire under operating conditions

n = total number of (i) luminaires in the Improved Freeway Lighting System

f_t = Energy Reduction Target Factor

The Energy Reduction Target Factor is determined by the requirements of Section 3.4(b), (c), (d) or (e) of this Schedule. These requirements set values of *f_t* for ranges of the calculated ratio (*r*) of actual quarterly ESP

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values to the Proposal ESP values for each quarter (Proposal ESP_q) over the prior Contract Year, as submitted under Appendix B of this Schedule. Both values in the ratio must use identical SEP values. The calculation of this ratio is shown in the equation below:

$$r = \frac{\sum(\text{ESP}_q)}{\sum(\text{Proposal ESP}_q)} \text{ for the four quarters of the prior Contract Year}$$

f_t will be one of the following values, depending upon the calculated value of r for the prior Contract Year:

$f_t = 1.00$ if $r \geq 0.95$, (Section 3.4(b));

$f_t = 0.95$ if $0.90 \leq r < 0.95$, (Section 3.4(c));

$f_t = 0.60$ if $0.80 \leq r < 0.90$, (Section 3.4(d)); or

$f_t = 0.40$ if $r < 0.80$, (Section 3.4(e)).

AP_q = Availability Payment (quarterly) value submitted by the Project Company in Appendix B which includes costs necessary to design, construct, finance, operate and maintain the Improved Freeway Lighting System in accordance with the Agreement. During partial Quarters at the beginning and the end of the O&M Term, a pro-rata share of AP_q based on the actual number of days in the partial Quarter should be used.

INF = the Cumulative Annual Escalation Rate;

A1_q = O&M Deductions (quarterly);

A2_q = Deductions for Lane Rental (quarterly);

A3_q = Deductions under Section 5(b) (quarterly);

ARTICLE 3. LANE RENTAL DEDUCTIONS

Section 3.1 Lane Rental

- (a) Except as expressly provided in the Project Agreement and subject to Section 22.3 of the Project Agreement, Lane Rentals will be calculated in accordance with Section 3.1(b) and deducted from:
 - (i) the Maximum Milestone Payment during the D&C Term; and
 - (ii) the Service Payment, during the O&M Term.
- (b) Unless individually waived in writing by MDOT during the Lane Closure Notification Process, Lane Rental Charges will be assessed based on the following terms and conditions.
 - (i) Lane Closures occurring in Restricted Zones during Restricted Periods defined in Exhibit B will be assessed Lane Rental Charges based on the corresponding rates and Lane Closure Category shown in Lines 1 and 4 of Table 3- Lane Rental Rates per Hour. Such Lane Closures occurring in Restricted Zones which start, extend or otherwise occur outside of the time periods shown in Exhibit B of the Technical Requirements (Exhibit B) and are not waived under Section 3.1(c) will be assessed at the rate shown in Line 2 of Table 3- Lane Rental Rates per Hour.

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- (ii) Lane Closures occurring in the Premises that are not defined as Restricted Zones in Exhibit B will be assessed Lane Rental Charges based on the corresponding rates and Lane Closure Category shown in Line 3 of Table 3- Lane Rental Rates per Hour, unless waived under Section 3.1(c).
 - (iii) Double-Lane Closures between 11 PM and 5 AM the following morning are subject only to the standard Lane Closure Notification Process, provided there are at least 3 lanes in the directional lane group throughout their lengths. Double-Lane Closures at all other times require specific approval by MDOT during the Lane Closure Notification Process. Such Lane Closures will be assessed Lane Rental Charges based on the corresponding rates shown in Lines 1, 2 or 3 of Table 3.
 - (iv) Triple-Lane Closures are only allowed from 11 PM to 5 AM the following morning, and require specific approval by MDOT during the Lane Closure Notification Process. Such Lane Closures will be assessed Lane Rental Charges based on the corresponding rates shown in Line 5 of Table 3- Lane Rental Rates per Hour.
 - (v) Lane Closures on ramps between 9 PM to 5 AM the following morning are subject only to the standard Lane Closure Notification Process. Such Lane Closures will be assessed Lane Rental Charges based on the corresponding rates shown in Line 7 of Table 3- Lane Rental Rates per Hour, unless waived under Section 3.1(c).
 - (vi) Lane Closures on ramps between 5 AM and 9 PM require specific approval by MDOT during the Lane Closure Notification Process. Such Lane Closures will be assessed Lane Rental Charges based on the corresponding rates shown in Line 6 of Table 3- Lane Rental Rates per Hour. If an MDOT-approved ramp closure occurring between 5 AM and 9 PM exceeds six (6) hours, Project Company must provide a signed detour route and must obtain approval of the detour route from MDOT as well as any local agencies having jurisdiction over roadway segments within the detour route.
 - (vii) Lane Closures which are not otherwise addressed within the Payment Mechanism will be assessed Lane Rental Charges based on the corresponding rates shown in Line 3 of Table 3- Lane Rental Rates per Hour.
 - (viii) Corridor TTCP requiring Lane Closures will be assessed Lane Rental only for those hours where Lane Rentals are not waived in other clauses within this Article 3.
- (c) Lane Rental Charges will not be assessed for:
- (i) Single lane closures on the inside or outside of a directional lane group (with or without adjacent shoulder closures) and for inside or outside shoulder closures, provided such closures occur between 9:00 AM and 3:00 PM (weekdays only), or between 10:00 PM and 5:00 AM (daily);
 - (ii) Ramp closures for off-ramps connecting the primary route to/from non-arterial roadways, provided such closures occur between 11:00 PM and 5:00 AM (Sunday nights through Friday mornings) or between 11:00 PM and 8:00 AM (Friday nights through Sunday mornings) (arterial roadways are defined for purposes of this Schedule 3 as Mound Road, and all numbered routes intersecting the primary route that are designated with the prefix “M”, “US” or “I”);

- (iii) Shoulder closures where an adjacent lane is concurrently closed; and
- (iv) Double lane closures; provided such closures occur between 10:00 PM and 5:00 AM (daily);

unless such Lane Closures occur during, or encroach upon, a Restricted Zone and corresponding Restricted Period in Exhibit B; or occur during a Known Special Event (Exhibit A) or holiday (Section 5.4(a) of the D&C Works Requirements). Where conflicts occur between the non-assessment of Lane Rental Charges in this Section 3.1(c) and a Lane Closure subject to Lane Rental Charges in Exhibit B, Exhibit B takes precedence.

Section 3.2 Lane Rental Assessment

- (a) The Lane Rental Rate to be used in determining Lane Rental is determined by the factors listed in Exhibit B of the Technical Provisions and Table 3 – Lane Rental Rates per Hour. The Lane Rental Rate must be determined individually for each Lane Closure reported to MDOT by multiplying the base Lane Rental Rate corresponding to the Lane Rental Group for each closure by the Cumulative Annual Escalation Rate.

Table 3: Lane Rental Rates per Hour

| | Lane Closure Category | Applicable Conditions | Lane Rental Rates / Hour | | |
|---|---|--|---|--|--|
| | | | Zones / Periods Not Listed in Exhibit B; Exhibit B non-Restricted Periods | Zones /Periods Restricted in Exhibit B, Lane Rental Group 1 Rate | Zones /Periods Restricted in Exhibit B, Lane Rental Group 2 Rate |
| 1 | Exhibit B Lane Closures | Exhibit B, Restricted Zones & Periods | N/A | \$15,000/Lane | \$10,000/Lane |
| 2 | Exhibit B Lane Closures, non-Restricted Periods | Exhibit B, Restricted Zones & non-Restricted Periods | N/A | \$3,000/Lane | \$2,000/Lane |
| 3 | Non-Exhibit B Lane Closures | Zones / Periods Not Listed in Exhibit B | \$1,000/Lane | N/A | N/A |
| 4 | Shoulder Closures | Exhibit B, Restricted Zones & Periods | No Lane Rental | \$2,000 | No Lane Rental |
| 5 | *Triple-lane Closures | *(11PM- 5AM), all zones | \$1,000 | \$3,000 | \$2,000 |
| 6 | Ramp Closures | (5AM–9PM), all zones | \$600 | \$2,000 | \$1,000 |
| 7 | Ramp Closures | (9PM-5AM), all zones | \$400 | \$600 | \$600 |
| 8 | *Traffic Stoppages | *(11PM-5AM), all zones | \$2,000 | \$4,000 | \$3,000 |

*These categories of Lane Closures and the associated rates are limited to the time periods shown under the Applicable Conditions column unless specifically approved by MDOT in writing during the Lane Closure Notification Process. If such Lane Closures start or extend outside of the time periods shown, Project Company will be assessed Lane Rental Charges at the rates shown for Lane Closure Categories “Exhibit B Lane Closures”, “Exhibit B Lane Closures, non-Restricted Periods” or “Non-Exhibit B Lane Closures”, (as applicable).

- (b) All Lane Rental deductions from the Milestone Payment or Service Payment (as applicable) will be calculated by multiplying the number of hours of each closure, rounded up to the nearest quarter hour, by the Lane Rental Rate for the corresponding Lane Rental Group, and summing the products. **Prior to Substantial Completion, Lane Rental Rates will be assessed at 25% of the values shown in Table 3. After Substantial Completion, Lane Rental deductions will be assessed at the full value shown in Table 3.**

Section 3.3 Monitoring Lane Closures

- (a) Project Company must report all Lane Closures to MDOT monthly in tabular form, listing the limits of closures and closure times (rounded to the nearest quarter hour), noting any Incidents occurring during each closure. Project Company will also report the Lane Rental Group, number of hours each Lane Closure was closed, rounded up to the nearest quarter hour, and the estimated Lane Rental for any closure subject to Lane Rental.
- (b) Mobile lane closures as defined in the Traffic Management Plan shall be allowed to occupy a location for up to one (1) hour, and are not allowed to be implemented during periods when Lane Rental is assessed. Project Company must report mobile lane closures occurring within the zones and times established in Exhibit B of the Technical Requirements. Project Company may report mobile lane closures by summarizing the work zone limits and closure times for each day's operation, noting any Incidents occurring during closure.
- (c) All forms and reports submitted by Project Company under this Agreement shall be subject to review, confirmation and approval by MDOT in accordance with the Submittal Requirements.
- (d) MDOT, at its sole discretion, may expand or further restrict the hours during which Lane Rental is waived for the purpose of providing specific benefits to the traveling public or other roadway users. Should MDOT exercise its discretion in this manner, Project Company shall not be entitled to a Change Order or otherwise to make any Claim for any Liability incurred, provided MDOT does not expand Restricted Periods in Exhibit B by more than 1 hour at a Period's beginning, end or both.

Section 3.4 ESP Deductions

- (a) Project Company acknowledges and agrees that:
- (i) the energy savings payments (ESPs) are an integral component of the overall Service Payment and, may have a significant impact on the economic viability of the Project;
 - (ii) in entering into this Agreement, MDOT has placed reliance on the ESPs included in Project Company's Proposal being achieved throughout the Term; and
 - (iii) the ESPs will be reduced in accordance with Sections 3.4(b) through 3.4(e), where the ESPs actually achieved are less than Proposal ESPs included in Project Company's Financial Model at Commercial and Financial Close.
- (b) If Project Company achieves at least 95% of Proposal ESP for any given Quarter ($r \geq 0.95$), Project Company will be entitled to receive 100% of the ESP ($ft = 1.00$).
- (c) If Project Company only achieves between 90% and 95% of the Proposal ESP for any given Quarter ($0.90 \leq r < 0.95$), Project Company will be entitled to receive 95% of the ESP ($ft = 0.95$).

- (d) If Project Company only achieves between 80% and 90% of the Proposal ESP for any given Quarter $0.80 \leq r < 0.90$, Project Company will be entitled to receive 60% of the ESP ($ft = 0.60$).
- (e) If Project Company achieves less than 80% of the Proposal ESP for any given Quarter ($r < 0.80$), Project Company will be entitled to receive no more than 40% of the ESP ($ft = 0.40$) and this will constitute a Persistent Project Company Default.

ARTICLE 4. NONCOMPLIANCE POINTS

Section 4.1 General

- (a) This Article 4 sets forth the provisions for the identification of Noncompliance Events that will result in the assessment of Noncompliance Points, including corresponding Mitigation Periods and Remedy Periods (if any).
- (b) Noncompliance Points are a system to measure Project Company's performance levels and compliance with the requirements of the Project Documents throughout the Term.

Section 4.2 Reporting and Classification of Noncompliance Events

- (a) Project Company shall provide comprehensive and complete self-monitoring and reporting of the Project Operations in accordance with Article 4 of the Technical Provisions, the approved PMP and Applicable Law.
- (b) Project Company's performance in relation to the Project Operations will be assessed on a pass or fail basis against the Technical Requirements.
- (c) In addition to Project Company's self-monitoring and reporting process, MDOT personnel and the MDOT Representative shall also be entitled to identify Noncompliance Events, and document such Events directly into MMIS for Project Company use in Mitigation and Remedy.

Section 4.3 Notification of Noncompliance Events

- (a) Subject to Section 4.2(c), all Noncompliance Events must be reported within the MMIS by Project Company.
- (b) Project Company shall, upon becoming aware of the Noncompliance Event, track the Noncompliance Event within the MMIS described in Article 3 of the O&M Requirements in the Technical Provisions including:
 - (i) describing the Noncompliance Event in detail;
 - (ii) identifying the applicable Mitigation Period and Remedy Period (as applicable);
 - (iii) reporting on status of the Mitigation or Remedy (as applicable);
 - (iv) identifying the Noncompliance Points that should be assessed, if any.
- (c) Each Mitigation Period or Remedy Period (if and as applicable) for a Noncompliance Event commences upon the earlier of the time the Noncompliance Event:
 - (i) is reported to the MMIS system; or

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- (ii) should have been reported to the MMIS system if Project Company was complying with its obligations under the Project Agreement.
- (d) A Noncompliance Event which is incorrectly classified may be reclassified with the approval of the MDOT Representative, and such approval will not be unreasonably withheld.
- (e) If a Noncompliance Event is reclassified, any applicable Deduction will be re-calculated and the Deduction to the Milestone Payment or Service Payment (or if necessary the Deduction in the next Milestone Payment or Service Payment) will be recalculated accordingly.

Section 4.4 Mitigation and Remedy of Noncompliance Events

- (a) Each Mitigation Period and Remedy Period, if and as applicable, runs concurrently.
- (b) Subject to Section 4.4(c), where there is a Noncompliance Event, Project Company must:
 - (i) as soon as practicable:
 - (A) establish the nature, location and cause of the Noncompliance Event;
 - (B) provide the MDOT Representative with details of the action (if any) taken, any work required and estimated time to complete it and limitations that this may impose on the Designated Lane or Project Operations;
 - (ii) take all necessary actions to Mitigate the relevant area of the Premises in which the Noncompliance Event has occurred within the Mitigation Period;
 - (iii) Remedy the Noncompliance Event as soon as reasonably practicable in all circumstances, and in any event within the Remedy Period allowed for Noncompliance Event, using methods which are consistent with the Project Documents, Good Industry Practice and in accordance with all Applicable Laws;
 - (iv) minimize the disruption to the Project Operations during any Mitigation or Remedy; and
 - (v) notify the MDOT Representative and update the MMIS when each of Mitigation and Remedy is complete.
- (c) Where a Mitigation Period or Remedy Period is identified as "N/A", Project Company has no obligation to Mitigate or Remedy (as applicable) the relevant Noncompliance Event.
- (d) A Noncompliance Event will only have been Mitigated or Remedied (as applicable) when the MDOT Representative, acting in good faith, is satisfied that the Noncompliance Event has been fully Mitigated or Remedied (as applicable).

Section 4.5 Extension of Mitigation Period or Remedy Period

Project Company will be entitled to an extension of time to the Mitigation Period or Remedy Period (as applicable) if Project Company is unable to Mitigate or Remedy a Noncompliance Event due to:

- (a) a direction of the MDOT Representative to delay or reschedule the Mitigation or Remedy; or
- (b) a Relevant Event,

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but only to the extent and for the period that Project Company's ability to Mitigate or Remedy the Noncompliance Event was directly and adversely affected, as determined by the MDOT Representative, acting in good faith.

Section 4.6 Temporary Repairs of Defects

- (a) Upon the occurrence of a Defect, Project Company may inform MDOT that it is unable to Remedy the Defect within the specified Remedy Period due to:
 - (i) the need for specialized materials or personnel that are not, and cannot reasonably be expected to be, immediately available; or
 - (ii) circumstances such that Project Company is not reasonably able to carry out a Remedy, but that a Temporary Repair can be completed within the Remedy Period.
- (b) MDOT will permit Project Company to carry out the Temporary Repair proposed by Project Company and will determine a reasonable period of time by which a Remedy must be made ("Agreed Remedy Period"), unless MDOT considers that a Temporary Repair cannot be carried out within the Remedy Period.
- (c) If MDOT permits Project Company to carry out the Temporary Repair:
 - (i) the Temporary Repair must be carried out within the contractual Remedy Period; and
 - (ii) the Remedy must be completed within the Agreed Remedy Period.
- (d) Project Company's obligation to Mitigate the Defect within the Mitigation time remains unaffected by the implementation of any Temporary Repair.
- (e) If the conditions of Section 4.6(c) are met, then Noncompliance Points will not be assessed and a Deduction will not occur for failure to Remedy the Defects within the relevant Remedy Period.
- (f) If the Temporary Repair is not carried out within the specified Remedy Period:
 - (i) a Deduction will occur;
 - (ii) there shall be a further period commencing on the expiry of the Remedy Period and of a duration equal to that of the Remedy Period that will apply ("Additional Remedy Period"); and
 - (iii) Project Company must carry out the Temporary Repair prior to the expiry of the Additional Remedy Period.
- (g) If the Temporary Repair is not successfully carried out by Project Company before the expiry of the Additional Remedy Period:
 - (i) a further Noncompliance Event will occur from the time of expiry of the Additional Remedy Period; and
 - (ii) paragraphs (f)(i) to (f)(iii) will reapply until the Temporary Repair has been successfully carried out by Project Company.

- (h) Whether or not a Temporary Repair has been successfully carried out, if a Remedy has not been successfully carried out within the Agreed Remedy Period:
- (i) the right for Project Company to carry out a Temporary Repair in accordance with this Section 4.6 ceases; and
 - (ii) a Noncompliance Event will occur from the time of expiry of the original Remedy Period.
- (i) When carrying out a Temporary Repair in accordance with this Section 4.6, Project Company must undertake the Temporary Repair in accordance with the Project Documents and Good Industry Practice.

Section 4.7 Assessment of Noncompliance Points

- (a) Subject to Section 4.4(c), if at any time a Noncompliance Event:
- (i) is not Mitigated within the Mitigation Period where a Mitigation Period is specified;
 - (ii) is not Remedied within the Remedy Period,
 - (iii) with a Mitigation Period or Remedy Period identified as "None" in Appendix A occurs,
- then, without prejudice to any other right or remedy available to MDOT, MDOT may assess Noncompliance Points in accordance with the procedure set forth in this Section 4.7. The number of points listed in the Noncompliance Points Table in Appendix A of this Schedule 3 for any particular Noncompliance Event is the maximum number of Noncompliance Points that may be assessed for each failure to Mitigate or Remedy the Noncompliance Event within the Mitigation Period or Remedy Period (as applicable). MDOT may, but is not obligated to, assess less than the maximum.
- (b) Subject to Section 4.6, in the event a Noncompliance Event has not been fully and completely Remedied or Mitigated, as applicable, within the applicable Mitigation Period or Remedy Period, as applicable, the continuation of such Noncompliance Event beyond such Mitigation Period or Remedy Period, as applicable, shall be treated as a new and separate Noncompliance Event, without necessity for further notice, for the purpose of assessing Noncompliance Points. Accordingly, a new Mitigation Period or Remedy Period, as applicable, equal to the prior Mitigation Period or Remedy shall commence upon expiration of the prior Mitigation Period or Remedy Period (as applicable), without further notice and Section 4.6 shall again apply.
- (c) In the event a Noncompliance Event with a Mitigation Period or Remedy Period identified as "None" in Appendix A occurs, the continuation of such Noncompliance Event shall be treated as a new and separate Noncompliance Event, without necessity for further notice, for the purpose of assessing Noncompliance Points. Accordingly, a Mitigation Period or Remedy Period, as applicable, equal to one day shall commence upon expiration of the prior Mitigation Period or Remedy Period (as applicable), without further notice and Section 4.6 shall again apply as if the applicable Noncompliance Event had a stated Mitigation Period or Remedy Period (as applicable).

Section 4.8 Noncompliance Points Table

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- (a) MDOT may, from time to time, add, delete or revise the Noncompliance Points Table in accordance with Schedule 2 (Change Procedure) of this Project Agreement.
- (b) MDOT's right to make additions, deletions or revisions to the Noncompliance Points Table is not intended to expand Project Company's obligations as set forth in this Project Agreement, but rather to add existing contractual obligations as set forth in the Project Agreement to the list of Noncompliance Events for which Noncompliance Points may be assessed. MDOT's right to add contractual obligations to the Noncompliance Points Table is limited to those contractual obligations which Project Company has previously failed to comply with; provided that MDOT has furnished Project Company with prior written notice of such failure and Project Company has subsequently violated such contractual obligations after receipt of such notice. Further, MDOT shall have no right to assess Noncompliance Points on account of a Noncompliance Event that occurs prior to the date it is added to the Noncompliance Points Table.

ARTICLE 5. ASSESSED MONETARY DEDUCTIONS

- (a) If a Noncompliance Event:
 - (i) is not Mitigated within the Mitigation Period;
 - (ii) is Remedied within the Remedy Period; or
 - (iii) with a Mitigation Period or Remedy Period identified as "None" occurs;

separate and distinct Deductions shall be assessed against any Milestone Payment or Service Payment (as applicable) in the amount of \$450 per Noncompliance Point assigned to the Noncompliance Event.
- (b) If the root cause of a series of Noncompliance Events is substantially the same, and Project Company fails to Mitigate or Remedy any or all of the Noncompliance Events within the applicable Mitigation Period or Remedy Period, a Deduction of \$1,000, Indexed will apply per Noncompliance Event on the occurrence of any of the following:
 - (i) the third such Noncompliance Event in a day and on the occurrence of each subsequent such Noncompliance Event in that day; and
 - (ii) the fourth such Noncompliance Event in a rolling consecutive seven day period and on the occurrence of each subsequent such Noncompliance Event in that seven-day period.
- (c) Deductions cannot cause any Milestone Payment or Service Payment for the relevant quarter to be less than zero however any Deductions that, as a result of the foregoing, are not deducted from the Milestone Payment or Service Payment shall be carried over and applied against the next Milestone Payment or Service Payment.
- (d) Project Company agrees that:
 - (i) the Deductions assessed under this Schedule 3 as liquidated damages are not penalties, but are fixed and agreed upon liquidated damages due to MDOT from Project Company; and

- (ii) MDOT's actual damages for failure to Mitigate or Remedy a Noncompliance Event (as applicable) are difficult to estimate or ascertain, and that the applicable Deduction will reasonably compensate MDOT in the event of a failure to Mitigate or Remedy such Noncompliance Events.

ARTICLE 6. PROVISIONS REGARDING DISPUTE RESOLUTION

- (a) Any dispute arising from the provisions set forth in this Schedule 3 shall be addressed in accordance with Schedule 4 (Dispute Resolution Procedure) of this Project Agreement.
- (b) Pending the resolution of any dispute arising under this Schedule 3, the provisions of this Schedule 3 shall take effect as if the matter were not in dispute (including MDOT's ability to make Deductions), provided that if the final decision regarding the dispute is that (a) the Noncompliance Points should not have been assessed, (b) the number of Noncompliance Points must be adjusted, or (c) the starting point or duration of the Mitigation Period or Remedy Period (as applicable) must be adjusted, then the number of Noncompliance Points assigned or assessed and the related liabilities of Project Company shall be adjusted to reflect such decision.
- (c) Pending the resolution of any dispute arising under this Article 6, the number of Noncompliance Points in Dispute shall not be counted for the purpose of determining whether MDOT may declare a Persistent Project Company Default.

APPENDIX A: NONCOMPLIANCE POINTS TABLE

The following table specifies the Noncompliance Points for each Noncompliance Event.

| | *Use | Reference | Noncompliance Event | Mitigation Period | Remedy Period | Noncompliance Points (NCP) | |
|-----------------------------|------|-------------------------------------|---|--|---------------|------------------------------|---|
| | | | | | | Initial | Subsequent |
| LIGHTING QUALITY | | | | | | | |
| 1 | O | Sect. 1.1.c. OMR; Sect. 1.3.b DCWR | Failure to provide and maintain minimum average illuminance for operating tunnel lighting (Category 2 Defect) | 7 days | 28 days | 5 NCPs per assessed location | 1 NCP per location per day beyond remedy period |
| 2 | O | Sect. 1.1.c. OMR; Sect. 1.3.a, DCWR | Failure to provide and maintain minimum average illuminance for operating non-tunnel lighting (Category 2 Defect) | 7 days | 28 days | 5 NCPs per assessed location | 1 NCP per location per day beyond remedy period |
| 3 | O | Sect. 1.1.c. OMR; Sect. 1.3.b, DCWR | Failure to provide and maintain uniformity requirements for tunnel lighting (Category 2 Defect) | 7 days | 28 days | 5 NCPs per assessed location | 1 NCP per location per day beyond remedy period |
| 4 | O | Sect. 1.1.c. OMR; Sect. 1.3.a DCWR | Failure to provide and maintain uniformity requirements for non-tunnel lighting (Category 2 Defect) | 7 days | 28 days | 5 NCPs per assessed location | 1 NCP per location per day beyond remedy period |
| 5 | O | Sect. 1.1.b, OMR; | Failure to maintain the correct timing, sequencing, power, control measures of lighting, non-tunnels (Category 2 Defect) | 1 day | 7 days | 5 NCPs per assessed location | 1 NCP per location per day beyond remedy period |
| 6 | O | Sect. 1.1.b, OMR; | Failure to maintain the correct timing, sequencing, power, control measures of lighting, tunnels (Category 1 Defect) | 1 day | 3 days | 5 NCPs per assessed location | 1 NCP per location per day beyond remedy period |
| 7 | O | Sect. 1.1.e, OMR; Sect. 1.4, DCWR | Failure to install and replace Elements of the Improved Freeway Lighting System using only products which meet Improved Freeway Lighting System Criteria (Category 1 and 2 Defects) | 1 day Category 1; 7 days Category 2 | 28 days | 1 NCP per product | 1 NCP per product per day beyond remedy period |
| LIGHTING PERFORMANCE | | | | | | | |
| 8 | D | Sect. 1.1.f. OMR | Failure to correct New Category 1 Defects arising during D&C Term except grouped outages (Row 14) | 1 day | 7 days | 1 NCP per Defect | 1 NCP per Defect per day beyond remedy period |
| 9 | O | Sect. 1.1.f. OMR | Failure to correct Category 1 Defects (non-outage) | 1 day | 7 days | 1 NCP per Defect | 1 NCP per Defect per day beyond remedy period |
| 10 | O | Sect. 1.1.f. OMR | Failure to correct identified Category 2 Defects (non-outage) | N/A | 21 days | 1 NCP per Defect | 1 NCP per Defect per day beyond remedy period |

| | *Use | Reference | Noncompliance Event | Mitigation Period | Remedy Period | Noncompliance Points (NCP) | |
|---------------------------------|------|----------------------------|--|---|---------------|----------------------------|---|
| | | | | | | Initial | Subsequent |
| 11 | O | Sect. 1.1.a, OMR | Failure to maintain and operate system such that 5% or more of the luminaires on the Project do not deliver the required illumination and uniformity at the required times over any one-day period | None | None | 10 NCPs per occurrence | Subject to Multiple Events clause (Article 5.b, Schedule 3) |
| 12 | O | Sect. 1.1.f. OMR | Failure to correct isolated lamp outage(s) (Category 2 Defect) excluding grouped outages | N/A | 10 days | 1 NCP per lamp | 1 NCP per lamp per day beyond remedy period |
| 13 | D | Sect. 1.1.f. OMR | Failure to correct grouped outage (New Category 1 Defect, D&C Term only) | 1 day | 7 days | 5 NCPs per grouping | 2 NCPs per grouping per day beyond remedy period |
| 14 | O | Sect. 1.1.f. OMR | Failure to correct grouped outage (Category 1 Defect, O&M Term only) | 1 day | 7 days | 5 NCPs per grouping | 2 NCPs per grouping per day beyond remedy period |
| 15 | O | Sect. 1.1.f. OMR; TR (All) | Failure to correct Incidents, Category 1 or New Category 1 Defects not covered by 7, 8, 9 13 or 14 | 1 day | 7 days | 1 NCP per Defect | 1 NCP per Defect per day beyond remedy period |
| 16 | O | Sect. 1.1.f. OMR; TR (All) | Failure to correct Category 2 Defects not covered by 7, 10 or 12 | N/A | 21 days | 1 NCP per Defect | 1 NCP per Defect per day beyond remedy period |
| NON-LIGHTING PERFORMANCE | | | | | | | |
| 17 | C | Sect. 5.2, DCWR | Failure to meet requirements for correct placement and timing of TTCP; | N/A | 1 hour | 5 NCP for each occurrence | 2 additional NCPs for continuation (Art. 4.6(c) Sched. 3) |
| 18 | C | Art. 5, DCWR | Failure to submit Lane Closure Notices as required, and adhere to any MDOT requirements issued during LCN process; Remedy requires immediate removal of Lane Closure(s) when discovered | N/A | 1 hour | 2 NCP for each occurrence | N/A |
| 19 | C | Sect. 1.3, OMR | Failure to respond to an Incident within 1 hour of discovery or MDOT notification | N/A | 1 hour | 1 NCP for each occurrence | N/A |
| 20 | C | Sect. 3.7, GTR | Failure to meet requirements for Occupational Safety established by law or MDOT-approved PMP Safety Plan | None | None | 5 NCP for each occurrence | 2 additional NCPs for continuation (Art. 4.6(c) Sched. 3) |
| 21 | C | Art. 2, DCWR; Art. 10, PA | Failure to meet requirements relating to Environmental regulations | 3 days to self-report violations to Authorities | 7 days | 2 NCPs per requirement | 1 NCP per requirement per day beyond remedy period |
| 22 | C | Sect. 5.2, GTR | Failure to stake Improved Freeway Lighting System within 72 hours of MDOT request | N/A | 1 day | 1 NCP for each location | 1 NCP per location per day |

| | *Use | Reference | Noncompliance Event | Mitigation Period | Remedy Period | Noncompliance Points (NCP) | |
|----|------|-----------------------|--|-------------------|---------------|------------------------------|------------|
| | | | | | | Initial | Subsequent |
| 23 | C | Sect. 5.2, GTR | Failure to notify MDOT of Project Operations near MDOT ITS sites, resulting in damage or disruption to the ITS systems | None | None | 10 NCPs per damaged location | N/A |

| ADMINISTRATIVE | | | | | | | |
|----------------|------|--|--|---------------|--|---|--|
| | *Use | Reference | Noncompliance Event | Remedy Period | Noncompliance Points (NCP) | | |
| | | | | | Initial | Subsequent | |
| 24 | O | Art. 4, GTR ; Sect. 1.1.i, OMR | Failure to track lighting performance and report data as required. | None | 1 NCP per unreported item | N/A | |
| 25 | C | Sect. 4.2, GTR | Failure to track and report Defects, and other data relating to system quality | None | 1 NCP per unreported item | N/A | |
| 26 | O | Sect. 5.2, OMR | Failure to provide reports or system-wide inspections on schedule and report results | 28 days | 10 NCPs per missing inspection | 1 NCP per missing inspection per day beyond remedy period | |
| 27 | C | Sect. 3.2, GTR | Failure to submit and update the PMP in conformance with the Agreement, or on the required schedule | 10 days | 10 NCPs for Noncompliant or late PMP submittal | 1 NCP per day beyond remedy period | |
| 28 | C | TR | Failure to provide other Submittals not otherwise specified in this Table in accordance with this Agreement | 14 days | 2 NCPs per report | 1 NCP per report per day beyond remedy period | |
| 29 | C | Sect. 3.2, GTR | Failure to meet operational and reporting requirements for Public Safety established by law or MDOT-approved PMP Safety Plan | 7 days | 2 NCPs per requirement | 1 NCP per requirement per day beyond remedy period | |
| 30 | C | Sect. 3.3.g, GTR | Failure to meet requirements relating to Communications | 28 days | 1 NCP for each occurrence | 1 NCP per day beyond remedy period | |
| 31 | C | Art. 3, OMR | Failure to provide compliant Maintenance Management Information System | 28 days | 1 NCP for each occurrence | 1 NCP per day beyond remedy period | |

* O = Noncompliance Points Applied After Substantial Completion Only

D = Noncompliance Points Applied Before Substantial Completion Only

C = Noncompliance Points Applied Throughout The Term

Abbreviations: Gtr = General Technical Requirements

Dcwr = D&C Works Requirements

Omr = O&M Requirements

Tr = Technical Requirements

Pa = Project Agreement

APPENDIX B – TOTAL MDOT PAYMENTS

Project Company should provide their projected Total MDOT Obligations in the following format on a quarterly basis using end of period dates (consistent with model periodicity):

| Date | ESP _q (A) | Inflated AP (B)* | Uninflated AP (C) | Projected Deductions (D) | Total Service Payments (E = A + B + C + D) | MDOT Energy Payment [F] | Total MDOT Payments [G=E+F] | MP [H] | Total MDOT Obligations (I=G+H) |
|---|----------------------|------------------|-------------------|--------------------------|--|-------------------------|-----------------------------|--------------|--------------------------------|
| 8/24/2015 | - | - | - | - | - | - | - | - | - |
| 9/30/2015 | - | - | - | - | - | - | - | - | - |
| 12/31/2015- - - - - - - - - - - 3/31/2016- - - - - - - 6/30/2016 | - | - | - | - | - | - | - | - | - |
| 9/30/2016 | - | - | - | - | - | - | - | - | - |
| 12/31/2016 | - | - | - | - | - | - | - | 6,000,000.00 | 6,000,000.00 |
| 3/31/2017 | - | - | - | - | - | - | - | - | - |
| 6/30/2017 | - | - | - | - | - | - | - | - | - |
| 9/30/2017 | 113,207.44 | 406,479.33 | 261,510.92 | - | 781,197.69 | 130,218.54 | 911,416.23 | 6,000,000.00 | 6,911,416.23 |
| 12/31/2017 | 320,931.19 | 1,010,705.35 | 650,243.38 | - | 1,981,879.92 | 427,159.71 | 2,409,039.63 | - | 2,409,039.63 |
| 3/31/2018 | 312,278.05 | 1,010,705.35 | 650,243.38 | - | 1,973,226.78 | 398,072.23 | 2,371,299.01 | - | 2,371,299.01 |
| 6/30/2018 | 292,835.70 | 1,035,972.99 | 650,243.38 | - | 1,979,052.07 | 303,483.54 | 2,282,535.61 | - | 2,282,535.61 |
| 9/30/2018 | 300,698.68 | 1,035,972.99 | 650,243.38 | - | 1,986,915.05 | 323,786.64 | 2,310,701.69 | - | 2,310,701.69 |
| 12/31/2018 | 320,931.19 | 1,035,972.99 | 650,243.38 | - | 2,007,147.55 | 427,159.71 | 2,434,307.27 | - | 2,434,307.27 |
| 3/31/2019 | 312,278.05 | 1,035,972.99 | 650,243.38 | - | 1,998,494.42 | 398,072.23 | 2,396,566.65 | - | 2,396,566.65 |
| 6/30/2019 | 292,835.70 | 1,061,872.31 | 650,243.38 | - | 2,004,951.39 | 303,483.54 | 2,308,434.93 | - | 2,308,434.93 |
| 9/30/2019 | 301,980.97 | 1,061,872.31 | 650,243.38 | - | 2,014,096.66 | 321,813.90 | 2,335,910.56 | - | 2,335,910.56 |
| 12/31/2019 | 322,745.22 | 1,061,872.31 | 650,243.38 | - | 2,034,860.91 | 424,368.89 | 2,459,229.80 | - | 2,459,229.80 |
| 3/31/2020 | 313,950.79 | 1,061,872.31 | 650,243.38 | - | 2,026,066.48 | 395,498.79 | 2,421,565.27 | - | 2,421,565.27 |
| 6/30/2020 | 294,017.71 | 1,088,419.12 | 650,243.38 | - | 2,032,680.21 | 301,665.07 | 2,334,345.27 | - | 2,334,345.27 |
| 9/30/2020 | 301,980.97 | 1,088,419.12 | 650,243.38 | - | 2,040,643.47 | 321,813.90 | 2,362,457.36 | - | 2,362,457.36 |
| 12/31/2020 | 322,745.22 | 1,088,419.12 | 650,243.38 | - | 2,061,407.72 | 424,368.89 | 2,485,776.61 | - | 2,485,776.61 |
| 3/31/2021 | 313,950.79 | 1,088,419.12 | 650,243.38 | - | 2,052,613.29 | 395,498.79 | 2,448,112.08 | - | 2,448,112.08 |
| 6/30/2021 | 294,017.71 | 1,115,629.60 | 650,243.38 | - | 2,059,890.68 | 301,665.07 | 2,361,555.75 | - | 2,361,555.75 |
| 9/30/2021 | 301,980.97 | 1,115,629.60 | 650,243.38 | - | 2,067,853.94 | 321,813.90 | 2,389,667.84 | - | 2,389,667.84 |
| 12/31/2021 | 322,745.22 | 1,115,629.60 | 650,243.38 | - | 2,088,618.20 | 424,368.89 | 2,512,987.09 | - | 2,512,987.09 |
| 3/31/2022 | 313,950.79 | 1,115,629.60 | 650,243.38 | - | 2,079,823.77 | 395,498.79 | 2,475,322.55 | - | 2,475,322.55 |
| 6/30/2022 | 294,017.71 | 1,143,520.34 | 650,243.38 | - | 2,087,781.42 | 301,665.07 | 2,389,446.49 | - | 2,389,446.49 |
| 9/30/2022 | 301,980.97 | 1,143,520.34 | 650,243.38 | - | 2,095,744.68 | 321,813.90 | 2,417,558.58 | - | 2,417,558.58 |
| 12/31/2022 | 322,745.22 | 1,143,520.34 | 650,243.38 | - | 2,116,508.94 | 424,368.89 | 2,540,877.83 | - | 2,540,877.83 |
| 3/31/2023 | 313,950.79 | 1,143,520.34 | 650,243.38 | - | 2,107,714.51 | 395,498.79 | 2,503,213.29 | - | 2,503,213.29 |
| 6/30/2023 | 294,017.71 | 1,172,108.35 | 650,243.38 | - | 2,116,369.43 | 301,665.07 | 2,418,034.50 | - | 2,418,034.50 |
| 9/30/2023 | 301,980.97 | 1,172,108.35 | 650,243.38 | - | 2,124,332.69 | 321,813.90 | 2,446,146.59 | - | 2,446,146.59 |
| 12/31/2023 | 322,745.22 | 1,172,108.35 | 650,243.38 | - | 2,145,096.94 | 424,368.89 | 2,569,465.84 | - | 2,569,465.84 |
| 3/31/2024 | 313,950.79 | 1,172,108.35 | 650,243.38 | - | 2,136,302.51 | 395,498.79 | 2,531,801.30 | - | 2,531,801.30 |
| 6/30/2024 | 294,017.71 | 1,201,411.05 | 650,243.38 | - | 2,145,672.14 | 301,665.07 | 2,447,337.21 | - | 2,447,337.21 |

| | | | | | | | | | |
|------------|------------|--------------|------------|---|--------------|------------|--------------|---|--------------|
| 9/30/2024 | 295,261.59 | 1,201,411.05 | 650,243.38 | - | 2,146,916.02 | 332,151.40 | 2,479,067.43 | - | 2,479,067.43 |
| 12/31/2024 | 314,094.15 | 1,201,411.05 | 650,243.38 | - | 2,165,748.58 | 437,678.23 | 2,603,426.82 | - | 2,603,426.82 |
| 3/31/2025 | 305,857.81 | 1,201,411.05 | 650,243.38 | - | 2,157,512.24 | 407,949.53 | 2,565,461.77 | - | 2,565,461.77 |
| 6/30/2025 | 287,685.00 | 1,231,446.33 | 650,243.38 | - | 2,169,374.71 | 311,407.70 | 2,480,782.41 | - | 2,480,782.41 |
| 9/30/2025 | 295,261.59 | 1,231,446.33 | 650,243.38 | - | 2,176,951.30 | 332,151.40 | 2,509,102.70 | - | 2,509,102.70 |
| 12/31/2025 | 314,094.15 | 1,231,446.33 | 650,243.38 | - | 2,195,783.86 | 437,678.23 | 2,633,462.09 | - | 2,633,462.09 |
| 3/31/2026 | 305,857.81 | 1,231,446.33 | 650,243.38 | - | 2,187,547.52 | 407,949.53 | 2,595,497.05 | - | 2,595,497.05 |
| 6/30/2026 | 287,685.00 | 1,262,232.49 | 650,243.38 | - | 2,200,160.87 | 311,407.70 | 2,511,568.56 | - | 2,511,568.56 |
| 9/30/2026 | 295,261.59 | 1,262,232.49 | 650,243.38 | - | 2,207,737.46 | 332,151.40 | 2,539,888.86 | - | 2,539,888.86 |
| 12/31/2026 | 314,094.15 | 1,262,232.49 | 650,243.38 | - | 2,226,570.02 | 437,678.23 | 2,664,248.25 | - | 2,664,248.25 |
| 3/31/2027 | 305,857.81 | 1,262,232.49 | 650,243.38 | - | 2,218,333.67 | 407,949.53 | 2,626,283.20 | - | 2,626,283.20 |
| 6/30/2027 | 287,685.00 | 1,293,788.30 | 650,243.38 | - | 2,231,716.68 | 311,407.70 | 2,543,124.38 | - | 2,543,124.38 |
| 9/30/2027 | 295,261.59 | 1,293,788.30 | 650,243.38 | - | 2,239,293.27 | 332,151.40 | 2,571,444.67 | - | 2,571,444.67 |
| 12/31/2027 | 314,094.15 | 1,293,788.30 | 650,243.38 | - | 2,258,125.83 | 437,678.23 | 2,695,804.06 | - | 2,695,804.06 |
| 3/31/2028 | 305,857.81 | 1,293,788.30 | 650,243.38 | - | 2,249,889.49 | 407,949.53 | 2,657,839.02 | - | 2,657,839.02 |
| 6/30/2028 | 287,685.00 | 1,326,133.01 | 650,243.38 | - | 2,264,061.39 | 311,407.70 | 2,575,469.08 | - | 2,575,469.08 |
| 9/30/2028 | 295,009.82 | 1,326,133.01 | 650,243.38 | - | 2,271,386.21 | 332,538.73 | 2,603,924.95 | - | 2,603,924.95 |
| 12/31/2028 | 313,737.98 | 1,326,133.01 | 650,243.38 | - | 2,290,114.37 | 438,226.19 | 2,728,340.55 | - | 2,728,340.55 |
| 3/31/2029 | 305,529.38 | 1,326,133.01 | 650,243.38 | - | 2,281,905.77 | 408,454.80 | 2,690,360.57 | - | 2,690,360.57 |
| 6/30/2029 | 287,452.92 | 1,359,286.33 | 650,243.38 | - | 2,296,982.63 | 311,764.74 | 2,608,747.37 | - | 2,608,747.37 |
| 9/30/2029 | 295,009.82 | 1,359,286.33 | 650,243.38 | - | 2,304,539.54 | 332,538.73 | 2,637,078.27 | - | 2,637,078.27 |
| 12/31/2029 | 313,737.98 | 1,359,286.33 | 650,243.38 | - | 2,323,267.69 | 438,226.19 | 2,761,493.88 | - | 2,761,493.88 |
| 3/31/2030 | 305,529.38 | 1,359,286.33 | 650,243.38 | - | 2,315,059.09 | 408,454.80 | 2,723,513.90 | - | 2,723,513.90 |
| 6/30/2030 | 287,452.92 | 1,393,268.49 | 650,243.38 | - | 2,330,964.79 | 311,764.74 | 2,642,729.53 | - | 2,642,729.53 |
| 9/30/2030 | 184,263.26 | 832,932.25 | 388,732.46 | - | 1,405,927.96 | 198,800.33 | 1,604,728.29 | - | 1,604,728.29 |
| 12/31/2030 | - | - | - | - | - | - | - | - | - |
| 3/31/2031 | - | - | - | - | - | - | - | - | - |
| 6/30/2031 | - | - | - | - | - | - | - | - | - |
| 9/30/2031 | - | - | - | - | - | - | - | - | - |
| 12/31/2031 | - | - | - | - | - | - | - | - | - |
| 3/31/2032 | - | - | - | - | - | - | - | - | - |
| 6/30/2032 | - | - | - | - | - | - | - | - | - |
| 9/30/2032 | - | - | - | - | - | - | - | - | - |
| 12/31/2032 | - | - | - | - | - | - | - | - | - |
| 3/31/2033 | - | - | - | - | - | - | - | - | - |
| 6/30/2033 | - | - | - | - | - | - | - | - | - |

*Inflated AP in this table was calculated using an assumption of 2.50% Annual Escalation for the calculation of the Cumulative Annual Escalation Rate. The actual Inflated AP portion of the Service Payment will be made based on the Cumulative Annual Escalation Rate using the actual Annual Escalation in accordance with the Project Agreement.

SCHEDULE 4 - DISPUTE RESOLUTION

SECTION 1 - SCOPE

Any dispute in connection with this Project Agreement (“Dispute”), shall be resolved as set forth in this Schedule 4.

SECTION 2 - INFORMAL DISPUTE RESOLUTION PROCEDURES

- (a) The Parties shall attempt in good faith to resolve such Dispute within 10 Business Days. If the Parties are unable to resolve the Dispute within 10 Business Days, and upon Notice by either Party to the other, the Dispute shall be referred to the Designated Senior Person of each Party. The Designated Senior Persons shall negotiate in good faith to resolve the Dispute, conferring as often as they deem reasonably necessary, and shall gather and furnish to each other all information pertinent to the Dispute.
- (b) If, after a further 10 Business Days, the Dispute remains unresolved, either Party may refer the matter to the Dispute Review Board.

SECTION 3 - DISPUTE REVIEW BOARD

3.1 Establishment of Dispute Review Board

Dispute Review Board (DRB) will be established for this contract. The DRB will evaluate and provide recommendations as to the entitlement of claims arising out of the work on the contract. This project will not follow the claim procedures as outlined in Bureau of Highway Instructional Memorandum (BOHIM) 2011-07 beginning with the Region Office Review (ROR) level and after. The operating procedures for this process are located under the Construction Field Services heading on the MDOT website at:

http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367---,00.html

For the purpose of above operating procedures:

- (a) references to “Contractor” shall be deemed to be references to “Project Company”; and
- (b) references to the “Engineer” shall be deemed to be references to “MDOT Representative”.

3.2 Continuance of Work

During the course of the DRB process, Project Company will continue with the work per the contract in a diligent manner, without delay and will be governed by all applicable provisions of this Agreement. Throughout any protested work, records are to be kept per subsection 104.10.B of the Standard Specifications for Construction. Project Company will permit the DRB access to these and any other records needed for evaluating the disputes and claims.

3.3 Dispute Review Board Membership.

The DRB will consist of the following three members:

- (a) One member selected by MDOT and approved by Project Company,

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- (b) One member selected by Project Company and approved by MDOT, and
- (c) The first two members will mutually select and agree upon the third member who will act as the chairperson for all DRB activities.

If there is an impasse between the first two parties in the determination of the third DRB member (chairperson), MDOT's Chief Operations Officer will evaluate and make the final decision on the DRB chairperson.

DRB membership is to be established prior to the start of work under this Agreement. DRB members must be on MDOT's list of approved DRB candidate panel members, which is maintained under the Construction Field Services heading on the MDOT website listed in Section 3. Execution of the DRB agreement between Project Company, MDOT and the DRB members, as provided by MDOT, will proceed immediately after agreement is reached on all members of the DRB. A copy of this agreement can be found under the Construction Field Services heading at the website listed in Section 3. The execution of this Agreement will not modify the requirements, terms, or conditions of this special provision. The respective MDOT Region Construction Engineer will coordinate and ensure that all signatures are obtained before the first DRB hearing.

3.4 Measurement and Payment

A per hearing cost of \$6,500 for the initial hearing day has been established by MDOT for providing compensation for all members of the DRB for participation in an actual hearing. The DRB chairman will receive \$2,500 for participation in the hearing while the remaining two members will receive \$2,000 each. MDOT and Project Company will equally share in the compensation due to the DRB for participation in an actual hearing. Project Company is required to pay the \$6,500 hearing cost to the DRB members as specified above. Proof of payment must be provided to the MDOT Representative prior to the hearing date. MDOT will compensate Project Company for MDOT's share of the cost on the next subsequent pay estimate after receiving proof of payment by Project Company. Such payment will be full and complete compensation to DRB members for all expenses related to the hearing. This payment includes all costs for, travel, accommodations, meals, pre/post hearing work, review of position papers and any rebuttals, conducting the hearing, drafting and issuance of recommendations, and re-addressing any requests for clarification. Hearings are to be scheduled to address all claims presently in dispute and duly preserved by Project Company. The \$6,500 cost for the hearing will be paid as Dispute Review Board Hearing.

It is not intended for hearings to last longer than a single day, however, in some cases they may. Any additional time and/or compensation for a hearing would only be allowed upon prior written approval of MDOT and Project Company. If an additional day(s) is granted for hearing business, it will be at \$3,000 per calendar day. Each DRB panel member, including the chairman, will receive \$1,000. MDOT and Project Company will equally share in this additional compensation and the same methods of payment to the DRB and Project Company set forth above will apply. The necessary and approved additional days will be paid as Dispute Review Board, Hearing, Additional Day. DRB recommendation appeal meetings will be paid as Dispute Review Board, Hearing, Additional Day.

DRB progress meetings may be conducted if conditions warrant and Project Company and the MDOT Representative mutually agree. Progress meetings are encouraged on projects that begin to have frequent hearing meetings. These meetings are intended to familiarize the DRB panel with the project and provide field updates on project progress and issues that may be in initial contention. Progress meetings are intended to be conducted on a monthly or quarterly basis as determined and agreed to by Project Company and the MDOT Representative. Each progress meeting will be paid at \$3,000 per calendar day,

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payment of which is equally split between MDOT and Project Company. The same payment methods and proof of payment will apply as noted above. Each progress meeting day will be paid as Dispute Review Board, Progress Meeting.

The completed work, as described, will be paid at the respective values identified herein using the following pay items. These pay items are fixed in total value and Project Company will not enter a unit bid cost for these items.

| Pay Item | Pay Unit |
|--|----------|
| Dispute Review Board, Hearing..... | Dollar |
| Dispute Review Board, Hearing, Additional Day..... | Dollar |
| Dispute Review Board, Progress Meeting..... | Dollar |

(a) Provisional Remedies

No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Project Agreement, including temporary and preliminary injunctive relief.

(b) Tolling

If a Party receiving a notice of default under this Project Agreement contests, Disputes or challenges the propriety of such notice by making application to the Dispute resolution procedure in this Schedule 4, any cure period that applies to such default shall be tolled for the time period between such application and the issuance of a final award.

SCHEDULE 5 - NOT USED

SCHEDULE 6 - TERMINATION COMPENSATION**6.1 MDOT Termination Amount**

The MDOT Termination Amount shall equal the amount calculated at the Expiry Date, without double counting, as follows:

- (a) all amounts shown in the Financial Model as payable by the Project Company from the Expiry Date onwards, either in dividends or other distributions on the share capital of the Project Company under the Equity Members Funding Agreements, each amount discounted back at the Base Case Equity IRR from the date on which it is projected to be payable in the Financial Model to the Expiry Date; plus
- (b) Lenders' Liabilities; plus
- (c) the amount necessary to reimburse reasonable and documented out-of-pocket costs of Contractors to demobilize and terminate under contracts between the Project Company and third parties and/or between any such Contractor and its subcontractors for performance of the Project Operations and the Project Company's own documented out-of-pocket costs to demobilize and to perform its obligations in respect of transitioning Project Operations under this Agreement provided:
 - (i) such losses are incurred in connection with the Project and in respect of the provision of services or the completion of work required to be provided by the Project Company;
 - (ii) such losses are incurred under arrangements and/or agreements that are consistent with terms of this Agreement, have been entered into in the ordinary course of business and, in the case of contracts with Affiliates, are on commercially reasonable terms, and
 - (iii) each of the Project Company and the relevant Contractors has used reasonable efforts to mitigate the losses and damage; plus
- (d) Account Balances; minus
- (e) equity amounts not yet drawn for payments; minus
- (f) Insurance Proceeds to the extent that such proceeds were not used to repair or replace any portion of the Relevant Infrastructure or to satisfy a third party claim; minus
- (g) any Deduction accrued prior to the Expiry Date that has, in each case, not been deducted from any Milestone Payment or Payment (as applicable);

6.2 Project Company Default Termination Amount

The Project Company Default Termination Amount before the Substantial Completion Deadline shall be the lesser of:

- (a) the D&C Works Value; or

- (b) eighty percent (80%) of Lender's Liabilities (net of any Account Balances and Insurance Proceeds).

The Project Company Default Termination Amount after the Substantial Completion Deadline shall equal the amount calculated at the Expiry Date as follows:

- (c) eighty percent (80%) of Lenders' Liabilities; minus
- (d) Maintenance Rectification Costs; minus
- (e) Account Balances; minus
- (f) Insurance Proceeds to the extent that such proceeds were not used to repair or replace any portion of the Relevant Infrastructure or to satisfy a third party claim; minus
- (g) any Deduction accrued prior to the Expiry Date that has, in each case, not been deducted from any Milestone Payment or Service Payment (as applicable).

6.3 Extended Force Majeure Termination Amount

The Extended Force Majeure Termination Amount shall equal the amount calculated at the Expiry Date as follows:

- (a) all equity amounts paid to the Project Company less any dividends and other distributions paid to the Equity Members, which amount will never be less than zero; plus
- (b) Lenders' Liabilities; plus
- (c) the amount necessary to reimburse reasonable and documented out-of-pocket costs of Contractors to demobilize and terminate under contracts between the Project Company and third parties for performance of the Project Operations and the Project Company's own documented out-of-pocket costs to demobilize and to perform its obligations in respect of transitioning Project Operations under this Agreement provided:
 - (i) such losses are incurred in connection with the Project and in respect of the provision of services or the completion of work required to be provided by the Project Company;
 - (ii) such losses are incurred under arrangements and/or agreements that are consistent with terms of this Agreement, have been entered into in the ordinary course of business and, in the case of contracts with Affiliates, are on commercially reasonable terms, and
 - (iii) each of the Project Company and the relevant Contractors has used reasonable efforts to mitigate the losses and damage; plus
- (d) Account Balances; minus
- (e) Equity amounts not yet drawn for payments; minus
- (f) Insurance Proceeds; minus

- (g) any Deduction accrued prior to the Expiry Date that has, in each case, not been deducted from any Milestone Payment or Service Payment (as applicable).

SCHEDULE 7 - INSURANCE REQUIREMENTS**7.1 Minimum Scope and Limit of Insurance**

Project Company must procure, or cause to be procured and thereafter maintained, each of the Insurance Policies with respect to the Project specified in this Section 7.1 for the applicable period of insurance specified. Each such Insurance Policy must be procured and maintained upon the minimum terms specified in this Schedule 7 and otherwise in accordance with this Agreement.

- (I) Coverage must be at least as broad as:
- (a) **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$25,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit must apply separately to this Project or the general aggregate limit must be twice the required occurrence limit for the duration of the Term.
 - (b) **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$25,000,000** per accident for bodily injury and property damage for the duration of the Term.
 - (c) **Workers’ Compensation** insurance as required by the State of Michigan, with Statutory Limits, and Employers’ Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease for the duration of the Term.
 - (d) **Builder’s Risk (Course of Construction)** insurance at all times during the D&C Term utilizing an “All Risk” (Special Perils) coverage form, with limits equal to the D&C Contract Price and no coinsurance penalty provisions.
 - (e) **Delayed Opening Insurance** as part of the Builder’s Risk policy at all times during the D&C Term against interruption or loss of Availability Payments and, where applicable, additional interest costs due to delayed Milestone Payments resulting from physical loss or damage to any portion of the Project caused by occurrence of any risk which is required to be insured under the Builder’s Risk Policy for up to one full year from the date Substantial Completion would have occurred absent occurrence of the insured risk;
 - (f) **Property Insurance** covering any loss or damage to State-owned property used by Project Company for any reason under this Agreement, and the State-owned equipment, software and other property, including without limitation, the property used by Project Company to provide the O&M Work to the State, up to its replacement value, where the property is under the care, custody and control of Project Company for the duration of the O&M Term. The State must be endorsed on the policy as a loss payee as its interests appear.
 - (g) **Business Interruption Insurance** as part of the Property Insurance at all times during the O&M Term against interruption or loss of Availability Payments resulting from physical loss or damage to any portion of the Project caused by

occurrence of any risk which is required to be insured under the Property Insurance for up to one full year for the coverage after the deductible period from the date of the interruption. The amount of coverage shall be adjusted annually to reflect the estimated Availability Payments for the next 12-month period.

- (h) **Professional Liability** covering the professional services of the D&C Contractor and O&M Contractor to the extent the O&M Contractor is performing professional services, with limits no less than \$5,000,000 per occurrence or claim, and \$5,000,000 policy aggregate for the duration of the Term, and for 5 years thereafter.
- (i) **Contractor's Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions (if Project involves environmental hazards) insurance during the O&M Term with limits no less than \$5,000,000 per occurrence or claim, and \$5,000,000 policy aggregate for the duration of the Term. If the Project Operations involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability policy must not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractor's Pollution Liability policy must not contain a mold exclusion, and the definition of Pollution must include microbial matter, including mold.

If Project Company maintains higher limits than the minimums shown above, MDOT requires and shall be entitled to coverage for the higher limits maintained by the Project Company. Any available Insurance Proceeds in excess of the specified minimum limits of Insurance Policies and coverage shall be available to MDOT.

7.2 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by MDOT. At the option of MDOT, either: the Project Company must cause the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects MDOT of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents; or the Project Company must provide a financial guarantee satisfactory to MDOT guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

7.3 Other Insurance Provisions

The Insurance Policies are to contain, or be endorsed to contain, the following provisions:

- (a) The State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents (including all MDOT Persons) are to be covered as additional insureds on the CGL policy with respect to liability arising out of with respect to liability arising out of Project Operations performed by or on behalf of Project Company including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of Project Company. General liability coverage can be provided in the form of an endorsement to Project Company's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).
- (b) The State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents (including all MDOT Persons) are to be covered

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as additional insureds and Project Company shall be named insureds for the Delayed Opening Insurance and Business Interruption Insurance and Project Company may name itself or the Collateral Agent as the loss payee under the policy, with respect to such coverages. The policy shall provide for separation of insureds.

- (c) For any Claims related to this Project, Project Company's insurance coverage shall be primary insurance as respects the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents (including all MDOT Persons). Any insurance or self-insurance maintained by the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents shall be excess of Project Company's insurance and shall not contribute with it.
- (d) Each Insurance Policy required by this Schedule 7 must provide that coverage must not be canceled, except with notice to MDOT.

7.4 Builder's Risk (Course of Construction) Insurance

Project Company may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage must name the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as a loss payee as their interest may appear.

7.5 Claims Made Policy

All policies of insurance under this agreement must be on an "occurrence" basis except for Professional Liability Policy which may be on a "claims-made" basis.

If the Professional Liability Policy is made on a claims-made basis:

- (a) The retroactive date must be shown, and this date must be before the Commercial and Financial Close Deadline.
- (b) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Term.
- (c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Commercial and Financial Close Deadline, or start of work date, Project Company must purchase extended reporting period coverage for a minimum of five (5) years after completion of the Term.
- (d) A copy of the claims reporting requirements must be submitted to MDOT for review in accordance with the Submittal Requirements.

7.6 Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to MDOT.

7.7 Waiver of Subrogation

Project Company hereby agrees to waive rights of subrogation which any insurer of Project Company may acquire from Project Company by virtue of the payment of any loss. Project

Company agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy must be endorsed with a waiver of subrogation in favor of MDOT for all work performed by Project Company and its Contractors.

7.8 Verification of Coverage

Project Company must furnish MDOT with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by MDOT before the Project Operations commence. However, failure to obtain the required documents prior to the Project Operations beginning must not waive the Project Company's obligation to provide them. MDOT reserves the right to require complete, certified copies of all required Insurance Policies, including endorsements, required by these specifications, at any time.

7.9 Contractors

Project Company must require and verify that all Contractors maintain insurance meeting all the requirements under this Agreement during all periods where such Contractors are engaged to perform applicable Project Activities. Project Company must ensure that State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents is an additional insured on insurance required from Contractors. For CGL coverage Contractors must provide coverage with a format least as broad as CG 20 38 04 13.

7.10 Notice

Project Company must ensure that all Insurance Policies include an endorsement by which the insurer agrees to notify MDOT in writing at least 30 days before there is a cancellation or material change in coverage. Project Company must stop Project Operations if any insurance is canceled or reduced, and must not resume Project Operations until new insurance is in force.

SCHEDULE 8 - PROPOSAL TECHNICAL COMMITMENTS

The Proposal Technical Commitments consist of the following.

| No. | Proposal Location | Proposal Commitment |
|-----|--|---|
| 1. | Approach to Project Phasing A.2(c) | <p>Project Company will ensure that:</p> <ul style="list-style-type: none"> (a) panels and cabinets will be locked; (b) panel locations with repeated theft occurrences will have additional anti-theft precautions added; (c) any substandard circuits rehabilitated consistent with the Project Agreement; and (d) circuits that have experienced theft will have cable theft-prevention devices or measures installed. |
| 2. | Approach for Performing the Works A.5(a) | <p>Project Company will ensure the improved lighting system is 90% operational by the end of Month 15 and in conformance with Section 1.3 Part B Volume II at the conclusion of Milestone 2.</p> |
| 3. | Approach for Performing the Works A.5(b) | <p>Project Company will use 4-week look-ahead schedules:</p> <ul style="list-style-type: none"> (a) as a detailed snapshot in time to provide focus on near term activities; (b) to supplement planning of immediate activities related to the Project Operations; and (c) to allow the team performing the D&C Works to do detailed short-term planning, to provide sufficient time to identify and coordinate with subcontractors and suppliers. <p>Project Company will use sixty-day look-ahead schedules when a longer snapshot is desired.</p> <p>MDOT will be provided with copies of the look-ahead schedules as generated by Project Company.</p> |
| 4. | Approach for Performing the Works A.5(c) | <p>Project Company’s O&M Monthly Performance Report will track items including technical responsiveness, completion times and service delivery performance. This report will also set forth specific corrective actions if the quality of any of these items needs to be improved upon. Project Company will share this O&M Monthly Performance Report with MDOT promptly following the end of each month.</p> <p>The O&M Contractor’s Maintenance Manager will carry out a formal quarterly Management Review during the O&M Period. Project Company will share analysis relative to project performance as well as extensive historical data held by the O&M Contractor with MDOT. The quarterly Management Review will be used as the basis for a quarterly meeting with MDOT where Project Company and MDOT can review the progress and service levels accomplished.</p> <p>Project Company will utilize an Asset Management tool as the basis for the Lifecycle Replacement program to allow Project Company to track progress against required replacements and maintenance of parts of the improved lighting system. This will result in a separate Monthly Performance Report</p> |

| No. | Proposal Location | Proposal Commitment |
|-----|--------------------------------|--|
| | | <p>which will be shared with MDOT.</p> <p>Project Company’s reporting systems will provide comprehensive information to MDOT, and Project Company will work in concert with MDOT to ensure the format and data meets MDOT expectations and is compatible with MDOT’s systems.</p> |
| 5. | Traffic Management Plan A.8(d) | <p>Project Company will or will procure appointment of a MOT Manager who will be responsible for developing and executing all traffic control measures during the Project Term. The MOT Manager will also be responsible for evaluating the effectiveness of traffic control measures. The MOT Manager will also communicate all TMP information to MDOT public information personnel. The MOT Manager will be available to MDOT on a 24 hour/7 day basis.</p> |
| 6. | Quality Management Plan A.9(a) | <p>Project Company’s Executive Committee shall designate a full-time Quality Manager who shall have defined authority and responsibilities for ensuring that the quality policy is implemented and maintained. The Quality Manager shall report to the Executive Committee.</p> |

SCHEDULE 9 - KEY CONTRACTORS AND PERSONNEL REQUIREMENTS

SECTION 1 - INITIAL DESIGNATION OF PARTIES

| Representative | Name of Key Contractor |
|----------------------------------|-------------------------------|
| MDOT's Representative | (i) William Mathies |
| Project Company's Representative | (ii) Mark Melson |

SECTION 2 - KEY CONTRACTORS

| Nature of Key Contract | Name of Key Contractor |
|-------------------------------|-------------------------------|
| D&C Contractor | Aldridge Electric, Inc. |
| O&M Contractor | Cofely Services, Inc. |
| Lead engineer | Parsons Brinckerhoff |
| | |
| O&M Subcontractor | Motor City Electric |

SECTION 3 - KEY PERSONNEL

| Title | Name of person |
|---------------------------------------|-----------------------|
| Project Manager | Wayne Gearig |
| Construction Manager | Warren Aldridge |
| Lead Freeway Lighting Design Engineer | David Loduca |

SECTION 4 - KEY CONTRACT PROVISIONS

Each Key Contract shall expressly:

- i) require the Key Contractor to carry out its scope of work in accordance with this Agreement and Applicable Law;
- ii) set forth a standard of professional responsibility or a standard for commercial practice equal to the requirements of this Agreement and in accordance with Good Industry Practice for work of similar scope and scale;
- iii) set forth a standard for representations, warranties, guaranties and liability provisions of the Key Contractor in accordance with Good Industry Practice for work of similar scope and scale;
- iv) state that all remaining warranties and guarantees, express or implied, shall inure to the benefit of MDOT upon the Expiry Date;

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- v) require the Key Contractor to procure the applicable Performance Security required under Article 42, if any, prior to commencement of any Project Operations by or on behalf of the Key Contractor or as otherwise required under this Agreement;
- vi) provide that the Key Contractor shall have no right to suspend or demobilize unless and until it delivers to MDOT notice of the other contracting party's breach or default;
- vii) require the personal services of and not be assignable by the Key Contractor without Project Company's and MDOT's prior written consent, provided that this provision shall not prohibit the subcontracting of portions of the Project Operations;
- viii) include the requirements and provisions set forth in this Agreement applicable to Contractors regarding Intellectual Property rights and licenses;
- ix) expressly include a covenant to maintain all licenses required by Applicable Law;
- x) require the Key Contractor to participate in meetings between Project Company and MDOT concerning matters relevant to the Key Contractor in connection with the Project Operations, provided that all direction to such Key Contractor shall be provided by Project Company or other party to the Key Contract, and provided further that nothing in this Schedule 9 shall limit the authority of MDOT to give such direction or take such action as in its opinion is necessary to remove an immediate and present threat to the safety of life or property;
- xi) include an agreement by the Key Contractor to give evidence in any Dispute resolution proceeding pursuant to Schedule 4 - Dispute Resolution Procedures, at the request of MDOT or Project Company;
- xii) subject to the Lenders' Direct Agreement, expressly permit assignment to MDOT or the Collateral Agent or all Project Company's or other contracting party's rights under the Key Contract, upon delivery of written request from MDOT following termination or expiration of this Agreement, allowing MDOT assume the benefit of Project Company's or other contracting party's rights with liability only for those remaining obligations of Project Company or the other contracting party accruing after the date of assumption, such assignment to include the benefit of all Key Contractor warranties, indemnities, guarantees and professional responsibility;
- xiii) expressly state that assumption of the Key Contract by MDOT shall not operate to make the assignee responsible or liable for any breach of the Key Contract by Project Company or the other contracting party or for any amounts due and owing under the Key Contract for work or services rendered prior to assumption, without prejudice, however, to any rights of the Contractor under the Key Contract or Applicable Law to suspend work or terminate the Key Contract by reason of any such breach or failure to pay amounts due;
- xiv) expressly include (a) a covenant to recognize and attorn to MDOT upon receipt of Notice from MDOT that it has exercised Step-in Rights, without necessity for consent or approval from Project Company or to determine whether MDOT validly exercised its Step-in Rights, and (b) Project Company's covenant to waive and release any claim or cause of action against the Key Contractor in connection with its recognition and attornment in reliance on any such Notice;
- xv) expressly include a covenant, expressly stated to survive termination of the Key Contract, to promptly execute and deliver to MDOT a new contract between the Key Contractor and MDOT on the same terms and conditions as the Key Contract, if (a) the Key Contract is rejected by Project Company in bankruptcy or is wrongfully terminated by Project Company and (b) MDOT delivers written request for such new contract within 40

Business Days following termination or expiration of this Agreement. The Key Contract also shall include a covenant, expressly stated to survive termination of the Key Contract, to the effect that if the Key Contractor was a party to an escrow agreement and Project Company terminates it, then the Key Contractor also shall execute and deliver to MDOT, concurrently with such new contract, a new escrow agreement on the same terms and conditions as the terminated escrow agreement, and shall concurrently make the same deposits as made or provided under the terminated escrow agreement. Section xv of this Schedule 9 shall not apply to Key Contracts with MDOT or Governmental Entities;

- xvi) expressly include requirements that: the Key Contractor (a) will maintain usual and customary Books and Records for the type and scope of operations of business in which it is engaged (e.g., constructor, equipment supplier, designer, service provider), and retain such Books and Records for the period set forth in Section 26 or other applicable period set forth in this Agreement, (b) permit audit thereof by MDOT and (c) provide progress reports to Project Company appropriate for the type of work it is performing sufficient to enable Project Company to provide the reports it is required to furnish MDOT under this Agreement;
- xvii) expressly include the MDOT Persons as indemnitees, with direct right of enforcement, in any indemnity given by the Key Contractor under the Key Contract;
- xviii) expressly include an acknowledgement that the Key Contractor has no right or Claim to any lien or encumbrance upon the Project or Premises for failure of the other contracting party to pay amounts due the Key Contractor, and a waiver of any such right or Claim that may exist at Law or in equity;
- xix) include the right of Project Company to terminate the Key Contract in whole or in part upon any termination of this Agreement, in each case without liability of Project Company or MDOT for the Key Contractor's lost profits or business opportunity;
- xx) not contain any terms that do not comply or are inconsistent with the terms of this Agreement, including terms that do not comply or are inconsistent with this Schedule 9 or with the applicable requirements of Article 26 regarding maintenance of Books and Records, that fail to incorporate the applicable federal requirements set forth in Schedule 12 – Federal and State Requirements, or that are inconsistent with the requirements of the relevant scope of Project Operations; and
- xxi) expressly provide that any purported amendment with respect to any of the foregoing matters in this Schedule 9 or with respect to any other matter which would have a material adverse impact on the Project Operations, in each case, without the prior written consent of MDOT shall be null and void.

SCHEDULE 10 - FINANCING DOCUMENT TERMS

- (a) The Security Documents may only secure Project Debt, the proceeds of which are obligated to be used exclusively for the purposes of:
- (i) performing Project Operations;
 - (ii) paying interest and principal on other existing Project Debt and any costs and fees in connection with the closing and administering of any permitted Project Debt;
 - (iii) paying reasonable development fees to Project Company-Related Partners or to a D&C Contractor or its affiliates for services related to the Project;
 - (iv) paying fees and premiums to any Lender of the Project Debt or such Lender's agents;
 - (v) paying Taxes;
 - (vi) funding reserves required under this Agreement, Financing Documents, applicable securities laws, or Environmental Laws;
 - (vii) making Distributions; and
- Refinancing any Project Debt in accordance with this Agreement.
- (b) The Security Documents may only secure Project Debt and Financing Documents issued and executed by (a) Project Company, (b) its permitted successors and permitted assigns, (c) a special purpose entity that owns Project Company but no other assets and has purposes and powers limited to the Project and the Project Operations or (d) any special purpose entity-subsiary wholly owned by Project Company or such entity.
- (c) Project Debt under a Funding Agreement and secured by a Security Document must be issued and held only by Institutional Lenders who qualify as such at the date the Security Document is executed and delivered (or, if later, at the date any such Institutional Lender becomes a party to the Security Document), except that (a) qualified investors other than Institutional Lenders may acquire and hold interests in Project Debt, but only if an Institutional Lender acts as Collateral Agent for such Project Debt and (c) Subordinate Debt is not subject to this provision.
- (d) The Security Documents, as a whole, securing each separate issuance of debt shall encumber the entire Project Company's Interest, provided that the foregoing does not preclude entry by Project Company into subordinate Security Documents (such subordination to be in accordance with the terms set forth in the Financing Documents) or equipment lease financing.
- (e) No Security Document or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge or security interest on or against Project Company's Interest shall extend to or affect the right, title and interest of MDOT in the Project or the Relevant Infrastructure or MDOT's rights or interests under this Agreement

- (f) Each note, bond or other negotiable or non-negotiable instrument evidencing Project Debt, or evidencing any other obligations issued or incurred by any Person described in this Schedule 10 (b) in connection with this Agreement or the Project must include or refer to a document controlling or relating to the foregoing that includes a conspicuous recital on its face to the effect that payment of the principal thereof and interest thereon is a valid claim only as against the obligor and the security pledged by Project Company or the obligor therefor, is not an obligation, moral or otherwise, of the State, MDOT, any other agency, instrumentality or political subdivision of the State, or any elected official, member, director, officer, employee, agent or representative of any of them, and neither the full faith and credit nor the taxing power, and no assets, of the State, MDOT, or any other agency, instrumentality or political subdivision of the State is pledged to the payment of the principal thereof and interest thereon,
- (g) Each Financing Document containing provisions regarding default by Project Company shall require that if Project Company is in default thereunder and the Collateral Agent gives notice of such default to Project Company, then the Collateral Agent shall also give concurrent notice of such default to MDOT. Each Financing Document and Security Document that provides Lender remedies for default by Project Company or the borrower shall require that the Collateral Agent deliver to MDOT, concurrently with delivery to Project Company or any other Person, every notice of election or enforcement of remedies, including an election to sell or foreclose, notice of sale or foreclosure or other notice required by Applicable Law or by the Security Document in connection with the exercise of remedies under the Financing Document or Security Document.
- (h) No Financing Document that may be in effect during any part of the period that the Handback Requirements apply shall grant to the Lender any right to apply funds in the Handover Account or to apply proceeds from any handback letter of credit in accordance with Article 24 to the repayment of Project Debt, to any other obligation owing the Lender or to any other use except the uses set forth in Article 24, and any provision purporting to grant such right shall be null and void, provided, however, that (a) any Lender or Substituted Entity shall, following foreclosure or transfer in lieu of foreclosure, automatically succeed to all rights, claims and interests of Project Company in and to the Handover Account and (b) a Financing Document or Security Document may create such rights regarding excess funds described in Section 24.3.
- (i) Each relevant Financing Document and Security Document that may be in effect during any part of the period that the Handback Requirements apply shall expressly permit, without condition or qualification, Project Company to (a) use and apply funds in the Handover Account in the manner contemplated by this Agreement, (b) issue additional Project Debt, secured by the Project Company's Interest, for the added limited purposes of funding work pursuant to Handback Requirements in accordance with Article 24 and (c) otherwise comply with its obligations in this Agreement regarding Handback Work, the Handback Requirements and the Handover Account. Subject to the foregoing, any protocols, procedures, limitations and conditions concerning draws from the Handover Account set forth in any Financing Document or the issuance of additional Project Debt as described in clause (b) above shall be consistent with the permitted uses of the Handover Account, and shall not constrain Project Company's or MDOT's access thereto for such permitted uses, even during the pendency of a default under the Financing Document. For the avoidance of doubt:

- (i) The Lenders then holding Project Debt may limit additional Project Debt if other funds are then, in MDOT's determination, readily available to Project Company for the purpose of funding the work;
 - (ii) No Lender then holding Project Debt is required hereby to grant pari passu lien or payment status to any such additional Project Debt; and
 - (iii) The Lenders then holding Project Debt may impose reasonable and customary requirements as to performance and supervision of the Project Operations that are no more onerous than those set forth in their respective existing Financing Documents or Security Documents.
- (j) Each Financing Document and Security Document shall expressly state that the Lender shall not name or join MDOT, any other agency, instrumentality or political subdivision of the State, or any elected official, member, director, officer, employee, agent or representative of any of them in any legal proceeding seeking collection of the Project Debt or other obligations secured thereby or the foreclosure or other enforcement of the Financing Documents, except as such language may be modified in the Financing Documents approved by MDOT as provided in any Lenders' Direct Agreement.
- (k) Each Financing Document shall expressly state that the Lender shall not seek any damages or other amounts from MDOT, any other agency, instrumentality or political subdivision of the State, or any elected official, member, director, officer, employee, agent or representative of any of them, whether for Project Debt or any other amount, except (a) damages from MDOT only for a violation by MDOT of its express obligations to Lenders set forth in any Lenders' Direct Agreement, if applicable, and (b) amounts due from MDOT under this Agreement where the Lender has succeeded to the rights and interests of Project Company under this Agreement, whether by way of assignment or subrogation.
- (l) Each Financing Document shall expressly state that the Lender and the Collateral Agent shall respond to any request from MDOT or Project Company for consent to a modification or amendment of any of this Agreement within a reasonable period of time.
- (m) Each Financing Document shall expressly state that the Lender and the Collateral Agent shall (a) apply proceeds from Insurance Policies as specified in Schedule 7 – Insurance Requirements and (b) remit any amounts due to MDOT from proceeds from Insurance Policies, as set forth in Schedule 7 – Insurance Requirements, in each case, if any such Lender or Collateral Agent is named as the loss payee for the Insurance Policy.

SCHEDULE 11 - FORMS OF O&M PERFORMANCE SECURITY

Section 1

(insert contract ID)

Bond No. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That We, (Prime contractor), a (State of Incorporation) Corporation as principal, and _____ as surety, are held and firmly bound unto the State of Michigan, Michigan Department of Transportation, in the penal sum of _____ lawful money of the United States, to be paid to the said State of Michigan, Michigan Department of Transportation, or to its certain attorney or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this _____ day of _____, A.D. 20 _____

The condition of this obligation is such that if the above named principal shall and will, well and faithfully, and fully, do, execute and perform all of the obligations contained in the attached documents identified as Exhibits _____, listed below, including extensions of time under the O&M Contract, (notice of which is hereby waived by the surety), then this obligation is to be void, otherwise to remain in full force and effect.

Consistent with the obligations of this bond, and subject to the below, the obligations to be secured by the O&M Performance Security are all obligations under the Project Agreement or any Contract to the extent relevant to the O&M Works, excluding the D&C Term O&M Work and any obligations relating solely and directly to the financing or refinancing of the Project.

Without limiting the above, the following Exhibits are included and referenced as follows:

Project Agreement

O&M Contract.

The parties agree that this bond will not secure any obligation relating to the D&C Works performed by the D&C Contractor relating solely and directly to the achievement of Final Acceptance.

Notwithstanding the terms and conditions of this bond and the Contract and without limiting MDOT's rights under Section 42.3(e) of the Project Agreement, this bond is issued for a period of three (3) years from _____ to _____. The Bond will be renewable on an annual basis at the option of the Surety, if required. It is understood that the renewal will not modify nor cumulate the amount of the bond. THE NON-RENEWAL OF THIS BOND SHALL NOT CONSTITUTE AN EVENT OF DEFAULT OF THIS BOND.

Principal

By _____

By _____

Execution Version

By _____

Surety

By _____

NOTE: If the principal is a co-partnership, each member must sign these bonds. If the principal is a corporation, evidence of the authority of the officer signing must be attached or be on file with the Michigan Department of Transportation. The Surety Company shall attach a valid Power of Attorney of person or persons executing bond for the company.

Commission Received by: _____

Section 2

(Insert contract ID)

Bond No. _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That We, (Prime contractor), a (State of Incorporation) Corporation as principal, and _____ as surety, are held and firmly bound unto the State of Michigan, Michigan Department of Transportation, in the sum of _____ lawful money of the United States, to be paid to the said State of Michigan, Michigan Department of Transportation, or, to its assigns, or to any person, firm or corporation who may furnish labor, materials, supplies for equipment, for camp or construction, and equipment on a rental basis, on account of and actually used in the performance of all of the obligations contained in the attached documents identified as Exhibits below, to which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators and assigns, and each and every one of them firmly by these presents.

Sealed with our seals and dated this _____ day of _____, A.D. 20 _____

The condition of this obligation is such that if there shall be paid, as the same may become due and payable, all indebtedness which may arise from said principal to a sub-contractor or to any person, firm or corporation on account of any labor, material, supplies for equipment, for camp or construction, and rental of equipment, furnished and actually used in the performance of all of the obligations contained in the attached documents, identified as Exhibits listed below, including extensions of time of the O&M Contract, (notice of which is hereby waived by the surety), then this obligation is to be void, otherwise to remain in full force and effect.

Consistent with the obligations of this bond, and subject to the below. the obligations to be secured by the O&M Performance Security are all obligations under the Project Agreement or any Contract to the extent relevant to the O&M Works, excluding the D&C Term O&M Work and any obligations relating solely and directly to the financing or refinancing of the Project.

Without limiting the above, the following Exhibits are included and referenced as follows:

Project Agreement

O&M Contract

The parties agree that this bond will not secure any obligation relating to D&C Works performed by the D&C Contractor relating solely and directly to the achievement of Final Acceptance.

Notwithstanding the terms and conditions of this bond and the Contract and without limiting MDOT's rights under Section 42.3(e) of the Project Agreement, this bond is issued for a period of three (3) years from _____ to _____. The Bond will be renewable on an annual basis at the option of the Surety, if required. It is understood that the renewal will not modify nor cumulate the amount of the bond. THE NON-RENEWAL OF THIS BOND SHALL NOT CONSTITUTE AN EVENT OF DEFAULT OF THIS BOND.

Execution Version

Principal

By _____

By _____

By _____

Surety

By _____

NOTE: If the principal is a co-partnership, each member must sign these bonds. If the principal is a corporation, evidence of the authority of the officer signing must be attached or be on file with the Michigan Department of Transportation. The Surety Company shall attach a valid Power of Attorney of person or persons executing bond for the company.

Commission Received by: _____

(insert Contract ID)

Bond No. _____

ENDORSEMENT

The provisions of the foregoing Payment Bond shall also apply to indebtedness described therein in the case of a subcontractor in which notice of reliance on the security of the bond is not furnished within the 60-day period provided in 1905 PA 187, § 2, MCLA 570.102; MSA 26.322 provided such notice is furnished within 60 days after notice of payment of the final estimate or the post final estimate having been made by the State of Michigan, Michigan Department of Transportation, or in the case of a supplier to the contractor or a subcontractor, within 120 days after the materials are last furnished. Nothing in this endorsement shall be considered so as to limit or narrow the coverage provided for in said lien bond, but is in addition thereto, and not in lieu thereof.

Principal

By _____

By _____

By _____

Surety

By _____

SCHEDULE 12 - FEDERAL AND STATE REQUIREMENTS

| Exhibit Description |
|----------------------------|
|----------------------------|

Appendix A – Federal Provisions - General

Appendix B – FHWA Form 1273

Appendix C– Equal Employment Opportunity

Appendix D– Discrimination

Appendix E– Federal Prevailing Wage Rates

Appendix F– Forms

APPENDIX A TO SCHEDULE 12 – FEDERAL PROVISIONS - GENERAL

GENERAL. The provisions of this Exhibit 12 - Federal and State Requirements shall be construed and applied according to Section 12 (notwithstanding that they may appear to conflict with Section 12).

Whenever in the Required Contract Provisions, references are made to:

- (a) “contracting officer” or “authorized representative,” such references shall be construed to mean MDOT or the MDOT Representative;
- (b) “contractor,” “prime contractor,” “bidder,” “proposer,” “Federal-aid construction contractor,” “prospective first tier participant,” or “First Tier Participant,” such references shall be construed to mean Project Company or its authorized representative and/or the D&C Contractor for the D&C Work to which this Schedule 12 - Federal and State Requirements applies or its authorized representative, as may be appropriate under the circumstances;
- (c) “contract” “prime contract,” “Federal-aid construction contract” or “design-build contract,” such references shall be construed to mean the D&C Contract to which this Exhibit 122 - Federal and State Requirements applies;
- (d) “subcontractor,” “supplier,” “vendor,” “prospective lower tier participant,” “lower tier prospective participant,” “Lower Tier participant,” or “lower tier subcontractor,” such references shall be construed to mean, as appropriate, Contractors other than the D&C Contractor for the D&C Work to which this Exhibit 12 - Federal and State Requirements applies; and
- (e) “department,” “agency,” “department or agency with which this transaction originated,” or “department or agency entering into this transaction,” such references shall be construed to mean MDOT, except where a different department or agency is specified.

PERFORMANCE OF PREVIOUS CONTRACT. — In addition to the provisions in Form 1273 required contract provisions, Project Company shall cause each Contractor to comply with the following:

NON-COLLUSION PROVISION. — The provisions in this section are applicable to all contracts except contracts for Federal Aid Secondary projects. Title 23, United States Code, Section 112, requires as a condition precedent to approval by the Federal Highway Administrator of the contract for this work that each bidder file a sworn statement executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. A form to make the non-collusion affidavit statement required by Section 112 as a certification under penalty of perjury rather than as a sworn statement as permitted by 28 U.S.C., Sec. 1746, is included in the Proposal.

CONVICT PRODUCED MATERIALS

- (a) FHWA Federal-aid projects are subject to 23 CFR § 635.417, Convict produced materials.
- (b) Materials produced after July 1, 1991, by convict labor may only be incorporated in a Federal aid highway construction projects if such materials have been: (i) produced by convicts who are on parole, supervised release, or probation from a prison, or (ii) produced in a prison project in which convicts, during the 12 month period ending July 1, 1987, produced materials for use in Federal aid highway construction

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projects, and the cumulative annual production amount of such materials for use in Federal aid highway construction does not exceed the amount of such materials produced in such prison project for use in Federal aid highway construction during the 12 month period ending July 1, 1987.

BUY AMERICA REQUIREMENTS — FHWA Federal-aid projects are subject to 23 CFR § 635.410, Buy America requirements. The provisions of 23 CFR § 635.410 are incorporated herein by reference.

ACCESS TO RECORDS

(a) As required by 49 CFR 18.36(i)10), Project Company and its Contractors shall allow FHWA and the Comptroller General of the United States, or their duly authorized representatives, access to all books, documents, papers, and records of Project Company and Contractors which are directly pertinent to any grantee or subgrantee contract, for the purpose of making audit, examination, excerpts, and transcriptions thereof. In addition, as required by 49 CFR 18.36(i)11), Project Company and its Contractor shall retain all such books, documents, papers, and records for three years after final payment is made pursuant to any such contract and all other pending matters are closed.

(b) Project Company agrees to include this section in each Contract at each tier, without modification except as appropriate to identify the Contractor who will be subject to its provisions.

APPENDIX B TO SCHEDULE 12 - FHWA FORM 1273

FHWA-1273 -- Revised May 1, 2012

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

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

ATTACHMENTS

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

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

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

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

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

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

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

II. NONDISCRIMINATION

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the

Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

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

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

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

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

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

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

“It is the policy of this Company to assure that applicants are employed, and that employees are treated

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during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training.”

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

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

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

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

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

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

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

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

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

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

women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the

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contractor, either directly or through a contractor’s association acting as agent, will include the procedures set forth below:

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

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

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

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

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

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

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

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

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

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

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract,

which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer’s payroll records accurately set forth the time spent in each classification in which work is performed.

The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The

Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in

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section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different

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practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

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

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

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

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

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

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

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

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

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

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

3. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

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

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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.

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

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

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

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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APPENDIX C TO SCHEDULE 12 – EQUAL EMPLOYMENT OPPORTUNITY**Section 1 Specific Equal Employment Opportunity Responsibilities****(a) General**

(i) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form PR-1273 or 1316, as appropriate) and these Special Provisions that are imposed pursuant to Section 140 of Title 23, U.S.C. as established by Section 22 of the Federal Highway Act of 1968. The requirements set forth in this Section 1 shall constitute the specific affirmative action requirements for project activities under this Agreement and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

(ii) Project Company will work with the State highway agencies and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

(iii) Project Company and all Contractors holding Contracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as to Project Company and Contractors.) Project Company will include these requirements in every Contract of \$10,000 or more with such modification of language as is necessary to make them binding on the Contractor.

(b) Equal Employment Opportunity Policy

Project Company will accept as 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.

(c) Equal Employment Opportunity Officer

Project Company will designate and make known to the State highway agency contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

(d) Dissemination of Policy

(i) All members of Project Company'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, Project Company's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity 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) the start of work and then not less often than once every six months, at which time Project Company's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official;

(B) all new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of Project Company's equal employment opportunity obligations within thirty days following their reporting for duty with Project Company; and

(C) all personnel who are engaged in direct recruitment for the Project will be instructed by the EEO Officer or appropriate company official in Project Company's procedures for locating and hiring minority group employees.

(ii) In order to make Project Company's equal employment opportunity policy known to all employees, prospective employees, and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., Project Company will take the following actions:

(A) notice and posters setting forth Project Company's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment, and potential employees; and

(B) Project Company's equal employment opportunity 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.

(e) Recruitment

(i) When advertising for employees, Project Company will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

(ii) Project Company 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, including but not limited to, State employment agencies, schools, colleges, and minority group organizations. To meet this requirement, Project Company will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources of procedures whereby minority group applicants may be referred to Project Company for employment consideration.

(iii) In the event Project Company has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the

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extent that the system permits Project Company's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates Project Company to do the same, such implementation violates Executive Order 11246, as amended.)

(iv) Project Company will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

(f) Personnel Actions

(i) 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, or national origin. The following procedures shall be followed:

(A) Project Company will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of Project site personnel; and

(B) Project Company will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

(C) Project Company will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination;

(D) where evidence is found, Project Company 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; and

(E) Project Company will promptly investigate all complaints of alleged discrimination made to Project Company in connection with its obligations under this Agreement, 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, Project Company will inform every complainant of all avenues of appeal.

(g) Training and Promotion

(i) Project Company will assist in locating, qualifying, and increasing the skill of minority group and women employees, and applicants for employment.

(ii) Consistent with Project Company's work force requirements and as permissible under Federal and State regulations, Project Company 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 the Training Special Provision is provided under this Agreement, this subparagraph will be superseded as indicated in Attachment 2.

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(iii) Project Company will advise employees and applicants for employment of available training programs and entrance requirements for each.

(iv) Project Company 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.

(h) Unions

(i) If Project Company relies in whole or in part upon unions as a source of employees, Project Company 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 Project Company either directly or through a contractor's association acting as agent will include the procedures set forth below:

(A) Project Company 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) Project Company will use their best efforts to incorporate an equal employment opportunity 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, or national origin;

(C) Project Company 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 Project Company, Project Company shall so certify to the State highway department and shall set forth what efforts have been made to obtain such information; and

(D) in the event the union is unable to provide Project Company with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, Project Company will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which Project Company has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents Project Company from meeting the obligations pursuant to Executive Order 11246, as amended, and this Section 1 of Appendix C to Schedule 12 – Federal and State Requirements, such contract or shall immediately notify the State highway agency.

(i) Subcontracting

(i) Project Company will use his best efforts to solicit bids from and to utilize minority group Contractors or Contractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from State highway agency personnel.

(ii) Project Company will use its best efforts to ensure Contractor compliance with their equal employment opportunity obligations.

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(j) Records and Reports

(i) Project Company will keep such records as are necessary to determine compliance with Project Company's equal employment opportunity obligations. The records kept by Project Company will be designed to indicate:

(A) the number of minority and non-minority group members and women employed in each work classification on the Project;

(B) the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force); and

(C) the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and the progress and efforts being made in securing the services of minority group Contractors or Contractors with meaningful minority and female representation among their employees.

(ii) All such records must be retained for a period of three years following completion of this Agreement 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.

(iii) Project Company will submit to the State highway agency a monthly report for the first three months after construction begins and every month of 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 this Agreement work. This information is to be reported on Form PR-1391. If on-the-job training is being required by "Training Special Provision," Project Company will be required to furnish Form FHWA 1409.

Section 2 Standard Federal Equal Employment Opportunity Construction Contract Specifications

(a) Whenever Project Company, or any Contractor, subcontracts a portion of the Project Operations involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of this Section 2 and the Notice which contains the applicable goals for minority and female participation and which is set forth in Section 4 of Appendix C to Schedule 12 – Federal and State Requirements.

(b) If Project Company 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 participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make 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 Contractors toward a goal in an approved Plan does not excuse any covered Contractors failure to take good faith efforts to achieve the Plan goals and timetables.

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- (c) Project Company shall implement the specific affirmative action standards provided in paragraphs (f)(i) through (f)(xvi) of this Section 2. The goals set forth in Section 4 of Appendix C to Schedule 12 – Federal and State Requirements are expressed as percentages of the total hours of employment and training of minority and female utilization Project Company 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 of 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. Project Company is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
- (d) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom Project Company has collective bargaining agreement, to refer either minorities or women shall excuse Project Company's obligations under this Section 2, Executive Order 11246, or the regulations promulgated pursuant thereto.
- (e) 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 Project Company during the training period, and Project Company 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.
- (f) Project Company shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of Project Company's compliance with this Section 2 shall be based upon its effort to achieve maximum results from its actions. Project Company shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- (i) ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which Project Company's employees are assigned to work. Project Company, where possible, will assign two or more women to each construction project. Project Company shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out Project Company's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities;
 - (ii) 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 Project Company or its unions have employment opportunities available, and maintain a record of the organizations responses;
 - (iii) 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

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referred back to Project Company by the union or, if referred, not employed by Project Company, this shall be documented in the file with the reason therefor, along with whatever additional actions Project Company may have taken;

(iv) provide immediate written notification to the Director when the union or unions with which Project Company has a collective bargaining agreement has not referred to Project Company a minority person or woman sent by Project Company, or when Project Company has other information that the union referral process has impeded Project Company's efforts to meet its obligations;

(v) develop on-the-job training opportunities and/or participate in training programs for the area which expressly include upgrading programs and apprenticeship and trainee programs relevant to Project Company's employment needs, especially those programs funded or approved by the Department of Labor. Project Company shall provide notice of these programs to the sources complied under (f)(i) above;

(vi) disseminate Project Company's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting Project Company in meeting its EEO obligations; by including it in any policy 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 is performed;

(vii) review, at least annually, the company's EEO policy and affirmative action obligations under this Section 2 with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite 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;

(viii) disseminate Project Company'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 Project Company's EEO policy with other Contractors with whom Project Company does or anticipates doing business;

(ix) 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 Project Company'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, Project Company shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(x) 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 workforce.

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- (xi) validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60.3;
 - (xii) 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;
 - (xiii) 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 Project Company's obligations under this Section 2 are being carried out.
 - (xiv) 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;
 - (xv) 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;
 - (xvi) conduct a review, at least annually, of all supervisors adherence to and performance under Project Company's EEO policies and affirmative action obligations.
- (g) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (paragraphs (f)(i) through (f)(xvi) of this Section 2). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which Project Company is a member and participant, may be asserted as fulfilling any one or more of its obligations under paragraphs (f)(i) through (f)(xvi) of this Section 2 provided that Project Company 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 Project Company's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetable, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of Project Company. The obligation to comply, however, is Project Company's and failure of such a group to fulfill an obligation shall not be a defense for Project Company's noncompliance.
- (h) A single goal for minorities and separate single goal for women have been established. Project Company, 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, Project Company may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though Project Company has achieved its goals for women generally, Project Company may be in violation of the Executive Order if a specific minority group of women is underutilized).
- (i) Project Company 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.

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- (j) Project Company shall not enter into any Contract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (k) Project Company shall carry out such sanctions and penalties for violation of this Section 2 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 this Section 2 and Executive Order 11246, as amended.
- (l) Project Company, in fulfilling its obligations under this Section 2, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of this Section 2, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If Project Company fails to comply with the requirements of the Executive Order, the implementing regulations, or this Section 2, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (m) Project Company 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 State 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.
- (n) Nothing in this Section 2 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).

Section 3 Special Provision for On-The-Job Training Program

OBD:TDB 1 of 1 C&T:APPR:DBP:GCT:04-21-11 FHWA:APPR:06-01-11

- (a) **Description.** The On-The-Job Training (OJT) program is the MDOT's program to meet the requirements of the Federal-Aid Highway Act of 1970 and 23 CFR (Code of Federal Regulations) Part 230, Subpart A. The objective is to develop skill improvement programs to provide opportunities for unskilled workers, particularly minorities, women, and disadvantaged persons, to acquire training in the skilled construction trades.
- (b) **Trainee Assignment.** MDOT's Office of Business Development will allocate training assignments to prequalified Contractors based on the past contract volume of federal-aid work performed with MDOT. MDOT will notify each Contractor who has met the volume of work threshold at the beginning of each calendar year and advise them of the number of trainees they are expected to support.

Execution Version

- (c) **Program Requirements.** Contractors found to have reached the level(s), as identified in the MDOT OJT program document, are required to fulfill all of the requirements of the OJT program at no additional cost to MDOT.

The Contractors are required to pay the trainees in accordance with the following schedule:

- 60 percent of the appropriate minimum journeyman’s rate specified in the contract for the first half of the training period
- 75 percent for the third quarter of the training period
- 90 percent for the last quarter of the training period
- Full fringe benefits will be paid during the entire training period

The OJT program document is available through the MDOT’s On-the-Job Training Program website at www.michigan.gov/mdot/0,1607,7-151-9625-214452--,00.html.

Contractors should notify the MDOT Representative at the preconstruction meeting if they intend to utilize trainees on the project.

- (d) **Non-Compliance.** Failure to comply with the OJT program provisions or complete a training assignment may result in the Contractor being found in non-compliance. Failure to resolve the non-compliance may be used as a basis for modifying the prequalification ratings of the Contractor. Any action to modify the Contractor’s prequalification ratings will be taken in accordance with the duly promulgated prequalification rules.

Section 4 COUNTY MINORITY & FEMALE* PERCENTAGES

| | | | | | | | | |
|-----|------------|------|-----|-----------|------|-----|--------------|-------|
| 1. | Alcona | 5.2% | 29. | Gratiot | 5.2% | 57. | Missaukee | 4.9% |
| 2. | Alger | 1.0% | 30. | Hillsdale | 5.5% | 58. | Monroe | 8.8% |
| 3. | Allegan | 4.9% | 31. | Houghton | 1.0% | 59. | Montcalm | 4.9% |
| 4. | Alpena | 5.2% | 32. | Huron | 5.2% | 60. | Montmorency | 5.2% |
| 5. | Antrim | 4.9% | 33. | Ingham | 5.5% | 61. | Muskegon | 9.7% |
| 6. | Arenac | 5.2% | 34. | Ionia | 5.5% | 62. | Newaygo | 4.9% |
| 7. | Baraga | 1.0% | 35. | Iosco | 5.2% | 63. | Oakland | 17.7% |
| 8. | Barry | 7.2% | 36. | Iron | 1.0% | 64. | Oceana | 9.7% |
| 9. | Bay | 2.2% | 37. | Isabella | 5.2% | 65. | Ogemaw | 5.2% |
| 10. | Benzie | 4.9% | 38. | Jackson | 5.1% | 66. | Ontonagon | 1.2% |
| 11. | Berrien | 6.2% | 39. | Kalamazoo | 5.9% | 67. | Osceola | 4.9% |
| 12. | Branch | 5.5% | 40. | Kalkaska | 4.9% | 68. | Oscoda | 5.2% |
| 13. | Calhoun | 7.2% | 41. | Kent | 5.2% | 69. | Otsego | 5.2% |
| 14. | Cass | 6.2% | 42. | Keweenaw | 1.0% | 70. | Ottawa | 5.2% |
| 15. | Charlevoix | 4.9% | 43. | Lake | 4.9% | 71. | Presque Isle | 5.2% |

Execution Version

| | | | | | | | | |
|-----|--------------|-------|-----|------------|-------|-----|-------------|-------|
| 16. | Cheboygan | 5.2% | 44. | Lapeer | 17.7% | 72. | Roscommon | 5.2% |
| 17. | Chippewa | 5.2% | 45. | Leelanau | 4.9% | 73. | Saginaw | 14.3% |
| 18. | Clare | 5.2% | 46. | Lenawee | 7.3% | 74. | Sanilac | 16.7% |
| 19. | Clinton | 5.5% | 47. | Livingston | 17.5% | 75. | Schoolcraft | 1.0% |
| 20. | Crawford | 5.2% | 48. | Luce | 5.2% | 76. | Shiawassee | 12.6% |
| 21. | Delta | 1.0% | 49. | Mackinac | 5.2% | 77. | St. Clair | 17.7% |
| 22. | Dickinson | 1.0% | 50. | Macomb | 17.7% | 78. | St. Joseph | 5.2% |
| 23. | Eaton | 5.5% | 51. | Manistee | 4.9% | 79. | Tuscola | 5.2% |
| 24. | Emmet | 4.9% | 52. | Marquette | 1.0% | 80. | VanBuren | 5.9% |
| 25. | Genesee | 12.6% | 53. | Mason | 4.9% | 81. | Washtenaw | 8.5% |
| 26. | Gladwin | 5.2% | 54. | Mecosta | 4.9% | 82. | Wayne | 17.7% |
| 27. | Gogebic | 1.2% | 55. | Menominee | 1.0% | 83. | Wexford | 4.9% |
| 28. | Gr. Traverse | 4.9% | 56. | Midland | 5.2% | | | |

*The construction goal for women in any Michigan county is 6.9%

Minority and female percentages are taken from the Office of Federal Contract Compliance Program Statistics.

APPENDIX D TO SCHEDULE 12 – DISCRIMINATION**PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS**

In connection with the performance of the Project Operations; Project Company agrees as follows:

1. In accordance with Act. No. 453, Public Acts of 1976, Project Company hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980, Project Company hereby agrees not to discriminate against an employee or applicant for employment tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this Agreement.
2. Project Company hereby agrees that any and all Contractors to this Agreement, whereby a portion of the work set forth in this Agreement is to be performed, shall contain a covenant the same as in herein before set forth in Section 1 of this Appendix D to Schedule 12 – Federal and State Requirements.
3. Project Company will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. Project Company will, in all solicitations or advertisements for employees placed by or on behalf of Project Company, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, marital status or disability that is unrelated to the individuals ability to perform the duties of a particular job or position.
5. Project Company or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of Project Company's commitments under this Appendix D to Schedule 12 – Federal and State Requirements.
6. Project Company will comply with relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. Project Company will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program and employment statistics of each Contractor as well as Project Company himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission, and/or its agent, for purposes of investigation to ascertain compliance with this Agreement and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a Contractor has not complied with the contractual obligations under this Agreement, the Civil Rights

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Commission may, as a part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the Contract found to have been violated, and/or declare Project Company ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until Project Company complies with all of the persons with whom Project Company is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. Project Company will include, or incorporate by reference, the provisions of the forgoing paragraphs (1) through (8) in every Contract or purchase order unless exempted by rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every Contract or purchase order that said provisions will be binding upon each Contractor or seller.

*The Civil Rights Commission referred to as the Michigan Civil Rights Commission

TITLE VI ASSURANCE APPENDIX B

During the performance of this Agreement, Project Company, for itself, its assignees and successors in interest (hereinafter referred to as "Project Company") agrees as follows:

1. **Compliance with Regulations:** Project Company shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** Project Company, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of Contractors, including procurements of materials and leases of equipment. Project Company shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when Project Company covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Project Company for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Contractor or supplier shall be notified by Project Company of Project Company's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
4. **Information and Reports:** Project Company shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Highway department of the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, Project Company shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of Project Company's noncompliance with the nondiscrimination provisions of this Agreement, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including:
 - (a) withholding of payments to Project Company under the contract until Project Company complies; and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** Project Company shall include the provisions of paragraphs (1) through (6) in every Contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Project Company shall take such action with respect to any Contract or procurement as the State highway department or the Federal Highway

Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a Contractor or supplier as a result of such direction, Project Company may request the State highway department to enter into such litigation to protect the interests of the State, and, in addition,

Execution Version

Project Company may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX E TO SCHEDULE 12 – FEDERAL PREVAILING WAGE RATES

General Decision Number: MI150001 03/06/2015 MI1

Superseded General Decision Number: MI20140001

State: Michigan

Construction Types: Highway (Highway, Airport & Bridge xxxxx and Sewer/Incid. to Hwy.)

Counties: Michigan Statewide.

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| | |
|---------------------|------------------|
| Modification Number | Publication Date |
| 0 | 01/02/2015 |
| 1 | 03/06/2015 |

CARP0004-004 06/01/2013

REMAINDER OF STATE

| | | |
|------------------------------|----------|---------|
| | Rates | Fringes |
| CARPENTER (Piledriver)..... | \$ 25.34 | 17.37 |
| ----- | | |

CARP0004-005 06/01/2013

LIVINGSTON (Townships of Brighton, Deerfield, Genoa, Hartland, Oceola & Tyrone), MACOMB, MONROE, OAKLAND, SANILAC, ST. CLAIR AND WAYNE COUNTIES

| | | |
|-----------------------------|----------|---------|
| | Rates | Fringes |
| CARPENTER (Piledriver)..... | \$ 28.09 | 24.31 |
| ----- | | |

ELEC0017-005 06/02/2014

STATEWIDE

| | | |
|---|----------|---------|
| | Rates | Fringes |
| Line Construction | | |
| Groundman/Driver..... | \$ 26.63 | 12.70 |
| Journeyman Signal Tech, Communications Tech, Tower Tech & Fiber Optic Splicers. | \$ 36.16 | 15.37 |
| Journeyman Specialist..... | \$ 41.58 | 16.89 |
| Operator A..... | \$ 30.63 | 13.82 |

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Operator B.....\$ 28.62 13.26

Classifications

Journeyman Specialist: Refers to a crew of only one person working alone.

Operator A: Shall be proficient in operating all power equipment including: Backhoe, Excavator, Directional Bore and Boom/Digger truck.

Operator B: Shall be proficient in operating any 2 of the above mentioned pieces of equipment listed under Operator A.

ENGI0324-003 06/01/2014

ALCONA, ALPENA, ARENAC, BAY, CHEBOYGAN, CLARE, CLINTON, CRAWFORD, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, IOSCO, ISABELLA, JACKSON, LAPEER, LENAWEE, LIVINGSTON, MACOMB, MIDLAND, MONROE, MONTMORENCY, OAKLAND, OGEMAW, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLAIR, SANILAC, SHIAWASSEE, TUSCOLA, WASHTENAW AND WAYNE COUNTIES:

| | Rates | Fringes |
|---|----------|---------|
| OPERATOR: Power Equipment (Steel Erection) | | |
| GROUP 1..... | \$ 43.57 | 21.55 |
| GROUP 2..... | \$ 44.57 | 21.55 |
| GROUP 3..... | \$ 42.07 | 21.55 |
| GROUP 4..... | \$ 43.07 | 21.55 |
| GROUP 5..... | \$ 40.57 | 21.55 |
| GROUP 6..... | \$ 41.57 | 21.55 |
| GROUP 7..... | \$ 40.30 | 21.55 |
| GROUP 8..... | \$ 41.30 | 21.55 |
| GROUP 9..... | \$ 39.85 | 21.55 |
| GROUP 10..... | \$ 40.85 | 21.55 |
| GROUP 11..... | \$ 39.12 | 21.55 |
| GROUP 12..... | \$ 40.12 | 21.55 |
| GROUP 13..... | \$ 38.76 | 21.55 |
| GROUP 14..... | \$ 39.76 | 21.55 |
| GROUP 15..... | \$ 38.12 | 21.55 |
| GROUP 16..... | \$ 36.42 | 21.55 |
| GROUP 17..... | \$ 31.31 | 21.55 |
| GROUP 18..... | \$ 29.90 | 21.55 |

FOOTNOTE:

Paid Holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Engineer when operating combination of boom and jib 400' or longer

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GROUP 2: Engineer when operating combination of boom and jib 400' or longer on a crane that requires an oiler

GROUP 3: Engineer when operating combination of boom and jib 300' or longer

GROUP 4: Engineer when operating combination of boom and jib 300' or longer on a crane that requires an oiler

GROUP 5: Engineer when operating combination of boom and jib 220' or longer

GROUP 6: Engineer when operating combination of boom and jib 220' or longer on a crane that requires an oiler

GROUP 7: Engineer when operating combination of boom and jib 140' or longer

GROUP 8: Engineer when operating combination of boom and jib 140' or longer on a crane that requires an oiler

GROUP 9: Tower crane & derrick operator (where operator's work station is 50 ft. or more above first sub-level)

GROUP 10: Tower crane & derrick operator (where operator's work station is 50 ft. or more above first sub-level) on a crane that requires an oiler

GROUP 11: Engineer when operating combination of boom and jib 120' or longer

GROUP 12: Engineer when operating combination of boom and jib 120' or longer on a crane that requires an oiler

GROUP 13: Crane operator; job mechanic and 3 drum hoist and excavator

GROUP 14: Crane operator on a crane that requires an oiler

GROUP 15: Hoisting operator; 2 drum hoist and rubber tired backhoe

GROUP 16: Forklift and 1 drum hoist

GROUP 17: Compressor or welder operator

GROUP 18: Oiler

ENGI0324-004 06/01/2014

AREA 1: ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, EATON, HILLSDALE, IONIA, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MECOSTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA, OTTAWA, ST. JOSEPH, VAN BUREN

Execution Version

AREA 2: ANTRIM, BENZIE, CHARLEVOIX, EMMET, GRAND TRAVERSE, KALKASKA, LEELANAU, MISSAUKEE AND WEXFORD COUNTIES:

| | Rates | Fringes |
|---|----------|---------|
| OPERATOR: Power Equipment (Steel Erection) | | |
| AREA 1 | | |
| GROUP 1..... | \$ 29.44 | 21.70 |
| GROUP 2..... | \$ 29.19 | 21.70 |
| GROUP 3..... | \$ 28.69 | 21.70 |
| GROUP 4..... | \$ 23.59 | 21.70 |
| GROUP 5..... | \$ 21.94 | 21.70 |
| GROUP 6..... | \$ 19.34 | 21.70 |
| AREA 2 | | |
| GROUP 1..... | \$ 29.44 | 21.70 |
| GROUP 2..... | \$ 29.19 | 21.70 |
| GROUP 3..... | \$ 28.19 | 21.70 |
| GROUP 4..... | \$ 23.29 | 21.70 |
| GROUP 5..... | \$ 21.64 | 21.70 |
| GROUP 6..... | \$ 18.84 | 21.70 |

FOOTNOTES:

Crane operator with main boom and jib 300' or longer: \$1.50 additional to the group 1 rate. Crane operator with main boom and jib 400' or longer: \$3.00 additional to the group 1 rate.

PAID HOLIDAYS: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

GROUP 1: Crane Operator with main boom & jib 400', 300', or 220' or longer.

GROUP 2: Crane Operator with main boom & jib 140' or longer, Tower Crane; Gantry Crane; Whirley Derrick.

GROUP 3: Regular Equipment Operator, Crane, Dozer, Loader, Hoist, Straddle Wagon, Mechanic, Grader and Hydro Excavator.

GROUP 4: Air Tugger (single drum), Material Hoist Pump 6" or over, Elevators, Brokk Concrete Breaker.

GROUP 5: Air Compressor, Welder, Generators, Conveyors

GROUP 6: Oiler and fire tender

ENGI0324-005 09/01/2014

AREA 1: GENESEE, LAPEER, LIVINGSTON, MACOMB, MONROE, OAKLAND, ST. CLAIR, WASHTENAW AND WAYNE COUNTIES

AREA 2: ALCONA, ALLEGAN, ALGER, ALPENA, ANTRIM, ARENAC, BARAGA,

Execution Version

BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KWEENAW, LAKE, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, SANILAC, SCHOOLCRAFT, SHIAWASSEE, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

| | Rates | Fringes |
|---------------------------|----------|---------|
| OPERATOR: Power Equipment | | |
| (Underground construction | | |
| (including sewer)) | | |
| AREA 1: | | |
| GROUP 1..... | \$ 30.48 | 21.15 |
| GROUP 2..... | \$ 25.75 | 21.15 |
| GROUP 3..... | \$ 25.02 | 21.15 |
| GROUP 4..... | \$ 24.45 | 21.15 |
| AREA 2: | | |
| GROUP 1..... | \$ 28.77 | 21.15 |
| GROUP 2..... | \$ 23.88 | 21.15 |
| GROUP 3..... | \$ 23.38 | 21.15 |
| GROUP 4..... | \$ 23.10 | 21.15 |

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Backfiller tamper; Backhoe; Batch plant operator (concrete); Clamshell; Concrete paver (2 drums or larger); Conveyor loader (Euclid type); Crane (crawler, truck type or pile driving); Dozer; Dragline; Elevating grader; Endloader; Gradall (and similar type machine); Grader; Mechanic; Power shovel; Roller (asphalt); Scraper (self-propelled or tractor drawn); Side boom tractor (type D-4 or equivalent and larger); Slip form paver; Slope paver; Trencher (over 8 ft. digging capacity); Well drilling rig; Concrete pump with boom operator; Hydro Excavator

GROUP 2: Boom truck (power swing type boom); Crusher; Hoist; Pump (1 or more - 6-in. discharge or larger - gas or diesel- powered or powered by generator of 300 amperes or more - inclusive of generator); Side boom tractor (smaller than type D-4 or equivalent); Tractor (pneu-tired, other than backhoe or front end loader); Trencher (8-ft. digging capacity and smaller); Vac Truck

GROUP 3: Air compressors (600 cfm or larger); Air compressors (2 or more-less than 600 cfm); Boom truck (non-swinging, non- powered type boom); Concrete breaker (self-propelled or truck mounted - includes compressor); Concrete paver (1 drum-1/2 yd. or larger); Elevator (other than passenger); Maintenance person; Pump (2 or more-4-in. up to 6-in. discharge-gas or diesel powered - excluding submersible

Execution Version

pumps); Pumpcrete machine (and similar equipment); Wagon drill (multiple); Welding machine or generator (2 or more-300 amp. or larger - gas or diesel powered)

GROUP 4: Boiler; Concrete saw (40 hp or over); Curing machine (self-propelled); Farm tractor (with attachment); Finishing machine (concrete); Fire person; Hydraulic pipe pushing machine; Mulching equipment; Oiler; Pumps (2 or more up to 4-in. discharge, if used 3 hours or more a day, gas or diesel powered - excluding submersible pumps); Roller (other than asphalt); Stump remover; Trencher (service); Vibrating compaction equipment, self-propelled (6 ft. wide or over); End dump operator; Sweeper (Wayne type); Water wagon and Extend-a boom forklift

 ENGI0324-006 06/01/2014

AREA 1: GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES

AREA 2: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|----------|---------|
| Power equipment operators: (AIRPORT, BRIDGE & HIGHWAY CONSTRUCTION) | | |
| AREA 1 | | |
| GROUP 1..... | \$ 30.26 | 21.85 |
| GROUP 2..... | \$ 23.53 | 21.85 |
| GROUP 3..... | \$ 24.83 | 21.85 |
| GROUP 4..... | \$ 22.97 | 21.85 |
| GROUP 5..... | \$ 22.80 | 21.85 |
| AREA 2 | | |
| GROUP 1..... | \$ 30.26 | 21.85 |
| GROUP 2..... | \$ 23.38 | 21.85 |
| GROUP 3..... | \$ 24.68 | 21.85 |
| GROUP 4..... | \$ 22.82 | 21.85 |
| GROUP 5..... | \$ 22.50 | 21.85 |

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Asphalt plant operator; Crane operator (does not include work on bridge construction projects when the crane operator is erecting structural components); Dragline

Execution Version

operator; Shovel operator; Locomotive operator; Paver operator (5 bags or more); Elevating grader operator; Pile driving operator; Roller operator (asphalt); Blade grader operator; Trenching machine operator (ladder or wheel type); Auto-grader; Slip form paver; Self-propelled or tractor-drawn scraper; Conveyor loader operator (Euclid type); Endloader operator (1 yd. capacity and over); Bulldozer; Hoisting engineer; Tractor operator; Finishing machine operator (asphalt); Mechanic; Pump operator (6-in. discharge or over, gas, diesel powered or generator of 300 amp. or larger); Shouldering or gravel distributing machine operator (self-propelled); Backhoe (with over 3/8 yd. bucket); Side boom tractor (type D-4 or equivalent or larger); Tube finisher (slip form paving); Gradall (and similar type machine); Asphalt paver (self-propelled); Asphalt planer (self-propelled); Batch plant (concrete-central mix); Slurry machine (asphalt); Concrete pump (3 in. and over); Roto-mill; Swinging boom truck (over 12 ton capacity); Hydro demolisher (water blaster); Farm-type tractor with attached pan

GROUP 2: Screening plant operator; Washing plant operator; Crusher operator; Backhoe (with 3/8 yd. bucket or less); Side boom tractor (smaller than D-4 type or equivalent); Sweeper (Wayne type and similar equipment); Vacuum truck operator; Batch plant (concrete dry batch)

GROUP 3: Grease Truck

GROUP 4: Air compressor operator (600 cu. ft. per min or more); Air compressor operator (two or more, less than 600 cfm); Wagon drill operator; Concrete breaker; Tractor operator (farm type with attachment)

GROUP 5: Boiler fire tender; Oiler; Fire tender; Trencher (service); Flexplane operator; Cleftplane operator; Grader operator (self-propelled fine-grade or form (concrete)); Finishing machine operator (concrete); Boom or winch hoist truck operator; Endloader operator (under 1 yd. capacity); Roller operator (other than asphalt); Curing equipment operator (self-propelled); Concrete saw operator (40 h.p. or over); Power bin operator; Plant drier operator (asphalt); Vibratory compaction equipment operator (6 ft. wide or over); Guard post driver operator (power driven); All mulching equipment; Stump remover; Concrete pump (under 3-in.); Mesh installer (self-propelled); Tractor operator (farm type); End dump; Skid steer

 ENGI0324-007 07/01/2014

ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES:

Rates Fringes

Execution Version

OPERATOR: Power Equipment
(Steel Erection)

| | | |
|--|----------|-------|
| Compressor, welder and forklift..... | \$ 24.61 | 21.55 |
| Crane operator, main boom & jib 120' or longer..... | \$ 28.36 | 21.55 |
| Crane operator, main boom & jib 140' or longer..... | \$ 28.61 | 21.55 |
| Crane operator, main boom & jib 220' or longer..... | \$ 28.86 | 21.55 |
| Mechanic with truck and tools..... | \$ 29.36 | 21.55 |
| Oiler and fireman..... | \$ 23.31 | 21.55 |
| Regular operator..... | \$ 27.86 | 21.55 |

ENGI0324-008 11/01/2014

ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY,
BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX,
CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA,
DICKINSON, EATON, EMMET, GENESEE, GLADWIN, GOGEBIC, GRAND
TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA,
IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT,
KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE,
MACKINAC, MACOMB, MANISTEE, MARQUETTE, MASON, MECOSTA,
MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MONROE,
MUSKEGON, NEWAYGO, OAKLAND, OCEANA, OGEMAW, ONTONAGON, OSCEOLA,
OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST.
CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA,
VAN BUREN, WASHTENAW, WAYNE AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|----------|---------|
| OPERATOR: Power Equipment (Sewer Relining) | | |
| GROUP 1..... | \$ 29.98 | 12.75 |
| GROUP 2..... | \$ 28.45 | 12.75 |

SEWER RELINING CLASSIFICATIONS

GROUP 1: Operation of audio-visual closed circuit TV system,
including remote in-ground cutter and other equipment used
in connection with the CCTV system

GROUP 2: Operation of hot water heaters and circulation
systems, water jetters and vacuum and mechanical debris
removal systems

ENGI0325-012 05/01/2014

AREA 1: MACOMB, MONROE, OAKLAND, ST. CLAIR, WASHTENAW AND WAYNE
COUNTIES

AREA 2: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA,
BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX,
CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA,

Execution Version

DICKINSON, EATON, EMMET, GENESEE, GLADWIN, GOGEBIC, GRAND TRVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

| | Rates | Fringes |
|--|----------|---------|
| Power equipment operators - gas distribution and duct installation work: | | |
| AREA 1 | | |
| GROUP 1..... | \$ 27.83 | 21.80 |
| GROUP 2..... | \$ 27.70 | 21.80 |
| GROUP 3..... | \$ 26.58 | 21.80 |
| GROUP 4..... | \$ 26.00 | 21.80 |
| AREA 2 | | |
| GROUP 1..... | \$ 26.92 | 21.80 |
| GROUP 2-A..... | \$ 26.82 | 21.80 |
| GROUP 2-B..... | \$ 26.60 | 21.80 |
| GROUP 3..... | \$ 25.82 | 21.80 |
| GROUP 4..... | \$ 25.32 | 21.80 |

SCOPE OF WORK: The construction, installation, treating and reconditioning of pipelines transporting gas vapors within cities, towns, subdivisions, suburban areas, or within private property boundaries, up to and including private meter settings of private industrial, governmental or other premises, more commonly referred to as "distribution work," starting from the first metering station, connection, similar or related facility, of the main or cross country pipeline and including duct installation.

AREA 1:

- GROUP 1: Backhoe, crane, grader, mechanic, dozer (D-6 equivalent or larger), side boom (D-4 equivalent or larger), trencher(except service), endloader (2 yd. capacity or greater).
- GROUP 2: Dozer (less than D-6 equivalent), endloader (under 2 yd. capacity), side boom (under D-4 capacity), backfiller, pumps (1 or 2 of 6-inch discharge or greater), boom truck (with powered boom), tractor (wheel type other than backhoe or front endloader).
- GROUP 3: Tamper (self-propelled), boom truck (with non-powered boom), concrete saw (20 hp or larger), pumps (2 to 4 under 6-inch discharge), compressor (2 or more or when one is used continuously into the second day) and trencher(service).
- GROUP 4: Oiler, hydraulic pipe pushing machine, grease person and hydrostatic testing operator.

Execution Version

AREA 2:

GROUP 1: Mechanic, crane (over 1/2 yd. capacity), backhoe (over 1/2 yd. capacity), grader (Caterpillar 12 equivalent or larger)

GROUP 2-A: Trencher(except service), backhoe (1/2 yd. capacity or less)

GROUP 2-B: Crane (1/2 yd. capacity or less), compressor (2 or more), dozer (D-4 equivalent or larger), endloader (1 yd. capacity or larger), pump (1 or 2 six-inch or larger), side boom (D-4 equivalent or larger)

GROUP 3: Backfiller, boom truck (powered), concrete saw (20 hp or larger), dozer (less than D-4 equivalent), endloader (under 1 yd. capacity), farm tractor (with attachments), pump (2 - 4 under six-inch capacity), side boom tractor(less than D-4 equivalent), tamper (self-propelled), trencher service and grader maintenance

GROUP 4: Oiler, grease person and hydrostatic testing operator

IRON0008-007 06/01/2013

ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES:

| | Rates | Fringes |
|---|----------|---------|
| Ironworker - pre-engineered metal building erector..... | \$ 23.70 | 6.95 |
| IRONWORKER | | |
| General contracts | | |
| \$10,000,000 or greater..... | \$ 25.75 | 23.17 |
| General contracts less than \$10,000,000..... | \$ 22.53 | 23.17 |

Paid Holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day & Christmas Day.

IRON0025-002 06/01/2014

ALCONA, ALPENA, ARENAC, BAY, CHEBOYGAN, CLARE, CLINTON, CRAWFORD, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, IOSCO, ISABELLA, JACKSON, LAPEER, LIVINGSTON, MACOMB, MIDLAND, MONTMORENCY, OAKLAND, OGEMAW, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW, SANILAC, SHIAWASSEE, ST. CLAIR, TUSCOLA, WASHTENAW AND WAYNE COUNTIES:

| | Rates | Fringes |
|--|-------|---------|
| Ironworker - pre-engineered metal building erector | | |

Execution Version

| | |
|---|-------|
| Alcona, Alpena, Arenac, Cheboygan, Clare, Clinton, Crawford, Gladwin, Gratiot, Huron, Ingham, Iosco, Isabella, Jackson, Lapeer, Livingston (west of Burkhardt Road), Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Sanilac, Shiawassee, Tuscola & Washtenaw (west of U.S. 23).\$ 22.17 | 20.13 |
| Bay, Genesee, Lapeer, Livingston (east of Burkhardt Road), Macomb, Midland, Oakland, Saginaw, St. Clair, The University of Michigan, Washtenaw (east of U.S. 23) & Wayne...\$ 23.39 | 21.13 |
| IRONWORKER Ornamental and Structural...\$ 33.78 | 26.97 |
| Reinforcing.....\$ 28.30 | 24.60 |

IRON0055-005 07/01/2013

LENAWEE AND MONROE COUNTIES:

| | Rates | Fringes |
|--|-------|---------|
| IRONWORKER Pre-engineered metal buildings.....\$ 23.59 | | 19.35 |
| All other work.....\$ 28.32 | | 19.35 |

IRON0292-003 06/01/2014

BERRIEN AND CASS COUNTIES:

| | Rates | Fringes |
|---|-------|---------|
| IRONWORKER (Including pre-engineered metal building erector).....\$ 27.62 | | 18.66 |

* IRON0340-001 06/01/2014

ALLEGAN, ANTRIM, BARRY, BENZIE, BRANCH, CALHOUN, CHARLEVOIX,
EATON, EMMET, GRAND TRAVERSE, HILLSDALE, IONIA, KALAMAZOO,
KALKASKA, KENT, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA,
MISSAUKEE, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA,
OTTAWA, ST. JOSEPH, VAN BUREN AND WEXFORD COUNTIES:

| | Rates | Fringes |
|---|-------|---------|
| IRONWORKER (Including pre-engineered metal building erector).....\$ 20.68 | | 24.37 |

LABO0005-006 10/01/2014

Execution Version

| | Rates | Fringes |
|---|----------|---------|
| Laborers - hazardous waste abatement: (ALCONA, ALPENA, ANTRIM, BENZIE, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, IOSCO, KALKASKA, LEELANAU, MISSAUKEE, MONTMORENCY, OSCODA, OTSEGO, PRESQUE ISLE AND WEXFORD COUNTIES - Zone 10) | | |
| Levels A, B or C..... | \$ 17.45 | 12.75 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D..... | \$ 16.45 | 12.75 |
| Laborers - hazardous waste abatement: (ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES - Zone 11) | | |
| Levels A, B or C..... | \$ 20.91 | 12.78 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D..... | \$ 19.91 | 12.78 |
| Laborers - hazardous waste abatement: (ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, IONIA COUNTY (except the city of Portland); KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MECOSTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA, OTTAWA, ST. JOSEPH AND VAN BUREN COUNTIES - Zone 9) | | |
| Levels A, B or C..... | \$ 19.99 | 12.75 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D..... | \$ 18.99 | 12.75 |
| Laborers - hazardous waste abatement: (ARENAC, BAY, CLARE, GLADWIN, GRATIOT, HURON, ISABELLA, MIDLAND, | | |

Execution Version

| | | |
|---|--|-------|
| OGEMAW, ROSCOMMON, SAGINAW AND TUSCOLA COUNTIES - Zone 8) | | |
| Levels A, B or C.....\$ 20.02 | | 12.75 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D.....\$ 19.02 | | 12.75 |
| Laborers - hazardous waste abatement: (CLINTON, EATON AND INGHAM COUNTIES; IONIA COUNTY (City of Portland); LIVINGSTON COUNTY (west of Oak Grove Rd., including the City of Howell) - Zone 6) | | |
| Levels A, B or C.....\$ 23.29 | | 12.75 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D.....\$ 22.29 | | 12.75 |
| Laborers - hazardous waste abatement: (GENESEE, LAPEER AND SHIAWASSEE COUNTIES - Zone 7) | | |
| Levels A, B or C.....\$ 23.40 | | 12.79 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D.....\$ 22.40 | | 12.79 |
| Laborers - hazardous waste abatement: (HILLSDALE, JACKSON AND LENAWEЕ COUNTIES - Zone 4) | | |
| Levels A, B or C.....\$ 30.00 | | 14.09 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D.....\$ 29.00 | | 14.09 |
| Laborers - hazardous waste abatement: (LIVINGSTON COUNTY (east of Oak Grove Rd. and south of M-59, excluding the city of Howell); AND WASHTENAW COUNTY - Zone 3) | | |
| Levels A, B or C.....\$ 29.32 | | 13.85 |
| Work performed in conjunction with site preparation not requiring the use of personal | | |

Execution Version

| | |
|---|-------|
| protective equipment; Also, Level D.....\$ 28.32 | 13.85 |
| Laborers - hazardous waste abatement: (MACOMB AND WAYNE COUNTIES - Zone 1) Levels A, B or C.....\$ 27.94 | 16.55 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; Also, Level D.....\$ 26.94 | 16.55 |
| Laborers - hazardous waste abatement: (MONROE COUNTY - Zone 4) Levels A, B or C.....\$ 30.00 | 14.09 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; Also, Level D.....\$ 29.00 | 14.09 |
| Laborers - hazardous waste abatement: (OAKLAND COUNTY and the Northeast portion of LIVINGSTON COUNTY bordered by Oak Grove Road on the West and M-59 on the South - Zone 2) Level A, B, C.....\$ 27.94 | 16.55 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; Also, Level D.....\$ 26.94 | 16.55 |
| Laborers - hazardous waste abatement: (SANILAC AND ST. CLAIR COUNTIES - Zone 5) Levels A, B or C.....\$ 24.97 | 15.19 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; Also, Level D.....\$ 23.97 | 15.19 |

LABO0259-001 09/01/2014

AREA 1: MACOMB, OAKLAND AND WAYNE COUNTIES
 AREA 2: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA,
 BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX,
 CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA,
 DICKINSON, EATON, EMMET, GENESEE, GLADWIN, GOGEBIC, GRAND
 TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA,
 IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT,

Execution Version

KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONROE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA, VAN BUREN, WASHTENAW AND WEXFORD COUNTIES

| | Rates | Fringes |
|---------------------------------------|----------|---------|
| Laborers - tunnel, shaft and caisson: | | |
| AREA 1 | | |
| GROUP 1..... | \$ 21.57 | 16.28 |
| GROUP 2..... | \$ 21.68 | 16.28 |
| GROUP 3..... | \$ 21.74 | 16.28 |
| GROUP 4..... | \$ 21.92 | 16.28 |
| GROUP 5..... | \$ 22.17 | 16.28 |
| GROUP 6..... | \$ 22.50 | 16.28 |
| GROUP 7..... | \$ 15.78 | 16.28 |
| AREA 2 | | |
| GROUP 1..... | \$ 22.80 | 12.75 |
| GROUP 2..... | \$ 22.89 | 12.75 |
| GROUP 3..... | \$ 22.99 | 12.75 |
| GROUP 4..... | \$ 23.15 | 12.75 |
| GROUP 5..... | \$ 23.41 | 12.75 |
| GROUP 6..... | \$ 23.72 | 12.75 |
| GROUP 7..... | \$ 15.99 | 12.75 |

SCOPE OF WORK: Tunnel, shaft and caisson work of every type and description and all operations incidental thereto, including, but not limited to, shafts and tunnels for sewers, water, subways, transportation, diversion, sewerage, caverns, shelters, aquifers, reservoirs, missile silos and steel sheeting for underground construction.

TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Tunnel, shaft and caisson laborer, dump, shanty, hog house tender, testing (on gas) and watchman

GROUP 2: Manhole, headwall, catch basin builder, bricklayer tender, mortar machine and material mixer

GROUP 3: Air tool operator (jackhammer, bush hammer and grinder), first bottom, second bottom, cage tender, car pusher, carrier, concrete, concrete form, concrete repair, cement invert laborer, cement finisher, concrete shoveler, conveyor, floor, gasoline and electric tool operator, gunite, grout operator, welder, heading dinky person, inside lock tender, pea gravel operator, pump, outside lock tender, scaffold, top signal person, switch person, track, tugger, utility person, vibrator, winch operator, pipe jacking, wagon drill and air track operator and concrete saw operator (under 40 h.p.)

GROUP 4: Tunnel, shaft and caisson mucker, bracer, liner

Execution Version

plate, long haul dinky driver and well point

GROUP 5: Tunnel, shaft and caisson miner, drill runner, key board operator, power knife operator, reinforced steel or mesh (e.g. wire mesh, steel mats, dowel bars, etc.)

GROUP 6: Dynamite and powder

GROUP 7: Restoration laborer, seeding, sodding, planting, cutting, mulching and top soil grading; and the restoration of property such as replacing mailboxes, wood chips, planter boxes, flagstones, etc.

LABO0334-001 09/01/2014

| | Rates | Fringes |
|--|----------|---------|
| Laborers - open cut: | | |
| ZONE 1 - MACOMB, OAKLAND AND WAYNE COUNTIES: | | |
| GROUP 1..... | \$ 21.42 | 16.28 |
| GROUP 2..... | \$ 21.53 | 16.28 |
| GROUP 3..... | \$ 21.58 | 16.28 |
| GROUP 4..... | \$ 21.66 | 16.28 |
| GROUP 5..... | \$ 21.72 | 16.28 |
| GROUP 6..... | \$ 19.17 | 16.28 |
| GROUP 7..... | \$ 15.79 | 16.28 |
| ZONE 2 - LIVINGSTON COUNTY (east of M-151 (Oak Grove Rd.)); MONROE AND WASHTENAW COUNTIES: | | |
| GROUP 1..... | \$ 22.45 | 12.75 |
| GROUP 2..... | \$ 22.56 | 12.46 |
| GROUP 3..... | \$ 22.68 | 12.46 |
| GROUP 4..... | \$ 22.75 | 12.46 |
| GROUP 5..... | \$ 22.90 | 12.46 |
| GROUP 6..... | \$ 20.20 | 12.46 |
| GROUP 7..... | \$ 16.84 | 12.46 |
| ZONE 3 - CLINTON, EATON, GENESEE, HILLSDALE AND INGHAM COUNTIES; IONIA COUNTY (City of Portland); JACKSON, LAPEER AND LENAWEЕ COUNTIES; LIVINGSTON COUNTY (west of M-151 Oak Grove Rd.); SANILAC, ST. CLAIR AND SHIAWASSEE COUNTIES: | | |
| GROUP 1..... | \$ 20.64 | 12.75 |
| GROUP 2..... | \$ 20.78 | 12.46 |
| GROUP 3..... | \$ 20.90 | 12.46 |
| GROUP 4..... | \$ 20.95 | 12.46 |
| GROUP 5..... | \$ 21.09 | 12.46 |
| GROUP 6..... | \$ 18.39 | 12.46 |
| GROUP 7..... | \$ 15.54 | 12.46 |
| ZONE 4 - ALCONA, ALLEGAN, | | |

Execution Version

ALPENA, ANTRIM, ARENAC,
 BARRY, BAY, BENZIE,
 BERRIEN, BRANCH,
 CALHOUN, CASS, CHARLEVOIX,
 CHEBOYGAN, CLARE,
 CRAWFORD, EMMET,
 GLADWIN, GRAND TRAVERSE,
 GRATIOT AND HURON
 COUNTIES; IONIA COUNTY
 (EXCEPT THE CITY OF
 PORTLAND); IOSCO,
 ISABELLA, KALAMAZOO,
 KALKASKA, KENT,
 LAKE, LEELANAU, MANISTEE,
 MASON, MECOSTA, MIDLAND,
 MISSAUKEE, MONTCALM,
 MONTMORENCY, MUSKEGON,
 NEWAYGO, OCEANA, OGEMAW,
 OSCEOLA, OSCODA, OTSEGO,
 OTTAWA, PRESQUE ISLE,
 ROSCOMMON, SAGINAW, ST.
 JOSEPH, TUSCOLA, VAN BUREN
 AND WEXFORD COUNTIES:

| | | |
|--------------|----------|-------|
| GROUP 1..... | \$ 19.65 | 12.75 |
| GROUP 2..... | \$ 19.78 | 12.46 |
| GROUP 3..... | \$ 19.89 | 12.46 |
| GROUP 4..... | \$ 19.96 | 12.46 |
| GROUP 5..... | \$ 20.08 | 12.46 |
| GROUP 6..... | \$ 17.30 | 12.46 |
| GROUP 7..... | \$ 15.64 | 12.46 |

ZONE 5 - ALGER, BARAGA,
 CHIPPEWA, DELTA,
 DICKINSON, GOGEBIC,
 HOUGHTON, IRON,
 KEWEENAW, LUCE, MACKINAC,
 MARQUETTE, MENOMINEE,
 ONTONAGON AND SCHOOLCRAFT
 COUNTIES:

| | | |
|--------------|----------|-------|
| GROUP 1..... | \$ 19.86 | 12.75 |
| GROUP 2..... | \$ 20.00 | 12.46 |
| GROUP 3..... | \$ 20.13 | 12.46 |
| GROUP 4..... | \$ 20.18 | 12.46 |
| GROUP 5..... | \$ 20.23 | 12.46 |
| GROUP 6..... | \$ 17.61 | 12.46 |
| GROUP 7..... | \$ 15.72 | 12.46 |

SCOPE OF WORK:

Open cut construction work shall be construed to mean work which requires the excavation of earth including industrial, commercial and residential building site excavation and preparation, land balancing, demolition and removal of concrete and underground appurtenances, grading, paving, sewers, utilities and improvements; retention, oxidation, flocculation and irrigation facilities, and also including but not limited to underground piping, conduits,

Execution Version

steel sheeting for underground construction, and all work incidental thereto, and general excavation. For all areas except the Upper Peninsula, open cut construction work shall also be construed to mean waterfront work, piers, docks, seawalls, breakwalls, marinas and all incidental work. Open cut construction work shall not include any structural modifications, alterations, additions and repairs to buildings, or highway work, including roads, streets, bridge construction and parking lots or steel erection work and excavation for the building itself and back filling inside of and within 5 ft. of the building and foundations, footings and piers for the building. Open cut construction work shall not include any work covered under Tunnel, Shaft and Caisson work.

OPEN CUT LABORER CLASSIFICATIONS

GROUP 1: Construction laborer

GROUP 2: Mortar and material mixer, concrete form person, signal person, well point person, manhole, headwall and catch basin builder, headwall, seawall, breakwall and dock builder

GROUP 3: Air, gasoline and electric tool operator, vibrator operator, driller, pump person, tar kettle operator, bracer, rodder, reinforced steel or mesh person (e.g., wire mesh, steel mats, dowel bars, etc.), welder, pipe jacking and boring person, wagon drill and air track operator and concrete saw operator (under 40 h.p.), windlass and tugger person and directional boring person

GROUP 4: Trench or excavating grade person

GROUP 5: Pipe layer (including crock, metal pipe, multi-plate or other conduits)

GROUP 6: Grouting man, audio-visual television operations and all other operations in connection with closed circuit television inspection, pipe cleaning and pipe relining work and the installation and repair of water service pipe and appurtenances

GROUP 7: Restoration laborer, seeding, sodding, planting, cutting, mulching and top soil grading; and the restoration of property such as replacing mailboxes, wood chips, planter boxes, flagstones, etc.

LABO0465-001 06/01/2014

LABORER: Highway, Bridge and Airport Construction

AREA 1: GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES

Execution Version

AREA 2: ALLEGAN, BARRY, BAY, BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, GRATIOT, HILLSDALE, HURON, INGHAM, JACKSON, KALAMAZOO, LAPEER, LENAWEE, LIVINGSTON, MIDLAND, MUSKEGON, SAGINAW, SANILAC, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA AND VAN BUREN COUNTIES

AREA 3: ALCONA, ALPENA, ANTRIM, ARENAC, BENZIE, CHARLEVOIX, CHEBOYGAN, CLARE, CRAWFORD, EMMET, GLADWIN, GRAND TRAVERSE, IONIA, IOSCO, ISABELLA, KALKASKA, KENT, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MISSAUKEE, MONTCALM, MONTMORENCY, NEWAYGO, OCEANA, OGEMAW, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON AND WEXFORD COUNTIES

AREA 4: ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES

| | Rates | Fringes |
|------------------|----------|---------|
| LABORER (AREA 1) | | |
| GROUP 1..... | \$ 24.71 | 12.75 |
| GROUP 2..... | \$ 24.84 | 12.75 |
| GROUP 3..... | \$ 25.05 | 12.75 |
| GROUP 4..... | \$ 25.10 | 12.75 |
| GROUP 5..... | \$ 25.31 | 12.75 |
| GROUP 6..... | \$ 25.61 | 12.75 |
| LABORER (AREA 2) | | |
| GROUP 1..... | \$ 22.71 | 12.75 |
| GROUP 2..... | \$ 22.91 | 12.75 |
| GROUP 3..... | \$ 23.15 | 12.75 |
| GROUP 4..... | \$ 23.50 | 12.75 |
| GROUP 5..... | \$ 22.37 | 12.75 |
| GROUP 6..... | \$ 23.71 | 12.75 |
| LABORER (AREA 3) | | |
| GROUP 1..... | \$ 21.96 | 12.75 |
| GROUP 2..... | \$ 22.17 | 12.75 |
| GROUP 3..... | \$ 22.46 | 12.75 |
| GROUP 4..... | \$ 22.90 | 12.75 |
| GROUP 5..... | \$ 22.32 | 12.75 |
| GROUP 6..... | \$ 22.95 | 12.75 |
| LABORER (AREA 4) | | |
| GROUP 1..... | \$ 21.96 | 12.75 |
| GROUP 2..... | \$ 22.17 | 12.75 |
| GROUP 3..... | \$ 22.46 | 12.75 |
| GROUP 4..... | \$ 22.90 | 12.75 |
| GROUP 5..... | \$ 22.52 | 12.75 |
| GROUP 6..... | \$ 22.95 | 12.75 |

LABORER CLASSIFICATIONS

GROUP 1: Asphalt shoveler or loader; asphalt plant misc.; burlap person; yard person; dumper (wagon, truck, etc.); joint filling laborer; miscellaneous laborer; unskilled laborer; sprinkler laborer; form setting laborer; form stripper; pavement reinforcing; handling and placing (e.g., wire mesh, steel mats, dowel bars); mason's tender or bricklayer's tender on manholes; manhole builder;

Execution Version

headwalls, etc.; waterproofing, (other than buildings) seal coating and slurry mix, shoring, underpinning; pressure grouting; bridge pin and hanger removal; material recycling laborer; horizontal paver laborer (brick, concrete, clay, stone and asphalt); ground stabilization and modification laborer; grouting; waterblasting; top person; railroad track and trestle laborer; carpenters' tender; guard rail builders' tender; earth retention barrier and wall and M.S.E. wall installer's tender; highway and median installer's tender (including sound, retaining, and crash barriers); fence erector's tender; asphalt raker tender; sign installer; remote control operated equipment.

GROUP 2: Mixer operator (less than 5 sacks); air or electric tool operator (jackhammer, etc.); spreader; boxperson (asphalt, stone, gravel); concrete paddler; power chain saw operator; paving batch truck dumper; tunnel mucker (highway work only); concrete saw (under 40 h.p.) and dry pack machine; roto-mill grounds person.

GROUP 3: Tunnel miner (highway work only); finishers tenders; guard rail builders; highway and median barrier installer; earth retention barrier and wall and M.S.E. wall installer's (including sound, retaining and crash barriers); fence erector; bottom person; powder person; wagon drill and air track operator; diamond and core drills; grade checker; certified welders; curb and side rail setter's tender.

GROUP 4: Asphalt raker

GROUP 5: Pipe layers, oxy-gun

GROUP 6: Line-form setter for curb or pavement; asphalt screed checker/screw man on asphalt paving machines.

LABO1076-005 04/01/2014

MICHIGAN STATEWIDE

| | Rates | Fringes |
|-----------------------------|----------|---------|
| LABORER (DISTRIBUTION WORK) | | |
| Zone 1..... | \$ 19.17 | 12.75 |
| Zone 2..... | \$ 17.62 | 12.75 |
| Zone 3..... | \$ 15.85 | 12.75 |
| Zone 4..... | \$ 15.22 | 12.75 |
| Zone 5..... | \$ 15.22 | 12.75 |

DISTRIBUTION WORK - The construction, installation, treating and reconditioning of distribution pipelines transporting coal, oil, gas or other similar materials, vapors or liquids, including pipelines within private property boundaries, up to and including the meter settings on residential, commercial, industrial, institutional, private and public structures. All work covering pumping stations

Execution Version

and tank farms not covered by the Building Trades Agreement. Other distribution lines with the exception of sewer, water and cable television are included.

Underground Duct Layer Pay: \$.40 per hour above the base pay rate.

- Zone 1 - Macomb, Oakland and Wayne
- Zone 2 - Monroe and Washtenaw
- Zone 3 - Bay, Genesee, Lapeer, Midland, Saginaw, Sanilac, Shiawassee and St. Clair
- Zone 4 - Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon and Schoolcraft
- Zone 5 - Remaining Counties in Michigan

PAIN0022-002 07/01/2008

HILLSDALE, JACKSON AND LENAWEE COUNTIES; LIVINGSTON COUNTY (east of the eastern city limits of Howell, not including the city of Howell, north to the Genesee County line and south to the Washtenaw County line); MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES:

| | Rates | Fringes |
|--------------|----------|---------|
| PAINTER..... | \$ 25.06 | 14.75 |

FOOTNOTES: For all spray work and journeyman rigging for spray work, also blowing off, \$0.80 per hour additional (applies only to workers doing rigging for spray work on off the floor work. Does not include setting up or moving rigging on floor surfaces, nor does it apply to workers engaged in covering up or tending spray equipment. For all sandblasting and spray work performed on highway bridges, overpasses, tanks or steel, \$0.80 per hour additional. For all brushing, cleaning and other preparatory work (other than spraying or steeplejack work) at scaffold heights of fifty (50) feet from the ground or higher, \$0.50 per hour additional. For all preparatorial work and painting performed on open steel under forty (40) feet when no scaffolding is involved, \$0.50 per hour additional. For all swing stage work-window jacks and window belts-exterior and interior, \$0.50 per hour additional. For all spray work and sandblaster work to a scaffold height of forty (40) feet above the floor level, \$0.80 per hour additional. For all preparatorial work and painting on all highway bridges or overpasses up to forty (40) feet in height, \$0.50 per hour additional. For all steeplejack work performed where the elevation is forty (40) feet or more, \$1.25 per hour additional.

PAIN0312-001 06/12/2014

EXCLUDES: ALLEGAN COUNTY (Townships of Dorr, Fillmore, Heath,

Execution Version

Hopkins, Laketown, Leighton, Manlius, Monterey, Overisel, Salem, Saugatuck and Wayland); INCLUDES: Barry, Berrien, Branch, Calhoun, Cass, Hillsdale, Kalamazoo, St. Joseph, Van Buren

| | Rates | Fringes |
|------------------------|----------|---------|
| PAINTER | | |
| Brush and roller..... | \$ 21.75 | 11.94 |
| Spray, Sandblast, Sign | | |
| Painting..... | \$ 22.75 | 11.94 |

 PAIN0845-003 05/21/2014

CLINTON COUNTY; EATON COUNTY (does not include the townships of Bellevue and Olivet); INGHAM COUNTY; IONIA COUNTY (east of Hwy. M 66); LIVINGSTON COUNTY (west of the eastern city limits of Howell, including the city of Howell, north to the Genesee County line and south to the Washtenaw County line); AND SHIAWASSEE COUNTY (Townships of Bennington, Laingsbury and Perry):

| | Rates | Fringes |
|--------------|----------|---------|
| PAINTER..... | \$ 21.89 | 11.85 |

 PAIN0845-015 05/21/2014

MUSKEGON COUNTY; NEWAYGO COUNTY (except the Townships of Barton, Big Prairie, Brooks, Croton, Ensley, Everett, Goodwell, Grant, Home, Monroe, Norwich and Wilcox); OCEANA COUNTY; OTTAWA COUNTY (except the townships of Allendale, Blendone, Chester, Georgetown, Holland, Jamestown, Olive, Park, Polkton, Port Sheldon, Tallmadge, Wright and Zeeland):

| | Rates | Fringes |
|--------------|----------|---------|
| PAINTER..... | \$ 21.89 | 11.85 |

 PAIN0845-018 05/21/2014

ALLEGAN COUNTY (Townships of Dorr, Fillmore, Heath, Hopkins, Laketown, Leighton, Manlius, Monterey, Overisel, Salem, Saugatuck and Wayland); IONIA COUNTY (west of Hwy. M-66); KENT, MECOSTA AND MONTCALM COUNTIES; NEWAYGO COUNTY (Townships of Barton, Big Prairie, Brooks, Croton, Ensley, Everett, Goodwell, Grant, Home, Monroe, Norwich and Wilcox); OSCEOLA COUNTY (south of Hwy. #10); OTTAWA COUNTY (Townships of Allendale, Blendone, Chester, Georgetown, Holland, Jamestown, Olive, Park, Polkton, Port Sheldon, Tallmadge, Wright and Zeeland):

| | Rates | Fringes |
|--------------|----------|---------|
| PAINTER..... | \$ 21.89 | 11.85 |

FOOTNOTES: Lead abatement work: \$1.00 per hour additional.

 PAIN1011-003 06/05/2014

ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON,

Execution Version

IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES:

| | Rates | Fringes |
|--------------|----------|---------|
| PAINTER..... | \$ 24.15 | 10.52 |

FOOTNOTES: High pay (bridges, overpasses, watertower): 30 to 80 ft.: \$.65 per hour additional. 80 ft. and over: \$1.30 per hour additional.

 PAIN1474-002 06/01/2010

HURON COUNTY; LAPEER COUNTY (east of Hwy. M-53); ST. CLAIR, SANILAC AND TUSCOLA COUNTIES:

| | Rates | Fringes |
|--------------|----------|---------|
| PAINTER..... | \$ 23.79 | 12.02 |

FOOTNOTES: Lead abatement work: \$1.00 per hour additional. Work with any hazardous material: \$1.00 per hour additional. Sandblasting, steam cleaning and acid cleaning: \$1.00 per hour additional. Ladder work at or above 40 ft., scaffold work at or above 40 ft., swing stage, boatswain chair, window jacks and all work performed over a falling height of 40 ft.: \$1.00 per hour additional. Spray gun work, pick pullers and those handling needles, blowing off by air pressure, and any person rigging (setting up and moving off the ground): \$1.00 per hour additional. Steeplejack, tanks, gas holders, stacks, flag poles, radio towers and beacons, power line towers, bridges, etc.: \$1.00 per hour additional, paid from the ground up.

 PAIN1803-003 06/01/2014

ALCONA, ALPENA, ANTRIM, ARENAC, BAY, BENZIE, CHARLEVOIX, CHEBOYGAN, CLARE, CRAWFORD, EMMET, GLADWIN, GRAND TRAVERSE, GRATIOT, IOSCO, ISABELLA, KALKASKA, LAKE, LEELANAU, MANISTEE, MASON, MIDLAND, MISSAUKEE, MONTMORENCY AND OGEMAW COUNTIES; OSCEOLA COUNTY (north of Hwy. #10); OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW AND WEXFORD COUNTIES:

| | Rates | Fringes |
|--|-------|---------|
| PAINTER | | |
| Work performed on water, bridges over water or moving traffic, radio and powerline towers, elevated tanks, steeples, smoke stacks over 40 ft. of falling heights, recovery of lead-based paints and any work associated with industrial plants, except maintenance of industrial | | |

Execution Version

| | | |
|---|----------|-------|
| plants..... | \$ 24.00 | 12.8 |
| All other work, including maintenance of industrial | | |
| plant..... | \$ 22.58 | 12.80 |

FOOTNOTES: Spray painting, sandblasting, blowdown associated with spraying and blasting, water blasting and work involving a swing stage, boatswain chair or spider: \$1.00 per hour additional. All work performed inside tanks, vessels, tank trailers, railroad cars, sewers, smoke stacks, boilers or other spaces having limited egress not including buildings, opentop tanks, pits, etc.: \$1.25 per hour additional.

 PLAS0514-001 06/01/2014

ZONE 1: GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW AND WAYNE COUNTIES

ZONE 2: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SANILAC, SCHOOLCRAFT, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

| | Rates | Fringes |
|--------------------------------|----------|---------|
| CEMENT MASON/CONCRETE FINISHER | | |
| ZONE 1..... | \$ 29.59 | 12.59 |
| ZONE 2..... | \$ 28.29 | 12.59 |

 PLUM0190-003 05/01/2014

ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GENESEE, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE, MACKINAC, MACOMB, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MONROE, MUSKEGON, NEWAYGO, OAKLAND, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA, VAN BUREN, WASHTENAW, WAYNE AND WEXFORD COUNTIES

| | Rates | Fringes |
|--------------------------|-------|---------|
| Plumber/Pipefitter - gas | | |

Execution Version

distribution pipeline:

| | | |
|---|----------|-------|
| Welding in conjunction with gas distribution pipeline work..... | \$ 31.73 | 19.96 |
| All other work:..... | \$ 20.72 | 11.15 |

TEAM0007-004 06/01/2014

AREA 1: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, SANILAC, SCHOOLCRAFT, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

AREA 2: GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES

| | Rates | Fringes |
|---|-----------|-----------|
| TRUCK DRIVER | | |
| AREA 1 | | |
| Euclids, double bottoms and lowboys..... | \$ 25.05 | .50 + a+b |
| Trucks under 8 cu. yds..... | \$ 24.80 | .50 + a+b |
| Trucks, 8 cu. yds. and over..... | \$ 24.90 | .50 + a+b |
| AREA 2 | | |
| Euclids, double bottoms and lowboys..... | \$ 24.895 | .50 + a+b |
| Euclids, double bottoms and lowboys..... | \$ 25.15 | .50 + a+b |
| Trucks under 8 cu. yds..... | \$ 24.90 | .50 + a+b |
| Trucks, 8 cu. yds. and over..... | \$ 25.00 | .50 + a+b |

Footnote:

- a. \$395.05 per week
- b. \$56.10 daily

TEAM0247-004 06/01/2004

AREA 1: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW,

Execution Version

ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SANILAC, SCHOOLCRAFT, SHIAWASSEE, SAGINAW, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

AREA 2: GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES

| | Rates | Fringes |
|----------------|----------|---------|
| Sign Installer | | |
| AREA 1 | | |
| GROUP 1..... | \$ 20.18 | .15 + a |
| GROUP 2..... | \$ 19.93 | .15 + a |
| AREA 2 | | |
| GROUP 1..... | \$ 21.73 | .15 + a |
| GROUP 2..... | \$ 21.48 | .15 + a |

FOOTNOTE:

a. \$132.70 per week, plus \$17.80 per day.

SIGN INSTALLER CLASSIFICATIONS:

GROUP 1: performs all necessary labor and uses all tools required to construct and set concrete forms required in the installation of highway and street signs

GROUP 2: performs all miscellaneous labor, uses all hand and power tools, and operates all other equipment, mobile or otherwise, required for the installation of highway and street signs

TEAM0247-010 04/01/2014

AREA 1: LAPEER AND SHIAWASSEE COUNTIES

AREA 2: GENESEE, MACOMB, MONROE, OAKLAND, ST. CLAIR, WASHTENAW AND WAYNE COUNTIES

| | Rates | Fringes |
|---|-----------------------------|---------|
| TRUCK DRIVER (Underground construction) | | |
| AREA 1 | | |
| GROUP 1..... | \$ 21.97385.00/wk+57.20/day | |
| GROUP 2..... | \$ 22.06385.00/wk+57.20/day | |
| GROUP 3..... | \$ 22.27385.00/wk+57.20/day | |
| AREA 2 | | |
| GROUP 1..... | \$ 22.27385.00/wk+57.20/day | |
| GROUP 2..... | \$ 22.41385.00/wk+57.20/day | |
| GROUP 3..... | \$ 22.60358.65/wk+55.00/day | |

PAID HOLIDAYS: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

SCOPE OF WORK: Excavation, site preparation, land balancing, grading, sewers, utilities and improvements; also including but not limited to, tunnels, underground piping, retention,

Execution Version

oxidation, flocculation facilities, conduits, general excavation and steel sheeting for underground construction. Underground construction work shall not include any structural modifications, alterations, additions and repairs to buildings or highway work, including roads, streets, bridge construction and parking lots or steel erection.

TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Truck driver on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, Euclid, double bottom and fuel trucks)

GROUP 2: Truck driver on dump trucks of 8 cubic yards capacity or over, pole trailers, semis and fuel trucks

GROUP 3: Truck driver on low boy, Euclid and double bottom

SUMI2002-001 05/01/2002

| | Rates | Fringes |
|--|----------|---------|
| Flag Person..... | \$ 18.99 | 12.75 |
| LINE PROTECTOR (ZONE 1: GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE).... | \$ 18.98 | 12.17 |
| LINE PROTECTOR (ZONE 2: STATEWIDE (EXCLUDING GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE)..... | \$ 17.14 | 12.17 |
| Pavement Marking Machine (ZONE 1: GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES) Group 1..... | \$ 24.89 | 12.17 |
| Pavement Marking Machine (ZONE 1: GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE) Group 2..... | \$ 22.40 | 12.17 |
| Pavement Marking Machine (ZONE 2: STATEWIDE (EXCLUDING GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES) Group 1..... | \$ 22.89 | 12.17 |
| Pavement Marking Machine (ZONE 2: STATEWIDE (EXCLUDING GENESEE, MACOMB, MONROE, | | |

Execution Version

OAKLAND, WASHTENAW AND WAYNE)
Group 2.....\$ 20.60 12.17

WORK CLASSIFICATIONS:

PAVEMENT MARKER GROUP 1: Drives or operates a truck mounted striper, grinder, blaster, groover, or thermoplastic melter for the placement or removal of temporary or permanent pavement markings or markers.

PAVEMENT MARKER GROUP 2: Performs all functions involved for the placement or removal of temporary or permanent pavement markings or markers not covered by the classification of Pavement Marker Group 1 or Line Protector.

LINE PROTECTOR: Performs all operations for the protection or removal of temporary or permanent pavement markings or markers in a moving convoy operation not performed by the classification of Pavement Marker Group 1. A moving convoy operation is comprised of only Pavement Markers Group 1 and Line Protectors.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number,

Execution Version

005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
 - * an existing published wage determination
 - * a survey underlying a wage determination

Execution Version

- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

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

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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

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

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

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

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

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

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

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END OF GENERAL DECISION

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APPENDIX F TO SCHEDULE 12 – FORMS

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MDOT 2124A (05/12) INSTRUCTIONS Page 2 of 2

PRIME CONTRACTOR or AUTHORIZED REPRESENTATIVE

This statement reports the actual dollar amounts of the project cost earned by and paid to all subcontractors, DBE subcontractors, DBE suppliers, and DBE truckers. Complete and submit to the Resident/Project Engineer on a bi-weekly basis during the course of the project using the MERS database. This submittal is required prior to release of the second and subsequent estimates per FUSP 109(A). A hard copy of this form must also be submitted 30 days after project completion with actual DBE signatures (not using MERS).

For “*Control Section*” and “*Job No.*” Use the numbers assigned by MDOT.

For “*Services/Work Classification*,” report services/work performed by DBE subcontractors, DBE suppliers, DBE truckers, and DBE consultants listed by work classification code. If they are performing work in more than one classification, report the code with the largest dollar value. A list of work classification codes is available at www.michigan.gov/mucp.

For “*Total Subcontract Amount*”, report total amount of the contract between the prime contractor and the subcontractor.

For “*Deductions*”, report deductions made by the prime contractor to the subcontractor’s “*Cumulative Dollar Value of Services Completed*” for bond or other fees, materials, services or equipment provided to the subcontractor according to mutual, prior agreement (documentation of such agreement may be required by MDOT).

For “*Actual Amount Paid to Date*”, report cumulative actual payments made to the subcontractor for services completed. Provide “DBE Authorized Signature” on the project completion report.

Be sure to sign, title and date the project completion report.

MDOT RESIDENT/PROJECT ENGINEER:

Please complete the “*Comments*” area, date and submit within the MERS database within 7 days of receipt from prime. Please complete the “*Comments*” area, sign, date, and fax the project completion report only to 517-335-0945 or email to mdot-paymentstatements@michigan.gov within 7 days of receipt from prime.

**MDOT Office of Business Development
P.O. Box 30050
Lansing, Michigan 48909
Questions about this form? Call Toll-free, 1866-DBE-1264**

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SCHEDULE 13 - NOT USED

SCHEDULE 14 - FINANCIAL MODEL AS AT DATE OF AGREEMENT

Refer document titled “MDOT Lighting DBFOM Financial Model as at Date of Agreement” emailed from Kamil Seidl to Charlie Stein on August 21, 2015.

SCHEDULE 15 - COSTS SCHEDULE

SECTION 1 - OVERVIEW

- 1.1 The calculation of Direct Costs, Delay Costs, applicable margins and other costs in accordance with this Schedule 15 – Costs Schedule will be subject to the general provisions applying to Relevant Events in Article 28 and other relevant provisions of the Agreement.

SECTION 2 - DIRECT COSTS

- 2.1 Compensation for Direct Costs will be determined (a) as specified in this Schedule 15, either on lump sum or force account basis, or (b) in accordance with Schedule 6 – Termination Compensation.

- 2.2 Direct Costs

2.2.1 Subject to this Section 2.2, the term “Direct Cost” means the cumulative total, without duplication, of only the following amounts, as paid or incurred by Project Company or Contractors, as applicable, to the extent that they specifically relate to, and are solely attributable to a Relevant Event (collectively “**Change Work**”), under which Project Company is expressly entitled to its Direct Costs that would not otherwise have been incurred:

- (a) Direct Personnel Expenses paid for labor in the direct employ of Project Company, Key Contractors or Contractors while performing part of the Change Work on the Premises;
- (b) Direct Personnel Expenses of Project Company’s, Contractors’ or Contractor’s personnel who are stationed at the Premises and while providing services directly related to and required by the Change Work, or personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment for the Change Work;
- (c) Direct Personnel Expenses of Project Company’s, Contractors’ or Contractor’s personnel while providing design services directly related to and required by the Change Work, plus the actual cost of reimbursable expenses necessarily incurred to support the design services directly related to and required by the Change Work;
- (d) The Direct Personnel Expenses which constitute Direct Costs under Section 2.2.1(a), Section 2.2.1(b) and Section 2.2.1(c) of this Schedule 15, shall include the wages or salaries, as applicable, paid to individuals for the period of time during which they actually provide labor or services directly related to and required by Change Work (for salaried personnel, the portion of salary charged as a Direct Cost shall be calculated by: (i) dividing the number of hours actually spent on Change Work by 2080; and (ii) multiplying that percentage by the individual’s annual salary), plus the corresponding labor burden costs attributable to the applicable wages or salaries, including employment taxes, insurance, contributions, assessments and other benefits required by law, collective bargaining agreement, benefit plan or employment policy, such as sick leave, medical, health and welfare benefits, holidays, vacations and pensions, but excluding for certainty all income taxes on such wages, salaries and other remuneration;

- (e) travel and subsistence expenses of Project Company's, Contractors' or Contractor's officers or employees with respect to the labor or services referred to in Section 2.2.1(a), Section 2.2.1(b) and Section 2.2.1(c) of this Schedule 15;
- (f) the cost of materials (including hand tools which have a retail value of \$2000 or less), products, supplies, equipment, temporary services and facilities required for the Change Work, including transportation and maintenance thereof, which are consumed in the performance of the Change Work (reduced by the salvage value, if any, of such items not fully consumed in performance of the Change Work);
- (g) the rental costs of all tools (excluding hand tools which have a retail value of \$2000 or less), machinery, and equipment used in the performance of the Change Work, including installation, minor repair and replacement, dismantling, removal, transportation and delivery costs thereof (tools, equipment and machinery shall not be rented from Project Company, the Contractors or other affiliated parties, unless MDOT agrees, in advance, after reviewing the proposed rental rates, in all events rental rates shall be subject to Section 2.3(e) of this Schedule 15);
- (h) the cost of necessary and appropriate third party quality assurance for Change Work, such as independent inspection and testing services;
- (i) charges levied by Governmental Entities for the Change Work, but excluding fines or penalties arising from the fault or neglect of Project Company and/or Contractors and excluding changes not related to the implementation of the Change Work;
- (j) subject to Section 2.2.1(d) of this Schedule 15, Taxes applicable to the Change Work, but excluding:
- (1) taxes imposed on Project Company or Contractors based on or measured by income or profit or otherwise imposed under Internal Revenue Code or any state statute or other jurisdiction; and
 - (2) taxes relating to any business or activity other than the business or activities related to, and conducted for, the purposes of the Change Work;
- (k) the cost of removal and disposal of contaminants, hazardous substances, waste products and debris arising from the Change Work, for which Project Company is not otherwise responsible under this Agreement;
- (l) the cost of competitively tendering any contract in relation to the proposed Change Work;
- (m) the cost of any additional insurance or performance security required as a direct result of the Change Work or otherwise approved by MDOT in writing;
- (n) the cost of obtaining all permits, licenses and approvals required as a direct result of the Change Work; and
- (o) reasonable fees and disbursements of Project Company's legal advisors as a direct result of the Change Work.

2.2.2 Subject to Section 5.2 of this Schedule 15, Direct Costs exclude costs incurred with respect to the Project Debt and Delay Costs, any cost of funds (whether debt or equity) and any other Lender charges, damages or penalties incurred as the result of delays to the D&C Work.

2.3 The Directs Cost otherwise payable shall be subject to the following:

- (a) the Direct Cost shall be net of all discounts, rebates and other price reductions and benefits, which relate to the Direct Cost incurred;
- (b) Direct Costs incurred by Contractors for Change Work shall be tracked and accounted for as outlined in this Schedule 15 and Key Contracts and Contracts for Change Work shall not be awarded on a lump sum or stipulated fee basis, unless approved in advance and in writing by MDOT;
- (c) the amount paid for materials, products, supplies and equipment incorporated into the Project as a result of the Change Work shall not exceed commercially competitive rates available in the State of Michigan for the procurement of such materials, products, supplies and equipment from arms-length third party suppliers;
- (d) the amount paid for machinery and equipment rental costs shall not exceed the prevailing competitive commercial rate for which such equipment or machinery can be obtained in the State of Michigan ;
- (e) the Direct Cost shall not include any cost incurred due to the failure on the part of Project Company and/or Contractors to exercise reasonable care and diligence in their attention to and the prosecution of the Change Work; and
- (f) Project Company, or a designated Key Contractor, shall develop, implement and adhere to a cost accounting system which accurately tracks each item of Direct Cost incurred as a result of Change Work. Prior to commencement of Change Work, Project Company, or the designated Key Contractor, shall review its cost accounting system with MDOT and obtain MDOT's approval thereof, which approval shall not be unreasonably withheld.

SECTION 3 - DELAY COSTS

- (a) **Delay Costs** will only be recoverable provided that they are actual and reasonable. Any adjustment for Delay Costs will be made through a Change Order. Recoverable Delay Costs are limited to unavoidable costs in accordance with Standard Specification Section 105E – Delay Cost and this Section 3.
- (b) **Recoverable Subcontractor Costs.** When the Construction Work is performed by a Contractor, the prime Contractor's Delay Costs shall include the actual and reasonable cost of such subcontracted Construction Work as outlined above in 3(a)(1) through 3(a)(7) and an additional overhead of 5% of the Contractor costs outlined in items 3(a)(1) through 3(a)(3) above. However, there will not be any such markup for Contractors below the first tier.
- (c) **Recoverable Project Company Costs.** Delay Costs payable to Project Company for delays in Construction Work shall not exceed 3% of the Delay Costs for

which the D&C Contractor is entitled to reimbursement under Sections 3(a) and 3(b) of this Schedule 15.

(d) **Delay Costs** exclude cost of funds (whether debt or equity) and any other Lender charges, damages or penalties.

SECTION 4 - NEGOTIATED LUMP SUM, FORCE ACCOUNT AND UNIT PRICES

4.1 Negotiated Lump Sum Pricing

(a) Except in circumstances for which unit prices are included in this Agreement, whenever Project Company is entitled to additional compensation for a Relevant Event or MDOT is entitled to savings, MDOT and Project Company shall make every effort to come to an agreed upon price for the performance of the Project Operations in question.

(b) Lump sum compensation shall be negotiated by the Parties based on estimated Direct Costs of

- (1) Labor;
- (2) Material;
- (3) Equipment;
- (4) Third party fees and charges (e.g. permit fees, plan check fees, review fees and charges);
- (5) Extra insurance costs and extra costs of bonds and letters of credit or similar instrument;
- (6) Other direct costs; and
- (7) A reasonable contingency for risk associated with the lump sum pricing.

(c) Lump sum compensation also may include a reasonable, negotiated markup for indirect costs, overhead and profit for Project Operations performed by Project Company and Contractors and for Project Company's indirect costs and overhead for such Project Operations. The negotiated lump sum shall not include any home office overhead of Project Company or Contractors or any markup on costs for Project Company profit. Indirect costs may not include cost of funds (whether debt or equity), or other Lender charges, damages or penalties.

(d) Lump sum pricing shall be negotiated with reference to the original allocations of pricing to comparable activities, materials and equipment, as specified in the Financial Model or Proposal (as applicable). If requested by MDOT, price negotiations for lump sum Change Orders shall be on an Open Book Basis.

(e) Lump Sum pricing may include sales or use taxes only to the extent that no exemption is available under applicable Law.

(f) Direct Costs pricing shall be negotiated with reference to the original allocations of pricing to comparable activities, materials and equipment, as specified in the Financial Model. If requested by MDOT, price negotiations for lump sum payments and Change Orders shall be on an Open Book Basis.

(g) When the effect of a Relevant Event is to decrease, delete or remove scope or a Relevant Event otherwise reduces Project Company's costs, the amount of the reduction in compensation payable to Project Company shall be based upon Project Company's estimated price for such Project operations included in the Proposal, including a bill of material and a breakdown of labor and equipment costs, plus variable overhead and profit associated with the deleted work. The amount of risk associated with such Project Operations as of the Setting Date by Project Company shall be a factor in determining the markup for the deduction. The reduction in compensation shall exclude (a) costs incurred, including for mobilization of materials, prior to the date of the MDOT Change or other notification by Project Company eliminating the Work and (b) any cancellation and restocking charges.

4.2 Force Account Provisions

4.2.1 Time and Materials Change Orders (Force Account)

MDOT may at its discretion issue a Time and Materials Change Order whenever MDOT determines that a Time and Materials Change Order is advisable. The Time and Materials Change Order shall instruct Project Company to perform the Project Operations, indicating expressly the intention to treat the items as changes in the Project Operations, and setting forth the kind, character, and limits of the Project Operations as far as they can be ascertained, the terms under which changes to the Service Payment or Milestone Payment will be determined and the estimated total change in the Service Payment or Milestone Payment anticipated thereunder. Upon final determination of the allowable costs, MDOT shall issue a modified Change Order setting forth the final adjustment to the Service Payment or Milestone Payment. The following costs and mark-ups (and no others) shall be used for calculating the change in the Service Payment or Milestone Payment. No direct compensation will be allowed for other miscellaneous costs for which no specific allowance is provided in this section.

Compensation for Time and Materials Change Orders shall be in accordance with Standard Specification 105.D – Force Account and this Section 3.2.1 except that the labor and materials margins in that Standard Specification shall not apply.

4.2.2 Unit Price Change Orders

Instead of negotiating the price for a Change Order in accordance with Section 3.1 of this Schedule 15, MDOT and Project Company may agree to negotiate unit prices for changed Project Operations. Measurement of unit-priced quantities will be as specified in the Change Order. The unit prices shall be deemed to include all costs for the Change, including labor, equipment, material, overhead, markups and profit, and shall not be subject to change regardless of any change in the estimated quantities. Unit-priced Change Orders shall initially include an estimated increase in the Service Payment or Milestone Payment based on estimated quantities. The final price of Change Order may be lump sum or may be based upon a final determination of the quantities.

SECTION 4 - APPLICABLE MARGINS

The total mark-up for overhead and profit as a percentage of the Direct Costs for Change Work (to be allocated among Project Company and Contractors who design, undertake and/or perform Change Work) shall not exceed the limits set forth below:

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- (a) Change Work (total Direct Costs) up to and including \$500,000 - 17.5%
- (b) Change Work (total Direct Costs) in excess of \$500,000 and up to and including \$1,000,000 - 15.0%
- (c) Change Work (total Direct Costs) in excess of \$1,000,000 and up to and including \$2,000,000 - 12.5%
- (d) Change Work (total Direct Costs) in excess of \$2,000,000 and up to and including \$4,000,000 - 10.0%
- (e) Change Work (total Direct Costs) in excess of \$4,000,000 - 7.5%.

SECTION 5 - PAYMENTS

5.1 If a Relevant Event:

- (a) results in an amount owing from Project Company to MDOT, MDOT will deduct such amount from the Service Payments payable to Project Company after the Relevant Event, or if no subsequent Service Payments are payable to Project Company, such amount will be a debt due and payable by Project Company to MDOT;
- (b) results in an amount owing from MDOT to Project Company that is not financed by Project Company in accordance with Section 5.2 of this Schedule 15, MDOT will pay such amount to Project Company:
 - (1) as a lump sum payment, a series of milestone payments, an adjustment to the Service Payment (or a combination of these methods) in accordance with the payment arrangements set out in the Change Order or Directive Letter;
 - (2) in respect of Direct Costs or Delay Costs, within 1 month after the date of the receipt from Project Company of the Change Order or Directive Letter except to the extent that any Direct Costs are disputed by MDOT and referred for dispute resolution in accordance with Schedule 4 – Dispute Resolution Procedures; and
 - (3) in respect of Financing Delay Costs, quarterly in arrears on the date which MDOT would have paid the Service Payment relating to those days of delay had Substantial Completion not been delayed by the relevant Compensable Delay Event; or
- (c) results in an amount owing from MDOT to Project Company that is financed by Project Company in accordance with Section 5.2 of this Schedule 15, MDOT will pay such amount to Project Company by way of an increase in the Service Payment in accordance with Section 5.1(a) and Section 6 of this Schedule 15.

5.2 Where MDOT requests Project Company obtain funding for a Relevant Event, Project Company must use all reasonable endeavors to obtain such funding, including by:

- (a) using any savings resulting from other Relevant Events which have resulted in amounts being available under the Finance Documents;
- (b) utilizing any standby facility that may be available to Project Company;

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- (c) arranging for additional funding under the Financing Documents and from other sources (if permitted under the Financing Documents); and
- (d) arranging other funding obtained on commercial terms for Project Company by MDOT (without any obligation on MDOT to make any such arrangements).

To the extent the Project Company is able to obtain funding, the cost of the funding will be taken into consideration by the parties in the negotiation of the adjustment of the Service Payment resulting from the implementation of the Change. MDOT shall pay the Project Company an amount equal to the reasonable out-of-pocket expenses incurred by the Project Company in seeking such financing, provided that MDOT approved such expenses prior to the Project Company incurring them.

Where Project Company, having used all reasonable endeavors, is unable to obtain funding or funding is on terms which are not satisfactory to MDOT, MDOT will, without limiting its rights under Schedule 2 – Change Procedure, pay the relevant amounts in accordance with Section 5.1(b) of this Schedule 15.

SCHEDULE 16 - TECHNICAL REQUIREMENTS

PART 1 – Technical Requirements

PART 2 – Commercial and Financial Close PMP

PART 1 – TECHNICAL REQUIREMENTS
PART A GENERAL TECHNICAL REQUIREMENTS

ARTICLE 1 THE FREEWAY LIGHTING SYSTEM PROJECT

Section 1.1 Project Goals

In performing the Project Operations, the Project Company shall achieve the following goals throughout the Term.

- (a) Safety
 - (i) Provide the traveling public and workers safe conditions during the Term;
 - (ii) Provide and maintain illumination coverage and uniformity required to meet the requirements and standards provided in the Agreement; and
 - (iii) Provide supports, fixtures and supporting infrastructure consistent with current MDOT, FHWA, and AASHTO safety practices, guidelines, policies, and Good Industry Practices.
- (b) Efficiency
 - (i) Minimize the amount of energy consumed for illumination; and
 - (ii) Minimize overall Project costs by optimizing costs for D&C Works, lifecycle equipment replacements, operations and maintenance.
- (c) Mobility
 - (i) Minimize traffic impacts and delays while carrying out the Project Operations; and
 - (ii) Minimize traffic impacts during operational and maintenance activities.
- (d) Quality
 - (i) Provide lighting systems that conform to acceptable engineering standards/guidelines for designing and building freeway lighting systems;
 - (ii) Provide lighting systems that minimize future maintenance cycling; and
 - (iii) Provide high quality, reliable and safe lighting systems at Project hand-back.
- (e) Finance
 - (i) Provide a financial plan that minimizes costs and funds to MDOT to deliver the Project.
- (f) Schedule
 - (i) Achieve Substantial Completion within two years of Commercial and Financial Close.

Section 1.2 Project Description

Project Company must design, build, finance, operate and maintain the Freeway Lighting System and Improved Freeway Lighting System in the Detroit Metro Region, in accordance with the Agreement.

The existing Freeway Lighting System consists of areas illuminated in the field by all of the existing MDOT-owned lighting facilities within the Project Premises. The Freeway Lighting System has an approximate total of 14,870 lamps of which:

- (a) 9,861 are high-pressure sodium (HPS) lamps;
- (b) 2,776 are high-mast metal halide lamps;
- (c) 1,971 are light emitting diode (LED) lamps including temporary installations; and
- (d) 262 are fluorescent and inductance lamps.

The Project consists of:

- (a) Financing the Project Operations;
- (b) The design and construction of lighting infrastructure improvements required to the Freeway Lighting System in accordance with this Agreement including performing the D&C Works; and
- (c) Performing the O&M Works,

in accordance with the Agreement (together “the Project”).

ARTICLE 2 PROJECT COMPANY RESPONSIBILITIES

Section 2.1 General

Project Company must:

- (a) Evaluate and optimize the operations of the Freeway Lighting System to achieve the project goals for the Improved Freeway Lighting System;
- (b) Develop, design and construct an Improved Freeway Lighting System which provides MDOT with optimized efficiencies in overall cost, energy consumption, and quality in operations and components, in accordance with the provisions of Article 22 (Payments to Project Company) and Schedule 3 (Payment Mechanism) of the Agreement.

Project Company may optimize the Improved Freeway Lighting System through any combination of lighting infrastructure improvements and operational efficiencies which provide the illumination performance required by these Technical Requirements and otherwise meet the terms of the Agreement. The optimization includes making all needed repairs and/or replacements to non-operational components of the Freeway Lighting System and replacing all inefficient components such that the Improved Freeway Lighting System meets the requirements of this Agreement as a condition precedent to achieving Substantial Completion.

Section 2.2 Delivery of D&C Works

- (a) Project Company must deliver the D&C Works for the Project in accordance with:
 - (i) The Agreement (including these Technical Requirements);

- (ii) The applicable guidelines, criteria and related documents listed in the D&C Works Requirements;
- (iii) The Improved Freeway Lighting System Design within the Project Management Plan, as approved by MDOT, and updated in accordance with Article 3 – Project Management Plan (PMP);
- (iv) Good Industry Practice; and
- (v) Any Change Order or Directive Letter issued in accordance with the Agreement.

(b) Commencement of Construction

Project Company must not commence construction of the D&C Works until the Project Company has submitted and received MDOT approval of the Project Management Plan in accordance with Article 3 of these General Technical Requirements and the Submittal Requirements of Section 46.2 of the Agreement.

(c) D&C Works Milestones

Project Company must include the following Milestones in its Construction Schedule:

(i) First Milestone (MP 1):

To achieve MP1, Project Company must demonstrate that, for the D&C Works incorporated to that point:

- A. D&C Works for the Improved Freeway Lighting System has been incorporated which has a value at least equal to the Maximum Milestone Payment for Milestone 1;
- B. Evidence that Project Company has paid the D&C Contractor the value of the Maximum Milestone Payment for Milestone 1;
- C. The D&C Works incorporated for MP 1 is functioning as designed for no less than 13,380 of the existing Freeway Lighting System luminaires (or replacement luminaires if installed prior to MP 1), representing approximately 90% of the Project;
- D. That all incorporated D&C Works for the Improved Freeway Lighting System meets Lighting Performance criteria of Sections 1.3 and 1.4 of the D&C Works Requirements;
- E. That the requirements of the Payment Mechanism, Schedule 3 have been met; and
- F. That all New Category 1 Defects or New Category 2 Defects have been Mitigated or Remedied within the relevant Mitigation Period or Remedy Period (as applicable).

Project Company must define within the Construction Drawings (Section 3.5 of the General Technical Requirements) the specific Elements that must be completed in order to meet MP 1.

(ii) Second Milestone (MP 2 or Substantial Completion):

To achieve MP 2, Project Company must demonstrate that all requirements of Substantial Completion have been met, including:

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- A. All D&C Works for the Improved Freeway Lighting System have been incorporated and has a value at least equal to the sum of the Maximum Milestone Payments for Milestone 1 and Milestone 2;
- B. Evidence that Project Company has paid the D&C Contractor the value of the Maximum Milestone Payment for Milestone 1 and Milestone 2;
- C. The D&C Works have been incorporated for the entire Improved Freeway Lighting System and is functioning as designed for the entire area illuminated by the existing Freeway Lighting System;
- D. That all lighting in the Improved Freeway Lighting System meets Lighting Performance criteria of Section 1.3 of the D&C Works Requirements;
- E. Project Company has provided a list of all pole caps and nut covers and dented or leaning poles which have not been replaced in accordance with Section 3.5(d) of the D&C Requirements; and
- F. That the requirements of the Schedule 3 - Payment Mechanism have been met.

Project Company must define within the Construction Drawings (Section 3.5 of the General Technical Requirements) the specific Elements that must be completed in order to achieve MP2 / Substantial Completion.

(iii) Final Acceptance:

To achieve Final Acceptance, Project Company must demonstrate that all requirements of Final Acceptance as defined in Schedule 1 of this Agreement have been met.

- (d) During the D&C Term, Project Company will have limited flexibility to deliver certain aspects of O&M Work by performing rehabilitation or replacement of Elements instead of performing localized repairs or maintenance during the D&C Term. When such work can be categorized under industry standards as capital improvements, it may be counted as D&C Work towards the value of D&C Work incorporated as described in Schedule 3 – Payment Mechanism, Article 1.

Section 2.3 O&M Work

- (a) Project Company must perform the O&M Works in accordance with:
- (i) the Agreement, including these Technical Requirements;
 - (ii) the applicable guidelines, criteria and related documents listed in the O&M Requirements;
 - (iii) the Project Management Plan, as approved by MDOT, and updated in accordance with Article 3 – Project Management Plan (PMP);
 - (iv) Good Industry Practice; and
 - (v) any Change Order or Directive Letter issued in accordance with the Agreement.
- (b) Project Company must perform O&M Work to the same standards and requirements during the D&C Term and the O&M Term, except for D&C Term O&M Work which may be performed as follows.

- (i) During the D&C Term, but without limiting Project Company's obligation to remedy such Defects as part of Substantial Completion, only New Category 1 Defect(s) are required to be Mitigated and Remedied in accordance with Schedule 3- Payment Mechanism;
- (ii) During the D&C Term, but without limiting Project Company's obligation to remedy such Defects as part of Substantial Completion, Project Company may Remedy Category 2 Defect(s) during an applicable phase of D&C Work without incurring Noncompliance Points. . The waiver of Noncompliance Points will only be granted until Project Company provides its 20-day notice of Substantial Completion, and all Defects must be Remedied prior to Substantial Completion.

ARTICLE 3 PROJECT MANAGEMENT PLAN (PMP)

Section 3.1 Project Company Requirements

(a) Requirement to Develop a PMP

Project Company must prepare and submit to MDOT a PMP for review and approval under the schedule established in Section 3.2 and meeting the requirements of the Agreement and Good Industry Practice.

The PMP must consist of the following parts (Sub-Plans):

- (i) General Plan Elements
 - A. Team Structure
 - B. Project Approach
 - C. Reporting
 - D. Work to Be Accomplished
 - E. Basic Work Processes
 - F. Environmental Considerations
 - G. Communications and Coordination
- (ii) Improved Freeway Lighting System Design
 - A. Illumination Design
 - B. Energy Improvement and Management
 - C. Life-Cycle Cost Model
- (iii) D&C Works Plan
 - A. D&C Works Construction Documents
 - B. D&C Works Processes

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- C. Construction Coordination
- D. Construction Schedule
- E. List of Existing Defects
- (iv) Operations and Maintenance Plan
- (v) Occupational and Public Safety Plan (Safety Plan)
- (vi) Transportation Management Plan (TMP)
- (vii) Quality Management Plan (QMP)

Project Company’s PMP must include sufficient detailed processes and procedures to meets all requirements set out in ISO standards relating to quality systems, plans and audits, including the current versions of ISO 9001. Neither Project Company nor any of its Project Company Partners will be required to obtain ISO 9001 certification.

Section 3.2 Project Management Plan (PMP) Approval

- (a) Review and Approval of the PMP
 - (i) Review and approval of the PMP will be performed in accordance with Article 46.2 of the Agreement.
 - (ii) Project Company must receive MDOT’s approval prior to Commercial and Financial Close for portions of the PMP identified in Table 3.2;
 - (iii) Project Company must receive MDOT’s approval prior to D&C Works Commencement for the portions of the PMP identified in Table 3.2;
 - (iv) Project Company must update the entire PMP to reflect adjustments to operational plans required by D&C Term decisions, and submit it for MDOT’s review and approval as a condition precedent to achieving Substantial Completion; and
 - (v) After Final Acceptance, Project Company must update the entire PMP annually and submit it for MDOT’s review and approval within 30 days of the anniversary of the Commercial and Financial Close Date.
 - (vi) Project Company must also submit updates to the PMP when it determines that changes are needed to ensure compliance with this Agreement.

Table 3.2 – Required Timing and Contents for PMP Approval

| | Before Commercial & Financial Close | Before D&C Works Commencement |
|---|-------------------------------------|-------------------------------|
| General Plan Elements | | |
| Team Structure | X | |
| Project Approach | | X |
| Reporting | X | |
| Work to Be Accomplished | X | |
| Basic Work Processes | X | |
| Environmental Considerations | X | |
| Communications and Coordination | X | |
| Improved Freeway Lighting System Design | | |
| Illumination Design | X | |

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| | | |
|---|----|---|
| Energy Improvement and Management | X | |
| Life-Cycle Cost Model | X | |
| D&C Works Plan | | |
| D&C Works Construction Documents | | X |
| D&C Works Processes | | X |
| Construction Coordination | | X |
| Construction Schedule | | X |
| List of Existing Defects | | X |
| Operations and Maintenance Plan | | X |
| Occupational and Public Safety Plan (Safety Plan) | X | |
| Transportation Management Plan (TMP) | X* | X |
| Quality Management Plan (QMP) | X | |

*Only TMP elements such as TTCPs which Project Company will use to implement traffic control during the development of the List of Existing Defects described in Section 3.5(e) of the General Technical Requirements must be approved prior to Commercial and Financial Close.

(b) Consistency with Commercial and Financial Close PMP

The PMP and all included components submitted in accordance with this Article 3 must be:

- (i) consistent with the PMP submitted as part of the Proposal or the Commercial and Financial Close PMP (as applicable); and
- (ii) prepared and submitted in accordance with Good Industry Practice.

(c) Delivery and Compliance

- (i) Unless otherwise agreed in writing by MDOT, Project Company must perform the Project Operations and deliver the Project in accordance with the PMP.
- (ii) Project Company must comply and must contractually require each of its Project Company Partners, contractors and subcontractors to comply with the most current MDOT-approved version of the PMP.

Section 3.3 General Plan Elements

(a) Team Structure

Project Company must provide the following information regarding the Team Structure assigned to all phases of the Project Operations, including the D&C Work and O&M Work:

- (i) A detailed narrative that describes the reporting structure, roles, responsibilities, authority, qualifications and experience of each member of the staff assigned to management roles by Project Company.
- (ii) Organizational chart(s) depicting primary staff, their roles and their reporting relationships for:
 - A. D&C Work;
 - B. O&M Work;

- C. work requiring communication between the D&C Works and O&M Work, and the lines of communication to be used;
 - D. description of lines of authority of internal decisions.
- (iii) Identification of Key Personnel detailing required experience:
- A. Project Company Representative – The Project Company Representative should have a minimum of 15 years of experience managing projects of similar scope and complexity.
 - B. Operations and Maintenance Manager – The O&M Manager should have a minimum of 10 years of experience in operation and maintenance of electrical systems or freeway infrastructure.
 - C. Construction Manager – The Construction Manager should have a minimum of 10 years of experience in freeway lighting installation or freeway construction.
 - D. Lead Freeway Lighting Design Engineer – The Lead Freeway Lighting Design Engineer should have a minimum of 15 years of experience in freeway lighting design of the size and type required for the Project and must currently be a registered professional engineer in the State of Michigan or achieve such designation by the time the first notice to proceed is issued.

Project Company Representative must be clearly marked in the organizational chart(s).

(b) Project Approach

Project Company must provide a description of the overall approach to the Project including references to Project phases and transition of operations from the existing to the new facilities. This section is intended to serve as a link between the team structure description provided prior to Commercial and Financial Close, and the Project Schedule provided prior to Construction Commencement.

Project Company must provide a description of its overall approach to the Project that identifies which Contractors and individuals will have responsibilities related to the delivery of each major part of the D&C Works. The approach should describe the anticipated sequence of work, show the roles of anticipated suppliers and contractors within each major part of the Construction Schedule, and show the personnel and Contractors responsible for transitioning between delivery of the D&C Works and performance of O&M Works.

(c) Reporting

Project Company must provide a description of the progress reporting and coordination processes that will be utilized during the D&C Works and the performance reporting that will be utilized during the O&M Work. This section must establish the basic field and table structure for the MMIS database, and define a timeline for phasing in its use no later than 90 days after the Commercial and Financial Close Deadline. It must further establish a plan for documenting the existing Freeway Lighting System, and entering data into the MMIS reflecting the inventory completed during the first 90 days after Commercial and Financial Close.

This section must define how the existing Freeway Lighting System data will be transitioned to data for the Improved Freeway Lighting System; define processes for generating monthly progress reports and other reporting during the D&C Term; and provide process descriptions for generating all reporting required and anticipated during the O&M Term.

(d) Work to Be Accomplished

Project Company must identify the major tasks and processes that must be accomplished throughout the Term to deliver the Project successfully. Include both external tasks/processes, and tasks/processes internal to Project Company such as managerial or financial milestones.

(e) Basic Work Processes

Project Company must describe its processes and procedures for performing major tasks and implementing major processes. At a minimum, describe

- (i) assignments of responsibility for major tasks/processes to team members and specific responsible personnel;
- (ii) general approach for tracking progress, continually evaluating quality, taking corrective actions, and routinely communicating schedule and quality issues within the team;
- (iii) general approach for tracking progress, continually evaluating quality, taking corrective actions, and routinely reporting schedule and quality issues with MDOT and MDOT Representative; and
- (iv) processes for keeping MDOT, Municipalities and the general public adequately informed of activities that might affect them.

Process descriptions must define workflows, clearly establishing how ISO 9001 standards will be implemented. Process descriptions must identify the measureable outcomes that will be used for continual improvement activities, and must assign responsibility and accountability for each aspect of the process.

(f) Environmental Considerations

Project Company must identify any environmental obligations that must be met on the Project. The plan must address how spill-over light will be controlled, and include a commitment to keeping spill-over at levels no greater than currently in place.

Project Company must provide a general plan to manage salvaged or demolished work materials. The plan should address anticipated material reuse, recycling, hauling and stockpiling; and should identify any commitments to implement environmentally sustainable practices.

Project Company must identify roles within the team needed to monitor work for conformity to environmental regulations, and define processes for such monitoring and subsequent reporting on environmental obligations.

(g) Communications and Coordination

Project Company must develop a communications plan for working with MDOT, affected Governmental Entities and Governmental Authorities, and other identified stakeholders. At a minimum, the Communications and Coordination Plan will address:

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- (i) general communications protocols and responsibility assignments;
- (ii) crisis communications;
- (iii) issues management;
- (iv) media relations;
- (v) stakeholder relations;
- (vi) community relations;
- (vii) complaints management; and
- (viii) government relations.

The Communications and Coordination Plan must describe Project Company's methods for managing the timing and flow of information between Project Company and MDOT regarding Milestones, community and stakeholder issues and information requests, new and emerging issues, general communications, and media relations issues and activities. Project Company should also address communications and coordination for environmental and other regulatory issues related to this Project.

Section 3.4 Improved Freeway Lighting System Design

This section of the PMP must be approved by MDOT prior to Commercial and Financial Close.

The Improved Freeway Lighting System Design portion of the PMP is Project Company's basic design template for the Project. It must unambiguously establish which criteria will be used for all design through the Term. It must include descriptions of the basic design standards that will be applied, and the fundamental methodology that will be used for both the D&C Work and O&M Work. The Improved Freeway Lighting System Design must be prepared to a level similar to "base plans" or "30% plans" for a typical transportation project.

(a) Illumination Design

Project Company must provide the following information related to the design of the Improved Freeway Lighting System:

- (i) The specific engineering specifications Project Company will use to conform with the criteria established under Part B, Article 1 of the Technical Requirements under the Agreement, establishing Project-specific values for variable criteria parameters;
- (ii) Preliminary engineering calculations and analyses for the planned illumination and early construction drawings that demonstrate the feasibility of the D&C Works and how the D&C Requirements will be met.
- (iii) System improvements Project Company intends to implement on the Project;
- (iv) Proto-typical designs for each illumination system improvement specifying the products, equipment and/or systems to be used (including manufacturers' product specification sheets), and the applicable design criteria to be met; and
- (v) Tabular listing(s) of anticipated system improvements planned to achieve Substantial Completion, and of anticipated system improvements and capital rehabilitation planned for the O&M Term.

(b) Energy Improvement and Management

Project Company must provide its projections of the periodic energy costs (including target energy usage in kWh and price), as developed for the Financial Model submitted to MDOT prior to Commercial and Financial Close, including the following information:

- (i) monthly power usage table for the full Term (reported in kW-hours) showing the calculated power usage and the products, equipment and system assumptions used in the calculations;
- (ii) detailed schedule for the hours of operation, rated wattage of luminaires at operational levels, and any methods, scheduling or power management tools that will be employed to achieve the reported power usage; and
- (iii) all assumptions used to generate the data reported in the Financial Model.

All data must be sufficiently detailed to provide a clear picture of the nature and magnitude of energy savings that can be reasonably expected in each Quarter of the Project, and must clearly correlate to the data reported in the Financial Model. From these data, Project Company must provide the quarterly energy reduction targets (in kWh) used in the calculation of the quarterly Energy Savings Payments shown in Appendix B of Schedule 3 – Payment Mechanism.

(c) Life-Cycle Cost Model

Project Company must provide the following technical details for the Improved Freeway Lighting System supporting the costs developed for the Financial Model submitted to MDOT prior to Commercial and Financial Close:

- (i) D&C Works costs, including;
 - A. unit costs for item of expenditure anticipated prior to Substantial Completion;
 - B. descriptions and quantities for each item, identifying the design specifications with which each corresponds; and
 - C. all assumptions used to generate the data reported in the Financial Model; and
- (ii) O&M Works costs, including:
 - A. assumed unit costs for personnel, equipment, materials other expenses required to operate and maintain the system over the Term;
 - B. descriptions of each major category of O&M expenditure and assumed level of effort and quantities used to calculate the costs;
 - C. descriptions of each life-cycle rehabilitation activity and assumed level of effort and quantities used to calculate the costs, assuming that replacement parts during rehabilitation are identical to (or better than) initial replacement part; and
 - D. all assumptions used to generate the data reported in the Financial Model.

Section 3.5 D&C Works Plan

This section of the PMP includes Project Company's processes, procedures and schedules for constructing the D&C Works. It includes the D&C Construction Documents, which Project Company will develop from the MDOT-approved Improved Freeway Lighting System Design. Upon submission prior to Construction Commencement, the Construction Documents will be completed to a level similar to "70% plans" or "preliminary construction drawings" for a typical transportation project for any new construction that modifies the existing circuitry. Any rehabilitation or preventative maintenance work will require updates to MDOT's existing Freeway Lighting System inventory sheets, a detailed conceptual plan and any design details associated with the design. Throughout the course of the D&C Term, the Construction Documents will be continually developed, maintained and detailed to reflect the as-built condition. Project Company must update the PMP with each subsequent installment of the Construction Drawings as they are released for construction.

(a) D&C Works Construction Documents

Project Company's Construction Documents must:

- (i) Establish the scope and detailed design for the D&C Works to be performed prior to Substantial Completion including plans, specifications and estimates;
- (ii) Provide a schedule of products and specifications to be utilized for the Improved Freeway Lighting System
- (iii) Define a completion threshold for MDOT's use in assisting to verify that MP 1 has been achieved, including:
 - A. Which constructed elements will be installed and operating to meet the 90% requirements for incorporating D&C Work for MP 1 as described in Section 2.2(c)(i) of the D&C Requirements, and
 - B. The testing and commissioning process that will be used to confirm that performance and operating requirements are met.
- (iv) Define a completion threshold for MDOT's use in assisting to verify that Substantial Completion has been achieved, including:
 - A. Which constructed elements will be installed and operating to meet the requirements for incorporating D&C Work for MP 2 (Substantial Completion) as described in Section 2.2(c)(ii) of the D&C Requirements,
 - B. A plan and construction process to address the issues identified in the List of Existing Defects; and
 - C. The testing and commissioning process that will be used to confirm that performance and operating requirements are met.

(b) D&C Works Processes

Project Company must provide descriptions of Project Company's D&C Term O&M Works including key issues and constraints affecting the D&C Works, and define strategies to manage those issues. The D&C Works Process must clearly address:

- (i) integration of quality management processes into D&C Works, including:
 - A. construction quality control,

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- B. construction quality assurance,
 - (ii) completion, commissioning and testing of the Improved Freeway Lighting System;
 - (iii) integration of safety management processes into D&C Works;
 - (iv) integration of environmental management and compliance processes into D&C Works;
 - (v) scheduling;
 - (vi) materials management;
 - (vii) procurement;
 - (viii) resource management (labor, Contractors, equipment);
 - (ix) reporting on quality processes; and
 - (x) integration of D&C Works activities.
 - (xi) Project Company must address construction sequencing and strategy policies relating to conditions that might affect public mobility and safety during construction. These policies must include, as applicable:
 - A. the need to minimize long-term (more than 24-hours) Lane Closures;
 - B. the need to minimize construction-related disruption during traffic peaks associated with holidays, summer weekend patterns, and/or major events in nearby venues;
 - C. the need for safe ingress/egress to active construction and storage areas for material hauling or demolition; and
 - D. the need to coordinate traffic management with work unrelated to the initial construction phase such as MDOT maintenance, O&M Work or utility adjustments.
 - (xii) Project Company's D&C Works Processes must show how the D&C Works will be coordinated with DTE's activities relating to the Conversion Work. Project Company must provide designs plans and construction sequencing required for implementing the Improved Freeway Lighting System regardless of the status of the Conversion Work at affected locations. Plans and sequencing should demonstrate the overall impact of the Conversion Works on the performance of the D&C Works (including time and cost of performing such works) have been minimized.

(c) Construction Coordination

Within the D&C Works Plan, Project Company must provide details on how the D&C Work will be coordinated, with the following:

- (i) other MDOT contracts within the Premises;
- (ii) other contracts held by Governmental Authorities or Governmental Entities, other than MDOT, affecting the Premises,

including compliance with Section 13.2 of the Agreement.

(d) Construction Schedule

Project Company must provide a Construction Schedule for the D&C Term. The Construction

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Schedule must include a detailed schedule based on a critical path network for the Project, showing the progress or the works to achieve Substantial Completion by the Substantial Completion Deadline and Final Acceptance by the Final Acceptance Deadline. The Construction Schedule must include, at a minimum, information concerning the following:

- (i) submission, update and approval of the Project PMP as required under Section 3.2;
 - (ii) start and completion dates for major stages and phases of the D&C Works;
 - (iii) long-lead work items;
 - (iv) planned staging, sequencing and milestones for D&C Works (including MP1 and MP2);
 - (v) coordination milestones with MDOT, Interface Parties, FHWA and any other external entities;
 - (vi) key dates for submission, review and audit of applicable of Submittals;
 - (vii) commissioning and testing processes;
 - (viii) other significant work functions; and
 - (ix) proposed Substantial Completion Deadline and Final Acceptance Deadline.
- (e) List of Existing Defects

No later than 90 days after Commercial and Financial Close as part of the PMP, Project Company must provide MDOT with a List of Existing Defects. All Existing Defects must be corrected by Project Company as a part of D&C Work and as a condition precedent to achieving Substantial Completion. Without limiting Project Company's obligation to remedy all Defects in order to achieve Substantial Completion, approved Existing Defects shall not constitute Noncompliance Events or Category 1 Defects during the D&C Term and Project Company may schedule Remedy of such Existing Defects at any time as part of the D&C Work.

This List of Existing Defects cannot be altered after Construction Commencement. Project Company must Mitigate and Remedy New Category 1 Defects and New Category 2 Defects as required elsewhere in this Agreement.

Project Company must specifically notify MDOT of any Existing Defects discovered that include immediate safety hazards to Users.

Project Company will have access to the site between Commercial and Financial Close and Construction Commencement to create the list of existing defects in accordance with Section 13.1 of the Agreement. TMP elements such as TTCPs which Project Company will use to implement traffic control during the development of the List of Existing Defects must be approved prior to Commercial and Financial Close as defined in Section 3.2 and Table 3.2 of these General Technical Requirements.

The Parties agree that:

- (i) pole caps and nut covers on lighting poles ; and
- (ii) dented and leaning poles,

existing at the Commercial and Financial Close Date will only be replaced by Project Company where the missing pole caps and nut covers constitute an Incident or a Category 1 Defect or where the replacement is otherwise necessary or required in order to meet all of the requirements

of the Agreement. This Section 3.5(e) does not limit Project Company's obligation to repair, rehabilitate or rectify any other Defect with respect to the lighting poles including where such Defect arises, in whole or in part, as a result of FLP's failure to replace such pole caps and nut covers or dented and leaning poles (as applicable).

Section 3.6 Operations and Maintenance Plan

Project Company must develop an Operations and Maintenance Plan in accordance with Article 2 – Operations and Maintenance Plan (OMP) of the Operations and Maintenance Requirements. The OMP must also include an organizational chart depicting Key Personnel defined in Schedule 9 of the Agreement and their reporting relationships. The OMP must also include an inspection procedure. This procedure should detail and explain how the Project Company will provide inspection procedures for luminaires, and supporting lighting infrastructure (including nondestructive testing and inspection methods, as needed) as outlined in the FHWA Guidelines for the Installation Inspection Maintenance and Repair of Structural Supports for Highway Signs, Luminaires and Traffic Signals to be carried out in accordance with Table 5.2.2 of the O&M Requirements.

Section 3.7 Occupational and Public Safety Plan (Safety Plan)

The Safety Plan must include policies, plans, training programs, work site controls, and Incident response plans. The contents of the Safety Plan should ensure the health and safety of personnel involved in the Project and the general public affected by the Project; and procedures for notifying MDOT of Incidents arising out of or in connection with the performance of the Work. The Occupational and Public Safety Plan must address both the D&C Works and the O&M Works.

- (a) The occupational aspects of the Safety Plan must be specific to the Project, and describe the measures Project Company will follow to provide a safe work site for all persons within the Premises (e.g. trades, supervisory and delivery personnel, visitors), including:
 - (i) a statement from Project Company emphasizing a commitment to the principles of construction safety;
 - (ii) processes ensuring all that team members, Contractors, delivery personnel and visitors to the Premises, will meet a common set of safety requirements, regardless of their employer;
 - (iii) safety policies that meet or exceed all Michigan Occupational Safety and Health Administration (MIOSHA) requirements and guidelines;
 - (iv) initial and ongoing safety training plans for all persons within the Premises including any necessary Project-specific training;
 - (v) approaches for dealing with anticipated hazards on the Project;
 - (vi) safety monitoring, inspections and record keeping;
 - (vii) description and roles of staff dedicated to site safety; and
 - (viii) processes for accident and Incident reporting and response including procedure for responding to occupational health and safety issues identified by MDOT or MDOT Representative.

- (b) The public aspects of the Safety Plan must be specific to the Project, and describe the measures Project Company will follow to provide a safety at all interfaces with the general public. The Safety Plan must:

- (i) identify locations/conditions where the public might interface with Project Operations;
- (ii) identify preventative measures for managing those interface locations/conditions; and
- (iii) prescribe processes for implementing those measures.

Section 3.8 Transportation Management Plan (TMP)

Project Company must develop a Transportation Management Plan, which must conform to Article 5.3 of the D&C Requirements.

The TMP must describe Project Company's approach to managing public and construction vehicle traffic during both the D&C Term and the O&M Term. Project Company must describe traffic control provisions, specific to the project, and convey guidelines for correct use of relevant traffic standards and convey how obligations will be met.

The text of the TMP should convey a clear understanding of the key considerations, principles and requirements for preparing design drawings for detour routes, diversions and closures, sign locations and details, pavement markings, barriers, and protective works.

The TMP should include, at a minimum:

- (a) anticipated traffic management situations and general TTCM plans for them;
- (b) process descriptions for evaluating traffic management requirements in the development of detailed Maintenance of Traffic (MOT) plans for long-term stationary controls;
- (c) process descriptions for submitting Lane Closure Notifications to MDOT and coordinating any required approvals or changes to plans;
- (d) process for tracking and reporting lane rental payments and liquidated damages relating to Lane Closures;
- (e) process for communicating traffic management activities to the public;
- (f) process and contingencies for Incidents in or near the work zone, and for other emergency situations; and
- (g) processes for preparing an annual update of the TMP.

Section 3.9 Quality Management Plan (QMP)

Project Company must provide a Quality Management Plan (QMP) which must conform to the requirements set forth by ISO 9001:2008, ISO 9001 Quality Management Principles, and the minimum requirements stated in the Agreement. Note that Project Company does not have to obtain ISO 9001 certification as related to the Project, provided that the processes in the QMP conform to ISO 9001 requirements.

Project Company is responsible for all quality assurance and quality control activities necessary to manage the Project Operations. Project Company must undertake all aspects of quality assurance and quality control for the Project and Project Operations.

The QMP must include the following:

- (a) training, education and other measures to be taken to ensure compliance with relevant management plans;
- (b) Project Company's quality policy and quality control regime for design quality management, construction quality management, operations and maintenance quality management, as well as their respective integration; and
- (c) processes for Noncompliance review and disposition, including the development of a Noncompliance tracking system, its required components, its tracking and reporting processes in MMIS, and corrective and preventative action response strategies for Noncompliance Events.

ARTICLE 4 PROJECT REVIEW AND OVERSIGHT

Section 4.1 MDOT Review and Oversight

Unless otherwise stated in the Agreement, MDOT reserves the right to review any portion or all of the Project Operations, including design and construction drawings, product specifications, reports, studies, data, documents and calculations. At MDOT's request, Project Company must make available any and all of the aforementioned documents to MDOT or the MDOT Representative.

Without limiting any provisions set forth in the Agreement, the role of MDOT Representative must be to provide the following has the role defined in Section 8.1 of the Agreement.

The MDOT Representative will from time-to-time perform statistically based sampling of the luminance and uniformity of the lighting to measure conformance to the criteria in these Technical Requirements. Upon request from MDOT or MDOT Representative, Project Company must provide its current luminance and uniformity measurement data for use in establishment of conformance.

The MDOT Representative will from time-to-time perform statistically based sampling of the quality requirements established in the PMP. Upon request from MDOT or MDOT Representative, Project Company must update its MMIS and provide product data, warranties, life-cycle replacement and rehabilitation history for use in establishment of conformance.

Section 4.2 Project Company Monitoring and Monthly Reporting

Project Company must continually track and monitor the progress, performance and quality of the Project Operations and deliver a monthly report ("Monthly Report") to MDOT and MDOT Representative by the 10th of each full month during the Term describing:

- (a) lighting performance of the Improved Freeway Lighting System;
- (b) the performance and quality of the Improved Freeway Lighting System and the delivery of required O&M Works to determine and document conformance with the Agreement and the PMP;
- (c) Noncompliance Events, related Performance Requirements, any Defects in the Relevant Infrastructure, and Mitigation and Remedy of such Events; reporting shall also include any issues requested by the MDOT Representative, and tracking of issues related to trends and preventative measures as required in Section 1.1.i of the O&M Works Requirements; and

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- (d) a summary of monitoring and tracking of conflicts with Utility Infrastructure or Utility Companies within the Premises, their corresponding resolutions and any violations of these performance requirements; and
- (e) a summary of all data pertaining to routine O&M Works, MMIS, Safety, Traffic Management including Lane Closures, Lane Rental Charges, and Incidents, and Communications and Coordination tracked in MMIS in accordance with the Agreement including corresponding resolutions to such issues.
- (f) Prior to Substantial Completion, the Monthly Report will also include:
 - (i) the Construction Status Report described in Section 15.3 of the Agreement; and
 - (ii) a narrative description of any Disputes related to the D&C Works, including any action that has taken place over the relevant month to resolve such Disputes.

ARTICLE 5 UTILITIES

Section 5.1 Project Company Responsibility for Existing Utility Infrastructure

All Utility Infrastructure located at Commercial and Financial Close or thereafter on, in, under, over, or adjacent to the Premises, including Utility Infrastructure within any excavation, are to remain in service throughout the Term. To the extent that any such Utility Infrastructure might reasonably be affected by the Project Operations, Project Company must protect and preserve such Utility Infrastructure during and after the performance of any aspect of the Project Operations throughout the Term.

Project Company must contact MISS DIG regarding utilities. MDOT's utilities are not currently inventoried in the MISS DIG program. Therefore, in addition to coordination through MISS DIG, the Project Company must locate and protect the Improved Freeway Lighting System as requested and coordinate with MDOT to protect the MDOT ITS systems from damage.

Section 5.2 Conflicts with Existing Utilities

- (a) Identifying Potential Conflicts for MDOT and Third Parties

Project Company must clearly and properly locate and mark underground equipment, including conduit, direct-bury cable, underground handholes/manholes and vaults and related lighting equipment within 72 hours of notification of earth disturbing activities planned near a portion of the Improved Freeway Lighting System as identified in the request.

When potential conflicts are identified between Project Operations and existing Utility Infrastructure located within the Premises, Project Company is solely responsible for coordinating all Project Operations with the Utility Company and operators. Project Company responsibilities include:

- (i) confirming the actual locations of potentially affected Utility Infrastructure;
 - (ii) identifying all Utility Infrastructure relocation requirements; and
 - (iii) liaising, arranging, coordinating, and entering into all necessary agreements with relevant Utility Companies when Utility Work is required to accommodate Project Operations.
- (b) Mitigating Potential Conflicts

When Project Company determines that any Utility Infrastructure must be relocated, adjusted, replaced or repaired as part of Project Operations, Project Company is solely responsible for:

- (i) developing and carrying out any required Utility Infrastructure relocation strategy;
 - (ii) obtaining any necessary consents or approvals in connection with the strategy, providing access for inspections and providing information and plans during and following completion of the Utility Work; and
 - (iii) Either:
 - A. performing all required work and coordination with all Utility Companies in connection with the construction, installation, operation, repair, preservation, relocation, or maintenance of Utility Infrastructure in, on, under, over, or adjacent to the Premises; or
 - B. fully reimbursing all Utility Companies for any such work performed by those Utility Companies to facilitate the Project Operations.
- (c) Project Company Responsibility for MDOT's ITS

When potential ITS conflicts are indicated, Project Company must provide a request to MDOT for staking and identification of the locations of MDOT ITS systems and equipment before performing Project Operations. Project Company will be held responsible for any damage or disruption to ITS facilities caused by its Project Operations when such staking has not been properly coordinated through MDOT, and subject to Schedule 3.

Project Company must inform MDOT of any relocation, adjustment, replacement or repair of Utility Infrastructure within 72 hours of discovering such action is needed.

Section 5.3 Future Utility Changes within the Premises

MDOT will continue to issue permits for additions, changes or removals of Utility Infrastructure within the Premises throughout the Term. Project Company must not rely solely on previous engineering work, location plans; as-built drawings supplied by Utility Companies or other similar documents for confirming locations of Utility Infrastructure, but must coordinate with MDOT, MISS DIG and SEMTOC throughout the term to update and maintain current knowledge of Utility Infrastructure changes.

PART B DESIGN AND CONSTRUCTION (D&C) WORKS REQUIREMENTS

ARTICLE 1 IMPROVED FREEWAY LIGHTING SYSTEM CRITERIA

Section 1.1 General Criteria

The Improved Freeway Lighting System must be in accordance with the criteria described in this Article or otherwise in accordance with the Agreement. These plans must be signed and sealed by Michigan Professional Engineer(s).

Some of the criteria described in this Article are written in the form of guidelines, and activity or criteria descriptions may not consistently use mandatory language, even where Good Industry Practices are recommended. Therefore, Project Company must replace all uses of the terms “shall”, “will”, or “should” in a criteria/design/activity description with term “must” (mandatory condition) unless otherwise noted in this Article

Section 1.2 Order of Precedence

If there is any conflict between criteria in this Article 3, the following descending order of precedence applies to the requirements of Article 1.3 of this Part B.

(a) Lighting Performance

The following criteria and standards apply to lighting performance for the Improved Freeway Lighting System in the descending order of precedence set out below:

- (i) The criteria contained in this Article
- (ii) AASHTO Roadway Lighting Design Guide (American Association of State Highway and Transportation Officials)
- (iii) ANSI/IES RP-22 Standard Practice for Tunnel Lighting
- (iv) ANSI/IES RP-8 Standard Practice for Roadway Lighting
- (v) IESNA DG-5-94: Recommended Lighting for Walkway and Class 1 Bikeways
- (vi) MDOT Road Design Manual
- (vii) MDOT Bridge Design Manual
- (viii) MDOT Bridge Design Guides
- (ix) MDOT Standard Plans

(b) Improved Freeway Lighting System

All products, materials and assemblies must conform to applicable codes (ASTM/ANSI/NEMA/UL/IES) consistent with Good Industry Practice, local conditions and State/Municipal regulations.

The following criteria and standards apply to the requirements of Article 1.4 of this Volume II in the descending order of precedence set out below:

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- (i) The criteria expressly contained in these Technical Requirements
- (ii) MDOT Standard Specifications for Construction, Michigan Department of Transportation (except that Method of Measurement and Basis of Payment sections within any Standard Specifications are hereby deleted)
- (iii) MDOT Road Design Manual
- (iv) MDOT Bridge Design Manual
- (v) MDOT Bridge Design Guides

Section 1.3 Lighting Performance Criteria

(a) Non-Tunnel Lighting Criteria

At a minimum, the Non-Tunnel Lighting must meet the requirements of the following criteria as measured on the roadway:

- (i) Criteria in the AASHTO Roadway Lighting Design Guide, which provides illuminance meeting Table 3-5; or
- (ii) Criteria in the ANSI/IES RP-8 Standard Practice for Roadway Lighting, which provides illuminance meeting Table 2.

Non-Tunnel Lighting must meet the criteria for the existing R1, R2 or R3 road surface type; the infrastructure must be capable of providing illuminance for an R3 road surface type in the event of change in the roadway surface during the Term.

(b) Tunnel and Tunnel Approach Lighting Criteria

At a minimum, the Tunnel and Tunnel Approach Lighting must meet the requirements of the following criteria:

- (i) Chapter 5 in the AASHTO Roadway Lighting Design Guide; and
- (ii) ANSI/IES RP-22 Standard Practice for Tunnel Lighting.

(c) Field Measurement of Performance

Performance will be measured at, or adjusted to, the roadway surface in the center of travel lanes and ramps. Illuminance averages and uniformity will be calculated from sample points taken in the center of a travel lane, spaced at a minimum of 20 feet and a maximum of 50 feet, taken over a sample segment with a minimum length of 2,500 feet and a maximum length of 5,000 feet

Section 1.4 Improved Freeway Lighting System Criteria

(a) Default Requirements

- (i) The Improved Freeway Lighting System must meet the requirements of MDOT Standard Specifications Section 819, Electrical and Lighting, wherein references calling for use of “standard plans” or “as shown on the plans” means the plan sheet details submitted in the PMP, signed and sealed by a Licensed Michigan Professional Engineer and approved by MDOT;

- (ii) D&C Works and O&M Works referenced from Standard Specification 819 for conduit; electrical wire and cable; direct burial cable; equipment ground conductor; handholes; light standard foundation; light standard; luminaires; tower lighting units and other related features must meet the requirements of the following MDOT Standard Specifications:
- | | |
|----------------|---|
| A. Section 701 | Portland Cement Concrete for Structures |
| B. Section 718 | Drilled Shafts |
| C. Section 804 | Foundations for Light Standards |
| D. Section 819 | Electrical and Lighting |
| E. Section 820 | Traffic Signals |
| F. Section 902 | Aggregates |
| G. Section 908 | Miscellaneous Metal Products |
| H. Section 918 | Electrical and Lighting Materials* |

Where compatible for use in Project Company's D&C Construction Documents, Project Company's Lead Freeway Lighting Design Engineer may specify MDOT Standard Specifications and special provisions by direct reference to the applicable passage(s) or item. Direct references to the MDOT Standard Specifications that provide options for materials, placement or processes must be supplemented by text that clearly delineates which options or values must be used. When a specific MDOT Standard Specification is directly referenced for use, the reference will be construed to mean that the Method of Measurement and Basis of Payment sections of such Standard Specification are hereby deleted unless otherwise stated. Any MDOT Standard plan sheets selected for use on the Project must be individually designated for such use through the responsible Professional Engineer's seal.

Project Company must meet the standards set forth in Section 819 and 918 of the MDOT Standard Specifications or their MDOT approved equivalent, except that aluminum conductors may be used at the Project Company's discretion subject to conformity with the National Electrical Code.

- (b) Project Company must specify the quality control and quality assurance processes for delivering, constructing, installing and testing each Element specified on the Project. These processes must conform to ISO 9001 standards, and serve as a basis for the appropriate portions of the MDOT-approved Quality Management Plan. Process performance documentation generated by these processes must be available to MDOT and the MDOT Representative throughout the Term.

Project Company must obtain and retain warranty documentation for all products and equipment installed during the Term, and must cross-reference and/or store such data in the Maintenance Management Information System.

- (c) Additional Requirements

The Improved Freeway Lighting System must conform to the National Electrical Code unless criteria that are more stringent are required under the Agreement or under the statutory authority of the Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (LARA). Project Company must coordinate and acquire all construction permits through LARA and must comply with all LARA inspection requirements.

The Improved Freeway Lighting System must conform to Good Industry Practice and the following specific requirements.

- (i) All luminaire optical assemblies must deliver color temperatures between 4,000°K and 5,600°K with a CRI of 70 or greater. This requirement does not apply to assemblies in locations where Project Company is permitted to maintain existing assemblies within the limits of pending future Major Projects described under Part B, Article 4 of this Agreement.
- (ii) Luminaires must be provided with surge protection; internal surge suppression modules must meet UL 1449/ANSI C62.41.2 Category C, high exposure requirements.
- (iii) Luminaires must conform to ANSI C136.31/37 for 3G rating of vibration for bridge and overpass applications.
- (iv) All cabinet assemblies must be UL listed in addition to the UL listing required for each component within the assembly.
- (v) All conductors installed or replaced on the Project must be placed in raceways/conduit.
- (vi) All belowground light standard foundations and structural connections must be designed by a Michigan Professional Engineer using LRFD design procedures.
- (vii) All handholes must meet the requirements and criteria set forth in MDOT Standard Specifications for Construction.
- (viii) New and replacement light standards, bases and connections must be made of steel, unless approval is given by MDOT.
- (ix) When replaced, existing light standard arms in the “shepherd’s crook” configuration must be replaced with another suitable design approved by MDOT. No new “shepherd’s crook” installations will be allowed unless the design is specifically approved by MDOT in advance of installation.
- (x) Temporary lighting will be subject to the same design and performance criteria contained in this Article 1 as permanent lighting.
- (xi) Luminaires affected by snow removal chemicals must conform to ASTM B 117 for Salt Spray (Fog) testing (minimum 3000 hours).
- (xii) Project Company must provide evidence that components such as the luminaire power supply, driver/ballast, optical assembly, and surge suppression module are field serviceable and upgradable by means such as modular electrical connections or easy access mounting hardware. Evidence must include details of where luminaire busman fusing is located (i.e., inside the pole base handhole or in another location with similar access characteristics).
- (xiii) If Project Company proposes the use of new light posts or standards made of materials other than steel, detailed technical data must be submitted and evaluated for the proposed light posts during the Proposal phase.

- (xiv) Project Company may use any combination of processes, equipment and systems to control the Improved Freeway Lighting System, provided they meet the requirements of the Agreement. Such processes, equipment, systems and details of their application must be fully documented within the D&C Works Plan and the O&M Plan.

ARTICLE 2 SITE MANAGEMENT

Section 2.1 Demolition and Removal

Project Company must meet the requirements of MDOT Standard Specification 204 Removing Miscellaneous Structures and Materials when demolishing, removing, or disposing of materials from the Project.

Project Company assumes ownership of all salvageable products removed from the Project.

Section 2.2 Erosion and Sediment Control

Project Company must provide erosion and sediment control when any work disturbs soil, drainage patterns, or vegetation. Such control must meet the requirements of MDOT Standard Specification 208 Soil Erosion and Sedimentation Control and MDOT Standard Specification 916 Erosion and Sedimentation Control. Project Company must use best management practices such as those described in MDOT Standard Plan for Soil Erosion & Sediment Control Measures (R-96-E), and maintain consistency with current MDOT practices.

The Project Company will be required to assign an individual who is responsible for the design, inspection and maintenance of the soil erosion and sedimentation control measures. The individual must hold a current Act 451, Part 91 Soil Erosion and Sedimentation Control certificate and a current Part 31, Stormwater Operator's Certificate. The Project Company's assigned person will be required to complete erosion and sedimentation control reports every seven calendar days or within 24 hours after every precipitation event that results in runoff from the site and will provide a copy to the MDOT Representative upon completion of the report. The Project Company shall take the required action outlined in the report with the timeframes required by federal regulations.

Section 2.3 Habitat Preservation

Habitat preservation must conform to the requirements of the environmental clearance included in Exhibit I of these Technical Requirements if such habitat is encountered.

ARTICLE 3 NON-LIGHTING ELEMENTS

Section 3.1 Prior MDOT Approval

If Project Company believes that its proposed design requires constructing, reconstructing or repairing Non-Lighting Elements, or connecting lighting elements to existing Non-Lighting Elements, Project Company must obtain prior MDOT approval to undertake such activities. The approval request submittal must include:

- (a) Documentation that briefly justifies and explains why and where such new construction, reconstruction, rehabilitation or connection is needed to accommodate Project Company's design;

- (b) Detailed descriptions of the Elements and their exact locations; and
- (c) Preliminary designs and design assumptions for the planned construction, reconstruction, repair or connection. The recommended preventative maintenance plan that will be implemented to keep the Elements in good condition and prevent further deterioration.

Project Company must not perform construction, reconstruction or repair of Non-Lighting Elements, or connection of lighting elements to existing Non-Lighting Elements, without prior written MDOT approval. MDOT approval will identify the specific activity and locations, list conditions of approval (if any), or list any waivers, modifications or additions to the corresponding requirements for the D&C Works. MDOT is under no obligation to approve Project Company's request to undertake such activities. If MDOT does not respond to Project Company's request within 14 days, the request is automatically disapproved without prejudice. Project Company may resubmit the request at its discretion.

Section 3.2 Design and Construction of New Non-Lighting Elements

If MDOT approves construction of new Non-Lighting Elements in accordance with Section 3.1 of these D&C Requirements, Project Company must:

- (a) Prepare design plans, including plans for connections to lighting Elements, for individual Elements which meet the design, construction, performance and material requirements of the appropriate MDOT Standard Specifications or any additional or differing requirements MDOT specifies in its approval;
- (b) Construct the new Non-Lighting Elements in accordance with MDOT Standard Specifications and/or MDOT-approved requirements, including inspection by MDOT personnel or their designees; and
- (c) Performing O&M Works for such new Non-Lighting Elements for the remainder of the Term.

To minimize exterior mounting of conduit and similar features, all newly constructed new Non-Lighting Elements carrying or mounting lighting fixtures must be designed and built to contain conduit and cabling within the new Non-Lighting Elements except as required for O&M Work access points. In areas where repairs are needed, existing exposed conduit can be used and remain in place during the Term provided such conduit would not otherwise constitute a Defect.

Section 3.3 Design and Construction on Existing Non-Lighting Elements

- (a) Reconstruction, or Repair of Existing Non-Lighting Elements

Project Company may, but is not required to, reconstruct (replace) Existing Non-Lighting Elements which no longer meet the requirements of this Agreement. If Project Company elects to repair portions of such Elements in lieu of reconstruction or replacement, the detailed design plans submitted under this Section 3.3(a)(i) must also establish the criteria for determining the limits of repair on Existing Non-Lighting Elements. Repair designs must demonstrate that the repair limits are compatible with the installation of lighting elements, and with the integrity and function of the remaining portions of the Existing Non-Lighting Elements identified for repair.

If MDOT approves reconstruction, or repair of the Existing Non-Lighting Elements under the process described in Section 3.1, Project Company must:

- (i) Prepare detailed design plans for each individual Existing Non-Lighting Element that either:
 - A. Conform to the design of the Existing Non-Lighting Elements; or
 - B. Meet the design, construction, performance and material requirements of the applicable MDOT Standard Specifications and any additional or differing requirements MDOT specifies in its approval.
 - (ii) Construct the Existing Non-Lighting Elements in accordance with MDOT Standard Specifications and/or MDOT-approved requirements, including inspection by MDOT personnel or their designees. Concrete Barrier repairs should generally follow the specifications outlined in Section 712 of the MDOT Standard Specifications;
 - (iii) Document the repair and preservation plan for repaired Elements; and
 - (iv) Perform the O&M Works for the Existing Non-Lighting Elements for the remainder of the Term.
- (b) New Connections of Lighting Elements to Existing Non-Lighting Elements

Subject to MDOT approval, Project Company may design and construct new connections between lighting Elements and Existing Non-Lighting Elements using MDOT Standard Specifications, AASHTO criteria or other criteria approved by MDOT.

If MDOT approves new connections of lighting Elements to Existing Non-Lighting Elements under the process described in Section 3.1, Project Company must:

- (i) Prepare detailed design plans for each type of connection that demonstrate compatibility with the integrity and function the affected Existing Non-Lighting Elements, and such plans must clearly include:
 - A. The performance parameters under which the plans can be implemented (e.g., stresses, allowable exposure conditions, allowable deflections, compatible materials);
 - B. Coordination details with any detailed plans for reconstructing or repairing affected Existing Non-Lighting Elements under Section 3.3(a); and
 - C. The specific MDOT, AASHTO or other MDOT-approved design criteria under which the connection is designed.
- (ii) Construct the connection of the lighting Elements to the Existing Non-Lighting Elements in accordance with MDOT Standard Specifications and/or MDOT-approved requirements, including inspection by MDOT personnel or their designees; and
- (iii) Perform the O&M Works for such connections for the remainder of the Term.

ARTICLE 4 COORDINATION WITH FUTURE WORK

Section 4.1 General

During the Term, MDOT will perform other work and permit public Utility companies and others to do work on or near the Project as discussed in MDOT Standard Specifications for Construction Section 104.08.

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Project Company must coordinate its activities and cooperate with the holders of separate contracts, both present and future, and their forces including the Interface Parties. When Project Operations coincide with other projects or activities within the Project corridors, Project Company must conduct operations in a manner that maintains public convenience and safety; cooperates and minimizes interference with activities of the Interface Parties, Utilities, or any public authority on or near the Project; and complies with any MDOT directions regarding coordination and prioritization of activities.

MDOT will not be liable for any Claim from Project Company with respect to delays caused by Interface Parties except as provided in Article 28, Article 29 or Article 30 of the Project Agreement.

Section 4.2 Known Projects within the Corridor

Two Major Projects are known to be planned for the Premises during the Term. Limits and general descriptions of these Major Projects planned for phased construction within the I-75 and I-94 corridors are provided in Exhibit F

(a) Current and Recent Construction

A list of current and recent construction projects is located in Exhibit F. Project Company may accept lighting within these projects “as-is” without performing additional D&C Works within the first 2 years of the Term, provided those elements meet the Lighting Performance Criteria of Article 1. Project Company will be responsible for the O&M Works with respect to these items throughout the Term.

(b) Future Major Projects

Current lists of known Major Projects are located in Exhibit F of these Technical Requirements. Subject to the requirements in the remainder of this Section 4.2(b), Project Company may postpone replacement of functioning luminaires within the limits of the I-75 and I-94 Major Projects until those projects have been completed. During the period prior to Major Project completion, Project Company will treat such areas as part of the Improved Freeway Lighting System, and will be required to perform O&M Works on any such portions of the Freeway Lighting System within the limits of the Major Projects to the required performance standards for the Project; except that luminaire color-temperatures may be maintained for continuity with the color temperatures of the existing luminaires, as long as existing luminaire types are not changed. In areas of the Major Projects where Project Company chooses not to postpone replacement of existing luminaires, Project Company will implement all other required lighting improvements prior to Substantial Completion, and must perform the full O&M Work scope upon completion of such work.

When design begins on the Major Projects, Project Company must provide MDOT criteria with plans and specifications for the Improved Freeway Lighting System that applies to the Major Project areas for use in preparing lighting plans for the Major Project contract. MDOT will provide Project Company with a review and comment cycle for the lighting design plans no less than 60 days before the plans are released for construction. Prior to removing any aspect of the Relevant Infrastructure, MDOT will allow Project Company an opportunity to salvage any usable products at a time mutually agreeable to Project Company, MDOT and the Major Project contractor.

Project Company must provide luminaires and any required remote monitoring equipment to the Major Project contractor for all work associated with the Major Projects. Project Company will

not otherwise have any obligations to design, construct or incorporate the upgrades to the Relevant Infrastructure in the area where the Major Projects will be performed.

Project Company will indemnify MDOT against any Claims as a result of not providing the luminaires and remote monitoring equipment to the Major Project contractor according to their schedule.

MDOT will provide Project Company the opportunity to inspect the work associated with the Major Projects to ensure compliance with the plans and specifications provided to the Major Project contractor. Within 24 hours of each inspection, Project Company will deliver written determinations to MDOT and the Major Project contractor of any work that does not conform to the plans and specifications; all inspected work without such determination will be considered complete. Project Company will repeat the process each time corrective measures are attempted on nonconforming work until MDOT, in consultation with Project Company, determines that all such work meets the plans and specifications.

Project Company will be responsible for all O&M Work with respect to the Major Projects work upon completion of such works and such work will form part of the Improved Freeway Lighting System for the remainder of the Term.

Section 4.3 Other Future Projects and Utility Work

(a) Other Future MDOT Projects

MDOT will use reasonable endeavors to:

- (i) notify Project Company monthly of other future planned roadwork within the Premises not contemplated under Section 4.2, including the 5-year plan via the Call for Projects; and
- (ii) provide Project Company plans, schedule, known activities directly or materially affecting the Project Operations.

(b) Planned Energy Services Provider Conversion

- (i) Public Lighting Department of the City of Detroit (PLD) currently provides electrical power service to panels at 54 sites on the Project through 22 substations as listed in Table 4.3. DTE Energy (DTE) will assume responsibility as the energy service provider at those panel locations, and will perform Conversion Work during the Term.

Service at the existing panel locations is generally delivered from substations to the panels at 480V to ground. Some locations currently have 240V supplied power and these locations will remain 240V. At the locations that require Conversion Work by DTE, the anticipated electrical service to the meter will be 277/480V 3-phase. Out of the meter on the MDOT side, DTE anticipates installing a pad mounted dry type transformer to transform the 277/480V 3-phase electrical serve to deliver the same service voltage currently provided. Each voltage transformation will be approved by MDOT or MDOT's Representative before installation. Upon completion of the Conversion Work by DTE, the anticipated electrical service at these panel locations will be 277/480V 3-phase. DTE's Conversion Work will include voltage transformation on MDOT's side of the meter. Prior to Substantial Completion, DTE will be installing separate meters for combined sites within the Premises (sites where power service for lighting is intermingled with non-lighting features) if separate meters are not currently provided.

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For the purposes of performing the D&C Works, the relevant areas within the Premises will either have converted service (where Conversion Work is complete at the time Project Company initiates Project Operations at the Premises) or existing service (where Conversion Work has not yet been completed at the time Project Company initiates Project Operation at the site).

The Conversion Work (including all labor and materials to perform such work) will be performed by DTE and does not form part of the scope of this Agreement and will not constitute a Change or otherwise entitle Project Company to make a Claim under the Agreement (including any changes to the scope, timing or proposed performance of the Conversion Work).

- (ii) Project Company must perform all D&C Work required for Substantial Completion in accordance with the Construction Schedule, regardless of whether DTE has completed any corresponding Conversion Work.

As DTE performs Conversion Work during the Term (regardless of whether before or after Substantial Completion), Project Company must continue to coordinate and implement any works or services necessary to ensure the Improved Freeway Lighting System can accommodate the Conversion Work so as to meet applicable codes, the requirements of this Agreement and Good Industry Practice.

Project Company must coordinate with DTE and MDOT on Conversion Work throughout the Term in accordance with Section 13.2 of the Agreement, Article 4.3(b) of the D&C Works Requirements and Article 3.5(b)(xii) of the General Technical Requirements. Project Company must provide schedule information as required under Article 3.5 of the General Technical Requirements describing coordination and sequencing with the Conversion Works.

MDOT will provide Project Company with all available technical and schedule information related to the Conversion Works, immediately after information is received for the duration of the Term.

MDOT will provide Project Company the opportunity to inspect the Conversion Work on the secondary side associated with the Conversion Work as the work is completed and Project Company must carry out such inspection within 5 Business Days. Within 24 hours of each inspection, Project Company will deliver written determination to MDOT of any Conversion Work that has a material impact on the cost of performing the O&M Works and MDOT will use reasonable endeavors to ensure such work is completed by DTE. All inspected Conversion Work without such determination or where Project Company fails to carry out an inspection will be deemed complete and not to impact the performance of the O&M Works. Project Company will be required to inspect the Conversion Work each time corrective measures are attempted on nonconforming Conversion Work in accordance with this provision.

Table 4.3: PLD PANELS TO BE TRANSFERRED TO DTE SERVICE

| # | Meter Location/Address | Power Service Identifier | Combined Substation |
|---|------------------------|--------------------------|----------------------|
| 1 | 18537 Borman | Fullerton House | Greenfield & Trinity |
| 2 | 13675 Curtis | Schaefer Regulator House | Greenfield & Trinity |
| 3 | 12944 Evergreen | Evergreen Transclosure | Greenfield & Trinity |

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| | | | |
|----|--|--------------------------------|----------------------|
| 4 | 12300 Greenfield | Greenfield Outdoor Load Center | Greenfield & Trinity |
| 5 | Keeler & Southfield Fwy. | Keeler Regulator House | Greenfield & Trinity |
| 6 | 16764 Meyers | Meyers Regulator House | Greenfield & Trinity |
| 7 | 13178 Schaefer | Schaefer Outdoor Load Center | Greenfield & Trinity |
| 8 | 22080 Schoolcraft | Outer Drive Transclosure | Greenfield & Trinity |
| 9 | 8307 Southfield Fwy. | Constance Regulator House | Greenfield & Trinity |
| 10 | MDOT I-96 & Wyoming | Wyoming Transclosure | Greenfield & Trinity |
| 11 | 18138 W. 7 Mile (NW corner of 7 Mile & Southfield Fwy.) | 7 Mile Regulator House | Greenfield & Trinity |
| 12 | 15933 8 Mile (SW corner 8 Mile & James Cousins) | 8 Mile Regulator House | Greenfield & Trinity |
| 13 | 5807 Southfield Fwy. (SB Southfield Fwy., Ford Rd. overpass) | 4630 Southfield Highway | Montrose |
| 14 | 8315 Michigan Ave. | Lanyo Regulator House | Walton |
| 15 | 4300 Pacific | Pacific Transclosure | Walton |
| 16 | 850 Bagley | Vernor Regulator House | COBO Hall |
| 17 | COBO Hall | Power Distribution Center | COBO Hall |
| 18 | 900 W. Jefferson | Ford Transformer Room | COBO Hall |
| 19 | McNichols & Russell (I-75) | McNichols Transclosure | Palmer Park |
| 20 | 12800 Harper | Outer Drive Regulator House | Conner |
| 21 | 1954 E. Davidson | Dequindre Transclosure | Jos. Campau |
| 22 | 6028 Cadillac St. | Cadillac Regulator House | Leesville |
| 23 | 5903 Conner | Connor Regulator House | Leesville |
| 24 | 6080 Mt. Elliott (@ Ford Fwy.) | Mt. Elliott Regulator House | Ludden & Hudson |
| 25 | 14356 12th | Linwood Regulator House | Palmer Park |
| 26 | 18200 Chrysler Service Dr. (Savanah N. of Nevada) | McNichols Transclosure | Palmer Park |
| 27 | M-10 under Davison Fwy. overpass; Clements Davison | Atkinson Regulator House | Palmer Park |
| 28 | 15458 Holmur | Linwood Regulator House | Palmer Park |
| 29 | 918 Lantz | Lantz Transclosure | Palmer Park |
| 30 | 15505 Linwood | Linwood Regulator House | Palmer Park |
| 31 | 15458 Santa Rosa (John C. Lodge Service Dr.) | Woodingham Regulator House | Palmer Park |
| 32 | 915 Bethune | Atkinson Regulator House | Butzel |
| 33 | 924 Milwaukee | Atkinson Regulator House | Butzel |
| 34 | 1453 Calvert | Atkinson Regulator House | Joy Rd |
| 35 | 915 Euclid | Atkinson Regulator House | Joy Rd |
| 36 | 1137 Edison | Atkinson Regulator House | Joy Rd |
| 37 | 1225 W. Chicago | Atkinson Regulator House | Joy Rd |
| 38 | 15463 Woodingham | Woodingham Regulator House | Labelle |
| 39 | 9288 Dearborn St. (under Fisher Fwy.) | Dearborn Transclosure | Stone |
| 40 | 10531 Turner | Turner Substation | Turner |

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| | | | |
|----|---|---|-------------------|
| 41 | 911 E. Ferry | Ferry Regulator House | Canfield |
| 42 | 2753 E. Grand Blvd (Transclosure under the railroad bridge) | Boulevard Transclosure | Canfield & Custer |
| 43 | 873 W. Kirby | Wayne State University Kirby Regulator House | Canfield & Custer |
| 44 | 618 E. Chrysler | Larned Ave Transformer Room | Maple |
| 45 | 986 Gratiot | (Not currently in lighting panel inventory) | Maple |
| 46 | 9037 Cadieux | Cadieux Regulator House | Philip |
| 47 | 14904 Harper (I94 at E Outer Dr.) | Outer Drive Regulator House | Philip |
| 48 | 1042 Cherry | Vernor Regulator House | Porter |
| 49 | Lodge & N. of Fort | Fort Street Transformer Room | Porter |
| 50 | 2633 Michigan Ave. | 16th Street Transclosure | Stanton & Warren |
| 51 | 754 Junction | Junction Transclosure | Lothrop |
| 52 | 2968 Putnam | Putnam Transclosure | Lothrop |
| 53 | 9695 Livernois | Livernois Regulator House | Stanton & Warren |
| 54 | 5479 McKinley | Roosevelt Regulator House | Stanton & Warren |

ARTICLE 5 MAINTENANCE OF TRAFFIC

Section 5.1 Order of Precedence

In the event of a conflict among any standards referenced in plans or specifications relating to maintenance of traffic, the order of precedence is as set forth below, unless otherwise specified:

- (a) The criteria contained in this Article
- (b) MDOT Frequently Used Special Provisions
- (c) MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual
- (d) Michigan Manual of Uniform Traffic Control Devices (MMUTCD)
- (e) MDOT Maintaining Traffic Typicals
- (f) Maintenance Work Zone Traffic Control Guidelines
- (g) MDOT Work Zones - Correspondence/Guidelines
- (h) MDOT Standard Highway Signs
- (i) MDOT Standard Plans
- (j) MDOT Supplemental Specifications

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- (k) MDOT Standard Specifications for Construction

Section 5.2 Maintenance of Traffic Requirements

- (a) Conditions Requiring Maintenance of Traffic

Project Company must design and implement Maintenance of Traffic for each aspect of the D&C Works that affects traffic. For purposes of this Section, an aspect of the D&C Works is considered to affect traffic if it:

- (i) Requires Lane Closures,
- (ii) Is located within 30 feet of edge of a freeway travel lane or ramp that is not already protected by a permanent concrete barrier (excluding curbs and low-profile barriers), or
- (iii) Is located beyond the 30-foot zone identified above that is not already protected by a permanent concrete barrier (excluding curbs and low-profile barriers), but is still located within a roadway clear zone.

- (b) Approved Transportation Management Plan (TMP) Prior to Construction

Project Company must develop, submit, update and maintain a TMP as part of the PMP. The TMP must meet the following conditions (using definitions established in the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual) before conducting any aspect of the D&C Works that affects traffic.

- (i) Project Company's current TMP must be signed and sealed by a Professional Engineer.
- (ii) Project Company's TMP must be approved by the MDOT Representative pursuant to the PMP approval processes.
- (iii) Project Company's TMP must contain general Maintenance Temporary Traffic Control Plans ("MTTCP") for each aspect of the D&C Works anticipated in the upcoming year requiring a Mobile, Short Duration, Short-Term Stationary or Intermediate-Term Stationary traffic control as defined within the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual. Each general MTTCP should be sufficiently self-contained and clearly identified to allow Project Company to specify its use by call-out (with minor modifications, as needed).
- (iv) Project Company will update the TMP by adding a "Corridor TTCP" (or "CTTCP") for each corridor upgrade type aspect of the D&C Works requiring long-term stationary traffic control where Lane Closure durations exceed 3 days, including setup and removal.

- (c) Lane Closure Notification for Each aspect of the D&C Works that Affects Traffic

Project Company must notify MDOT of each upcoming aspect of the D&C Works, if traffic is affected by Lane Closures, by submitting individual Lane Closure Notifications for the relevant aspect of the D&C Works. This submission will serve as Project Company's initial notification to MDOT of upcoming work, and will initiate MDOT approval processes (if any are required).

MDOT will not issue a specific approval for any Lane Closures, but reserves the authority to notify Project Company of any concerns, coordination issues, or conditions requiring postponement and/or revision of the Lane Closure. Project Company achieves this notification by submitting a Lane Closure Notification to MDOT from the responsible Professional Engineer designing the MOT plans.

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When the Professional Engineer determines that an aspect of the D&C Works requires use of a Maintenance TTCP already included in the currently approved TMP, the Lane Closure Notification submission to MDOT must include the Professional Engineer's designation of the corresponding MTTCP along with any minor modifications required for the particular location. Such Lane Closure Notifications must be submitted to the MDOT Representatives no less than 7 days prior to start of the aspect of the D&C Works.

When the Professional Engineer acting on behalf of the Project Company determines that an aspect of the D&C Works requires use of a Maintenance TTCP that is not already included in the currently approved TMP, the Lane Closure Notification submission to MDOT must also include the Professional Engineer's site-specific MTTCP. Such Lane Closure Notifications must be submitted to the appropriate MDOT Representative no less than 14 days prior to start of the aspect of the D&C Works.

When the Professional Engineer determines that an aspect of the D&C Works requires use of a Corridor TTCP, the Lane Closure Notification submission to MDOT must also include the Professional Engineer's site-specific CTTCP. Such Lane Closure Notifications must be submitted to the appropriate MDOT Representative no less than 90 calendar days prior to start of the aspect of the D&C Works.

Section 5.3 Transportation Management Plans

The TMP must document how Project Company will manage public traffic and traffic generated by its Project activities. Project Company must evaluate potential mobility impacts with respect to the most current versions of the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual and develop, implement, and maintain a Transportation Management Plan (TMP). The TMP and all subsequent updates to it must be consistent with and comply with all of the definitions, guidelines and requirements of the Agreement and the Michigan Manual of Uniform Traffic Control Devices, current edition.

Within 45 days following Commercial Close, Project Company must submit an initial TMP to the MDOT Representative pursuant to the MDOT review process in Article 46.2. Project Company must not conduct any aspect of the D&C Works that affects traffic without a current Transportation Management Plan that has been signed and sealed by Project Company's designated Professional Engineer, and approved by the MDOT Representative. Once the TMP has been approved by MDOT, Project Company will ensure that all MOT plans conform to the TMP.

Following the acceptance of the initial TMP by the MDOT Representative in accordance with the Submittal Requirements, Project Company must submit all subsequent proposed changes to the TMP to the MDOT Representative pursuant to the Submittal Requirements. The TMP may be updated and submitted to the MDOT Representative at any time, but must be submitted at least annually for MDOT approval regardless of whether Project Company proposes any changes at that time.

(a) General Contents

The TMP content must follow the guidelines in the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual, and must include the following general parts:

- (i) Temporary Traffic Control Plans (TTCP);
- (ii) Work Zone Traffic Control Plan (WZTCP);

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- (iii) Transportation Operations Plan (TOP); and
- (iv) Public Information Plan (PIP).

(b) Temporary Traffic Control Plans (TTCP)

- (i) Maintenance Temporary Traffic Control Plans (MTTCP)

Maintenance Temporary Traffic Control Plans (“Maintenance TTCPs” or “MTTCPs”) are defined within the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual. MTTCPs typically consist of one or more MDOT traffic control standard plan sheets, augmented with an Engineer’s narrative describing limitations for application and/or modified by the specifying Engineer to accommodate site-specific conditions.

- (ii) Corridor Temporary Traffic Control Plans (CTTCP)

Corridor Temporary Traffic Control Plans (“Corridor TTCPs” or “CTTCPs”) are defined as a TTCP for a corridor upgrade-type aspect of the D&C Works requiring long-term stationary traffic control, or for Lane Closure durations exceeding 3 consecutive days.

Project Company must use the procedures in the TMP to provide for all construction staging, construction site security, and access to the construction site. The CTTCPs must be prepared under the direction of the Design Lead Traffic Engineer. CTTCPs must be submitted, approved, and provided to field personnel prior to the implementation of traffic control, so that temporary signing and other traffic control devices are installed correctly the first time. Project Company’s CTTCPs must include the following items:

- A. Complete plan sheets and typicals for construction access, security, staging and appropriate traffic control;
- B. Plan sheets and/or details for handling construction operations such as material delivery and storage, access and exit of construction and delivery vehicles, haul roads, and other items that may impact traffic;
- C. Details of temporary construction of detour roadways, bridges, retaining structures, drainage, or other miscellaneous construction when required to maintain traffic;
- D. Roadway plan sheets showing all in-place traffic control devices that need to be retained, relocated, or removed and temporary traffic control devices that need to be installed, retained, relocated, or removed;
- E. Drawings showing dimensions, background colors and legends for fabricating any sign not detailed in the MDOT Standard Highway Signs;
- F. The size and color of all standard traffic control devices;
- G. Roadway plan sheets with drawings of the proposed temporary signs at the approximate location of each sign so it can be easily read in relation to the roadway and other traffic control devices;

- H. Provisions for using temporary guardrail, water-filled barrier, temporary concrete barrier wall, or attenuators to protect the traveling public and to provide security for the Project Site; and
- I. Emergency vehicle access points at each end of CTTCP MDOT operation meeting the following design standards:

| Design Standard | Emergency Vehicle Access |
|---|--|
| Design Vehicle | S-BUS-40 (AASHTO 2004) |
| Roadway Type | 6 in minimum Class 21AA, compacted per standards |
| Clear Roadway Width | 20 feet min. |
| Special Features: 1) The maximum grade must be 8 percent with 4 percent as the maximum in turn around areas. 2) The vertical clearance must meet at a minimum 16 feet, 3 inches or the average corridor under-clearance. 3) Emergency vehicle access path must be free from obstructions at all times to minimize emergency response times. No parking of vehicles, equipment, or stockpiling of materials must be allowed along the emergency access roadway. Project Company may use this as a haul road, but at the first notice of an approaching emergency vehicle, Project Company must remove vehicles from the emergency path and stop using the emergency access roadway until the emergency vehicle leaves the area. | |

(c) Work Zone Traffic Control Plan (WZTCP)

Project Company must prepare a Work Zone Traffic Control Plan (WZTCP) for Construction Activities requiring a CTTCP, and submit the WZTCP with the CTTCP.

The WZTCP must:

- (i) conform to the MDOT Standard Specifications for Construction (Subsection 104.11B), the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual;
- (ii) outline Project Company’s haul routes, work zone ingress/egress points, the maintenance of the temporary traffic control devices and measures that will be taken to ensure compliance with the CTTCP; and
- (iii) Minimize conflicts between construction vehicles and motorists, and maintains overall safety and mobility within the work zone.

(d) Transportation Operations Plan (TOP)

A Transportation Operations Plan (TOP) outlines strategies that will be used to mitigate work zone impacts. See the guidelines in the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual for additional detail on content.

(e) Public Information Plan (PIP)

A Public Information Plan (PIP) contains strategies to inform those affected by the work zone impacts and the changing conditions. See the guidelines in the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual for additional detail on content.

(f) Additional Required Information for the TMP

The TMP must also provide the following information:

- (i) Identification of parties responsible for implementing the TMP provisions and for monitoring the safety and mobility aspects of the project;
- (ii) Descriptions of the duties of a MOT Manager or designee and other personnel with maintenance of traffic (MOT) responsibilities, which must include responsibility of all traffic control, maintenance and modifications to traffic control during construction, and 24-hour/7-day availability;
- (iii) Information on persons serving in the role of MOT Manager or a designee, including names, contact methods, personnel availability or hours of duty, and response times for responses to any conditions needing attention during on and off-hours;
- (iv) Procedures and strategies proposed to manage Incidents that occur in the work zone;
- (v) Procedures to provide access for Emergency Service Providers to all parts of the Premises in case of Emergency;
- (vi) Methods and frequency of inspection and maintenance of all traffic control throughout the Premises;
- (vii) Procedures for communicating TMP information to MDOT's public information personnel and SEMTOC, and
- (viii) Procedures for notifying the public of MOT.

Section 5.4 General Operational and Equipment Restrictions

(a) Traffic Restrictions

- (i) Exhibit A contains a partial list of known special events that will routinely occur during the Term. Subject to Section 5.4(a)(iii), prior specific MDOT approval is required for any Lane Closures or restrictions occurring on a freeway containing access points to/from a special event location within a period from 3 hours prior to the start of a special event until 5 hours after the start time. This list is not exhaustive and MDOT will expand this list throughout the Term. Changes to this list will not constitute grounds for any Claim by Project Company.
- (ii) Exhibit B contains a list of freeway segments in the Metro Region and the hours during which Lane Closures are restricted. Subject to the terms of the Payment Mechanism, MDOT may update this list from time-to-time to reflect changing traffic patterns. Lane Rental charges will be assessed for Lane Closures using Exhibit B and as described in Schedule 3 to the Agreement – Payment Mechanism.
- (iii) Project Company must not conduct Lane Closures during the following holiday periods: Memorial Day, July 4th, Labor Day, Thanksgiving (Thursday and Friday), Christmas Eve/Day, and New Year's Eve/Day.
- (iv) Project Company will not be allowed to close all lanes of a freeway in one or both directions simultaneously. However, except during holiday periods identified in section 5.4(a)(iii) above, MDOT may grant Project Company approval to use rolling traffic stoppages for work over freeway lanes between 11:00 PM to 5:00 AM for a maximum of 15 minutes at a time. Project Company must allow all stopped traffic to clear the closure

- area between stoppages, and must ensure that law enforcement personnel are utilized during any freeway stoppage operations.
- (v) Project Company must report all Lane Closures to MDOT in the Monthly Report following their occurrence as described in Schedule 3 to the Agreement – Payment Mechanism, Article 4, Lane Rental Charges. Lane Rental Charges will be deducted from the next Milestone Payment or Service Payment as applicable.
 - (vi) The length of a Lane Closure shall not exceed approximately 1-½ miles (8,000 feet) between placement of the “WORK ZONE BEGINS” sign and the “END ROAD WORK” sign, unless otherwise approved by MDOT. Project Company must provide a minimum gap of approximately 2 miles (10,500 feet) between consecutive Lane Closures along the same direction of roadway, unless otherwise approved by MDOT.
 - (vii) Project Company must provide a minimum of 2 feet of paved shy distances between an active travel lane and the face of any adjacent TCB, curb, guardrail face, or permanent barrier. Barriers placed for shoulder closures must be arranged to maintain this shy distance. When maintaining ramp traffic, ramp lanes must be at least 11 feet wide with an additional 2 feet of paved shy distance between the edge of the ramp lane and barriers. At least 3 feet of paved shy distance must be provided from the edge of the ramp lane when not adjacent to barriers. At least 4 feet of paved shy distance must be provided from the edge any other active travel lane when not adjacent to barrier.
 - (viii) Active travel lanes adjacent to shoulders closed for lighting work where the shoulders are less than 10 feet in width must be closed while such work is being performed. Active travel lanes located within 4 feet of overhead lighting work must be closed while such work is being performed.
 - (ix) Project Company must not close any two (2) consecutive ramps simultaneously and only two (2) active ramp closures will be allowed in any one direction of a given freeway.
 - (x) Prior to any freeway Lane Closure, and prior to making any changes to signing, pavement markings, lanes, barricades, or closure locations, Project Company must coordinate with the MDOT Representative and Contractors working on other projects in the vicinity to avoid conflicts.
 - (xi) Freeway-to-freeway interchange ramps between arterial freeways (designated as either “M” routes or Interstate routes or both) must remain open at all times, unless prior written approval is granted from MDOT.
 - (xii) Project Company must provide a signed detour for a ramp closure subject to lane rentals under Schedule 3 – Payment Mechanism, or for a ramp closure duration exceeding 72 hours. Detour signing must be posted prior to closing a ramp. The detour route must be approved by MDOT and any local road maintaining agencies prior to installation of signs or implementation of the detour. When closing a freeway ramp, all M4-8 (detour) signs and M3-series cardinal direction signs must be 30 inches x 15 inches along freeways. All M1-series route marker signs along freeways must be 36 inches. All M5-series and M6-series directional arrow signs must be 30 inches x 21 inches along freeways; standard sizes of these signs may be used on arterial streets and service drives. The colors of the signs must be as defined in the Standard Highway Signs Manual.
 - (xiii) Project Company must not close a travel lane where work can be safely accomplished with a shoulder closure.
 - (xiv) Gaps in median barrier created for the construction of lighting foundations must be protected by TCB per Standard Plan R-126 Series or other appropriate devices approved

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by MDOT. Single mobile attenuators are not considered appropriate devices for providing protection against vehicular impacts at exposed barrier ends; multiple TMA configurations may be submitted for MDOT approval.

- (xv) Whenever a travel lane is closed, the speed limit must be reduced by 10 mph. On freeways with a speed limit greater than 55 mph, the speed limit must be reduced to 45 mph by placement of a “45 Where Workers Present” sign when work is actively occurring within the work zone or clear zone that is not protected by a fixed barrier.

(b) Temporary Signing and Traffic Control Devices

- (i) All temporary signs must be fabricated utilizing prismatic retro-reflective sheeting Type VIII or higher per the MDOT Standard Specifications for Construction.
- (ii) All temporary traffic control devices must meet the “Acceptable” requirements of the American Traffic Safety Services Association (ATSSA), “Quality Standard for Work Zone Traffic Control Devices” when initially placed on the site. Project Company must replace devices in the field that do not meet these guidelines at their own cost and time risk. Copies of this publication are available from ATSSA at 15 Riverside Parkway, Suite 100, Fredericksburg, VA 22406.
- (iii) All temporary signs must be fabricated to meet NCHRP-350 crashworthy requirements or the requirements of the Manual for Assessing Safety Hardware (MASH), as applicable. The light and its maintenance must be included, unless the temporary sign is mounted on driven supports.
- (iv) Non-standard temporary signs and temporary signs with unique legends must adhere to the Frequently Used Special Provision for Type B, Temporary, Prismatic, Special (12SP812G).
- (v) All diamond-shaped warning signs must be 48 inches x 48 inches.
- (vi) All temporary signs must be mounted at a minimum bottom height of 5 feet in uncurbed areas and 7 feet in curbed or pedestrian areas.
- (vii) The minimum bottom height of the supplemental plaque must be centered and must not be less than 1 foot below the normal bottom height of the parent sign (i.e., minimum bottom height of supplemental plaque is 4 feet in uncurbed areas and 6 feet in curbed or pedestrian areas).
- (viii) Signs must not be attached to Type III Barricades.
- (ix) Temporary special signs must be installed on driven posts in accordance with the MDOT Standard Specifications for Construction and Frequently Used Special Provision for Supports for Temporary Signs
- (x) Temporary sign supports must be designed in accordance with the MDOT chart for wind loading. All driven sign supports used for temporary signs must be installed in accordance with MDOT Traffic Special Detail WZD 100-A, including meeting all requirements for breakaway supports.
- (xi) Temporary signs that will be used for 14 days or more in a single location must be installed on driven posts, except where located in pavement. In areas where driven supports are not possible, Project Company must propose options to MDOT. Portable sign supports or support systems must conform to criteria and conditions for use established in the FHWA acceptance letter for the sign system.

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- (xii) Project Company must remove the driven sign supports or post studs and restore the area when the sign is removed.
 - (xiii) Project Company must place W20-1 (“ROAD WORK AHEAD”) signs with appropriate plaques to denote freeway and direction on all intersecting roadways and ramps where construction activities may be encountered.
 - (xiv) Temporary warning, regulatory, and guide signs on driven supports must be either removed or covered when no longer necessary.
 - (xv) Temporary warning, regulatory, and guide signs on portable supports must be either removed or laid down with the feet removed and the legs pointing in the same direction as traffic flow when not in use.
 - (xvi) All existing ground mounted and overhead signs in conflict with the temporary traffic control must be covered by Project Company if the closure is anticipated to extend longer than three (3) consecutive days. Conflicting Type I, Type II, and Type III signs must be identified in the field by MDOT and Project Company. When signs on this Project are to be covered, they must be covered in accordance with the MDOT Standard Specifications for Construction.
 - (xvii) All signs, temporary or permanent, that are damaged as a result of improper sign covering, must be replaced.
 - (xviii) All traffic control devices and related materials that are not in use must be removed from the roadway shoulders and clear zone unless such devices or materials are scheduled to be used at that location in subsequent operations. Project Company must not leave such unused devices or materials on the roadway longer than two weeks.
 - (xix) NTCIP-Compliant Portable Changeable Message Signs (PCMS) must be used to warn traffic of upcoming and changing traffic control conditions for all locations where a CTTCP is required. The number of PCMS, corresponding messages, and PCMS locations should be incorporated into the TMP. Deploy PCMS a minimum of 7 days prior to the start of work. PCMS controller cabinets must be locked at all times unless the controller is being serviced. Secure each PCMS by elevating the tires above the ground or through the use of sandbags or MDOT Representative approved alternate. Locations and messages for each PCMS must be proposed by Project Company and approved by the MDOT Representative. If a PCMS will not be displaying an approved message per the contract documents, that board must be removed from the immediate traffic area if work and/or traffic operations are unchanged for 7 days.
- (c) Temporary Concrete Barrier and Mobile Attenuators
- (i) Project Company must use temporary guardrail, barricades, or barrier to protect the traveling public and to provide security of the Project Site.
 - (ii) Temporary Concrete Barrier (TCB) may be needed to protect the work area within the Project limits. TCB must be placed in accordance with the current version of MDOT Standard Plans and Special Details.
 - (iii) Traffic must not be exposed to the blunt end of TCB or permanent barrier wall without attenuation or without an adequate clear zone distance. When traffic is exposed to TCB, a Temporary Concrete Barrier Ending, Detail 2 must be placed at the approach end of the TCB when the end of the TCB falls within the clear zone per Standard Plan R 126 Series. When using a Detail 2 end treatment, omit the sloped barrier end section. Other end treatments may be proposed by Project Company for review and approval by MDOT.

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- (iv) The slope on the traffic side of the TCB must be 1:10 or flatter. TCB must not be placed on a slope steeper than 1:10.
 - (v) Mobile Attenuators (MAs) are required during all lane and shoulder closures required for all overhead work when working next to active lanes of traffic and placing construction zone signing. One Type C Lighted Arrow (minimum size of 48 inches x 96 inches) must be placed adjacent to the MA. Placement of the MAs and their associated lighted arrows must be as defined in Frequently Used Special Provision for Mobile Attenuator and must provide maximum coverage of the work area. Placement of MAs must be submitted by Project Company with the TMP for approval by MDOT.
 - (vi) MAs must not be used as permanent barrier or as temporary TCB attenuation devices.
 - (vii) No storage of equipment or materials is permitted within the clear zone at any time, unless it is protected by TCB or MA.
 - (viii) Project Company may use alternate methods, including temporary guardrail, to protect the travelling public from blunt end objects during the rehabilitation/reconstruction of non-lighting elements. The alternate methods must be prepared by a Michigan Professional Engineer and submitted to MDOT for approval as part of the TMP prior to implementing the method.
- (d) Channelizing Devices
- (i) Lighted Arrows, Type C, must be used when closing a shoulder or traffic lane and must be shown on the staging plans.
 - (ii) The spacing of channelizing devices must not exceed those specified in the MMUTCD.
 - (iii) Placement of Type III Barricades, Lighted and Type III Barricades, Double Sided, Lighted must be as shown in the MDOT Maintaining Traffic Typical. Stripes on barricade rails must be oriented as prescribed in the most current version of the MMUTCD.

Section 5.5 Construction Requirements

(a) Project Company's Responsibility

Project Company must implement appropriate maintenance of traffic activities whenever workers, equipment or traffic control devices are present in the work zone, or during periods when Work is being performed near the work zone that could affect traffic or mobility. Traffic control devices must be continually and adequately monitored and maintained to ensure proper placement, and the safe and efficient flow of all construction traffic and motorists into and out of the Project as stated in the Mobility Policy. MDOT may only suspend Project Company responsibility for maintenance of traffic in writing, and in conjunction with an official temporary suspension of work.

(b) Traffic Control Devices

All traffic control devices must conform to the current version of the MMUTCD.

All temporary signs, plastic drums, and Type III barricades used for maintaining traffic must comply with the MDOT Standard Specifications for Construction. Project Company must provide the Engineer with certification and an FHWA acceptance letter stating that the materials and devices meet the requirements specified in the MDOT Standard Specifications for Construction.

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Project Company is responsible for implementing a field identification system to identify all temporary signs, arrow boards, barricades and PCMS used on this Project. Identification must be located as allowed by the MMUTCD and must include the name of Project Company.

Project Company must routinely maintain all temporary traffic control devices. Project Company must replace any damaged or lost traffic control devices, including, but not limited to, plastic drums, Type A signs, Type B signs, Type III barricades, PCMS, lighted arrows, high-intensity lights, Temporary Concrete Barrier, and Temporary Concrete Barrier Endings.

Project Company must protect the work area and must supply the necessary traffic control devices apart from those called for on Project Company's plans to delineate the work area from the adjacent property.

All Test Level 1, Test Level 2, and Test Level 3 traffic control devices must be compliant with NCHRP 350 or meet the requirements of the Manual for Assessing Safety Hardware (MASH).

Project Company must include any formal detour plan for each closed ramp movement, including detour signing and pavement marking in the CTTCP, for submittal to the MDOT Representative to obtain approval for detour route use. Project Company must acquire approval(s) from other jurisdictions whose roadways are included in the detour, and include written approval documentation with the CTTCP submittal.

Project Company must not divert or allow traffic to run on rumble strips for more than 3 days. Project Company must remove and replace rumble strips and any necessary signing associated with driving or traversing rumble strips.

Freeway travel lanes must be at least 11 feet wide at all times.

If shoulders need to be constructed or reconstructed, shoulders along freeways must be paved with Safety Edge per MDOT Special Detail R-110-A when they are 4 feet or less in width and not adjacent to temporary concrete barrier or guardrail. No shoulder drop-off will be allowed when traffic is using the lane adjacent to the shoulder.

Temporary roadside delineators are required along the temporary shoulder of the freeway, spaced every 200 feet, if the distance to the hinge point does not exceed 5 feet, unless temporary concrete barrier or guardrail is used.

(c) Pavement Markings During Construction

Temporary pavement markings must be used where required in the MMUTCD for all CTTCPs unless specifically waived by MDOT during review of the CTTCP. If requested by Project Company in writing, MDOT may provide a written waiver of temporary pavement markings required in the MMUTCD for other TTCPs.

Upon completion of the Project, the surface streets must be returned to their original configuration with material replaced in kind and marked accordingly.

Project Company must remove conflicting pavement markings prior to placing temporary pavement markings. Over-painting of existing markings with temporary markings will not be allowed. Removal of pavement markings must not scar the pavement surface. Removal of pavement markings by grinding or milling will not be allowed.

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When existing pavement markings are removed, temporary pavement markings must be placed before opening lanes to traffic.

Temporary Type R markings must be used on all pavements where the traffic patterns are subject to change and on pavements not being removed or resurfaced. Temporary, Type NR markings must be used on all pavements where the traffic patterns are not subject to change and on pavements being removed in later stages. Type NR pavement markings must not be used along shifts, tapers or where the removal shadow line will conflict with permanent pavement markings.

All temporary special markings must be Overlay Cold Plastic.

(d) Work Zone Management

As described in the MDOT Work Zone Safety and Mobility Policy and MDOT Work Zone Safety and Mobility Manual, Project Company is responsible for work zone management during the construction, maintenance, or permitted activity work phase. Project Company must monitor work zone safety, mobility, and mitigation impacts, and field observations, crash data analyses, and other pertinent operational information must be documented. Project Company is responsible for any revisions or modifications necessary to improve the TMP during construction.

(e) Performance Assessment Plan (PAP)

PAPs are generally not required for this Project, but MDOT reserves the right to evaluate each CTTCP individually to determine whether verification of mitigation measures and strategies are needed. MDOT may require a PAP as described in the MDOT Work Zone Safety and Mobility Policy or MDOT Work Zone Safety and Mobility Manual for any CCTP where MDOT determines that verification of mitigation measures and strategies are needed.

PART C OPERATIONS & MAINTENANCE (O&M) REQUIREMENTS

ARTICLE 1 GENERAL OBLIGATIONS

Section 1.1 O&M Works Performance Requirements

Project Company must start performance of the D&C Term O&M Works no later than 90 days after Commercial and Financial Close and perform such works for the remainder of the O&M Term. Project Company must perform the O&M Term O&M Works for the duration of the O&M Term.

Throughout the Term, Project Company must perform the O&M Work in accordance with the terms of the Agreement and consistent with Good Industry Practice. Project Company must perform the O&M Works in a manner that provides a safe and reliable lighting system, and complies with Project performance requirements.

In performing the O&M Works, Project Company must take all necessary actions to achieve the following:

- (a) Maintain all lighting systems and related infrastructure located within the Premises to a level of care that is consistent with Good Industry Practice for urban areas such that no less than 95% of the illumination system is delivering light at the required times, light levels and uniformity. Conditions where more than 5% of the lamps in the system are missing, non-functional, misdirected or otherwise fail to deliver required lighting will be considered conclusive evidence that this requirement is not being met;
- (b) Maintain lighting timing, sequencing, power and other control processes and systems such that the processes and systems operate as designed;
- (c) Maintain the lighting quality requirements for illuminance and uniformity established by Section 1.3 of the D&C Works Requirements;
- (d) Monitor the existing Freeway Lighting System and the Improved Freeway Lighting System for quality and performance, including:
 - (i) Identifying damage, deterioration, reduced quality, ineffective processes, or other attributes of the Systems that create Defects or other conditions that do not meet the requirements of the Agreement or conform to Good Industry Practice;
 - (ii) Logging all Defects into MMIS;
 - (iii) Scheduling Mitigation and Remedy for Defects and damages.
- (e) Install and replace Elements of the Improved Freeway Lighting System using only products which meet the criteria established in Section 1.4 of the D&C Works Requirements and the Agreement;
- (f) Mitigate and Remedy all Incidents and Defects in accordance with this Agreement; including
 - (i) Isolated and grouped outages, and
 - (ii) Non-outage Defects

- (g) Minimize delay and inconvenience to Users of the Project freeways and adjacent roadways, including:
 - (i) Provide and update the TMP as required under this Agreement, and
 - (ii) Implement traffic control operations meeting the requirements of the PMP, TMP and the Agreement;
- (h) Identify, Mitigate and Remedy all Noncompliance Events in accordance with this Agreement;
- (i) Monitor Defects and damage to the Improved Freeway Lighting System for trends in lighting outages caused by Incidents, and by weather and environmental conditions, and proactively deploy resources to minimize outages and any resulting delays or safety hazards.
- (j) Minimize the risk of damage, disturbance to or destruction of third party property or MDOT Contractors and others with statutory duties or functions in relation to the Project or related transportation facilities to perform their duties and functions.
- (k) Perform systematic Project inspections, periodic maintenance, and routine maintenance in accordance with the provisions of Project Company's Operations and Maintenance Plan and Project Company's Safety Plan.
- (l) Provide all resources necessary for the performance of all activities in the Maintenance Management Plan.

Section 1.2 Key O&M Personnel

Project Company must appoint an Operations and Maintenance Manager (O&M Manager). The O&M Manager is one of Project Company's Key Personnel, and must conform to Key Personnel requirements. The O&M Manager must work under the direct supervision of Project Company's Representative.

Section 1.3 Incident Response

- (a) Project Company Responsibility and Obligations

Any Incident requires Project Company response if such Incident constitutes a health or safety hazard, or causes one or more lanes to be closed. Incidents may be a result of third-party actions such as traffic accidents.

Project Company is to respond to Incidents within one hour of discovery or notification from MDOT that Project Company resources are required to Mitigate an unsafe condition. Project Company emergency response personnel must be available 24 hours a day, seven (7) days a week and must respond to all Incidents with sufficient equipment to Remedy and Mitigate the Incident, and provide adequate traffic control services during such corrective action.

Project Company must provide assistance to the police and other Emergency Service Providers and appropriate Governmental Authorities as needed during such response.

- (b) Incident Communication and Documentation

Project Company must notify SEMTOC when it arrives and departs from an Incident site and relay any operations or information that may impact Emergency Services Providers' response times.

Project Company must provide MDOT with a monthly log of all Incidents including date, time called, called by whom, location, name of respondent, nature of Incident, action taken, date/time completed.

Incidents involving fatalities, personal injury, Lane Closures, or severe damage must be documented and provided in a complete and accurate Incident report within 7 days of an Incident.

All data associated with Incidents must be tracked and be retrievable through MMIS.

ARTICLE 2 OPERATIONS AND MAINTENANCE PLAN (OMP)

Project Company must prepare an Operations and Maintenance Plan (OMP) that is consistent with the general obligations relating to the O&M Works described in this Article and defines the process and procedures for performing the O&M Works during the Term.

Section 2.1 Performance Requirements

The OMP must include performance requirements, measurement procedures, and threshold values at which maintenance is required for each physical Element of the Project which conforms, at a minimum with the performance requirements in Article 1 of the D&C Works Requirements, Article 4 of these O&M Requirements and recommended product requirements. The performance requirements in the OMP must include specific processes and measurable outcomes that minimize delay and inconvenience to users of the Project freeways and adjacent roadways.

Performance requirements will be the same during the D&C Term and O&M Term except as described in Section 2.3 of the General Technical Provisions and in Schedule 3 – Payment Mechanism.

Section 2.2 O&M Quality Management Requirements

The OMP must include a quality management program and maintenance program to address noted deficiencies of the physical Elements must also be included, in accordance with the requirements of Article 5 (Inspection and Reporting). The OMP must identify situation-specific response actions and internal time requirements to mitigate hazards, and to Mitigate or Remedy Noncompliance Events which must, at a minimum, be in accordance with Appendix A to Schedule 3 – Payment Mechanism to the Agreement.

Project Company must submit the OMP to MDOT for review and approval as part of the PMP. Because of the direct correlation between D&C Works and the OMP, Project Company must not start construction of the D&C Works until MDOT has issued a written approval of the PMP containing Project Company's OMP as it relates to both D&C Term O&M Work and O&M Term O&M Work.

The OMP must include procedures for managing records of inspection and maintenance activities, including appropriate measures for providing protected duplication of the records. When submitting the OMP for update, Project Company must ensure that copies of inspection reports and maintenance records for the previous time period are available for MDOT review and inspection through MMIS. Project Company must retain all Project inspection reports and maintenance records in electronic format for the Term and must provide such documents to MDOT upon handback.

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ARTICLE 3 MAINTENANCE MANAGEMENT INFORMATION SYSTEM (MMIS)

Project Company must implement an electronic database Maintenance Management Information System (MMIS) to record data as required to meet reporting requirements defined in the Project Documents, including but not limited to inventory, Incidents, Noncompliance Events, Defects repairs, maintenance activities and inspections performed.

Section 3.1 Content

Project Company must enter all asset details of the combined Improved Freeway Lighting System and Freeway Lighting System into the MMIS. MMIS must be operated and maintained by Project Company from no later than 90 days after Commercial and Financial Close or any earlier date Project Company commences the D&C Term O&M Work and for the remainder of the Term. Asset details must be continually updated except physical Elements that are to be removed as part of the D&C Works. Details of Elements constructed, installed, modified or replaced as part of the D&C Works must be immediately updated in MMIS.

Section 3.2 Required Features of MMIS

All Elements required to be in the MMIS must be assigned identifiers (text and/or numbering) consistent with descriptions and units of measure used by MDOT.

The underlying data management platform for the MMIS must be a relational database or compatible platform.

The MMIS database must have a sufficiently open architecture to allow mapped data export into industry-standard database formats, and Project Company must supply such data upon MDOT request.

All information must be recorded in a consistent manner and must be searchable by individual attribute.

Project Company will ensure that MDOT and the MDOT Representative will have direct access to MMIS at all times, including the ability to read, query and generate ad hoc reporting for all fields and tables

Section 3.3 Tracking Lighting System Improvements

All new or modified Elements must be included on the MMIS. Project Company must add/revise Element data in the MMIS within 10 Business Days of completing the construction, installation, modification or replacement of any Element.

At a minimum, MMIS data for each Element must include

- (a) Element description that includes labels compatible with MDOT terminology and inventory tracking practices;
- (b) Element-specific product and equipment data (where applicable) including manufacturer, model, serial numbers, and date of manufacture (or similar data suitable for tracking product performance);
- (c) Date that Element was constructed, installed, modified or replaced and put into operation;

- (d) Element location information including State Plane coordinates (adjusted to match MDOT practices), Element position with respect to adjacent roadways, luminaire elevation(s), and fixture placement within high mast arrays and tunnels;
- (e) Power delivery data for the Element location including provider, voltage, amperage, power panel and circuit data; and
- (f) Ability to identify all other Elements co-located at any specific site and create an on-demand listing of all luminaires, and all other aspects of the Relevant Infrastructure at a single location.

Section 3.4 Tracking Lighting System Performance

The MMIS must include:

- (a) Data fields for tracking and documenting date-times Project Company identifies outages, Defects or damages for a particular Element to enable Project Company to comply with its obligations under Section 4.3 of Schedule 3 – Payment Mechanism to the Agreement.
- (b) Data fields for tracking Defects, Noncompliance Events and Noncompliance Points, and Lane Closures and Lane Rental charges;

Project Company must record Defects on the MMIS within three calendar days of discovery or occurrence. All other asset changes affecting system performance must be recorded on the MMIS within 10 days of completion or occurrence of the relevant activity.

The MMIS must be fully populated and operational the earlier of 90 days after the Commercial and Financial Close Date, or when Project Company commences the D&C Term O&M Work. Project Company must provide equipment, facilities and training necessary to permit remote, real-time, dedicated high-speed access to the MMIS, via one terminal each, for MDOT and MDOT Representative. Project Company must handover the MMIS and everything required for its operation to MDOT, or other entity as directed by MDOT, upon the Expiry Date.

ARTICLE 4 (NOT USED)

ARTICLE 5 O&M QUALITY MANAGEMENT

Section 5.1 Inspection and Reporting

Project Company must provide trained and competent personnel to plan and implement a program of quality management which includes on-site observations, visual and detailed inspections including any necessary testing and reporting which:

- (a) Confirms the continuing safety of the Project for Users;
- (b) Identifies Category 1 Defects and prioritizes such Defects for Mitigation or Remedy within the O&M Quality Management plans in a manner that reduces risk of incurring Noncompliance Points for such Category 1 Defects;

- (c) Identifies Category 2 Defects to be included for repair either within Project Company’s recurring maintenance and repair program or as otherwise required to reduce the risk of incurring Noncompliance Points for such Category 2 Defects;
- (d) Is responsive to reports or complaints received from the public and MDOT;
- (e) Addresses quality management practices for managing Incidents and Emergencies affecting the Project;
- (f) Monitors the effects of weather conditions; and
- (g) Collates data to monitor performance of the Project and to establish priorities for future maintenance operations.

Project Company must ensure that personnel performing inspections of electrical equipment and systems are certified at a level no less than Master Electricians, and that personnel performing inspections of structural elements must be under the direct supervision of a Licensed Michigan Professional Engineer and are familiar with relevant inspection and/or testing methods.

Section 5.2 Project Company System-wide Inspections

(a) Specialist Inspections

Project Company must undertake specialized system-wide inspections for Elements listed in Table 5.2.1 below and must include the inspection results in the MMIS.

Table 5.2.1 – Specialized Inspections

| Element | Frequency |
|--|--|
| Non-standard structures (if any are added during Term) | Inspections and load rating calculations at the frequency specified in the Technical Requirements. |

(b) Routine Inspections and Testing

Project Company must undertake routine detailed inspections of System elements on the schedule shown in Table 5.2.2.

Table 5.2.2 – Minimum Routine Inspection/Testing Requirements

| Element | Requirement | Minimum Frequency (yrs.) |
|---|---------------------------------------|--------------------------|
| Posts/standards, continuous freeway systems (installed during Term) | Condition inspection | 5 |
| Posts/standards, continuous freeway systems (installed before Term) | Condition inspection | 2 |
| Fixture mountings, tunnel systems (installed during Term) | Residual Life Condition inspection | 5 |
| Fixture mountings, tunnel systems (installed before Term) | Condition inspection | 2 |
| Panels and panel mountings (installed during Term) | Condition inspection | 5 |
| Panels and panel mountings (installed before Term) | Testing | 5 |

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| | | |
|--|---|--------|
| Posts/standards, high-mast systems (installed during Term) | Residual Life | 5 |
| Posts/standards, high-mast systems (installed before Term) | Condition inspection | 2 |
| Circuits | Condition survey | 5 5 |
| Foundation Anchor Bolts, Nuts, Washers, Foundation Base Plates | Condition inspection, incl. bolt tension, lock washer | 5 |

Project Company must update the MMIS with condition findings, replacement and repair recommendations, and anticipated residual life. MDOT Representative must be given the opportunity to accompany Project Company during physical inspections; MDOT Representative must provide Project Company with an email request no less than 48 hours prior to the physical inspection(s).

Section 5.3 Traffic Management During O&M Term

Project Company is responsible for traffic management during the O&M Term. All conditions that apply to the D&C Works phase will also apply to the O&M Term, subject to differences in lane rental rates or any other requirements specifically noted elsewhere in this Agreement.

ARTICLE 6 HANDBACK REQUIREMENTS

At the Expiry Date, Project Company must certify that Elements of the Relevant Infrastructure comply with the Residual Life, testing, inspection and reporting requirements defined in the Agreement, and specifically in Exhibit C.

Project Company will be required to provide a reserve of spare parts and supplies typically required during a 60-day period based on MMIS data. The estimated quantities for such parts and supplies must be submitted for MDOT approval in the O&M Work Plan revisions with the final PMP submittal prior to Handback.

PART D STANDARDS & REFERENCE INFORMATION DOCUMENTS

ARTICLE 1 USE OF STANDARDS

Project Company must use standards contained in Article 4 in performing the Project Operations. Project Company is responsible for ensuring that the most current version at the time of the Proposal Due Date is used for each of the references listed. See each section for specific requirements from the references, as well as the hierarchy of the references for that section.

ARTICLE 2 MDOT STANDARDS AND OTHER REFERENCES

All Project Operations must be performed in accordance with the requirements of the Agreement. MDOT Standard Specifications for Construction (Standard Specifications) and MDOT special provisions, manuals, technical memoranda, standards, and guidelines listed in the Agreement are deemed modified to match the Agreement structure as described in this Part D.

Unless provided otherwise in these Technical Requirements, the criteria listed within the Standard Specifications and MDOT engineering manuals and other references are the minimum standards Project Company must comply with in performing the Project Operations. Ordering information for most MDOT references, including specifications, plans, and details, is on MDOT's Web site: <http://www.michigan.gov/mdot/>

Web sites have been supplied to Project Company for some of the standards listed below for convenience only in an effort to help Project Company locate the required standard. The Web sites are not guaranteed to be correct. It is ultimately Project Company's responsibility to locate the required standard and to determine if the standard has been modified pursuant to these Technical Requirements.

ARTICLE 3 MODIFICATIONS TO STANDARDS, CODES & CRITERIA

The following modifications apply to applicable standards, codes and criteria listed in this Part D.

Section 3.1 General

All references to standards, codes, or criteria, or to the latest version of other standards, codes, or criteria in the Agreement mean the latest version of such standards, codes or criteria as of the Setting Date.

Certain MDOT standards, codes or criteria have been written as guidance documents and not as mandatory requirements. For purposes of this Project, and except as provided otherwise in these Technical Requirements, Project Company must assume that all provisions of MDOT standards, codes or criteria, including figures and tables, are mandatory, and guidelines must be assumed to be requirements. All words such as "should," "may," "could," and "can" shall mean "shall" or "must" unless the context requires otherwise, as determined in the sole discretion of MDOT. Project Company must disregard qualifying words such as "usually," "normally," and "generally." In addition, references to MDOT's preferred practices and policies must be construed to be mandatory requirements unless the context requires otherwise, as determined in the sole discretion of MDOT.

When a standard, code or criteria refers to an action being necessary, needed, or recommended, Project Company must construe the action as required unless the context requires otherwise, as determined in the sole discretion of MDOT.

Some standards, codes or criteria may provide general information (e.g., descriptions of MDOT divisions and their duties, descriptions of legal authority, or descriptions of internal MDOT procedures) that does not apply to P3 contracts; however, in some cases it may not be clear whether rights or responsibilities are applicable to Project Company. If it is unclear whether specific provisions in the standard, code or criteria are applicable to Project Company, Project Company must raise the issue with MDOT and MDOT must make that determination in its sole discretion.

Section 3.2 Quantities and Payment

All references related to pay items or quantities, measurement for payment, method of measurement, basis of payment, extra work, adjustment of unit prices, or similar phrases must be disregarded by Project Company, except as guidance or information.

When a standard, code or criteria refers to “extra work,” “compensation for,” “at the Department’s expense,” “quantity adjustments,” “equivalent quantities,” or similar phrases, such references will be disregarded. It is the intent that the payment of the Contract Price will be full compensation for all Project Operations performed pursuant to the Agreement unless specific Project Agreement provisions are provided for additional payments.

Section 3.3 Roles and Responsibilities

When standards, codes or criteria refer to “Engineer” relating to design responsibilities, such references will mean Project Company’s Professional Engineer, unless otherwise specified. It will be in MDOT’s sole discretion to determine when the context refers to design responsibilities.

When standards, codes or criteria refer the term “Engineer” relating to construction inspection, materials testing, disposal, restoration, testing frequency, testing results and suitable method, such term shall mean Project Company’s Professional Engineer. It will be in MDOT’s sole discretion to determine when the context refers to these applications.

When standards, codes or criteria refer the term “Engineer” relating to activation or de-activation of railroad or highway signals, approval of any activities involving the use of explosives, such term shall mean MDOT.

When an approval or authorization of the Engineer or MDOT is required for an extension of time, the provisions with respect to extensions of time will not be incorporated into the Agreement.

When an approval or authorization of the Engineer or MDOT is required in standards, codes or criteria for the use of alternative or substituted processes or components, the Engineer shall mean MDOT.

When standards, codes or criteria refer actions, dimensions, spacing, design information, materials as designed, means, or methods that are “either as indicated in the Plans or as designated by the Engineer”, Project Company shall disregard the phrase “or as designated by the Engineer.”

When standards, codes or criteria refer to the “Engineer” ordering work beyond the scope of work in the Agreement, “Engineer” shall mean MDOT. Whenever the Engineer may order work that results in additional costs to MDOT, the “Engineer” shall mean MDOT.

Wherever references to “Engineer” result in testing or acceptance procedures being assigned to the Engineer, acceptance will be on behalf of Project Company unless otherwise designated in the Agreement. MDOT reserves the right to perform additional tests and inspections as necessary to confirm

that the work is in conformance with Project Agreement requirements and will be the only party authorized to accept or approve the Work on behalf of the State.

When standards, codes or criteria refer to unauthorized work or to acceptance of non-conforming work by the "Engineer," the Engineer shall mean MDOT unless otherwise designated in the Agreement.

When standards, codes or criteria refer to "Department," "MDOT," or specific job titles within MDOT, such reference shall mean MDOT unless otherwise designated in the Agreement.

Any acceptances on behalf of MDOT, Department or the State must be performed by MDOT.

Any references in a standard, code or criteria to the Engineer that refer to the time period after Final Acceptance shall mean Project Company unless otherwise designated in the Agreement.

When standards, codes or criteria refer notifications to the Engineer, the Engineer shall mean MDOT.

When standards, codes or criteria refer to an approval of any correction or repair that deviates from the Agreement requirements, the approval must be by MDOT.

When standards, codes or criteria refer to items that will be performed or provided by MDOT or by a division or employee of MDOT, Project Company shall construe the requirements as applying to Project Company unless otherwise specified in the Agreement, or unless the context requires otherwise. It shall be in MDOT's sole discretion to determine when the context requires otherwise.

When standards, codes or criteria refer the Project Manager as it relates to plan processes, sending information or requesting information from internal MDOT entities, the term "Project Manager" does not mean Project Company. Project Company must submit all requests directly to MDOT Representative on the Project.

When standards, codes or criteria refer to contractor, such reference shall mean Project Company.

ARTICLE 4 LIST OF STANDARDS, CODES OR CRITERIA

The list of standards, codes or criteria list is located in Exhibit E of this Volume II. Exhibit E is not an exhaustive list, nor is it intended to indicate that use of a particular standard, code or criteria is required on the Project. Standards, codes or criteria are required for Project use only if specifically listed within the Agreement. Exhibit E provides information regarding the currency, industry names and references, and availability of the standard, code or criteria that MDOT commonly uses and/or accepts.

EXHIBIT A Known Special Events

NOTE: This list is subject to routine update by MDOT. Project Company will incorporate all changes no less than annually through the PMP update process. Changes in this list will not be grounds for any Claim.

- Detroit Hoedown
- Detroit Free Press Marathon
- Detroit Grand Prix
- Detroit Lions Home Games and Ford Field Special Events
- Detroit Tigers Home Games and Comerica Park Special Events
- Detroit Red Wings Playoff Games and Arena Special Events
- Detroit Pistons Playoff Games and Palace of Auburn Hills special events
- MSU and University of Michigan Home Football Games
- Freedom Festival Fireworks
- Detroit Thanksgiving Day Parade
- Woodward Dream Cruise

EXHIBIT B Lane Closure Restrictions

This list establishes roadway sections within the Premises (Restricted Zones) where Lane Closures are restricted at certain times (Restricted Periods) to reduce traffic congestion. Unless individually waived in writing by MDOT during the Lane Closure Notification Process, Lane Rental Charges will be assessed under Schedule 3 – Payment Mechanism for:

1. Lane Closures within, or encroaching upon, any part of the Restricted Zones shown in Table B during Restricted Periods; and
2. Lane Closures within, or encroaching upon, any part of the Restricted Zones shown in Table B during any Known Special Event listed in Exhibit A or a holiday listed in Section 5.4(a) of the D&C Works Requirements.

Lane Closures occurring in segments of the Project that are not listed in Table B may also be assessed Lane Rental Charges, subject to the requirements and waivers described in Schedule 3 – Payment Mechanism. Project Company is responsible for understanding and tracking all Lane Closures and corresponding Lane Rental Charges.

This list is subject to routine update by MDOT as discussed in Section 3.3(d) of Schedule 3 – Payment Mechanism. Project Company will incorporate all changes no less than annually through the PMP update process.

| TABLE B: LANE CLOSURE RESTRICTIONS FOR SPECIFIC PROJECT ZONES | | | | | |
|--|--------------------------|-------------------------|--------------|----------------|--|
| County | Lane Rental Group | RESTRICTED ZONES | | | RESTRICTED PERIODS |
| | | Route | From | To | |
| Macomb | 1 | I-94 | M-102 | 23 Mile Rd | EB: M-F 2PM-8PM WB: M-F 5AM-8PM |
| | 2 | I-94 | 23-Mile Rd | County Line Rd | EB: M-F 2PM-7PM WB: M-F 5AM-7PM |
| | 1 | I-696 | Dequindre Rd | I-94 | EB: M-F 2AM-9PM WB: M-F 5AM-10AM |
| | 2 | M-53 | 18 Mile Rd | Van Dyke Ave | NB: M-F 3PM-7PM SB: M-F 5AM-10AM |
| | 2 | M-59 | Dequindre Rd | M-53 | EB: M-F 5AM-10AM & 3PM-7PM Sun. 3PM-6PM WB: M-F 5AM-10PM |
| Oakland | 1 | I-75 | M-102 | M-15 | NB/SB: M-F 5AM-9AM, 3PM-8PM |

Execution Version

| TABLE B: LANE CLOSURE RESTRICTIONS FOR SPECIFIC PROJECT ZONES | | | | | |
|--|--------------------------|-------------------------|------------------|----------------|--|
| County | Lane Rental Group | RESTRICTED ZONES | | | RESTRICTED PERIODS |
| | | Route | From | To | |
| | 2 | I-75 | M-15 | Genesee CL | NB/SB: M-F 5AM-9AM, 3PM-8PM |
| | 1 | I-96 | Livingston CL | Meadowbrook Rd | EB: M-F 5AM-9AM WB: M-F 2PM-7PM |
| | 1 | I-96/I-275 | I-96/I-696/I-275 | 8-Mile Rd | EB/SB/WB/NB: M-F 5AM-8PM |
| | 1 | I-696 | Meadowbrook Rd | Greenfield Rd | EB: M-F 5AM-9AM, 3PM-8PM WB: M-F 5AM-9AM, 3PM-7PM |
| | 1 | I-696 | Greenfield Rd | Dequindre Rd | EB: M-F 5AM-9AM, 3PM-8PM WB: M-F 5AM-9AM, 3PM-7PM |
| | 2 | M-5 | Pontiac Trail | Purdue Rd | NB/SB: M-F 6AM-9AM, 3PM-7PM |
| | 1 | M-10 | M-102 | US-24 | NB/SB: M-F 5AM-9AM, 3PM-7PM |
| | 1 | M-39 | M-10 | M-102 | NB/SB: M-F 5AM-9AM, 3PM-7PM |
| | 2 | M-59 | Paddock | M-150 | EB: M-F 3PM-6PM WB: M-F 5AM-9AM |
| | 1 | M-59 | M-150 | Dequindre Rd | EB: M-F 3PM-6PM WB: M-F 5AM-9AM |
| Wayne | 1 | I-75 | Huron River | Schaefer Rd | NB/SB: M-F 5AM-9AM, 3PM-7PM |
| | 1 | I-75 | Schaefer Rd | Gratiot Ave | NB/SB: M-F 3PM-8PM, 5AM-9AM |
| | 1 | I-75 | Gratiot Ave | M-102 | NB/SB: M-F, 5AM-9AM, 3PM-8PM |
| | 1 | I-94 | Rawsonville Rd | Wyoming Ave | EB/WB: M-F 5AM-9AM, 3PM-7PM |
| | 1 | I-94 | Wyoming Ave | 8 Mile Rd | EB/WB: M-F 3PM-8PM, 5AM-9AM |
| | 2 | I-96 | 8 Mile Rd | I-275/M-14 | EB/WB: M-F 6AM-9AM, 3PM-7PM |
| | 2 | I-96 | I-275/M-14 | US-24 | EB/WB: M-F 6AM-9AM, 3PM-8PM |
| | 2 | I-96 | US-24 | Fullerton | EB/WB: M-F, 5AM-9AM, 3PM-7PM |

| TABLE B: LANE CLOSURE RESTRICTIONS FOR SPECIFIC PROJECT ZONES | | | | | |
|--|--------------------------|-------------------------|-------------------|---------------|---|
| County | Lane Rental Group | RESTRICTED ZONES | | | RESTRICTED PERIODS |
| | | Route | From | To | |
| | 2 | I-96 | Fullerton St | I-75 | EB/WB: M-F 3PM-8PM, 5AM-9AM |
| | 2 | I-275 | I-96/M-14 | Will Carleton | NB/SB: M-F 5AM-9AM, 3PM-9PM |
| | 2 | I-375 | Jefferson | Lafayette | NB/SB: M-F 3PM-9PM, 5AM-9AM |
| | 1 | I-375 | Lafayette | I-75 | NB/SB: M-F 3PM-9PM, 5AM-9AM |
| | 2 | M-8 | Rosa Parks Blvd | I-75 | EB/WB: M-F 3PM-8PM, 5AM-9AM |
| | 2 | M-8 | I-75 | Conant St | EB/WB: M-F 3PM-9PM, 5AM-9AM |
| | 1 | M-10 | M-102 | Griswold St | NB/SB: M-F 3PM-8PM, 5AM-9AM |
| | 1 | M-14 | Napier Rd. | I-275 | EB/WB: M-F 6AM-9AM, 3PM-9PM |
| | 1 | M-39 | M-153 | M-10 | NB/SB: M-F 3PM-8PM, 5AM-9AM |
| | 1 | M-39 | Pinecrest Dr | M-153 | NB/SB: M-F 5AM-9AM, 3PM-7PM |
| | 2 | Gratiot Connector | I-75 | Gratiot | M-F 6AM-9AM, 3PM-6PM |
| | 1 | M-39 | Lafayette | M-153 | NB/SB: M-F 3PM-7PM, 5AM-9AM |
| | 1 | I-94 | Rawsonville | Wyoming | EB: M-F 3PM-7PM, 5AM-9AM WB: M-F 12 PM-7PM |
| | 1 | I-75 | Huron River Drive | Schaefer Rd. | NB/SB: M-F 6AM-9AM, 3PM-7PM |

EXHIBIT C Handback and Residual Life Requirements

| ELEMENT | TESTING OR RESIDUAL LIFE REQUIREMENT | REQUIREMENT | HANDBACK |
|---|---|--|--|
| Luminaires, continuous freeway systems (including driver/ballast) | Residual Life | 5 years Residual Life | Inventory |
| Luminaires, tunnel systems | Residual Life | 5 years Residual Life | Inventory |
| Luminaires, high-mast systems | Residual Life | 5 years Residual Life | Inventory |
| Posts/standards, continuous freeway systems (installed during Term) | Residual Life Condition inspection | 5 years Residual Life Inspect within 1 year of Handback | Inventory |
| Posts/standards, continuous freeway systems (installed before Term) | Condition inspection | Detailed inspection within 1 year of Handback Otherwise no Residual Life obligation | Testing Report, Condition Report & Inventory |
| Fixture mountings, tunnel systems (installed during Term) | Residual Life Condition inspection | 10 years Residual Life Inspect within 1 year of Handback | Inspection and Inventory |
| Fixture mountings, tunnel systems (installed before Term) | NDT Testing Condition inspection | NDT within 3 years of Handback Inspect within 1 year of Handback Otherwise no Residual Life obligation | Testing Report, Condition Report & Inventory |
| Posts/standards, high-mast systems (installed during Term) | Residual Life | 15 years Residual Life | Inspection and Inventory |
| Posts/standards, high-mast systems (installed before Term) | Condition inspection | Detailed inspection within 1 year of Handback Otherwise no Residual Life obligation | Testing Report, Condition Report & Inventory |
| Conduit (exposed to weather) | Condition survey | N/A | Reports & Inventory |
| Panels and panel mountings (installed during Term) | Residual Life Condition inspection | 5 years Residual Life Inspect within 1 year of Handback | Inventory |
| Panels and panel mountings (installed before Term) | Verify that panels and mounts meet applicable codes | Inspect within 1 year of Handback Otherwise no Residual Life obligation | Inspection/Testing |
| Monitoring systems (sensors) | Residual Life | 2 years Residual Life | Inventory |
| Monitoring systems (communications) | Residual Life | 5 years Residual Life | Inventory |
| Circuits | Resistivity testing Condition survey | Condition survey | Testing Report, Condition Report & Inventory |

EXHIBIT D (Removed)

EXHIBIT E List of Standards

Availability (Avbl.) Legend:

IS = Industry standard, Project Company's responsibility to acquire.

W = Standard is available as a download on the organization's Web site, Project Company's responsibility to acquire.

E = Document to be given to Project Company's in electronic format.

| Organization | Standard | Avbl. |
|---|---|-------|
| AASHTO | Accommodation of Utilities Within Freeway Right-of Way | IS |
| AASHTO | A Guide for Accommodating Utilities Within Highway Right-of Way, 4th Edition | IS |
| AASHTO | A Guide for Transportation Landscape and Environmental Design, 2nd Edition, 1991 | IS |
| AASHTO | A Guide for Achieving Flexibility in Highway Design | IS |
| AASHTO | A Policy on Geometric Design of Highways and Streets, 5th Edition | IS |
| AASHTO | A Policy on Design Standards Interstate System | IS |
| AASHTO | Roadway Lighting Design Guide, 2005 | IS |
| AASHTO | Construction Handbook for Bridge Temporary Works, 1st Edition 1995 with (2008) Current Interims | IS |
| AASHTO | Guide Design Specifications for Bridge Temporary Works, 1st Edition, 1995 with Current Interims | IS |
| AASHTO | Guide for Design of Pavement Structures, 1993 | IS |
| AASHTO | Guide for Park-and -Ride Facilities, 2nd Edition | IS |
| AASHTO | Guide for the Development of Bicycle Facilities, 4th Edition, 2012 | IS |
| AASHTO | Guide for the Planning, Design, and Operation of Pedestrian Facilities July 2004 or newer | IS |
| AASHTO | Guide Specifications for Design of Pedestrian Bridges, 1st Edition, 1997 | IS |
| AASHTO | Guide Specifications for Horizontally Curved Steel Girder Highway Bridges, 2003 and Errata | IS |
| AASHTO | Guide Specifications for Structural Design of Sound Barriers, 2002 | IS |
| AASHTO | LRFD Bridge Construction Specifications, 2nd Edition with (2008) Current Interims | IS |
| AASHTO | LRFD Bridge Design Specifications, 4th Edition with (2008) Current Interims | IS |
| AASHTO | Manual on Subsurface Investigation , 1st Edition, 1988 | IS |
| AASHTO | Manual for Condition Evaluation of Bridges, 2nd Edition, 2003 Interim | IS |
| AASHTO | Provisional Standards, 2008 Edition | IS |
| AASHTO | Roadside Design Guide, 3rd Edition, with 2006 Chapter 6 Update | IS |
| AASHTO | Standard Specification for Transportation Materials and Methods of Sampling and Testing, 29th Edition and AASHTO Provisional Standards, 2009 Edition | IS |
| AASHTO | Standard Specifications for Highway Bridges, 17th Edition with Current Interims | IS |
| AASHTO | Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals, 4th Edition with (2006) Current Interims | IS |
| AASHTO | Steel Bridge Erection Guide Specification | IS |
| AASHTO | AASHTO Guide Specifications – Thermal Effects in Concrete Bridge Superstructures, 1st Edition | IS |
| AASHTO | AASHTO/AWS D1.5M/D1.5:2008 Bridge Welding Code | IS |
| AASHTO/ NSBA Steel Bridge Collaboration | Guide Specification for Coating Systems with Inorganic Zinc-Rich Primer, G8.1-2006 http://www.aisc.org/WorkArea/showcontent.aspx?id=20128 | W |

Execution Version

| Organization | Standard | Avbl. |
|--|---|-------|
| AASHTO/ NSBA Steel Bridge Collaboration | Shop Detail Drawing Review/Approval Guidelines, G 1.1-2000 http://www.aisc.org/WorkArea/showcontent.aspx?id=20104 | W |
| AASHTO/ NSBA Steel Bridge Collaboration | http://www.aisc.org/WorkArea/showcontent.aspx?id=20108 | W |
| AASHTO/ NSBA Steel Bridge Collaboration | Steel Bridge Bearing Design and Detailing Guidelines, G9.1-2004 www.aisc.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=20118 | W |
| AASHTO/ NSBA Steel Bridge Collaboration | Steel Bridge Fabrication Guide Specification, S 2.1-2002 www.aisc.org/assets/0/1209478/1209480/dd9428d4-8755-4454-a377-7b3c17cff2dc.pdf | W |
| AASHTO/ NSBA Steel Bridge Collaboration | Steel Bridge Fabrication QC/QA Guide Specification, S 4.1-2002 http://www.aisc.org/WorkArea/showcontent.aspx?id=20126 | W |
| ACI | 318-08: Building Code Requirements for Structural Concrete and Commentary | IS |
| ADA | Americans with Disabilities Act Accessibility Guidelines http://www.access-board.gov/adaag/html/adaag.htm | W |
| Aluminum Assn. for Alloy | Number 319.0 | IS |
| American Congress on Surveying and Mapping and the American Society of Civil Engineers | Definitions of Surveying and Associated Terms | IS |
| ANSI | B2.1 | IS |
| ANSI | American Standards for Nursery Stock, ANSI Z60.1 | IS |
| AREMA | Manual for Railway Engineering, Current Year | IS |
| ASCE | Practical Highway Esthetics | IS |
| ASTM | Standards | IS |
| ATSSA | Quality Guidelines for Temporary Traffic Control Devices & Features | IS |
| AWWA | Standards | IS |
| Telcordia | Document No. GR-326, Issue 3, Generic Requirements for Single-Mode Optical Fiber Connectors and Jumper Assemblies | IS |
| Code of Federal Regulations | Title 23 (Highways), Chapter 1, Part 752 Landscape and Roadside Development http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=ff29552a627c875842d38eeefbf2b2a6&r=PART&n=23y1.0.1.8.42 | W |
| CTS | Context Sensitive Design, THE ROAD BEST TRAVELLED, Executive Summary http://www.cts.umn.edu/contextsensitive/workshops/documents/CSDsummary.pdf | W |
| EIA/TIA Collaboration | TIA/EIA-455-171-A FOTP-171 | IS |
| EIA/TIA Collaboration | TIA/EIA – 455-203 Fiber Optic Test Procedure (FOTP) Standards | IS |

Execution Version

| Organization | Standard | Avbl. |
|---------------------------------------|---|-------|
| Electronics Industries Alliance (EIA) | Standards | IS |
| FHWA | Corrosion / Degradation of Soil Reinforcements for Mechanically Stabilized Earth Walls and Reinforced Soil Slopes, (FHWA-NHI-00-044), September 2000 http://www.fhwa.dot.gov/engineering/geotech/pubs/nhi09087/nhi09087.pdf | W |
| FHWA | Design and Construction of Driven Pile Foundations, Volumes I and II, (FHWA-NHI-05-042 and NHI-05-043) http://www.fhwa.dot.gov/engineering/geotech/library_arc.cfm?pub_number=42 | W |
| FHWA | Drilled Shafts: Construction Procedures and Design Methods, (FHWA-IF-99-025), August 1999 and Errata http://www.fhwa.dot.gov/engineering/geotech/foundations/nhi10016/nhi10016.pdf | W |
| FHWA | Flexibility in Highway Design, (FHWA-PD-97-062) http://www.fhwa.dot.gov/environment/flex/ | W |
| FHWA | Geotechnical Engineering Circular Number 4, Ground Anchors and Anchored Systems, (FHWA-IF-99-015), June 1999 http://www.fhwa.dot.gov/engineering/geotech/pubs/if99015.pdf | W |
| FHWA | Handbook on Design and Construction of Drilled Shafts under Lateral Load, (FHWA-IP-84-11) | IS |
| FHWA | Guidelines for the Installation, Inspection Maintenance and Repair of Structural Supports for Highway Signs, Luminaires, and Traffic Signals http://www.fhwa.dot.gov/bridge/signinspection.cfm | W |
| FHWA | Highway Traffic Noise Analysis and Abatement, Policy and Guidelines, June 1995 http://environment.fhwa.dot.gov/guidebook/vol1/doc81.pdf | W |
| FHWA | Hydraulic Design Series Number 7, Hydraulics Design of Safe Bridges, (FHWA-HIF-12-018), April, 2012 http://www.fhwa.dot.gov/engineering/hydraulics/pubs/hif12018.pdf | W |
| FHWA | Hydraulic Design Series Number 3, Design Charts for Open-Channel Flow, (FHWA-EPD-86-102), August 1961 http://www.fhwa.dot.gov/engineering/hydraulics/library_listing.cfm | W |
| FHWA | Hydraulic Engineering Circular Number 5), Hydraulic Design of Highway Culverts, Third Edition (FHWA-HIF-12-026), April, 2012 http://www.fhwa.dot.gov/engineering/hydraulics/pubs/12026/hif12026.pdf | W |
| FHWA | Hydraulic Engineering Circular Number 14 (HEC-14), Hydraulic Design of Energy Dissipaters for Culverts and Channels, (FHWA-NHI-06-086), July 2006 http://www.fhwa.dot.gov/engineering/hydraulics/library_listing.cfm | W |
| FHWA | Hydraulic Engineering Circular Number 18 (HEC-18), Evaluating Scour at Bridges, (FHWA-HIF-12-003), April, 2012 http://www.fhwa.dot.gov/engineering/hydraulics/pubs/hif12003.pdf | W |
| FHWA | Hydraulic Engineering Circular Number 21 (HEC-21), Design of Bridge Deck Drainage Systems, (FHWA-SA-92-010), May 1993 http://www.fhwa.dot.gov/engineering/hydraulics/library_listing.cfm | W |
| FHWA | Hydraulic Engineering Circular Number 22 (HEC-22), Urban Drainage Design Manual, Third Edition(FHWA-NHI-10-009), September, 2009 http://www.fhwa.dot.gov/engineering/hydraulics/pubs/hif12003.pdf | W |

Execution Version

| Organization | Standard | Avbl. |
|---|---|-------|
| FHWA | Hydraulic Engineering Circular Number 23 (HEC-23), Bridge Scour and Stream Instability Countermeasures - Experience, Selection and Design Guidance, Third Edition, Volume 1 and Volume 2 (FHWA-NHI-009-111/112), September, 2009 http://www.fhwa.dot.gov/engineering/hydraulics/library_listing.cfm | W |
| FHWA | Manual for Design & Construction Monitoring of Soil Nail Walls, (FHWA-SA-96-069R), August 1999 http://isddc.dot.gov/OLPFiles/FHWA/010571.pdf | W |
| FHWA | Mechanically Stabilized Earth Walls and Reinforced Soil Slopes Design and Construction Guidelines, (FHWA-NHI-00-043), March 2001 http://isddc.dot.gov/OLPFiles/FHWA/010567.pdf | W |
| FHWA | Micropile Design and Construction Reference Manual | IS |
| FHWA | Program Guide: Utility Relocation and Accommodation on Federal-Aid Highway Projects http://www.fhwa.dot.gov/reports/utilguid/if03014.pdf | W |
| FHWA | Public Involvement Techniques for Transportation Decision-Making http://www.fhwa.dot.gov/REPORTS/PITTD/COVER.HTM | W |
| FHWA | The Cone Penetration Test | IS |
| FHWA | The Pressuremeter Test for Highway Applications | IS |
| FHWA | Subsurface Investigations – Geotechnical Site Characterization, (FHWA-NHI-01-031), May 2002 http://isddc.dot.gov/OLPFiles/FHWA/012546.pdf | W |
| Great Lakes –Upper Mississippi River Board (GLUMRB) | Ten States Standards for Water Works http://10statesstandards.com/ | W |
| Great Lakes –Upper Mississippi River Board (GLUMRB) | Ten States Standards for Wastewater Facilities http://10statesstandards.com/ | W |
| Institute of Electrical and Electronic Engineers (IEEE) | National Electrical Safety Code | IS |
| Illuminating Engineering Society of North America | Roadway Lighting, ANSI Approved | IS |
| Institute of Transportation Engineers (ITE) | Standards | IS |
| International Code Council (ICC) | International Building Code | IS |
| International Municipal Signal Assn. | Specification No. 50-2 | IS |
| International Society of Arboriculture (ISA) | Guide for Plant Appraisal | IS |
| ISO | ISO 8402, 1994 Revision | IS |
| ISO | ISO 9001, 1994 Revision | IS |
| MDNRE | Computing Flood Discharges for Small Ungauged Watersheds http://www.michigan.gov/documents/deq/lwm-scs_198408_7.pdf | W |

Execution Version

| Organization | Standard | Avbl. |
|--------------|---|-------|
| MDNRE | Geological Survey Division Stratigraphic Lexicon for Michigan 2001 http://www.michigan.gov/documents/deq/GIMDL-BU08_216121_7.pdf | W |
| MDOT | Administrative Rules regulating Driveways, Banners and Parades http://www.michigan.gov/documents/mdot/Admin_Rules_booklet_186108_7.pdf | W |
| MDOT | Bridge Boring Sample Plan http://www.michigan.gov/documents/mdot/MDOT-RSP14_Log_of_Borings_200528_7.pdf | W |
| MDOT | Bridge Design Guides http://mdotcf.state.mi.us/public/design/englishbridgeguides/ | W |
| MDOT | Bridge Design Manual http://mdotcf.state.mi.us/public/design/englishbridgemanual/ | W |
| MDOT | Bureau of Highways Instructional Memos http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_20469---,00.html | W |
| MDOT | CAD Standards http://www.michigan.gov/mdot/0,1607,7-151-9625_21540_36037_54428---,00.html | W |
| MDOT | Certified Payroll Status Record http://www.michigan.gov/documents/mdot/MDOT_Certified_Payrolls_300657_7.pdf | W |
| MDOT | Construction Site Soil Erosion & Pollution Prevention Pocket Guide http://www.michigan.gov/documents/stormwatermgmt/2007_SESC_Pocket_Flip_Guide_192393_7.pdf | W |
| MDOT | Construction & Technology Research Reports http://www.michigan.gov/mdot/0,1607,7-151-9622_11045_24249---,00.html | W |
| MDOT | Context Sensitive Solutions Information http://www.michigan.gov/mdot/0,1607,7-151-9621_41446-143910--,00.html | W |
| MDOT | C&T Research Records and MATES http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_25626---,00.html | W |
| MDOT | Density Testing and Inspection Manual http://www.michigan.gov/documents/mdot/MDOT_DensityTestingAndInspectionManual_322964_7.pdf | W |
| MDOT | Design Survey Manual http://mdotcf.state.mi.us/public/design/surveymanual/ | W |
| MDOT | Drainage Manual http://www.michigan.gov/stormwatermgmt/0,1607,7-205--93193--,00.html | W |
| MDOT | Frequently Used Special Provisions http://mdotwas1.mdot.state.mi.us/public/dessssp/spss/gotoview.cfm?ds=27The following Frequently Used Special Provisions shall be excluded from the project123SP303A,12SP501D , 123SP807A | W |
| MDOT | Geometric Design Guides http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Geotechnical Investigation And Analysis Requirements For Structures March 2004 http://www.michigan.gov/documents/GeotechnicalInvestigationsAnalysis_116819_7.pdf | W |
| MDOT | Guidelines for Plan Preparation, Road Sample Plans http://www.michigan.gov/mdot/0,4616,7-151-9625_21540_36037-171026--,00.html | W |

Execution Version

| Organization | Standard | Avbl. |
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| MDOT | Guidelines for Plan Preparation, Bridge Sample Plans http://www.michigan.gov/mdot/0,4616,7-151-9625_21540_36037-171399--,00.html | W |
| MDOT | HMA Production Manual http://www.michigan.gov/documents/mdot_HMA_ProductionManual_79005_7.pdf | W |
| MDOT | Maintaining Traffic Typical http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Manual for Michigan Test Methods (MTM'S) http://www.michigan.gov/documents/mdot_MTM_CombinedManual_83501_7.pdf | W |
| MDOT | Materials Quality Assurance Procedures Manual http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367-207980--,00.html | W |
| MDOT | Materials Source Guide http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367-22505--,00.html | W |
| MDOT | MDOT Design Survey Manual http://mdotcf.state.mi.us/public/design/surveymanual/ | W |
| MDOT | MDOT "Uniform Field Soil Classification System (Modified Unified Description)" http://www.michigan.gov/documents/mdot/MDOT_SoilClassification_189904_7.pdf | W |
| MDOT | Michigan Manual of Uniform Traffic Control Devices (MMUTCD) http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Pavement Design and Selection Manual http://www.michigan.gov/documents/mdot/MDOT_Pavement_Design_and_Selection_Manual_257723_7.pdf | W |
| MDOT | Pavement Marking Standards and Special Details http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Percent Within Limits (PWL) Spreadsheet http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367-124538--,00.html | W |
| MDOT | Phase II Stormwater Management Plan http://www.michigan.gov/mdot/0,1607,7-151--114322--,00.html | W |
| MDOT | Program/Project Management System Task Manuals http://www.michigan.gov/mdot/0,1607,7-151-9625_21540_36037_54503---,00.html | W |
| MDOT | Road Boring Sample Plan http://www.michigan.gov/documents/mdot/MDOT-RSP14_Log_of_Borings_200528_7.pdf | W |
| MDOT | Road Design Manual http://mdotcf.state.mi.us/public/design/englishroadmanual/ | W |
| MDOT | Soil Erosion And Sedimentation Control Manual http://www.michigan.gov/documents/2006_SESC_Manual_165226_7.pdf | W |
| MDOT | Special Details http://mdotcf.state.mi.us/public/design/englishstandardplans/spdetails/ | W |
| MDOT | Special Provisions (Unique References in Book 2) See Exhibit 3-2-A | |

Execution Version

| Organization | Standard | Avbl. |
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| MDOT | Standard Highway Signs http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Standard Plans http://mdotcf.state.mi.us/public/design/englishstandardplans/index.htm | W |
| MDOT | 2012 Standard Specifications for Construction http://mdotcf.state.mi.us/public/specbook/2012/ | W |
| MDOT | State Transportation Commission Policy on Context Sensitive Solutions (May 2005) http://www.michigan.gov/documents/MDOT_CSS_Policy_159545_7.pdf | W |
| MDOT | Supplemental Specifications, 2012 http://mdotwas1.mdot.state.mi.us/public/dessssp/spss/gotoview.cfm?ds=28 | W |
| MDOT | System Operations Advisories http://www.michigan.gov/mdot/0,4616,7-151-9625_54944-229054--,00.html | W |
| MDOT | Traffic and Safety Notes http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Traffic Signal Details http://mdotwas1.mdot.state.mi.us/public/tands/Details_Web/signal_details_for_review_5-01-08.pdf http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Traffic Signing Standards and Special Details http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Traffic Standards and Special Details http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Traffic Standards, Typicals, Guides and Guidelines http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Work Zone Devices http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm | W |
| MDOT | Work Zone Safety and Mobility Manual http://www.michigan.gov/documents/mdot/MDOT_WorkZoneSafetyAndMobilityManual_233891_7.pdf | W |
| MDOT | Work Zone Safety and Mobility Policy http://www.michigan.gov/mdot/0,1607,7-151-9623_26662_52449-205526--,00.html | W |
| MIOSHA | MIOSHA Website http://www.michigan.gov/dleg/0,1607,7-154-11407_15368---,00.html | W |
| Military Specifications | MIL-A-8625C | IS |
| National Electrical Manufacturers Assn. (NEMA) | Standards | IS |
| National Fire Protection Agency (NFPA) | National Electric Code, Current Edition | IS |
| National Fire Protection Agency (NFPA) | NFPA 502: Standard for Road Tunnels, Bridged, and Other Limited Access Highways, 2008 Edition | IS |

Execution Version

| Organization | Standard | Avbl. |
|---|---|-------|
| National Spatial Data Infrastructure (NSDI) | Geospatial Positioning Accuracy Standards, Part 3: National Standards for Spatial Data Accuracy, FGDC-STD-007.3-1998 http://www.fgdc.gov/standards/projects/FGDC-standards-projects/accuracy/part3 | W |
| National Transportation Communications for ITS Protocol Standards (NTCIP) | Standards | IS |
| NCHRP | Report 350, Recommended Procedures for the Safety Performance Evaluation of Highway Features http://www.trb.org/main/blurbs/163269.aspx | W |
| NEMA Joint Publication/ Insulated Cable Engineers Assn. (ICEA) | NEMA WC70-99 | IS |
| NEMA Joint Publication/ Insulated Cable Engineers Assn. (ICEA) | NEMA WC71 | IS |
| NEMA Joint Publication/ Insulated Cable Engineers Assn. (ICEA) | NEMA WC74-00 | IS |
| NEMA Joint Publication / Insulated Cable Engineers Assn. (ICEA) | NEMA WC57-2004 | IS |
| Telecommunications Industries Assn. (TIA) | Standards | IS |
| The Society for Protective Coatings | QP2 Standard Procedure for Evaluating the Qualifications of Painting Contractors to Remove Hazardous Paint http://www.sspc.org/standards/scopes.html | W |
| TIA | 455-59-FOTP-59 | IS |
| TIA | 492AAAA | IS |
| TIA | 526-14-A-OFSTP-14 | IS |
| TRB | Highway Capacity Manual | IS |
| US National Archives and Records Admin. | Code of Federal Regulations http://www.gpoaccess.gov/cfr/ | W |
| US Army Corps of Engineers (COE) | Wetlands Delineation Manual, January 1987 http://el.erdc.usace.army.mil/elpubs/pdf/wlman87.pdf | W |
| US Department of Transportation | National ITS Architecture http://itsarch.iteris.com/itsarch/html/menu/order.htm | W |

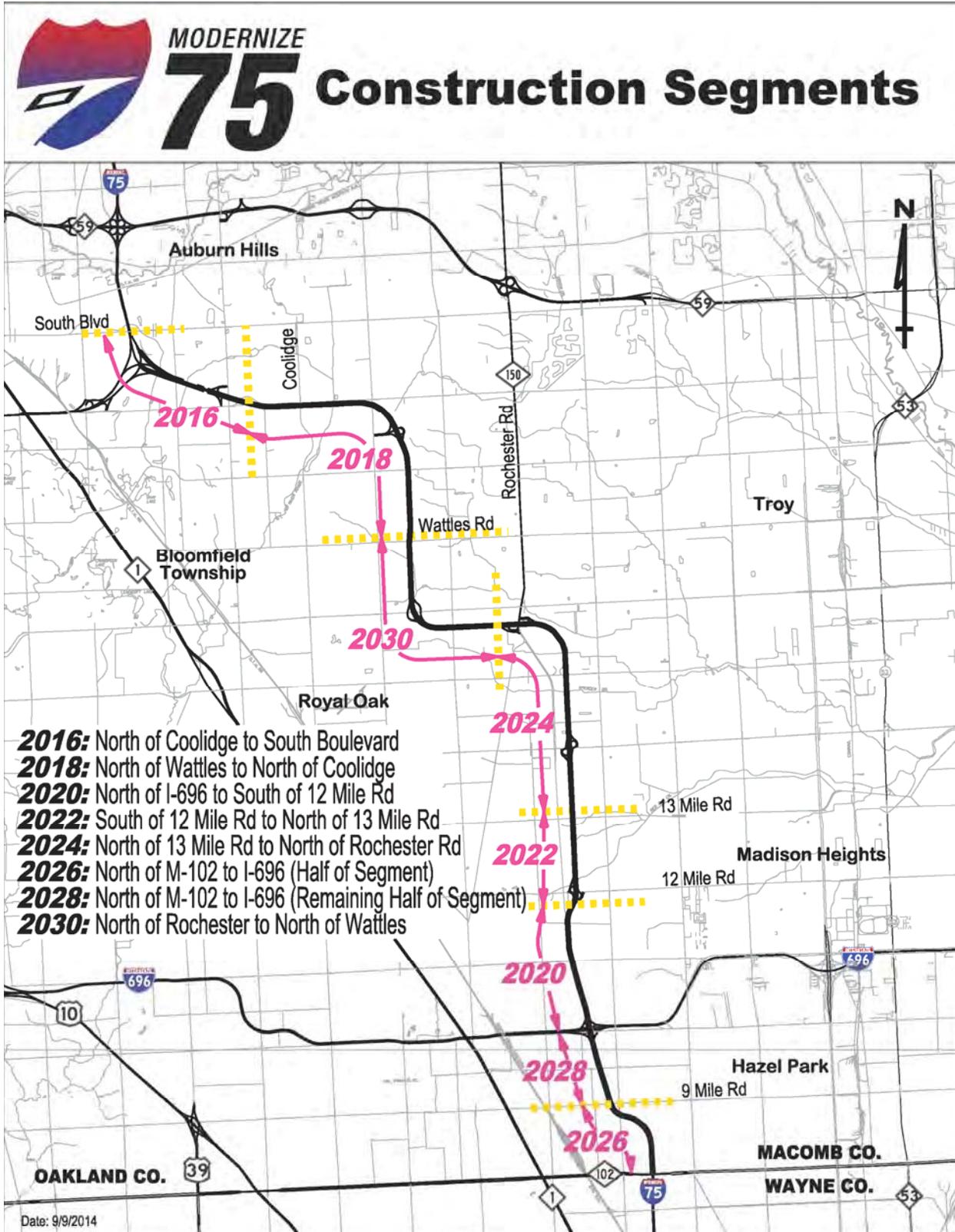
Execution Version

| Organization | Standard | Avbl. |
|----------------------------|---|-------|
| USDA | Rural Utilities Service (RUS) Specifications | IS |
| USDA | RUS 7 CFR 1755.900 http://www.usda.gov/rus/telecom/publications/publications.htm | W |
| US Access Board | Public Rights of Way Access Guidelines (PROWAG) | IS |
| US General Services Admin. | Federal Color Standard, 595, Rev B | IS |

EXHIBIT F Major Projects

Descriptions of current and recent projects are temporarily located in the RID, but will be attached to Exhibit F in subsequent addenda as indicated in Section 4.2 of the D&C Works Requirements.

The attached drawings describe the two major projects planned during the Term.



Execution Version

EXHIBIT G Protected Areas

The Project Premises include four Protected Areas where protected plant species exist. The four areas listed below and shown in the included maps are provided for reference.

- I-696 and Orchard Lake Road, within and adjacent to the interchange, Oakland County (T1N, R9E, Section 15);
- US-12 and Evergreen Road, between sidewalk and railroad embankment off EB Michigan Ave., approximately 500 feet west of Evergreen Road and immediately east of the Hampton Inn, Wayne County (CS 82062) (T2S R10E, Section 23) (Stations 638+30 to 639+00 RT);
- I-275 and Middle Rouge River, along the riverbank and floodplain, Wayne County (CS 82293) (T1S, R8E, Section 25) (Stations 1683+00 to 1689+00); and
- I-275 and Will Carleton Road, north of the interchange and extending approximately 1,600 feet north off NB I-275, Wayne County (CS 82291) (T4S, R9E, Section 33) (Stations 585+00 to 600+00 RT).

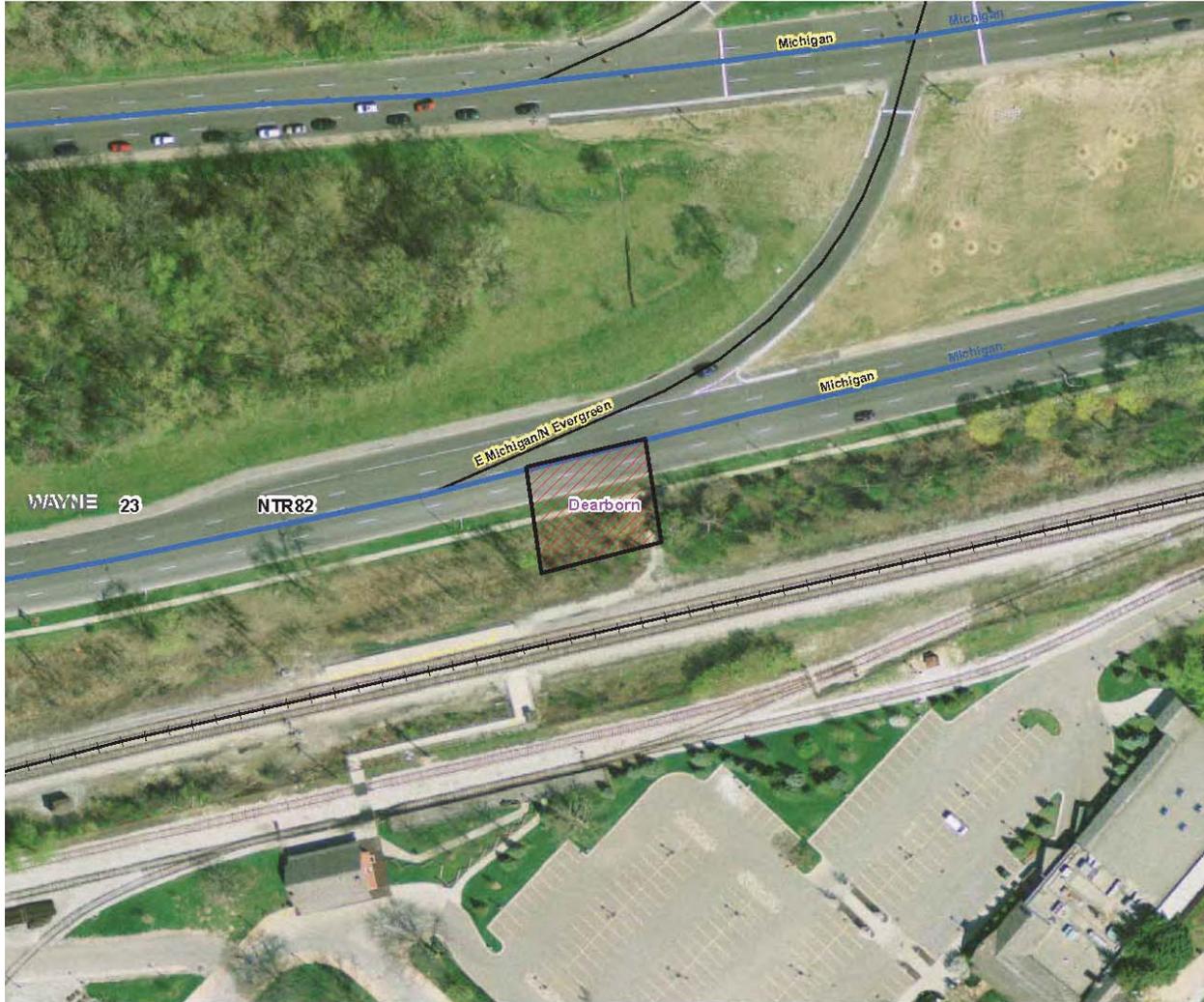
Although MDOT is not aware of any potential conflicts between these Protected Areas and the Freeway Lighting System, Project Company has sole responsibility for making determinations of conflicts and for coordinating with appropriate parties to ensure compliance with all laws and regulations.



I-696 Orchard Lake Road



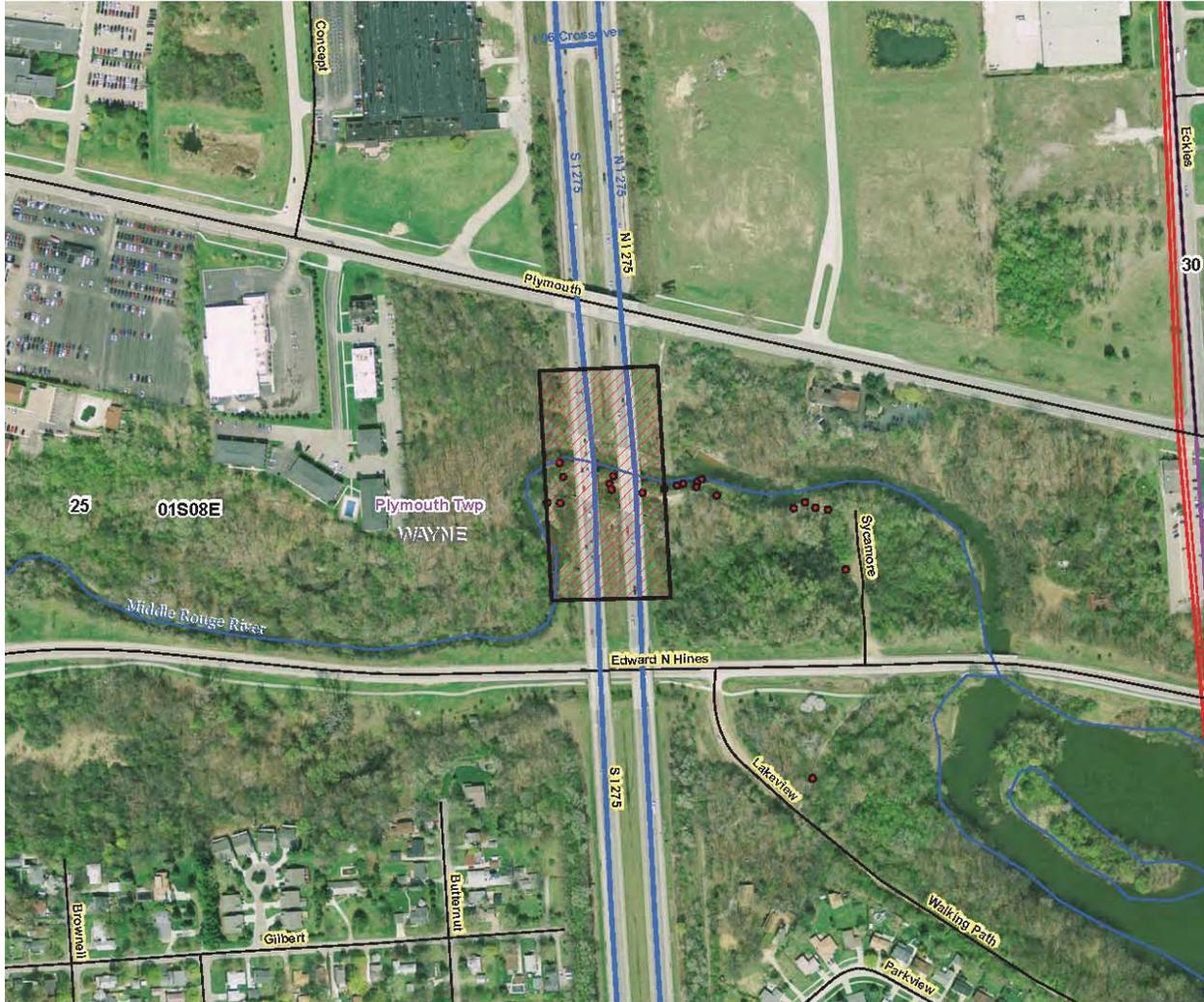
WAYNE COUNTY SITES



US 12 at Evergreen Road



I-275 at Will Carlton Road



I-275 at Middle Rouge River

EXHIBIT H NEPA Documentation

| | |
|--|--|
|  | Environmental Classification: <u>EA-117C</u> |
| JOB NUMBER(S): 125988 | CONTROL SECTION(S): 84917 |
| PROJECT LOCATION Macomb, Oakland, and Wayne County, Metro Region | |
| PROJECT DESCRIPTION Design, build, finance, operate, and maintain existing freeway lighting corridors utilizing a contract structure for a total term of 15 years. | |
| Summarized below are the results of the environmental review. The environmental classification and certification is not valid if a new corridor of lights is added via the Change Order process. | |
| Endangered Species - Flora Project Company and/or Contractor must not enter or cause any form of disturbance in Protected Areas without written approval from MDOT. Protected Areas are known areas within MDOT ROW where protected plant species exist. Contractor must contact MDOT Environmental Services at least 90 days prior to entering a Protected Area, and will most likely involve a MDNR endangered species permit. | |
| The following locations have been delineated as Protected Areas: <ol style="list-style-type: none"> 1) US-12 and Evergreen Rd., between sidewalk and RR embankment off EB Michigan Ave. approx. 500 feet W of Evergreen Rd. and just E. of Hampton Inn, Wayne County (CS 82062) (T2S R10E, Section 23) (Stations 638+30 to 639 Right). 2) I-275 and Middle Rouge River, along riverbank and floodplain, Wayne County (CS 82293) (T1S, R8E, Section 25) (Stations 1683 to 1689). 3) I-275 and Will Carleton Road, N. of interchange and extending approx. 1,600 feet N. off NB I-275, Wayne County (CS 82291) (T4S, R9E, Section 33) (Stations 585 to 600 Right). 4) I-696 and Orchard Lake Road, within and adjacent to interchange, Oakland County (T1N, R9E, Section 15). | |
| Site and county maps showing the locations of the Protected Areas are attached. | |
| Endangered Species - Fauna Habitat for protected/endangered Northern Long Eared Bat and Indiana Bat are potentially in the area of this project. Projects that involve removal of trees greater than 3 inches in diameter at breast height (DBH) may require coordination with the United State Fish and Wildlife Service (USFWS) and Michigan Department of Natural Resources (MDNR). It is the responsibility of the Project Company and/or Contractor to comply with all Federal and State guidance and requirements pertaining to the Northern Long Eared Bat and the Indiana bat. This may include but is not limited to an endangered species survey and other documentation. Tree removals should be completed between the dates of October 1 and March 31 to avoid periods when the Northern Long Eared Bat and the Indiana Bat are typically present. | |
| 4(f)/6(f) Project Company and/or Contractor must not use any public recreation area as a staging area, marshalling yard, storage facility, or for any other construction support. Public recreation areas include: parks, trails, game areas, wildlife and waterfowl refuges, playgrounds, golf courses, athletic fields or similar areas which are publically owned by public school districts, local, state, or federal governments. | |
| Any agreements negotiated between the Project Company and the owner of the public recreation area, before or after the award of the contract, will not be considered valid. | |
| Contamination Project Company and/or Contractor is responsible for handling and disposing of all Contamination appropriately in accordance with Applicable Law and federal and state regulations; MDOT Frequently Used Special Provision 12SP205(A) for Non-Hazardous Contaminated Material Handling and Disposal, and MDOT Special Provision for Dewatering System for Contaminated Groundwater. All temporary stockpiling of contaminated soils shall be done in accordance with MDOT Frequently Used Special Provision 12SP205(A) for Non-Hazardous Contaminated Material Handling and Disposal. | |

Execution Version

NEPA Documentation (continued)

MDOT

Environmental Classification/Certification (1/21/2015)

CLASSIFICATION

Code: F - C/E (Programmatic) C.8

Classification Date: 01/21/2015

Version No. 1

This project does not require FHWA Approval.

This document recognizes that the above referenced project has no environmental consequences, is classified as a categorical exclusion in accordance with the programmatic agreement approved by FHWA on 08/20/2010, and meets all requirements to avoid, minimize, or mitigate environmental impacts.

Project Company must comply with all requirements of all applicable Environmental Laws and any issued Permits, Licenses and Approvals, including Environmental Approvals, relating to this Project, whether obtained by MDOT or Project Company and to ensure the protection of the public health, safety, welfare, and environment.

The environmental classification and certification of the above referenced project is not valid if a new corridor of lights is added via the Change Order process.

Kimberly Peadar Holman

Environmental Clearance Coordinator

01/21/2015

Date

SCHEDULE 17 - REPORT OF DEPARTMENT PROPERTY DAMAGE

[Guidelines for Estimates](#)

[Instructions](#)

[Clear Form](#)

Michigan Department
Of Transportation
0443 (01/13)

REPORT OF DEPARTMENT PROPERTY DAMAGE

Information required by Act 17, P.A. of 1925.
Failure to supply this information will result in non-payment for service.

DISTRIBUTION:
REGION MAINT. ENGR.
YOUR FILES

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| ACCIDENT/INCIDENT REPORT NUMBER | OWNER/DRIVER | ACCIDENT DATE |
| TRUNKLINE NUMBER | JOB/PROJECT NUMBER | POLICING AGENCY |
| AGENCY MAKING REPAIRS (List all agencies involved) | | CONTACT PERSON |
| | | AGENCY PHONE NO. |

WORK COMPLETED, CHECK APPROPRIATE BOX

- Guardrail Attenuator Concrete wall Signals Sign
 Cable Guardrail Bridge Lane closure Fences Other

- CHECK APPROPRIATE BOX: Repair Actual costs
 Replace Estimated costs

| Labor | INSTALLER BY SHOP IDENTIFIER NUMBER | DATES WORKED | HOURS | RATE | DIRECT LABOR CHARGES | |
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| | Additional Page | | | | DIRECT LABOR COST TOTAL | |
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| | Additional Page | | | | DIRECT EQUIPMENT COST TOTAL | |
| Materials | ITEM DESCRIPTION | UNIT | COST/UNIT | DIRECT MATERIAL CHARGES | | |
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| | Additional Page | | | | DIRECT MATERIAL COST TOTAL | |

| INDIRECT COSTS | | | | |
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| LABOR ADDITIVE (fringe) % | % x | DIRECT LABOR COST TOTAL | = | |
| MATERIAL HANDLING % | % x | DIRECT MATERIAL COST TOTAL | = | |
| OVERHEAD % | % x | TOTAL DIRECT COSTS | = | |
| TOTAL INDIRECT COSTS | | | | |
| TOTAL COST (TOTAL DIRECT COSTS + TOTAL INDIRECT COSTS) | | | | |

| TO BE FILLED OUT BY ARU ONLY | |
|------------------------------|---|
| SIGNATURE | LESS DEPRECIATION (On Replacement Cost Only) \$ |
| TITLE | MAIN OFFICE CHARGE \$ |
| DATE | GRAND TOTAL \$ |

[Return to First Page](#)

[Clear Form](#)

MDOT 0443 (01/13)

ADDITIONAL PAGE MAY BE USED IF NEEDED

ACCIDENT/INCIDENT REPORT NUMBER OWNER/DRIVER ACCIDENT DATE

DESCRIPTION OF ARTICLES OR SERVICE RENDERED

| Labor | INSTALLER BY SHOP IDENTIFIER NUMBER | DATES WORKED | HOURS | RATE | DIRECT LABOR CHARGES | |
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ENTER TOTAL ON PAGE ONE

| Equipment | NUMBER OR DESCRIPTION | DATES WORKED | HOURS | RATE | DIRECT EQUIP. CHARGES | |
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ENTER TOTAL ON PAGE ONE

Execution Version

PART 2 – COMMERCIAL AND FINANCIAL CLOSE PMP