

Ford County Kansas

Plans, Specifications and Contract Documents
For
Construction of

OS 101 Bridge Replacement Project No. **2211840**



116 W. Iron, Salina, Kansas 67401
(785) 376-6730 FAX (785) 472-3817

INDEX

REQUEST FOR BIDS	Page 1
INFORMATION FOR BIDDERS	Page 2
BID FORM.....	Page 4
BID BOND.....	Page 10
NOTICE OF AWARD	Page 12
AGREEMENT BETWEEN OWNER AND CONTRACTOR	Page 13
CONSTRUCTION PERFORMANCE BOND	Page 19
PAYMENT BOND	Page 22
NOTICE TO PROCEED.....	Page 25
CHANGE ORDER.....	Page 26
GENERAL CONDITIONS	Page 28
GENERAL SPECIFICATIONS.....	Page 94
SPECIAL PROVISIONS	Page 96
CORPS OF ENGINEERS PERMIT	Page 97
KDA PERMIT	Page 140
KDWP PERMIT.....	Page 153

REQUEST FOR BIDS

Notice is hereby given that Ford County, Kansas is soliciting bids for construction of **FORD COUNTY OS 101 Bridge Replacement**. The project consists of replacing the existing 36.1 ft. 3-Span Concrete Slab Bridge with a 44 ft. Single Span Steel Beam Bridge. The project is located 10 miles east and 3 miles south of Spearville, Kansas in Ford County. Ford County shall provide all of the funds required for this project. All Federal, State and County regulations must be complied with. Online Bids (vBids) for the proposed construction will be received by Ford County via QuestCDN Virtubid until **2:00 pm local time February 27, 2026**. Bids will be presented to the Ford County Commissioners at their meeting in the Ford County Courthouse Commission room at **3:30 p.m. local time March 2, 2026**.

All Bidders are to be **prequalified** with the Kansas Department of Transportation, as outlined in Section 102 of the KDOT Standard Specifications or receive approval to bid the project from the owner.

All bids shall be accompanied by a Bid Bond or a Certified or Cashiers check in the amount of 5% of the total bid. Checks or bonds are to be made payable to Ford County and serve as a guarantee of the sincerity and integrity of the bidder, and shall be forfeited to the County if said proposal or bid is accepted and the bidder fails to execute the contract and file the required statutory and performance bonds as required in the contract documents.

Work will commence no sooner than **the date of the signed contract (earliest start date)** and no later than **November 2, 2026 (late start date)**. All work shall be completed within **50 working days** after the Notice to Proceed. Plans, Specifications and Contract Documents may be examined at the County Clerk's Office in the Ford County Courthouse, County Public Works Office, and at the Engineer's Office at the following address:

Kirkham, Michael & Associates, Inc.
116 W. Iron
Salina, Kansas 67401

The contract documents are available at www.questcdn.com. This contract is **QuestCDN project #10035964**. A contractor may view the contract documents at no cost prior to deciding to become a Planholder. To be considered a Planholder for bids, a contractor must register with QuestCDN.com and purchase the contract documents in digital form at a cost of **\$22.00**. Registering as a Planholder is recommended for all prime contractors and subcontractors as Planholders will receive automatic notice of addenda and other contract document updates via QuestCDN. Contact QuestCDN Customer Support at 952-233-1632 or info@questcdn.com for assistance in membership registration, downloading digital project information and vBid online bid submittal questions. For this project, bids will **ONLY** be received and accepted via the online electronic bid service through QuestCDN.com. To access the electronic bid form, download the project documents and click on the online bid button at the top of the bid advertisement page. After the bid closes, bidders will be charged a fee of **\$42.00** for successful bid submission. Prospective bidders must be on the Planholder list through QuestCDN for bids to be accepted. Questions regarding bids shall be directed in writing to John Markel, jmarkel@kirkham.com a minimum of two (2) calendar days prior to the date of the bid opening.

NO REFUNDS WILL BE MADE

Ford County reserves the right to waive any and all technicalities and to reject any and all bids.



Debbie Cox, County Clerk

INFORMATION FOR BIDDERS

Bids for FORD COUNTY OS 101 Bridge Replacement will be received by Ford County, Kansas (herein called the OWNER) via QuestCDN VirtuBid until **2:00 p.m. February 27, 2026**. Bids will be presented to the Ford County Commissioners at their meeting in the Ford County Courthouse Commission room at **3:30 p.m. local time March 2, 2026**.

Bidding Documents for use in preparing BIDS may be viewed and downloaded by registering with QuestCDN online at www.questcdn.com (**QUEST Project #10035964**). Call QuestCDN customer support at 952-233-1632 or info@questcdn.com for assistance in membership registration, downloading and VBid online BID submittals. BIDDERS may view the Bidding Documents at no cost on QuestCDN, however, to be considered a Plan Holder, BIDDER must register on QuestCDN.com and download the bidding documents for **\$22.00**. VBid online BID submittals is **\$42.00**, total non-refundable fee of **\$64.00**. Only registered Plan Holders will receive addenda and updates. BIDS will only be accepted via QuestCDN VirtuBid from registered Plan holders.

OWNER has no responsibility for the accuracy, completeness or sufficiency of any BID documents obtained from any source other than the sources indicated in these documents. Obtaining these documents from any other source(s) may result in obtaining incomplete and inaccurate information. Obtaining these documents from any source other than directly from the sources listed herein may also result in failure to receive any addenda, corrections, or other revisions to these documents that may be issued.

The OWNER may waive any informalities or minor defects or reject any and all BIDS. Any BID may be withdrawn prior to the above scheduled time for the opening of BIDS or authorized postponement thereof. Any BID received after the time and date specified shall not be considered. No BIDDER may withdraw a BID within 60 days after the actual date of the opening thereof. Should there be reason why the contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the OWNER and the BIDDER.

BIDDERS must satisfy themselves as to the accuracy of the estimated quantities in the BID schedule by examination of the site and a review of the drawings and specifications including ADDENDA. After BIDS have been submitted, the BIDDER shall not assert that there is a misunderstanding concerning the quantities of WORK or of the nature of the WORK to be done.

A BIDDER requiring clarification or interpretation of the CONTRACT DOCUMENTS shall make a written request to the ENGINEER, John Markel @ jmarkel@kirkham.com. The OWNER or ENGINEER must receive the written request a minimum of two (2) calendar days prior to the date of the bid opening.

The OWNER shall provide to BIDDERS prior to BIDDING all information which is pertinent to, delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The CONTRACT DOCUMENTS contain the provisions required for the construction of the PROJECT. Information obtained from an office, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the contract.

Each BID must be accompanied by a BID BOND acceptable to the Ford County Clerk in an amount of at least five percent (5%) of the proposal. As soon as the BID prices have been compared, the OWNER will return the BONDS of all except the two lowest responsible BIDDERS. When the Contract is executed the BONDS of the remaining unsuccessful BIDDER will be returned. The BOND of the successful BIDDER will be retained until the PAYMENT BOND and CONSTRUCTION PERFORMANCE BOND have been executed and approved, after which it will be returned.

A PAYMENT BOND and PERFORMANCE BOND in the amount of (100%) of the contract price, with a corporate surety approved by the OWNER, will be required for the faithful performance of the contract. The completed PAYMENT BOND must be filed with the Ford County Court Clerk and proof of filing must be submitted to the ENGINEER on or before the Notice to Proceed is issued or any payments are made. **The intent is that these Bonds shall be construed as a statutory bond and not as a common law bond.**

Attorney-in-fact who signs BID BOND, PAYMENT BOND or PERFORMANCE BOND must file with each BOND a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the contract and obtain the PAYMENT BOND and PERFORMANCE BOND within fifteen (15) calendar days from the date when NOTICE OF AWARD is delivered to the BIDDER. The NOTICE OF AWARD shall be accompanied by the necessary CONTRACT and BOND forms. In case of failure of the BIDDER to execute the contract, the OWNER may, at its option, consider the BIDDER in default, in which case the CHECK or BID BOND accompanying the proposal shall become the property of the OWNER.

The OWNER within ten (10) work days of receipt of acceptable PAYMENT BOND, PERFORMANCE BOND and CONTRACT signed by the party to whom the CONTRACT was awarded shall sign the CONTRACT and return to such party an executed duplicate of the CONTRACT. Should the OWNER not execute the CONTRACT within such period, the BIDDER may by WRITTEN NOTICE withdraw his signed CONTRACT. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

The NOTICE TO PROCEED shall be issued within **ten (10) work days** of the execution of the Agreement by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period; the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued within the **ten (10)** work day period or within the period mutually agreed upon, the CONTRACTOR may terminate the agreement without further liability on the part of either party. Work will commence no sooner than **the date of the signed contract (earliest start date)** and no later than **November 2, 2026 (late start date)**. All work shall be completed within **50 working days** after the Notice to Proceed.

The OWNER may make such investigations as he deems necessary to determine the ability of the BIDDER to perform the WORK, and the BIDDER shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the CONTRACT and to complete the WORK contemplated therein.

A conditional or qualified BID will not be accepted.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over Construction of the PROJECT shall apply to the CONTRACT throughout.

Each BIDDER is responsible for inspecting the site and for reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The failure or omission of any BIDDER to do any of the foregoing shall in no way relieve any BIDDER from any obligation in respect to his BID.

The low BIDDER shall supply the names and addresses of major material SUPPLIERS and SUB-CONTRACTORS when requested to do so by the OWNER.

BID FORM

Project Identification: **Ford County OS 101 Bridge Replacement**

TABLE OF ARTICLES

	Page
Article 1 – Bid Recipient.....	1
Article 2 – Bidder’s Acknowledgements.....	1
Article 3 – Bidder’s Representations	1
Article 4 – Bidder’s Certification.....	2
Article 5 – Basis of Bid	3
Article 6 – Time of Completion.....	4
Article 7 – Attachments to This Bid	4
Article 8 – Defined Terms.....	4
Article 9 – Bid Submittal.....	4

ARTICLE 1 – BID RECIPIENT

- 1.01 This Bid is submitted to: **Ford County**
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents that:
- A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:
- | <u>Addendum No.</u> | <u>Addendum Date</u> |
|---------------------|----------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

- ~~D.~~ Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in SC-4.02 as containing reliable "technical data," and ~~(2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in SC 4.06 as containing reliable "technical data."~~
- E. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

ARTICLE 4 – BIDDER’S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

[BASE BID]

Item No.	Description	Unit	Estimated Quantity
1	Contractor Construction Staking	LS	1
2	Mobilization	LS	1
3	Removal of Existing Structures	LS	1
4	Clearing & Grubbing	LS	1
5	Common Excavation	Cu. Yds.	115
6	Common Excavation (Contractor Furnished)	Cu. Yds.	952
7	Compaction of Earthwork (Type B) (MR-90)	Cu. Yds.	800

8	Steel Beam Bridge	LS	1
9	Steel Sheet Piles (7 Ga.) (Galvanized)	Sq. Ft.	2,600
10	Steel Piles (HP 12x53)	Lin. Ft.	910
11	Cast Steel Pile Points	EA	18
12	Guardrail Steel Plate	Lin. Ft.	125
13	Contractor Furnished PDA	EA	1
14	Signing Object Marker (Type 3)	EA	4
15	Seeding	LS	1
16	Traffic Control	LS	1

Unit Prices have been computed in accordance with Paragraph 11.03.B of the General Conditions.

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees Work will begin no earlier than **the date of the signed contract** and no later than **November 2, 2026 (late start date)**. Bidder hereby agrees to commence Work under this contract on or about _____. Bidder agrees that the Work will be substantially complete within **50 working days** after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within **50 working days** after the date when the Contract Times commence to run.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security in the form of a Bid Bond (EJCDC No. C-430) or a Certified Check (circle type of security provided);
- B. List of Proposed Subcontractors;

ARTICLE 8 – DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

9.01 This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____
(Individual's signature)

Doing business as: _____

A Partnership

Partnership Name: _____

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

A Corporation

Corporation Name: _____ (SEAL)

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____
(CORPORATE SEAL)

Attest _____

Date of Qualification to do business in [State where Project is located] is ____ / ____ / ____.

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Second Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address _____

Phone No. _____ Fax No. _____

E-mail _____

SUBMITTED on _____, 20____.

State Contractor License No. _____. *[If applicable]*

BID BOND

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

BIDDER *(Name and Address)*:

SURETY *(Name and Address of Principal Place of Business)*:

OWNER *(Name and Address)*:

Ford County
100 Gunsmoke
Dodge City, Kansas 67801

BID

Bid Due Date: **February 27, 2026**

Description *(Project Name and Include Location)*: **Ford County OS 101 Bridge Replacement**

BOND

Bond Number:

Date *(Not earlier than Bid due date)*:

Penal sum

(Words)

\$

(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

 Bidder's Name and Corporate Seal (Seal)

 Surety's Name and Corporate Seal (Seal)

By:

 Signature

By:

 Signature (Attach Power of Attorney)

 Print Name

 Print Name

 Title

 Title

Attest:

 Signature

Attest:

 Signature

 Title

 Title

Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

Notice of Award

Date: _____

Project: **Ford County OS 101 Bridge Replacement**

Owner: **Ford County**

Owner's Contract No.: **2211840**

Contract: **Ford County OS 101 Bridge Replacement**

Engineer's Project No.: **2211840**

Bidder: _____

Bidder's Address: _____

You are notified that your Bid dated _____ for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for **full amount**.

The Contract Price of your Contract is _____ Dollars (\$_____).

5 copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

1 set of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within **15** days of the date you receive this Notice of Award.

1. Deliver to the Owner **5** fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security Bonds as specified in the Instructions to Bidders (Article 20), General Conditions (Paragraph 5.01), and Supplementary Conditions (Paragraph SC-5.01).
3. Other conditions precedent:

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

Ford County
Owner

By: _____
Authorized Signature

Title

Copy to Engineer

**SUGGESTED FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between Ford County (“Owner”) and
Click here to enter text. (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Ford County OS 101 Bridge Replacement

ARTICLE 2 – THE PROJECT

- 2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Ford County OS 101 Bridge Replacement

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by **Kirkham, Michael and Associates, Inc.** (Engineer), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. Work will begin no earlier than **the date of the signed contract** and no later than **November 2, 2026 (late start date)**. The Work will be substantially completed within **50 working days** after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **\$800.00** for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **\$800.00** for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:
- A. For all Work, **at the prices stated in Contractor's Bid**, attached hereto as an exhibit for the amount of: .

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the **25th** day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.
 - a. **90** percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of

the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

- b. **90** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **100** percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less **200** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – ~~INTEREST~~

~~7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of _____ percent per annum.~~

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface ~~or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC 4.02 of the Supplementary Conditions as containing reliable "technical data."~~
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:

- 1. **SEE INDEX**

- Drawings consisting of **17** sheets with each sheet bearing the following general title: **OS 101 Bridge Replacement**

- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

Ford County

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

100 Gunsmoke

Dodge City, Kansas 67801

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

CONTRACTOR

By: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

License No.: _____

(Where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

Agent for service of process:

PERFORMANCE BOND

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

CONTRACTOR (*Name and Address*): SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

**Ford County
100 Gunsmoke
Dodge City, Kansas 67801**

CONTRACT

Effective Date of Agreement:

Amount:

Description (*Name and Location*): **Ford County OS 101 Bridge Replacement**

BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(Seal)

Contractor's Name and Corporate Seal

(Seal)

Surety's Name and Corporate Seal

By: _____
Signature

Print Name

Title

Attest: _____
Signature

Title

By: _____
Signature (Attach Power of Attorney)

Print Name

Title

Attest: _____
Signature

Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.

2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:

2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and

2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and

2.3 Owner has agreed to pay the Balance of the Contract Price to:

1. Surety in accordance with the terms of the Contract; or
2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.

3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:

3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or

3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or

3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
2. Deny liability in whole or in part and notify Owner citing reasons therefor.

4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.

5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

- 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
- 5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
- 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.

8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (*Name, Address and Telephone*)

Surety Agency or Broker:

Owner's Representative (*Engineer or other party*): **Kirkham, Michael & Associates, Inc., 116 W. Iron, Salina, Kansas 67401 (785)-376-6730**

PAYMENT BOND

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

CONTRACTOR (*Name and Address*):

SURETY (*Name and Address of Principal Place of Business*):

OWNER (*Name and Address*):

Ford County

100 Gunsmoke

Dodge City, Kansas 67801

CONTRACT

Effective Date of Agreement:

Amount:

Description (*Name and Location*): **Ford County OS 101 Bridge Replacement**

BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(Seal)
Contractor's Name and Corporate Seal

(Seal)
Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (*Name, Address, and Telephone*)

Surety Agency or Broker:

Owner's Representative (*Engineer or other*): **Kirkham, Michael & Associates, Inc., 116 W. Iron, Salina, Kansas 67401 (785) 376-6730**

Notice to Proceed

Date: _____

Project: **Ford County OS 101 Bridge Replacement**

Owner: **Ford County**

Owner's Contract No.: **2211840**

Contract: **Ford County OS 101 Bridge Replacement**

Engineer's Project No.: **2211840**

Contractor:

Contractor's Address:

You are notified that the Contract Times under the above Contract will commence to run on **November 2, 2026 (late start date, or the day work is started, whichever occurs first)**. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the date of Substantial Completion is **50 working days from the Notice to Proceed**, and the date of readiness for final payment is **50 working days from the Substantial Completion date**.

Before you may start any Work at the Site, Paragraph 2.01.B of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Ford County

Owner

Given by:

Authorized Signature

Title

Date

Copy to Engineer

Change Order Details

Project:

Description:

Prime Contractor:

Date Created:

Change Order:

Status:

Type:

Summary:

Change Order Description:

Awarded Project Amount: \$

Authorized Project Amount: \$

Change Order Amount: \$

Revised Project Amount: \$

Increases/Decreases

Line No.	Item ID	Unit	Unit Price	Current		Change		Revised	
				Quantity	Amount	Quantity	Amount	Quantity	Amount
					\$		\$		\$
Reason:									
Totals:					\$		\$		\$

New Items

Line No.	Item ID	Unit	Quantity	Unit Price	Extension
Reason:					
					Total: \$

RECOMMENDED:

ACCEPTED:

ACCEPTED:

By: _____
Engineer (Authorized Signature)

By: _____
Owner (Authorized Signature)

By: _____
Contractor (Authorized Signature)

Date: _____

Date: _____

Date: _____

Approved by Funding Agency (if applicable):

Date: _____

Change Order

Instructions

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

Copyright © 2007 National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

The copyright for this EJCDC document is owned jointly by the four
EJCDC sponsoring organizations and held in trust for their benefit by NSPE.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1 – Definitions and Terminology	1
1.01 Defined Terms.....	1
1.02 Terminology	5
Article 2 – Preliminary Matters	6
2.01 Delivery of Bonds and Evidence of Insurance.....	6
2.02 Copies of Documents.....	6
2.03 Commencement of Contract Times; Notice to Proceed	6
2.04 Starting the Work.....	6
2.05 Before Starting Construction	7
2.06 Preconstruction Conference; Designation of Authorized Representatives	7
2.07 Initial Acceptance of Schedules	7
Article 3 – Contract Documents: Intent, Amending, Reuse.....	8
3.01 Intent.....	8
3.02 Reference Standards	8
3.03 Reporting and Resolving Discrepancies	8
3.04 Amending and Supplementing Contract Documents	9
3.05 Reuse of Documents	9
3.06 Electronic Data.....	10
Article 4 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions; Reference Points	10
4.01 Availability of Lands	10
4.02 Subsurface and Physical Conditions	11
4.03 Differing Subsurface or Physical Conditions.....	11
4.04 Underground Facilities	12
4.05 Reference Points	13
4.06 Hazardous Environmental Condition at Site.....	14
Article 5 – Bonds and Insurance	15
5.01 Performance, Payment, and Other Bonds	15
5.02 Licensed Sureties and Insurers	16
5.03 Certificates of Insurance	16
5.04 Contractor’s Insurance.....	16
5.05 Owner’s Liability Insurance	18
5.06 Property Insurance	18
5.07 Waiver of Rights	19
5.08 Receipt and Application of Insurance Proceeds	20
5.09 Acceptance of Bonds and Insurance; Option to Replace.....	20

5.10	Partial Utilization, Acknowledgment of Property Insurer	21
Article 6 – Contractor’s Responsibilities		21
6.01	Supervision and Superintendence	21
6.02	Labor; Working Hours.....	21
6.03	Services, Materials, and Equipment	22
6.04	Progress Schedule	22
6.05	Substitutes and “Or-Equals”	22
6.06	Concerning Subcontractors, Suppliers, and Others	25
6.07	Patent Fees and Royalties	26
6.08	Permits.....	26
6.09	Laws and Regulations	27
6.10	Taxes	27
6.11	Use of Site and Other Areas	27
6.12	Record Documents.....	28
6.13	Safety and Protection	28
6.14	Safety Representative	29
6.15	Hazard Communication Programs	29
6.16	Emergencies	29
6.17	Shop Drawings and Samples	30
6.18	Continuing the Work	31
6.19	Contractor’s General Warranty and Guarantee.....	31
6.20	Indemnification	32
6.21	Delegation of Professional Design Services	33
Article 7 – Other Work at the Site.....		34
7.01	Related Work at Site	34
7.02	Coordination.....	34
7.03	Legal Relationships.....	35
Article 8 – Owner’s Responsibilities		35
8.01	Communications to Contractor.....	35
8.02	Replacement of Engineer.....	35
8.03	Furnish Data	35
8.04	Pay When Due	35
8.05	Lands and Easements; Reports and Tests	35
8.06	Insurance	35
8.07	Change Orders.....	35
8.08	Inspections, Tests, and Approvals	36
8.09	Limitations on Owner’s Responsibilities	36
8.10	Undisclosed Hazardous Environmental Condition.....	36
8.11	Evidence of Financial Arrangements	36
8.12	Compliance with Safety Program.....	36
Article 9 – Engineer’s Status During Construction		36
9.01	Owner’s Representative.....	36
9.02	Visits to Site	36
9.03	Project Representative	37

9.04	Authorized Variations in Work	37
9.05	Rejecting Defective Work	37
9.06	Shop Drawings, Change Orders and Payments	37
9.07	Determinations for Unit Price Work	38
9.08	Decisions on Requirements of Contract Documents and Acceptability of Work	38
9.09	Limitations on Engineer's Authority and Responsibilities.....	38
9.10	Compliance with Safety Program.....	39
Article 10 –	Changes in the Work; Claims	39
10.01	Authorized Changes in the Work	39
10.02	Unauthorized Changes in the Work	39
10.03	Execution of Change Orders.....	39
10.04	Notification to Surety.....	40
10.05	Claims.....	40
Article 11 –	Cost of the Work; Allowances; Unit Price Work.....	41
11.01	Cost of the Work	41
11.02	Allowances	43
11.03	Unit Price Work	44
Article 12 –	Change of Contract Price; Change of Contract Times	45
12.01	Change of Contract Price.....	45
12.02	Change of Contract Times	46
12.03	Delays	46
Article 13 –	Tests and Inspections; Correction, Removal or Acceptance of Defective Work.....	47
13.01	Notice of Defects	47
13.02	Access to Work	47
13.03	Tests and Inspections	47
13.04	Uncovering Work.....	48
13.05	Owner May Stop the Work.....	48
13.06	Correction or Removal of Defective Work.....	48
13.07	Correction Period.....	49
13.08	Acceptance of Defective Work	50
13.09	Owner May Correct Defective Work	50
Article 14 –	Payments to Contractor and Completion.....	51
14.01	Schedule of Values	51
14.02	Progress Payments	51
14.03	Contractor's Warranty of Title	53
14.04	Substantial Completion.....	53
14.05	Partial Utilization	54
14.06	Final Inspection.....	55
14.07	Final Payment	55
14.08	Final Completion Delayed.....	56
14.09	Waiver of Claims	56

Article 15 – Suspension of Work and Termination	57
15.01 Owner May Suspend Work	57
15.02 Owner May Terminate for Cause	57
15.03 Owner May Terminate For Convenience.....	58
15.04 Contractor May Stop Work or Terminate	58
Article 16 – Dispute Resolution	59
16.01 Methods and Procedures.....	59
Article 17 – Miscellaneous.....	59
17.01 Giving Notice.....	59
17.02 Computation of Times	60
17.03 Cumulative Remedies	60
17.04 Survival of Obligations.....	60
17.05 Controlling Law	60
17.06 Headings.....	60

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
 10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work

Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide:*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run ~~on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.~~

2.04 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 2. a preliminary Schedule of Submittals; and
 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

- A. Standards, Specifications, Codes, Laws, and Regulations
 1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. Resolving Discrepancies:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 Amending and Supplementing Contract Documents

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 1. A Field Order;
 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
 3. Engineer's written interpretation or clarification.

3.05 Reuse of Documents

- A. Contractor and any Subcontractor or Supplier shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or

2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

1. is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
2. is of such a nature as to require a change in the Contract Documents; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review*: After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. *Possible Price and Times Adjustments*:

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

- A. *Shown or Indicated*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
 - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. Not Shown or Indicated:

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as

Acceptable Reinsuring Companies” as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual’s authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor’s obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor’s liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor’s Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor’s performance of the Work and Contractor’s other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier,

or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
 2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have

to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:
1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably

request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

- A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

6.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and “Or-Equals”*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or-equal” item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
 - 1. “Or-Equal” Items: If in Engineer’s sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an “or-equal” item, in which case review and approval of the proposed item may, in Engineer’s sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
 - 3) it has a proven record of performance and availability of responsive service.
- b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.
- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,

- b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
 - 3) will identify:
 - a) all variations of the proposed substitute item from that specified, and
 - b) available engineering, sales, maintenance, repair, and replacement services; and
 - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.
- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.
- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract

Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

- 1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
- 2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
- 3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by

any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify

owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

- A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Submit number of copies specified in the General Requirements.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.
 2. *Samples:*
 - a. Submit number of Samples specified in the Specifications.
 - b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.
- B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Submittal Procedures:*
1. Before submitting each Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. Engineer's Review:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. Resubmittal Procedures:

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 *Continuing the Work*

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.

- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
 6. any inspection, test, or approval by others; or
 7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages,

compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 - 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 - 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.
- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
 - 1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 - 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 - 3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

- A. Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents.

9.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

- A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

- A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 1. deny the Claim in whole or in part;
 2. approve the Claim; or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable

to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.

- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 Allowances

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances:*

1. Contractor agrees that:

- a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
- b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or
 - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.
- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.

- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
1. repair such defective land or areas; or
 2. correct such defective Work; or
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. *Applications for Payments:*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;

- b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
- 3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
- 4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
- 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;

- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. Reduction in Payment:

- 1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
- 2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
 - 2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and
 - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full,

Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. Engineer's Review of Application and Acceptance:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due:

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

- A. The making and acceptance of final payment will constitute:
 1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will justify termination for cause:
 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of Engineer; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:
 1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance,

Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 - 3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
 - 4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days

to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
 2. agrees with the other party to submit the Claim to another dispute resolution process; or
 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

17.06 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

GENERAL SPECIFICATIONS

1.01 SCOPE

Work to be done shall consist of furnishing all labor, material, construction equipment and incidentals necessary to construct:

FORD COUNTY OS 101 Bridge Replacement

1.02 SUBSTANTIAL COMPLETION

For the purpose of this contract, “Completion” and “Substantial Completion” have the same meaning. “Substantial Completion” is to be considered full completion. No unrestricted working days are allowed for this project.

1.03 CONSTRUCTION STAKING

Construction staking shall be performed by the CONTRACTOR. The CONTRACTOR shall furnish and set all necessary construction stakes to establish the location, elevation, and alignment of the proposed work. The CONTRACTOR shall be responsible for maintaining all lines and points given.

The CONTRACTOR shall construct the work in accordance with the stakes and marks and shall be fully responsible for conformity and agreement of the work with such stakes and marks.

1.04 INSPECTION

The OWNER or his representative shall be allowed access to all parts of the work at all times and the CONTRACTOR shall furnish them every reasonable facility for ascertaining whether or not the work performed and materials used are in accordance with the requirements and intent of the Specifications and Contract.

1.05 TECHNICAL SPECIFICATIONS

The most recent edition of the State of Kansas Department of Transportation standard specifications and listed special provisions are hereby made a part of these documents.

1.06 TRAFFIC CONTROL

The CONTRACTOR shall be responsible for providing, erecting, and maintaining all traffic control devices specified in the plans during construction.

1.07 SALES TAX EXEMPTION

In accordance with the provisions of K.S.A. 79-3606(d) as amended, all county projects or parts of projects within the corporate limits qualify for Sales Tax Exemption. When the project or the applicable portion of a project qualifies, a sales tax exemption certificate number will be furnished to the CONTRACTOR, by the OWNER.

In order to purchase materials tax exempt for incorporation in such projects, the CONTRACTOR shall furnish all suppliers a properly executed exemption certificate (Form STD 74) for the supplier's file. All invoices issued by the suppliers for the tax exempt sales of materials to be incorporated into the identified project must bear the tax exemption number. The exemption certificate number issued must be made available by the CONTRACTOR to supplier at the time the invoice is rendered, or the exemption for the sales tax cannot be claimed.

The CONTRACTOR shall furnish the OWNER copies of a sworn statement to the effect that all purchases so made were entitled to exemption under provision of the law as amended. Such statement will be executed on a Department of Revenue form to be supplied by the OWNER and will be submitted in lieu of invoices.

1.08 PRECONSTRUCTION CONFERENCE

A preconstruction conference will be scheduled at least two weeks in advance of the start of construction. The CONTRACTOR shall contact the Ford County Road and Bridge Superintendent, Bradley Ross at 620-227-4588 and Kirkham Michael at 785-472-3163 to schedule the preconstruction conference.

1.09 MEASUREMENT AND PAYMENT

Items not listed separately in the Bid Schedule are subsidiary to other items of the contract. The CONTRACTOR may request no more than one payment per calendar month. Request for payment will be on a percent of completion basis and is subject to the approval of the ENGINEER.

1.10 REMOVAL OF EXISTING STRUCTURE

All items of the existing structure shall become the property of the CONTRACTOR and shall be removed from the site unless otherwise noted in the plans.

Special Provision List

Note: THE FOLLOWING LIST OF SPECIAL PROVISIONS ARE FOR THIS PROJECT. OMISSION OF ALL OR PART OF A SPECIAL PROVISION IN THE ATTACHED PROPOSAL (CONTRACT) DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY FOR OBTAINING THE COMPLETE PROVISION AS LISTED.

PROVISION NO.	DESCRIPTION
15-ER-1-R22	ERRATA SHEET FOR STD SPEC BOOK FOR RD & BR CONST, 2015 ED
15-01011-R06	MIGRATORY BIRDS, BORROW-WASTE SITES AND STAGING AREAS
15-01016-R04	PROSECUTION AND PROGRESS
15-02001	REMOVAL OF EXISTING STRUCTURES
15-04002	STRUCTURAL CONCRETE
15-04003	ON GRADE CONCRETE
15-04005-R03	GENERAL CONCRETE
15-07011-R01	CONCRETE STRUCTURE CONSTRUCTION
15-07017	PILING
15-08015	CONTRACTOR CONSTRUCTION STAKING
15-08019-R02	WORK ZONE TRAFFIC CONTROL & SAFETY
15-09003-R02	MULCHING
15-09004-R01	TEMPORARY EROSION AND SEDIMENT CONTROL
15-09006	MULCHING
15-11003-R04	AGGREGATES FOR CONCRETE NOT PLACED ON GRADE
15-14001-R01	AIR-ENTRAINING ADMIXTURES FOR CONCRETE
15-14002	SHEET MATERIALS FOR CURING CONCRETE
15-14003	LIQUID MEMBRANE FORMING COMPOUNDS
15-20001-R01	PORTLAND CEMENT AND BLENDED HYDRAULIC CEMENT
15-20004-R01	FLY ASH FOR USE IN CONCRETE
15-21001-R01	SEEDS
15-21002	MULCH TACKING SLURRY
15-22005-R03	IMAGE SYSTEMS FOR RETROREFLECTIVE SHEETING
15-25001-R07	PART V
15-25002-R01	CONSTRUCTION MANUAL – PART V CHANGES/CORRECTIONS
15-26001-R10	MATERIALS CERTIFICATIONS
END OF SPECIAL PROVISION LIST	



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT
601 E. 12TH STREET, 635 FEDERAL BUILDING
KANSAS CITY, MO 64106-2824

January 12, 2026

Regulatory Branch
NWK-2023-00459
Ford, KS, NWP 14

Mr. Jon Halbgewachs
Kirkham Michael
217 North Douglas
Ellsworth, KS 67439

Dear Mr. Halbgewachs:

This letter pertains to an application submitted on behalf of Ford County for a Department of the Army permit. The application was received on December 12, 2024. The proposed work concerns the replacement of OS Bridge 101 which involved the placement of fill material within Coon Creek. The existing 3-span, 36.1-foot-long Reinforced Concrete Slab bridge with circular haunches will be replaced with a new 44-foot Single Span Steel Beam Bridge. The project is located on 135 Road in Sections 11 & 12, Township 26 South, Range 21 West, Ford County, KS (Lat. 37.7988, Long. -99.5782).

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320-332.

We have reviewed the information furnished and have determined that your project is authorized by nationwide permit (NWP) 14 (Linear Transportation Projects), provided you ensure that the conditions listed in the enclosed copy of excerpts from the January 13, 2021, U.S. Army Corps of Engineers (Corps) (86 FR 2744 and the correction at 86 FR 27274), Reissuance and Modification of Nationwide Permits, are met. You must also comply with the Kansas City District Regional NWP Conditions posted at: <http://www.nwk.usace.army.mil/Missions/RegulatoryBranch/NationWidePermits.aspx>

The Corps' decision to verify this project is based on the provided plans and project description submitted in the application. Deviations to project designs should be coordinated with this office to ensure compliance with terms and conditions of this permit verification.

The Kansas Department of Health and Environment has certified that this NWP will not violate existing state water quality standards provided you comply with the conditions in the enclosed Kansas Clean Water Act Section 401 Water Quality Certification (WQC). All conditions included in the water quality certification are conditions of the NWP authorization. Please carefully review all conditions associated with this NWP. Per 40 CFR Part 121.11(c) the Corps is responsible for enforcing WQC conditions that are incorporated into this permit verification. If you have any questions concerning WQC standards or compliance issues with the associated certification conditions, please contact the project manager at the phone number and/or email provided below.

General condition 30 requires you to sign and submit the enclosed "Compliance Certification" within 30 days of completing the authorized activity or the completion of the implementation of any required compensatory mitigation.

This NWP verification is valid until March 14, 2026, which is the expiration date for all NWPs. Should your project plans change, or if your activity is not complete by March 14, 2026, you must contact this office in writing for another permit determination. We will issue a public notice when the NWPs are reissued. Furthermore, if the authorized activity has commenced or is under contract to commence before March 14, 2026, you will have twelve (12) months from that date to complete the activity under the present terms and conditions of this NWP. If you need more than one additional year to complete the authorized activity, or if work has not commenced and/or is not under contract to commence, you will need to request a new verification under the reissued NWPs or have the remaining work authorized by another type of DA Permit. Although the Corps has verified your project would meet the terms and conditions of a nationwide permit, other Federal, state and/or local permits may be required. You should verify this yourself.

We are interested in your thoughts and opinions concerning your experience with the Kansas City District, Corps of Engineers Regulatory Program. Please feel free to complete our Customer Service Survey form on our website at: <https://regulatory.ops.usace.army.mil/customer-service-survey/>. You may also call and request a paper copy of the survey which you may complete and return to us by mail.

Ms. Sarah Reznicek, Regulatory Project Manager, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Ms. Reznicek at (816) 389-3741 or by email at sarah.m.reznicek@usace.army.mil. Please reference Permit No. NWK-2023-00459 in all comments and/or inquiries relating to this project. This letter is only being provided to you electronically at: jhalbgewachs@kirkham.com.

Enclosures

cc (electronically w/o enclosures):

Environmental Protection Agency,
Permits and Wetlands Branch
U.S. Fish and Wildlife Service, Manhattan, Kansas
Kansas Department of Wildlife and Parks
Kansas Department of Health and Environment
Kansas Department of Agriculture

cc (electronically w/ enclosures):

Bradley Ross, Ford County

U.S. Army Corps of Engineers (USACE) CERTIFICATION OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT For use of this form, see Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research, and Sanctuaries Act; the proponent agency is CECW-COR.		Form Approved - OMB No. 0710-0003 Expires 2027-10-31
The Agency Disclosure Notice (ADN)		
The Public reporting burden for this collection of information, 0710-0003, is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.		
PURPOSE: This form is used by recipients of U.S. Army Corps of Engineer Regulatory permits to certify compliance with the permit terms and conditions. Your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.		
Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the U.S. Army Corps of Engineers, <u>Kansas State Regulatory Office</u>. The certification can be submitted by email at Regulatory.KansasState@usace.army.mil or by mail at the below address: U.S. Army Corps of Engineers Kansas State Regulatory Office 2710 NE Shady Creek Access Road El Dorado, KS 67042 Email: Regulatory.KansasState@usace.army.mil		
COMPLETED BY THE CORPS		
Corps Action Number:	NWK-2023-00459	
Permit Type:	Nationwide Permit	
General Permit Number and Name (<i>if applicable</i>):	14 (Linear Transportation Projects)	
Name of Permittee:	Ford County, KS	
Project Name:	Ford County Bridge OS 101 Replacement	
Project Location (<i>physical address</i>):	Within Coon Creek, located in Sections 11 & 12, Township 26	
	South, Range 21 West, Ford County, KS.	
PERMITTEE'S CERTIFICATION		
Date Work Started: _____ Date Work Completed: _____		
Enclose photographs showing the completed project (<i>if available</i>).		
I _____ hereby certify that the work authorized by the above referenced permit has been completed in accordance with all of the permit terms and conditions, and that any required compensatory mitigation has been completed in accordance with the permit conditions.		
Name	Date	Signature



**US Army Corps
of Engineers**®
Kansas City District

NWP 14 Linear Transportation Projects

14. Linear Transportation Projects. Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, driveways, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge of dredged or fill material in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

February 2022



**US Army Corps
of Engineers**®
Kansas City District

Note 2: Some discharges of dredged or fill material for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

Excerpts for 2021 Nationwide Permits General Conditions, District Engineer's Decision, & Further Information¹

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

¹The 2021 Nationwide Permits, General Conditions, District Engineer's Decision, Further Information, and Definitions were published in the *Federal Register* on January 13, 2021 (86 FR 2744, and the correction at 86 FR 27274) and December 27, 2021 (86 FR 73522).

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical

habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is

required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to

those waters. The district engineer may authorize activities under these NWP's only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas

involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWP, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal

agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also

require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed

the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to

general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) (i) A description of the proposed activity; the activity’s purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.
- (ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs).

This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The

district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic

resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP

with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

Kansas Section 401 Water Quality Certification for Clean Water Act Section 404 Nationwide Permits (Dredge and Fill) Issued by the United State Army Corps of Engineers. Kansas Department of Health and Environment, Bureau of Environmental Field Services 12/11/2020- Revised Links 2/10/2022 <https://www.kdhe.ks.gov/1095/Section-401-Water-Quality-Certification>.

I. Authority

This certification is prepared pursuant to Clean Water Act (CWA) Section 401 and Kansas Administrative Regulation (K.A.R.) 28-16-28f(b)(1) by the Kansas Department of Health and Environment (KDHE).

II. Certification

All activities authorized by the U.S. Department of Army Corps of Engineers (USACE) proposed Nationwide Permits (NWP) that go into effect on the date USACE publishes the final NWPs in the Federal Register, are not expected to result in violations of Kansas Water Quality Standards found at Kansas Administrative Regulations 28-16-28b through 28g, provided the permittee conducting the Corps of Engineers authorized activity adheres to the conditions set out by this certification. Below are the Federal Register links to the NWPs:

<https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-and-modification-of-nationwide-permits> and <https://www.federalregister.gov/documents/2021/12/27/2021-27441/reissuance-and-modification-of-nationwide-permits>

Additionally, Kansas Regional Conditions for NWPs have been drafted by the Kansas City District USACE in coordination with state and federal agencies. Once issued, these conditions provide a general statewide framework for requirements for permitted activities considered by the Kansas City District USACE to have minimal impacts on the aquatic ecosystem. This water quality certification provides conditions and guidance to address local water quality needs of the permitted activities.

III. Limitations of this Certification: All Section 404 activities within the borders of Indian owned and operated lands are not covered by this certification. Individuals proposing projects which impact those waters are responsible for contacting the Environmental Protection Agency at (913) 551-7498 and appropriate individual at the following numbers:

- a. Prairie Band Pottawatomie Indians, Planning Department, 785/966-2946
- b. Kickapoo Tribe in Kansas, Environmental Office, 785/486-2601
- c. Iowa of Tribe of Kansas and Nebraska, 785/595-3258
- d. Sac and Fox Tribe of Missouri, 785/742-4705

IV. General Conditions- NOTE: The K.A.R. citations may change without notice.

1. **Certification Retention:** Nationwide permit recipients shall retain this water quality certification on the project site through the duration of the project to accommodate inspection pursuant to K.S.A. 65-164 and 165.
2. **KDHE Notification:** Pursuant to K.S.A. 65-164 and 165, nationwide permit recipients shall email KDHE at kdhe.nps@ks.gov when construction starts.
3. **Equipment Staging Areas and Project Closure:** Upon completion of the project, disturbed areas shall be expeditiously stabilized with temporary and permanent vegetation, bio-artificial ground cover or other appropriate non-polluting material. Fertilizer application to establish and maintain vegetation shall be done in a manner that will not contribute to the current nutrient load to any of the surface waters impacted by the project. The permittee responsible for the permitted activity shall monitor and maintain cover materials until such time as the site is stabilized. Project closure procedures shall be included in the Project Water Quality Protection Plan (PWQPP) per Section VIII-6. Pursuant to K.A.R. 28-16-28e(b) (1) through (8).
4. **Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). KDHE encourages the use of vegetation consistent with adjoining/native vegetation materials for restoration to minimize impacts from improper handling of fertilizers and pesticides. Pursuant to K.A.R. 28-16-28e(b)(1)(2),(7).
5. **Discharge of Floatable Materials:** Pursuant to K.A.R. 28-16-28e(b)(1) and (3) the permittee responsible for executing the permitted activity shall assure good house-keeping is practiced at the site to minimize the discharge of floatable materials such as personal refuse including food containers, packing, and other materials. Appropriate measures shall be taken to capture and/or recover any floatable materials discharged to waters of the state originating with the permitted project.
6. **Fuel, Chemical and Materials Storage:** Fuel, chemical and other materials stored at the project site shall be stored in a manner that minimizes the discharge of product to waters of the state. Spill minimization and prevention measures and procedures shall be documented in the PWQPP. Pursuant to K.A.R. 28-16-28e(b)(1), (5), and (7).
7. **Spill Response, Cleanup and Reporting:** In the event a spill of fuel, chemical or other water quality degrading materials stored or transported on the site occurs, the permittee shall or with the assistance of professional response personnel, expeditiously control or contain the spill and initiate clean up procedures. The applicant shall immediately contact 911. The Kansas Department of Health and Environment shall then be notified immediately: (785) 291-3333 (24 hours a day.) These incidences should also be reported to the National Spill Response Center (1-800-424-8802). Spill response and cleanup actions shall be documented on the applicable Project Water Quality Protection Plan (PWQPP). KDHE strongly

encourages the permittee to establish and post a sign that includes phone contact numbers for the appropriate local emergency response unit, KDHE district office, and the project manager/owner. Pursuant to K.A.R. 28-16-28e(b)(1), (5), and (7).

V. Special Conditions for Specific Nationwide Permits

1. **Nationwide Permit #7. Outfall Structures and Maintenance (construction):**
Controls shall be in place to stabilize all areas of the bed and bank around the pipe or adjacent to the outfall structure and associated intake structures that may be affected by outfall or stream flows, respectively. This should reduce sediment discharge to avoid addition of suspended solids to registered waters of the state in amounts and concentrations that will interfere with the behavior, reproduction, physical habitat, or other factors related to the survival and propagation of aquatic or semiaquatic life or terrestrial wildlife [K.A.R. 28-16-28e(b)(2)].

VI. Enforcement and Penalties

This certification does not relieve the applicant of the responsibility for any discharge to waters of the state or allow for any inappropriate discharge to occur. As provided for by Kansas Statutes Annotated (K.S.A.) 65-171(f). Additional information on State of Kansas penalties can be found in the Appendix.

A P P E N D I X

Other Considerations for Maintaining and Restoring Water Quality in Kansas

NOTE: The Kansas Surface Water Quality Standard citations and contents of Kansas Surface Water Register and Maps are subject to change without notice. For the most recent version, please see below:

1. Kansas Surface Water Register:
<https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF>
2. Kansas Surface Water Maps:
<https://www.kdhe.ks.gov/ArchiveCenter/ViewFile/Item/785>
3. Surface Water Quality Standards- K.A.R. 28-16-28b through 28g:
<https://www.kdhe.ks.gov/DocumentCenter/View/13290/Kansas-Surface-Water-Quality-Standards-2018-PDF>

KDHE is charged with protecting the waters of the state (K.A.R. 28-16-28 et.al.), while working with NWP recipients to minimize interference in the construction/land alteration activities involving water resources and flood plains where possible. KDHE encourages you to go through the thought process of how the project activity can create water quality impacts and the available measures to avoid or minimize water quality standard violations. This exercise could save you time and money by avoiding delays associated with investigations, litigation and lengthy processing procedures or investigating low cost alternatives. Additionally, it may help reduce the potential for a registered public complaint, civil lawsuit, and save tax payers dollars, while protecting state water's beneficial uses for the citizens of Kansas and border states. Failure to comply with applicable parts of Kansas Statutes Annotated (K.S.A.) 65-171(f) as mentioned above may subject the responsible party to fines, with each day the violation occurs constituting a separate violation.

For convenience of the user of this document, the information below is being provided to the recipient of this water quality certification for said Section 404 permits in order to better serve those using it. Coordination with KDHE programs below should be strongly considered:

1. **Kansas Water Pollution Control General Permit for Stormwater Runoff from Construction Activities:** This certification does not relieve the applicant of project activities not under the Section 404 NWP of the responsibility to determine if the project is subject to the requirements of a construction stormwater permit pursuant to K.S.A. 65- 164 and 165, to secure such permit as necessary. Questions and inquiries may be directed to:

Kansas Department of Health and Environment
Bureau of Water – Permitting and Compliance Section
1000 SW Jackson Street, Suite 420 Topeka, Kansas 66612-1367
Phone 785/296-5549 or FAX:785/296-0086
<https://www.kdhe.ks.gov/757/Construction-Stormwater-Program>

2. **Solid Waste Impacts:** All solid waste materials produced during the execution of the project shall be disposed in accordance with the provisions of Kansas Solid Waste Management Statutes and regulations and applicable local regulations. (K.S.A. 65-3401 and K.A.R. 28-29-1 et. seq.) Direct inquiries to:

KDHE, Bureau of Waste Management
1000 SW Jackson Street, Suite 320
Topeka, Kansas 66612-1366
Phone: 785/296-1600; FAX: 785/559-4253
<https://www.kdhe.ks.gov/168/Waste>

Good housekeeping including personal refuse such as food containers, sacks etc. shall not be left on site to prevent them from being introduced to waters of the state. K.A.R. 28-16-28e(b) (1) and (3).

3. **Public Water Supply Operation Impacts:**
Drinking Water Intakes: The permittee responsible for the permitted activity shall avoid adverse impacts on public water supplies. Whenever permitted activities occur within one mile upstream of a public drinking water supply - surface water intake, the applicant shall contact the official in charge of the public drinking water supply to apprise the drinking water supply official of the permitted activity. The permittee responsible for the permitted activity shall consider the suggestions and recommendations of the public water supply official. K.A.R. 28-16-28e(b)(7).
4. **Nutrient management:** Fertilizer for temporary or permanent vegetation should be applied in a manner that does not result in runoff to the adjacent water body potentially causing toxic algae blooms. Using native vegetation endemic to the area and mulch to restore the area is strongly suggested.
 - a. Any surface waters of the state within and below the project area to have a public health hazard, nuisance condition or impairments of designed uses [K.A.R. 28-16-28e(b)(1)].
 - b. Surface waters of the state within and below the project area to have toxic substances, radioactive isotopes, and infectious microorganisms in concentrations or in combinations that jeopardize the public health or the survival or well-being of livestock, domestic animals, terrestrial wildlife or aquatic or semi-aquatic life [K.A.R. 28-16-28e(b)(2)].

5. **Total Maximum Daily Load Effects:** The permittee should be aware of their activity occurring in a watershed with a Total Maximum Daily Load (TMDL) in implementing appropriate water quality practices. Visit <https://www.kdhe.ks.gov/1443/Total-Maximum-Daily-Loads-TMDLs> for TMDL watershed locations, maps and other information.
6. **Project Water Quality Protection Plan:**
Pursuant to K.S.A. 65-164 and 165. Any entity wishing to use a Section 404 Nationwide Permit shall prepare and follow a written project water quality protection plan (PWQPP.) The PWQPP shall identify components of the permitted activity (i.e. solid waste management, fuel storage and leaks, sediment from construction, proper fertilizer and vegetation management for site stabilization, etc.) which may or will result in the discharge of pollutants to waters of the state. For each component which may discharge pollutants to waters of the state, the plan shall set out the physical, structural and management measures to be implemented to prevent or minimize the discharge of pollutants to waters of the state. The PWQPP shall be posted or retained on site through the duration of the project.

The KDHE website
<https://www.kdhe.ks.gov/DocumentCenter/View/9933/Guidelines-for-Preparing-a-Project-Water-Quality-Protection-Plan-and-Form-PDF?bidId=> contains information to assist the applicant in preparing a Project Water Quality Protection Plan (PWQPP) for projects not requiring a construction stormwater permit and stormwater pollution prevention plan:

The permittee is required to submit the PWQPP to KDHE only if the project impacts Outstanding National Resource, Exceptional State or Special Aquatic Life Use Waters per condition No. 7 below.

7. **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters:** In the event the permitted activity occurs within one half (1/2) mile of an Outstanding National Resource Water as defined pursuant to **K.A.R. 28-16-28b (aaa)** and **K.A.R. 28-16-28c(a)(3)**, an Exceptional State Water pursuant to **K.A.R. 28-16-28b(dd)** and **K.A.R. 28-16-28c(a)(2)**, or a Special Aquatic Life Support Use Water designated pursuant to **K.A.R. 28-16-28d(b)(2)(A)** and **K.A.R. 28-16-28d (c)**, the permittee responsible for initiating the activity shall submit a copy of the PWQPP to:

Kansas Department of Health and Environment
Bureau of Environmental Field Services-Watershed Management Section
1000 SW Jackson Street, Suite 430
Topeka, Kansas 66612-1367 or email: kdhe.nps@ks.gov

Locations of **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters** can be found in the table and figure attached. The permittee should also be aware of the following Kansas water quality protection regulations associated with high value/ critical resource waters:

K.A.R. 28-16-28c(a)(2) “Wherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.”

K.A.R. 28-16-28c(a)(3) “Wherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.”

K.A.R. 28-16-28c(a)(4) “No degradation of surface water quality by artificial sources of pollution shall be allowed if the degradation will result in harmful effects on populations of any threatened or endangered species of aquatic or semiaquatic life or terrestrial wildlife or its critical habitat as determined by the secretary of wildlife and parks pursuant to K.S.A. 32-960, and amendments thereto, and K.A.R. 115-15-3 or in the federal endangered species act, 16 U.S.C. 1532, as in effect July 1, 2012.”

“At a minimum, pursuant to K.A.R. 28-16-28c(a)(1)(A); levels of water quality in surface waters of the state shall be maintained to protect the existing uses of those surface waters.”

8. **Nationwide Permits #3-Maintenance; #12-Oil and Gas Pipe Line Activities; and #18-Minor Discharges (pipelines included):** Hydrostatic tests for pipeline activities shall be approved prior to discharge of water used for the test. Please contact the following for new and used pipeline:

Kansas Department of Health and Environment
Bureau of Water Permitting and Compliance Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-2856 or FAX: 785/559-4257

9. **Nationwide Permit #16:** Return Water from Upland Contained Disposal Areas: The permittee shall contact Kansas Department of Health and Environment, Bureau of Water, Permitting and Compliance Section. Phone: 785-296-5547 or FAX: 785-559-4257 to inquire as to a need for a permit to discharge.
10. **Nationwide Permit #33:** This certification does not relieve the applicant of the responsibility to determine if the project is subject to the requirements of a construction stormwater permit pursuant to K.S.A. 65: 164 and 165, to secure such permit as necessary. Questions and inquiries may be directed to:

Kansas Department of Health and Environment
Bureau of Water – Permitting and Compliance Section
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Phone 785/296-5549 or FAX: 785/559-4257
<https://www.kdhe.ks.gov/757/Construction-Stormwater-Program>

11. **Nationwide Permit #38:** Cleanup of Hazardous and Toxic Waste: Pursuant to K.A.R. 28-16-28 e (b)(1), (2), and (5): The permittee shall coordinate with the Kansas Department of Health and Environment – Bureau of Environmental Remediation by Phone: 785-296-1662 or Fax: 785-559-4261 or click on this link for staff emails.
<https://www.kdhe.ks.gov/165/Remediation>

Additionally, activities authorized by NWP #38 may also require land disturbance authorization from KDHE, Permitting and Compliance Section: Contact by Phone: 785/296-5549 or FAX: 785/559-4257.

12. **Nationwide Permits #27 (Aquatic Habitat, Restoration, Establishment and Enhancement Activities) #29 (Residential Developments), #30 (Moist Soil Management for Wildlife), #39 (Commercial and Institutional Developments), #42 (Recreational Facilities), #43 Stormwater Management Facilities), A (Wind Generative Facilities), B (Water Based Renewable Energy):** Pursuant to K.S.A. 65-164,165 and K.A.R 28-16-28e(b)(1) through (8): Measures shall be implemented to assure impounded waters, created by activities within the framework of these permits, avoid becoming public health threats, nuisances, generate complaints, and potentially discharge degraded water. The applicant shall prepare and implement an Operations and Maintenance Plan for facilities and landscapes (O&M), which at the minimum incorporate the following:

- a. Identify individual and public property owners and their potential for being the source of nonpoint source pollution. This could include but is not limited to: commercial grounds, streets, right-of-ways, parking areas, conservation easement and **proposed** mitigation areas etc.
- b. For each property as described in item A. above, indicate the applicable water quality protection measures for each category of artificial sources of pollution. The identified water quality protection measure for each category of artificial source of pollution shall be designed to **reduce to the maximum extent practicable, the level of pollution resulting from identified pollutant sources**. Identified water quality protection quality protection measures shall be at least as effective as those set out by the Kansas Nonpoint Source Pollution Management Plan, 2019 Update, available at:
<https://www.kdhe.ks.gov/1077/Planning-Management-Reports>
- c. Strategies to assure implementation of the water quality protection measures identified under item VIII. 6 which may include but are not limited to prohibition or restriction of activities, utilization of alternative technologies or products, information and education, financial assistance, technical assistance, enforcement and penalties. Additionally, an in-house reporting form used by staff to document degraded property conditions potentially impacting the property and needs to address them should be developed, if applicable.
- d. Organizations and individuals responsible for assuring implementation of identified water quality protection measures.

13. **Nationwide Permit #s 29, 39, and 42:** Pursuant to K.A.R. 28-16-28e(b)(1), (2), and (6):
The increase in impervious surface through construction of parking lots, roof tops etc., can increase velocity destabilizing the receiving unnamed tributary thus increasing sedimentation downstream. Projects should be designed to replicate pre-construction conditions so as to minimize or abate destabilization of the banks of receiving streams. In addition to stormwater detention basins, pervious pavement, pervious pavers, underground rain water catchments are strongly recommended. For more information said practices go to this link: <http://kcmetro.apwa.net/PageDetails/439>
14. **Variance:** Each permittee seeking a variance from any of the requirements indicated above shall submit to the secretary, in writing, a request for the variance and shall provide information and data relevant to the variance request, for KDHE's review and consideration for approval while adhering to WQS (K.A.R. 28-16-28b to 28-16-28h).

RESOURCES:

1. Construction practices: <https://dnr.mo.gov/document-search/protecting-water-quality-field-guide> (a cooperative work product between Missouri and Kansas).
2. KDHE District Offices: <https://www.kdhe.ks.gov/288/District-Offices>.

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

County	EX_SALU_streams	ON_EX_SALU_named_lakes_wetlands	ON_EX_SALU_polygons_parks
Allen	Marmaton R, Neosho R, Onion Cr		KSWR Section Four, Area (1) and Area (2)
Anderson	East Fork Pottawatomie Cr, Little Indian Cr., Pottawatomie Cr, South Fork Sugar Cr		KSWR Section Four, Area (3)
Atchison	Missouri R	Muscotah Marsh	KSWR Section Four, Area (4)
Barber	Antelope Cr, Amber Cr, Bear Cr, Cottonwood Cr, Elm Cr, Inman Cr, Medicine Lodge R, Mulberry Cr, Mule Cr, Salt Fork Arkansas R, Sand Cr, Turkey Cr, Unnamed Str 11060003452 (trib to Turkey Cr), Unnamed Str 11060003415 (trib to Medicine Lodge R), Unnamed Str 11060003370 (trib to Medicine Lodge R)		
Barton	Arkansas R (downstream from confluence with Walnut Cr), Blood Cr, Little Cheyenne Cr	Cheyenne Bottoms	KSWR Section Four, Area (10) (Cheyenne Bottoms Nature Conservancy Wildlife Preserve)
Bourbon	Marmaton R, Mill Cr, Pawnee Cr		
Brown	Wolf R (dnstrm from confluence with South Fork Wolf R)		
Butler	Grouse Cr, South Fork Cottonwood R, Walnut R (downstream from confluence with Little Walnut R)		
Chase	Bloody Cr, Cedar Cr, Collett Cr, Cottonwood R, Fox Cr, Jacob Cr, Little Cedar Cr, Middle Cr, Palmer Cr, South Fork Cottonwood R		
Chautauqua	Caney R, Otter Cr		

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

Cherokee	Brush Cr, Cow Cr, Labette Cr, Neosho R, Shoal Cr, Spring R, Taylor Br, Turkey Cr		KSWR Section Four, Area (5) and Area (6)
Cheyenne	South Fork Republican R		
Clark	Big Sandy Cr, Bluff Cr, Cimarron R, Gyp Creek, Indian Cr, West Kiowa Cr	Clark Co SFL, St Jacobs Well/Big Basin WA	
Cloud		Jamestown WA	
Coffey	Fourmile Cr, Frog Cr, Little Indian Cr, Neosho R, Wolf Cr	Flint Hills NWR	
Comanche	Bluff Cr, Cavalry Cr, Cimarron R, East Branch Nescatunga Cr, East Kiowa Cr, Indian Cr, Kiowa Cr, Middle Kiowa Cr, Mule Cr, Nescatunga Cr, Red Cr, Salt Fork Arkansas R, Spring Cr, West Kiowa Cr, Wiggins Cr		
Cowley	Arkansas R, Beaver Cr, Grouse Cr, Otter Cr, Spring Cr, Walnut R		
Crawford	Brush Cr, Cow Cr, East Cow Cr, First Cow Cr, Pawnee Cr, Taylor Br		
Dickinson	Carry Cr, Lime Cr, Lyon Cr, West Br Lyon Cr, Unnamed Str 1026000832 (trib to Carry Cr), Unnamed Str 10260008515 (trib to West Branch Lyon Cr) , Unnamed Str 10260008618 (trib to Lime Cr)	Herington Reservoir	
Doniphan	Missouri R, Rock Cr, Wolf R		
Douglas	Appanoose Cr, Kansas R, West Fork Tauy Cr	Clinton Lake	KSWR Section Four, Area (7)
Edwards	Rattlesnake Cr		
Elk	Caney R, Fall R, Grouse Cr		

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

Ellis	Saline R (downstream of confluence with East Spring Cr)		
Ellsworth	Smoky Hill R (upstream of Kanopolis Lake)		
Finney			
Ford	Bluff Cr, Rattlesnake Cr, West Kiowa Cr		
Franklin	Appanoose Cr, Hickory Cr, Marais Des Cygnes R (below confluence with Wilson Cr), Pottawatomie Cr, Wilson Cr		
Geary	Davis Cr, Dry Cr, Kansas R, Lyon Cr, Swede Cr, West Branch Mill Cr		KSWR Section Four, Area (12), Konza Prairie Natural Area
Gove			
Graham			
Grant	Cimarron R		
Greenwood	East Branch Fall R, Fall R, North Branch Otter Cr, Verdigris R, West Branch Fall R		
Hamilton	Arkansas R		
Harper	Bluff Cr, Chikaskia R, Little Sandy Cr, Sandy Cr		
Jefferson	Buck Cr, Kansas R	Perry L	
Johnson	Kansas R		
Kearny	Arkansas R		

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

Kingman	Allen Cr, Chikaskia R, Duck Cr, Goose Cr, Negro Cr, Nester Cr, North Fork Chikaskia R, Painter Cr, Pat Cr, Sand Cr (trib to South Fork Ninnescah R), Sand Cr (trib to Chikaskia), Silver Cr, Smoots Cr, South Fork Ninnescah R, Spring Cr, Unnamed Str 11030014411 (trib to North Fork Ninnescah R), Unnamed Str 11030015417 (trib to South Fork Ninnescah R), Unnamed Str 11030015514 (trib to South Fork Ninnescah R), Unnamed Str 11030015249 (trib to South Fork Ninnescah R), Unnamed Str 11030015520 (trib to South Fork Ninnescah R), Unnamed Str 11030015518 (trib to South Fork Ninnescah R), Unnamed Str 11030015253 (trib to South Fork Ninnescah R), Unnamed Str 11030015259 (trib to South Fork Ninnescah R), Unnamed Str 11030015261 (trib to South Fork Ninnescah R), Unnamed Str 11030015270 (trib to South Fork Ninnescah R), Unnamed Str 11030015271 (trib to South Fork Ninnescah R), Unnamed Str 11030015417 (trib to South Fork Ninnescah R), Wild Horse Cr, Wild Run Cr		
---------	---	--	--

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

Kiowa	Cavalry Cr, East Kiowa Cr, Medicine Lodge R, Middle Kiowa Cr, Mule Cr, Rattlesnake Cr, Soldier Cr, Spring Cr, Thompson Cr, Unnamed Str 11060003559 (trib to Thompson Cr), West Kiowa Cr, Wiggins Cr		
Labette	Labette Cr, Neosho R		KSWR Section Four, Area (5)
Leavenworth	Kansas R, Missouri R, Seven Mile Cr		
Linn	Big Sugar Cr, Marais des Cygnes R, Middle Cr, Muddy Cr, North Sugar Cr, South Fork Sugar Cr	Marais des Cygnes NWR, Marais des Cygnes WA	KSWR Section Four, Area (8)
Logan	Ladder Cr, Smoky Hill R (above confluence with North Fork Smoky Hill R), Twin Butte Cr		
Lyon	Cottonwood R, Elm Cr, Fourmile Cr, Jacob Cr, Neosho R	Flint Hills NWR	
Marion	Caitlin Cr, Lyon Cr, Middle Cr, Mud Cr, Spring Cr		
Marshall	Clear Fork Black Vermillion R, North Elm Cr		
McPherson			KSWR Section Four, Area (13), McPherson Valley Wetlands
Meade	big Sandy Cr, Cimarron R, Crooked Cr, Gyp Cr, Spring Cr	Lake Meade State Park	
Miami	Hickory Cr, Marais des Cygnes R, Middle Cr, Pottawatomie Cr, Unnamed Str 10291012754 (trib to North Wea Cr)	Hillsdale L	
Montgomery	Onion Cr, Verdigris R		

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

Morris	Davis Cr, Dry Cr, Fourmile Cr, Lime Cr, Middle Cr, Neosho R (downstream from Council Grove Lake), Palmer Cr, West Branch Mill Cr		
Morton	Cimarron R	Cimarron L, Mallard L, Point of Rocks L	KSWR Section Three: all surface waters within Cimarron National Grasslands (11)
Nemaha	South Fork Big Nemaha R		
Neosho	Flat Rock Cr, Neosho R	Neosho WA	
Osage	Frog Cr, Maris des Cygnes R (downstream from confluence with Tequa Cr)		
Phillips		Kirwin Lake, Kirwin NWR	
Pottawatomie	Clear Fork Black Vermillion R, Kansas R		
Pratt	Amber Cr, Chikaskia R, East Branch South Elm Cr, Mulberry Cr, Natrona Cr, North Elm Cr, North Fork Chikaskia R, Painter Cr, Sand Cr, Silver Cr, South Fork Ninnescah R, Turkey Cr, Unnamed Str 11060003452 (trib to Turkey Cr), West Branch of South Fork Ninnescah R	Texas Lake WA	
Reno	Arkansas R (south of confluence with Cow Cr), Goose Cr, Peace Cr, Red Rock Cr, Silver Cr, Smoots Cr, Spring Cr, Unnamed Str 11030014289 (trib to Silver Cr), Wolf Cr	Quivira Little Salt Marsh	
Republic		Jamestown WA	

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

Rice	Arkansas R (upstream of confluence with Rattlesnake Cr), Peace Cr, Rattlesnake Cr	Quivira Big Salt Marsh	
Riley	Deep Cr, Kansas R, Little Arkansas Cr, Sevenmile Cr, South Br Deep Cr, Swede Cr, Wildcat Cr,		KSWR Section Four, Area (12), Konza Prairie Natural Area
Rush	Blood Cr		
Russell	Saline R (upstream of confluence with Paradise Cr)		
Scott	Ladder Cr	Lake Scott State Park	
Sedgwick	Arkansas R, Big Slough, Nester Cr, Ninnescah R, North Fork Ninnescah R, Sand Cr, Smoots Cr, Unnamed Str 11030014411 (trib to North Fork Ninnescah R), WVC Floodway		
Seward	Cimarron R		
Shawnee	Mission Cr, Kansas R		
Stafford	North Fork Ninnescah R, Peace Cr, Rattlesnake Cr	Quivira Big Salt Marsh, Quivira Little Salt Marsh	
Stevens	Cimarron R		KSWR Section Three: all surface waters within Cimarron National Grasslands (1)
Sumner	Arkansas R, Bluff Cr, Chikaskia R, Ninnescah R, Spring Cr		
Wabaunsee	Dry Cr, East Branch Mill Cr, Elm Cr, Hendricks Cr, Illinois Cr, Kansas R, Kuenzil Cr, Locust Cr, Loire Cr, Mulberry Cr, Mission Cr, Nehring Cr, Paw Paw Cr, Pretty Cr, Ross Cr, Snokomo Cr, South Branch Deep Cr, South Branch Mill Cr, Spring Cr,		

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

	Unnamed Str 10270102693 (trib to East Branch Mill Cr), West Branch Mill Cr		
Wallace	Capper Draw, Coon Cr, Eagletail Cr, Pond Cr, Rose Cr, Willow Cr		
Wichita	Ladder Cr		
Wilson	Fall R, Verdigris R		
Woodson	Neosho R, South Owl Cr, Verdigris R	Circle L, Leonard's L, Woodson SFL, Woodson WA	KSWR Section Four, Area (9)
Wyandotte	Kansas R, Missouri R		

*Note: All of the waters in the National Wildlife Refuges and Cimarron National Grasslands are Outstanding National Resource Water. The **Following counties currently do not contain waters recognized as: ESW, SALU or ONRW: Decatur, Gove, Graham, Gray, Harvey, Haskell, Hodgeman, Jackson, Lane, Lincoln, Mitchell, Ness, Norton, Osborne, Ottawa, Pawnee, Rawlins, Rooks, Saline, Sheridan, Sherman, Smith, Stanton, Thomas, Trego, Washington***

***Kansas Regulations for “high value- waters”:**

Exceptional state waters, K.A.R. 28-16-28b(dd), “means any of the surface waters or surface water segments that are of remarkable quality or of significant recreational or ecological value, are listed in the surface water register and afforded the highest level of water quality protection under the anti-degradation provisions of K.A.R. 28-16-28cand the mixing zone provisions of K.A.R. 28-16-28c.”

Outstanding national resource water, K.A.R. 28-16-28b (aaa) means any of the surface waters or surface water segments of extraordinary recreational or ecological significance identified in the surface water register, as defined this regulation, and afforded the highest level of water quality protection under the anti-degradation provisions and the mixing zone provisions of K.A.R. 28-16-28c.

Special Aquatic Life Use, K.A.R. 28-16-28d(b)(2)(A) and K.A.R. 28-16-28d(c), “means either classified surface waters other than classified stream segments that contain combinations of habitat types and indigenous biota not found commonly in the state or classified surface waters other than classified stream segments that contain representative populations of threatened or endangered species.

Anti-degradation- Pursuant to KAR 28-16-28c(a)(1)(A); levels of water quality in surface waters of the state shall be maintained to protect the existing uses of those surface waters.

K.A.R. 28-16-28c(a)(2)- “Wherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.”

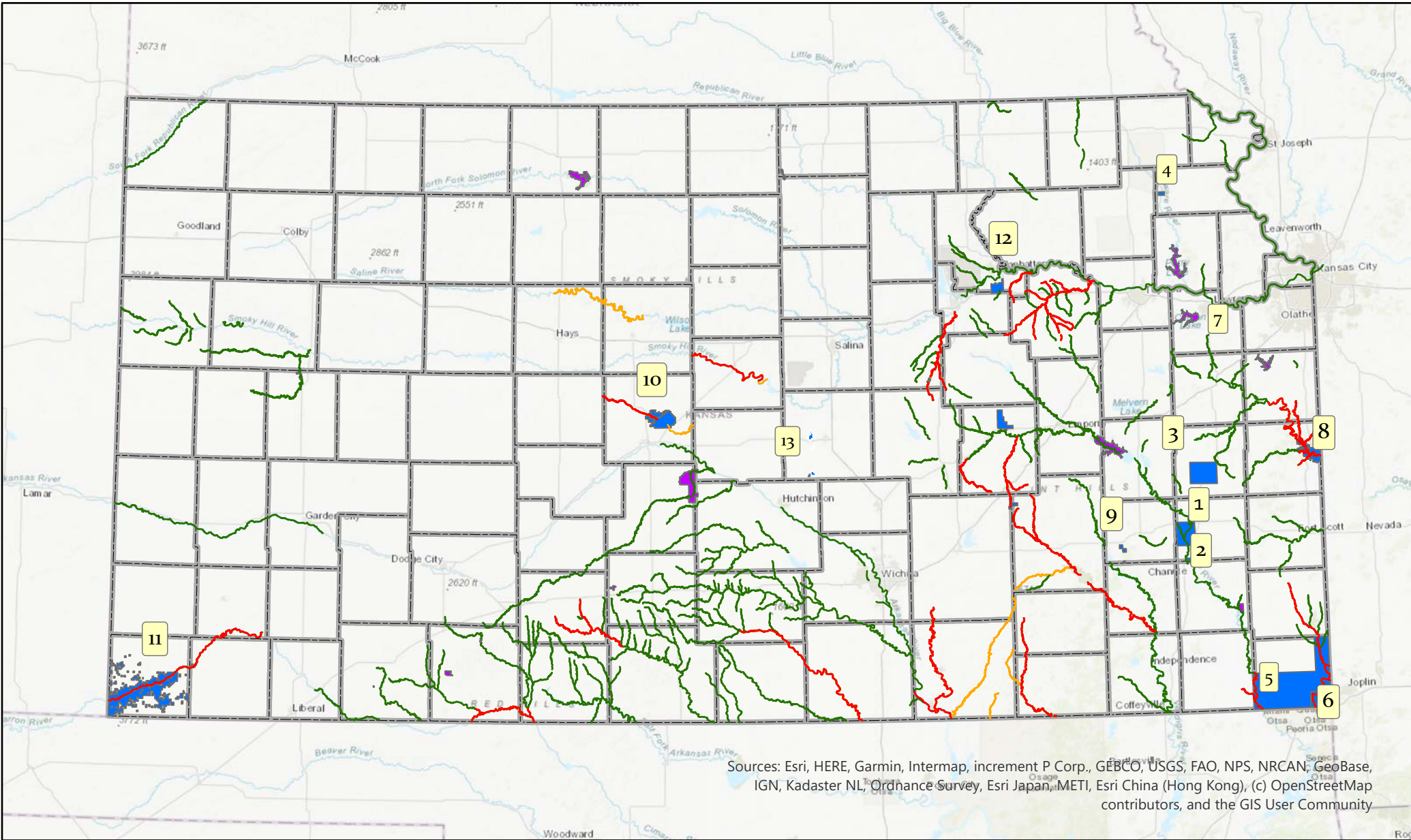
K.A.R. 28-16-28c(a)(3) “Wherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.”

ATTACHMENT 1. TABLE OF EXCEPTIONAL STATE WATERS (EX), SPECIAL AQUATIC LIFE USE WATERS (SALU) and OUTSTANDING NATIONAL RESOURCE WATERS (ON), provided by Kansas Department of Health and Environment from 2013 KS SURFACE WATER REGISTER (KSWR) (Subject to change without notice- see <https://www.kdhe.ks.gov/DocumentCenter/View/13894/Current-Kansas-Surface-Water-Register-PDF?bidId=> (Original- 5/2000) (Revisions 3/2001, 4/2004, 2,5,8 2007, 3/2012, 3/2017, 10/2020, 12/2020, 2/19/2021- New Format). (#s) below correlate with those on the map on Attachment 2.

K.A.R. 28-16-28c(a)(4) “No degradation of surface water quality by artificial sources of pollution shall be allowed if the degradation will result in harmful effects on populations of any threatened or endangered species of aquatic or semiaquatic life or terrestrial wildlife or its critical habitat as determined by the secretary of wildlife and parks pursuant to K.S.A. 32-960, and amendments thereto, and K.A.R. 115-15-3 or in the federal endangered species act, 16 U.S.C. 1532 , as amended on October 7, 1988.”

Please note the Kansas Surface Water Quality Standard citations and locations within this document are subject to change without notice. For the most recent version, please see: <https://www.kdhe.ks.gov/DocumentCenter/View/13290/Kansas-Surface-Water-Quality-Standards-2018-PDF>

Outstanding National Resource Waters, Exceptional State Waters, and Special Aquatic Life Use Waters



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

- Special Aquatic Life Use and Exceptional State Waters Streams
- Outstanding National Resource Waters, Exceptional State Waters, and Special Aquatic Life Use AREAS
- Special Aquatic Life Use Streams
- Outstanding National Resource Waters, Exceptional State Waters and Special Aquatic Life Use Lakes and Wetlands
- Exceptional State Waters Streams



1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www.agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

September 5, 2023

FORD COUNTY
CHRIS O'NEAL
10974 113 ROAD
DODGE CITY KS 67801

Re: Proj. No.: OS 101
Bridge Replacement
Coon Creek
Ford County
WSN: SFO-0098, Notice No.: 2023205

Dear Mr. O'Neal:

Consideration has been given to your application for a permit and approval of plans relating to the construction of a 44-ft. steel beam span bridge in and across Coon Creek at a location in the NE 1/4 of the NE 1/4 of the SE 1/4 of Section 11, and in the NW 1/4 of the NW 1/4 of the SW 1/4 of Section 12, all in Township 26 South, Range 21 West, Ford County, Kansas.

In accordance with the provisions of K.S.A. 82a-301 to 305a, the Chief Engineer has approved the plans and issued the enclosed permit, authorizing construction of the proposed project. Please note the conditions on the reverse side of the permit. Condition No. 9 requires the permittee to notify this office within 30 days after the project is completed. A Notice and Proof of Completion form is enclosed for this purpose. Special conditions have been added to limit the removal of timber and vegetation, to require the use of clean material for riprap, to prohibit the introduction of toxic or deleterious materials into the watercourse, to allow the construction of a temporary crossing for construction purposes, and to acquire all right-of-way or easements prior to construction.

The one set of plans submitted to this office has been endorsed with the Chief Engineer's approval and will be retained in our files. Should you desire any copies of the plans with the Chief Engineer's approval shown thereon, please submit the required number.

Comments about this proposed project were received from several agencies during the environmental review process. Copies of the letters with recommendations from the environmental review agencies are enclosed for your information.

Ford County
WSN: SFO-0098, Notice No.: 2023205
Page 2

The work has been authorized to be completed on or before July 1, 2027. Approval for construction of this project will expire on that date unless the time is subsequently specifically extended by the Chief Engineer. Any desired extension of time should be requested in writing approximately 30 days prior to the expiration date.

Sincerely,



Terry Medley, P.E.
Water Structures Program Manager
(785) 564-6657

Enclosure

pc: Colby Butler- Kirkham Michael & Associates Inc.
Melissa Drake- Ford County FPA

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

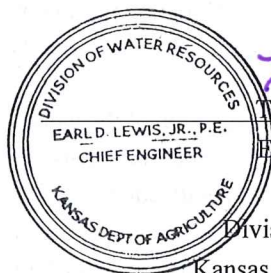
PERMIT NO. SFO-0098

K.S.A. 82a-301 *et seq.*

The Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, by virtue of the powers and duties imposed by K.S.A. 82a-301 to 305a, hereby issues this permit to Ford County, giving his consent to the construction of a 44-ft. steel beam span bridge, identified under project OS 101 at Sta. 33+08.50, in and across Coon Creek at a location in the NE 1/4 of the NE 1/4 of the SE 1/4 of Section 11, and in the NW 1/4 of the NW 1/4 of the SW 1/4 of Section 12, all in Township 26 South, Range 21 West, Ford County, Kansas.

All work authorized by this permit shall be performed in accordance with the maps, plans, profiles and specifications filed with the application and approved by the Chief Engineer, and in accordance with plans for any changes or modifications subsequently approved by the Chief Engineer subject to the provisions of the aforementioned statutes, their regulations and the attached permit conditions.

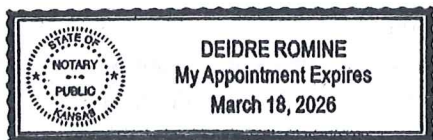
Witness my hand this 5TH day of September, 2023.



Terry Medley
Terry Medley, P.E. for
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
)SS
County of Riley)

The foregoing instrument was acknowledged before me this 5th day of September, 2023, by Terry Medley, authorized agent of Earl D. Lewis Jr., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Deidre Romine
Notary Public

**RECORD THIS PERMIT WITH THE REGISTER OF DEEDS
OF THE COUNTY WHEREIN THE WORK IS LOCATED**

PERMIT CONDITIONS

1. This permit grants no water rights nor other property rights, nor does it authorize any injury to private property, invasion of private rights nor impairment of senior water rights, nor does it exempt you from obtaining consent from appropriate federal, state or local government.
2. The work shall at all times be subject to supervision and inspection by representatives of the Division of Water Resources.
3. No changes in the work, maps, plans, profiles and specifications as approved shall be made except with the written consent of the Chief Engineer.
4. Any work authorized by this permit will be maintained in a condition satisfactory to the Chief Engineer and substantially in accordance with the approved plans.
5. The clearing of trees, brush, drift and other debris in order to maintain the work substantially in accordance with the approved plans is hereby authorized, except that the removal of plantings made specifically for habitat or environmental mitigation is not authorized by this permit.
6. Any excess material deposited in the stream channel incident to the construction and maintenance of the project authorized by this permit shall be removed and the channel restored to a condition satisfactory to the Chief Engineer and substantially in accordance with the approved plans.
7. All areas disturbed by construction and all other exposed soil areas shall be seeded and maintained with a mixture of grass or other vegetation appropriate to the soils, climate and project in order to minimize erosion and protect the project integrity.
8. If the work is not completed on or before the 1st day of July, 2027, this permit, if not specifically extended, shall cease and be null and void. If, upon the expiration or revocation of this permit, the work has not been completed, the permittee shall, at his own expense and to such extent and in such time and manner as the Chief Engineer may require, remove all or any portion of the uncompleted work and restore the watercourse to a satisfactory condition. No claim shall be made against the State of Kansas on account of any such removal or alteration.
9. Within thirty (30) days after the completion of the work authorized by this permit, the permittee shall file with the Division a statement that the work has been completed in accordance with this permit and the approved maps, plans, profiles and specifications.
10. The Chief Engineer reserves the right to require such changes in the maps, plans, profiles, specifications and conditions as may be considered necessary. The Chief Engineer further reserves the right to modify, suspend or revoke this permit at any time should the permittee fail to comply with any of the conditions of this permit or regulations of the Division without sufficient cause or should such action be deemed necessary in the interest of public safety and welfare.
11. That the clearing of timber and vegetation is restricted to the absolute minimum required to accomplish the work and not interfere with the beneficial use of project.
12. Only graded rock, quarry-run rock and/or clean concrete rubble shall be used in the work as approved. If concrete rubble is used, all large slabs should be broken up and all exposed reinforcement rods, trash, and other extraneous materials shall be removed prior to placement. No asphalt material shall be placed as fill material.
13. No deleterious or toxic materials shall be introduced into the watercourse or reservoir by runoff, leaching or disposal during or in connection with the work authorized by this permit.
14. The construction of temporary crossings and/or causeways within the project limits of the approved plans is hereby authorized; provided that the temporary obstruction is removed in its entirety and the channel restored to the cross-section proposed in the approved plans. Sufficient hydraulic capacity shall be provided to bypass normal flows to satisfy water right and other public interest needs.
15. No work shall begin until all proposed right-of-way or easements have been acquired.

STATE OF KANSAS
DIVISION OF WATER RESOURCES
DEPARTMENT OF AGRICULTURE

In the matter of: Water Structure No. SFO-0098
 Ford County
 Bridge Replacement
 Coon Creek
 Ford County
 Proj. No.: OS 101

NOTICE AND PROOF OF COMPLETION
K.S.A. 82a-301 *et seq.*

To: CHIEF ENGINEER
 DIVISION OF WATER RESOURCES
 KANSAS DEPARTMENT OF AGRICULTURE
 1320 RESEARCH PARK DR
 MANHATTAN KS 66502

I, the undersigned, being the holder of a permit to construct pursuant to K.S.A. 82a-301 *et seq.* for bridge replacement on Coon Creek at a location in the NE 1/4 of the NE 1/4 of the SE 1/4 of Section 11, and in the NW 1/4 of the NW 1/4 of the SW 1/4 of Section 12, all in Township 26 South, Range 21 West, Ford County, Kansas, hereby certify that the works, identified above, have been completed as of _____. I further certify that these works have been completed in accordance with such permit, the approved plans, approved specifications, and the terms, conditions and limitations incorporated therein.

I understand that an end-of-construction inspection will be conducted by your office at some future date.

Dated this _____ day of _____ 20_____.

Signature: _____

Name: _____
(Please Print)

Address: _____

Telephone No: _____

From: Cordes, Zackary [KDWP]
To: cbutler@kirkham.com
Cc: Warren, Chris [KDA]
Subject: KDWP Review 20230566 and 20230566-2: ECA 2023205 OS 101 Bridge Replacement (Ford)
Date: Tuesday, August 8, 2023 9:45:26 AM

Colby Butler,

We have reviewed the information for the proposed bridge replacement across Coon Creek in Ford County, Kansas (Sec. 11&12-T26S-R21W). The project was reviewed for potential impacts on critical wildlife habitats, current state-listed threatened and endangered species and species in need of conservation, and Kansas Department of Wildlife and Parks managed areas for which this agency has administrative authority.

We provide the following comments and general recommendations, when applicable:

- **We advocate for stream crossing, bridge, and dam designs that allow for aquatic organism passage. KDWP is willing to provide technical assistance on incorporating aquatic organism passage.**
- **KDWP advocates for the use of span or bottomless type bridge/culvert designs (e.g., conservation culverts). Consult the Kansas Fish Passage Guide for design considerations:**
<https://ksoutdoors.com/Services/Environmental-Reviews/Kansas-Fish-Passage-Guide>
- **Bury culverts a minimum of 12 inches below the existing streambed grade to prevent perching and allow aquatic organism passage.**
- **Avoid channel widening and streambank degradation during project construction. Streambank and streambed should be restored to a functioning stream system.**
- **Avoid placing riprap below the Ordinary High Water Mark.**
- **Avoid impacts to existing streams and rivers, adjacent riparian zones, wetlands, and native prairie and woodland areas.**
- **Minimize all bank or instream activity, particularly during general fish spawning season (March 1 – Aug. 31).**
- **Prevent the introduction of aquatic or terrestrial non-native, invasive species during construction. Clean, Drain, and Dry all equipment of water, mud, plant material, and other debris prior to beginning construction. Equipment should be cleaned with pressurized, hot water (120F) or dried for 5 days. Non-native,**

invasive species in the riparian area should be controlled during construction until native vegetation is established.

- **Erosion control blankets can pose impacts for reptiles and amphibians by ensnaring and entrapping individuals moving over/through the mesh. We recommend using compost, mulch, or biodegradable/natural fiber blankets (coconut/coir fiber is common) as potential alternatives to plastic erosion control blankets. Such alternatives can also promote the growth of vegetation further improving bank stability. Though less preferable than the aforementioned options, loose-weave mesh is also acceptable, specifically types with weaves that are not welded at the intersections that would allow the opening to expand if an animal attempts to pass through.**
- **Avoid fuel spills or other contaminant releases. Have operational contingency plans (such as a Spill Prevention, Control, and Countermeasure plan), which comply with all applicable guidance from Kansas Department of Health and Environment in place to respond to leaks and spills. For more information about SPCC plans, see:**
<https://www.epa.gov/sites/production/files/documents/spccbluebroch.pdf>
- **Incorporate principles of low impact development (LID), such as permeable asphalt pavement, porous concrete, swales, bioretention, or raingardens. More info. on LID: <http://www.epa.gov/owow/NPS/lid/>**
- **Implement and maintain standard erosion-control Best-Management-Practices during all aspects of construction by installing sediment barriers (wattles, filter logs, rock ditch checks, mulching, or any combination of these) across the entire construction area to prevent sediment and spoil from entering aquatic systems. Barriers should be maintained at high functioning capacity until construction is completed and vegetation is established. For more information, go to:**
<http://www.kdheks.gov/stormwater/#construct>
- **Reseed disturbed areas with native warm-season grasses, forbs, and trees.**

Results of our review indicate there will be no significant impacts to critical wildlife habitats; therefore, no special mitigation measures are recommended. The project will not impact any public recreational areas, nor could we document any potential impacts to currently-listed threatened or endangered species or species in need of conservation. No Department of Wildlife and Parks permits or special authorizations will be needed if construction is started within one year, and no design changes are made in the project plans. Permits may still be required from other agencies, and we recommend consultation with all other applicable regulatory authorities.

Since the Department's recreational land obligations and the State's species listings periodically change, if construction has not started within one year of this date, or if design changes are made in the project plans, the project sponsor must contact this office to verify continued applicability of this assessment report. For our purposes, we consider construction started when advertisements for bids are distributed.

Please consider this email our official review for this project. Thank you for the opportunity to provide these comments and recommendations. Please let me know if you have any questions or concerns about the preceding information.

Please direct all review materials electronically to kdwpt.ess@ks.gov to streamline the review process for all parties.

Thank you.

Zack Cordes | *Ecologist*

Kansas Department of Wildlife and Parks

512 SE 25th Ave. | Pratt, KS 67124

T: (620) 672-0822 | ksoutdoors.com

C: (785) 410-9652 | chickadeecheckoff.com

From: Kathy Haynes
To: Warren, Chris [KDA]
Subject: RE: ECA# 2023205
Date: Wednesday, August 2, 2023 7:57:32 AM

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

A review of Conservation Division files failed to indicate any environmental concerns within the acreage described within this application.

In the event unexpected circumstances are encountered during construction, such as the discovery of abandoned oil, gas or exploratory holes or lead lines, the applicant should contact KCC district office at (620) 682-7933, so appropriate regulatory response can be made.

If you have any questions or concerns, please call me at (316) 337-6243.

Kathy Haynes

Department of Environmental Protection and Remediation



Conservation Division
Kansas Corporation Commission
266 N. Main Ste 220 | Wichita, KS | 67202-1513
Phone (316) 337-6243 | Fax (316) 337-6211 | <http://kcc.ks.gov/>

This transmission, email and any files transmitted with it, may be: (1) subject to the Attorney-Client Privilege, (2) an attorney work product, or (3) strictly confidential under federal or state law. If you are not the intended recipient of this message, you may not use, disclose, print, copy or disseminate this information. If you have received this transmission in error, notify the sender (only) and delete the message. This message may also be subject to disclosure under the KORA, K.S.A. 2010 Supp. 45-215 et seq.

From: Warren, Chris [KDA] <Chris.Warren@ks.gov>
Sent: Tuesday, August 1, 2023 3:58 PM
To: Klein, Andrew <ajklein@ksu.edu>; Main, Austin [KSHS] <Austin.Main@ks.gov>; KDA DOC Office Assistant <KDA.DOC@ks.gov>; Kathy Haynes <k.haynes@kcc.ks.gov>; KBS (biosurvey@ku.edu) <biosurvey@ku.edu>; Environmental Services, KDWPT [KDWPT] <KDWPT.ess@ks.gov>; Scott Satterthwaite [KDHE] <Scott.Satterthwaite@ks.gov>
Cc: coneal@fordcounty.net; Colby Butler <cbutler@kirkham.com>; mdrake@fordcounty.net; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Regulatory.kansasstate@usace.army.mil
Subject: ECA# 2023205

This is an EXTERNAL EMAIL. Think before clicking a link or opening

attachments.

The Water Projects Environmental Coordination Act, K.S.A. 82a-325 to 327, requires this agency to provide seven other agencies in the state government an opportunity to review and comment on your application for a period of not less than 30 days. The environmental coordination process has been initiated, but a thorough review of your project may not yet have been performed. You will be informed of any changes that may be necessary to comply with our rules and regulations and any concerns or comments we receive from the environmental coordination agencies.

This letter does not provide any permission to begin the construction of your project. **Construction can begin only after written approval has been obtained from the Chief Engineer of this agency.** If you have any questions or comments please contact this office by writing or calling (785) 296-0501.

Notice No.: 2023205

WS No.: SFO-0098

Project No.: OS 101

Date of Notice: 8/1/2023

Expiration Date: 8/31/2023

Bridge replacement in and across Coon Creek at a location in the NE 1/4 of the NE 1/4 of the SE 1/4 of Section 11, and in the NW 1/4 of the NW 1/4 of the SW 1/4 of Section 12, all in Township 26 South, Range 21 West, Ford County, Kansas.

ECA Listing:

<https://agriculture.ks.gov/divisions-programs/dwr/stream-and-floodplain-permits/environmental-coordination-notices/eca-notices>

Chris R. Warren

Water Structure Program- Permits Team

Kansas Dept of Agriculture

Division of Water Resources

1131 SW Winding Rd Ste 400

Topeka KS 66615

(785) 296-0501

NEW E-MAIL ADDRESS: chris.warren@ks.gov

<https://agriculture.ks.gov/divisions-programs/dwr/stream-and-floodplain-permits>

Our applications have changed. Please visit our website to obtain them for new projects at:

<http://agriculture.ks.gov/divisions-programs/dwr/stream-and-floodplain-permits>



Kansas Forest Service Policy for Environmental Coordination Act Permits

Under the Water Projects Environmental Coordination Act, the Kansas Forest Service (KFS) is responsible for reviewing permit applications from the Kansas Department of Agriculture, Division of Water Resources to determine if projects adversely affect critical forest resources.

Due to the large volume of permits we are unable to review them all. For this reason we request the Division of Water Resources to share this document with all people applying for ECA.

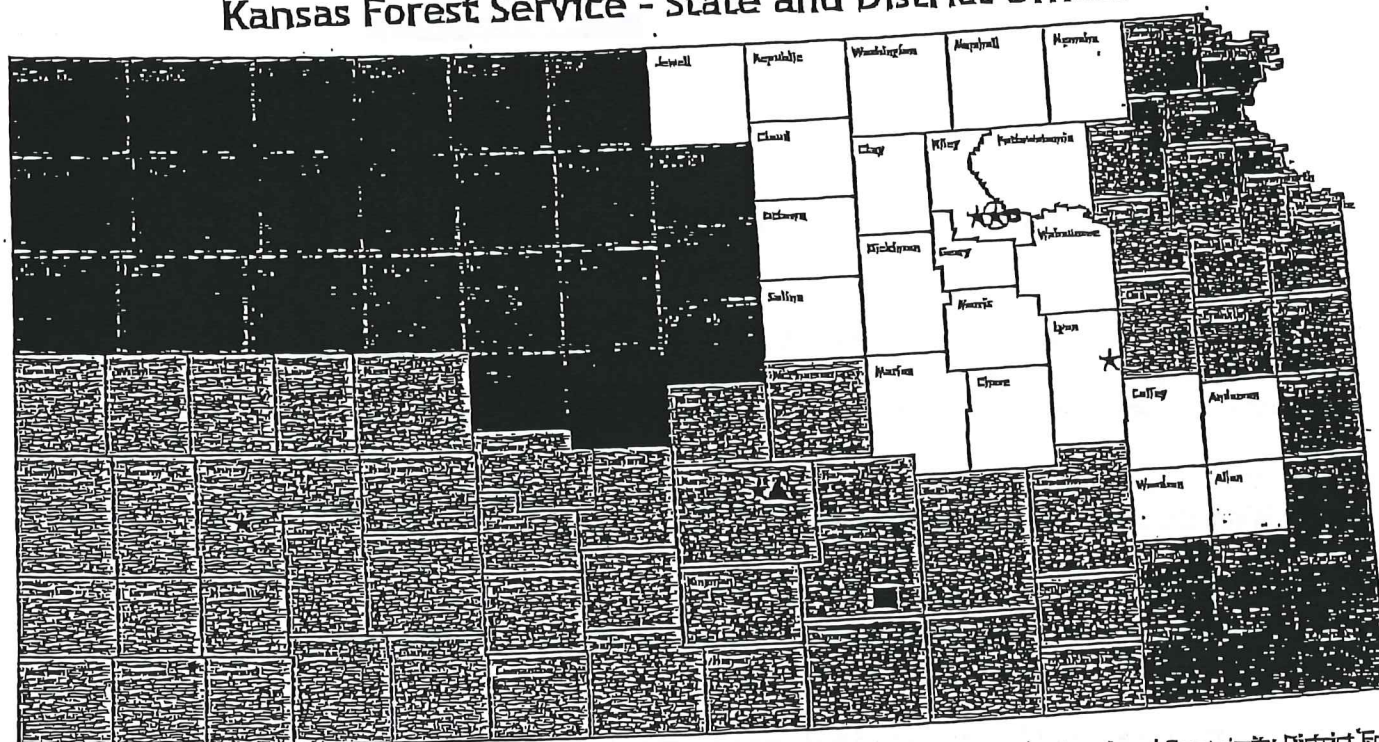
There is 2.2 million acres of forestland in Kansas and a significant percent is riparian forest that borders streams and rivers providing important water quality, soil conservation, wildlife habitat, recreational and wood product benefits to the people of Kansas.

Each year we lose a million acres of forestland to development in the United States (Ralph Alig, USDA FS Pacific NW Research Station). This generally occurs in small patches which often seem insignificant, but collectively degrades our quality of life.

If your project contributes to the conversion of forestland to another land use that exceeds an acre in size, the Kansas Forest Service requests that you consider mitigating the damage by planting at least 435 native trees per acre on a site of similar ecological value.

Kansas Forest Service foresters are available to assist with preparing tree planting plans at no charge and can also advise on financial incentives programs to help cover project expenses. Foresters contact information may be found on the back of this sheet. You are also invited to check out the KFS web site (www.kansasforests.org) for additional information.

Kansas Forest Service - State and District Offices



★ **STATE OFFICE PERSONNEL:**
 Kansas Forest Service
 2610 Claflin Road
 Manhattan, KS 66502
 785-532-3300; Fax: 785-532-3305
 Larry Biles - State Forester
 Bob Atchison - Rural Forestry Coordinator
 Jarran Tindle - Water Quality Forester
 Darc Paul - GIS Specialist
 Mark Haller - Conservation Specialist
 Ryan Armbrust - Forest Health/Conservation Forester
 Aaron Yoder - Agricultural Technician
 Jason Hartman - Fire Protection Specialist
 Ross Hauck - Fire Management Coordinator
 Eric Ward - Excess Property Manager
 Jennifer Williams - Communications Coordinator
 Annie Cummings - Conservation Program Associate
 Kylie Rethman - Administrative Specialist
 Aimee Hawkes - Accountant
 Bob Duncan - Equipment Mechanic Specialist
 Terry Fleming - Equipment Mechanic

▲ **STATEWIDE**
 Fire Training Specialist
 Rodney Redinger
 3211 East 4th
 Hutchinson, KS 67501
 620-728-4464
 rodney2@ksu.edu

✦ **STATEWIDE**
 Marketing and Utilization Forester
 David Bruton
 7760 174th Street
 Valley Falls, KS 66088
 785-945-6147
 dbruton@ksu.edu

● **STATEWIDE**
 Watershed Forester
 Andrew Klein
 1320 Research Drive
 Manhattan, KS 66502

★ **Rural District Forester**
 Ryan Rastok
 700 Jefferson Street
 Oskaloosa, KS 66066
 785-410-0399
 rrastok@ksu.edu

★ **Rural District Forester**
 Katy Dhungel
 104 South Brayman
 Paola, KS 66071
 785-477-6412
 kdhungel@ksu.edu

★ **Rural District Forester**
 Howard Freerksen
 2272 Road 250
 Reading, KS 66868
 620-699-3372
 hfreerksen@ksu.edu

★ **Rural District Forester**
 Ashley Stiffarm
 1500 West 7th Street
 Chabute, KS 66720
 620-431-0380
 stiffarm@ksu.edu

★ **Rural District Forester**
 Thad Rhodes
 3705 Miller Parkway, Suite B
 Manhattan, KS 66503
 785-776-7582, ext 517
 trhodes@ksu.edu

★ **Rural District Forester**
 Dennis Carlson
 2803 North Lorraine, Suite J
 Hutchinson, KS 67502
 620-921-3554
 dcarlson@ksu.edu

★ **Rural and Community District Forester**
 Jami Seirer
 3012 Broadway Avenue
 Hays, KS 67601
 785-624-3138
 jseirer@ksu.edu

★ **Rural and Community District Forester**
 John Klempa
 2106 East Spruce Street
 Garden City, KS 67846
 620-275-0211, ext 111
 jdklempa@ksu.edu

★ **Community District Forester**
 Kim Bomberger
 2610 Claflin Road
 Manhattan, KS 66502
 785-532-3315
 kbomberge@ksu.edu

■ **Community District Forester**
 Community Forestry Coordinator
 Tim McDonnell
 1901 E. 95th Street South
 Haysville, KS 67060
 316-788-0492, ext 202
 tmcdonne@ksu.edu



5425 SW 6th Avenue
Topeka, KS 66615



phone: 785-272-8681
fax: 785-272-8682
cultural_resources@kshs.org

Kansas Historical Society

Jamie Chinn, Executive Director

MEMORANDUM

To: BCA Permit Applicant
From: Kansas State Historical Society
Bob Hoard, State Archeologist
Re: Historic and Prehistoric Cultural Resources

Because of time and budget constraints, the Kansas State Historical Society has elected to waive review of permit applications under the Water Projects Environmental Coordination Act (KSA-82a-325 *et seq.*). However, digging, grading, and other types of construction activities may reveal the presence of buried historic and/or prehistoric archeological sites or artifacts within your project area. If archeological materials are encountered during construction, please contact me at 785-272-8681 ext. 269 or by email at rboard@kshs.org and do not further disturb the site. If the materials appear to be significant, we may ask for the opportunity to document or salvage the.

In the event human burials or remains are encountered, the Kansas Unmarked Burial Sites Preservation Act (KSA 75-2741 through 75-2754) requires the finder to immediately report these discoveries to the local law enforcement agency. If the remains are not the result of criminal activity, their fate will be determined by the Unmarked Burial Sites Preservation Board. Encountering an unmarked burial does not necessarily stop a project. Discussion with the Board may lead to modification of the project, and in some cases the burial is removed and the project allowed to proceed. Human burials and associated artifacts must not be further disturbed after their discovery, until law enforcement officials or the Unmarked Burial Sites Preservation Board has determined the appropriate action. The Unmarked Burial Sites Preservation Act provides substantial penalties for intentionally disturbing human burials and grave goods, whether located on public or private property. If you find a bone that you suspect may be human, leave it where it is and get expert help to identify it. The county coroner, a medical doctor, or an archeologist can help.

What to Look For

Archeological sites from the historic and prehistoric periods may be buried. Prehistoric sites can be recognized by the presence of discolored earth, bones, stone tools (arrow heads, knives, scrapers), stone flakes (thin, sharp edged pieces of stone produced when making chipped stone tools), burned stones, and pieces of coarse, unglazed pottery. Stone flakes are the most commonly found artifact.

Historic period sites can be recognized by the presence of stone, brick, or concrete foundation walls, or concentrations of these materials. Many of the items used in historic times are similar to those used today. Bottles, cups, tin cans, buckets, hand tools, glass fragments, and other items can be easily recognized. If you are unsure of the significance of what you have found, contact my office.

Thank you for assisting in preserving the archeological heritage of Kansas.

These actions do not constitute compliance with Section 106 of the National Historic Preservation Act. If this project receives federal funding, licensing, permitting or assistance you must contact the State Historic Preservation Office (785-272-8681 ext. 40) prior to construction for a review of the undertaking under federal law.



KDWP Review 20230566 and 20230566-2: ECA 2023205 OS 101 Bridge Replacement (Ford)

From Cordes, Zackary [KDWP] <Zackary.Cordes@KS.GOV>

Date Tue 8/8/2023 9:45 AM

To Colby Butler <cbutler@kirkham.com>

Cc Warren, Chris [KDA] <Chris.Warren@ks.gov>

Colby Butler,

We have reviewed the information for the proposed bridge replacement across Coon Creek in Ford County, Kansas (Sec. 11&12-T26S-R21W). The project was reviewed for potential impacts on critical wildlife habitats, current state-listed threatened and endangered species and species in need of conservation, and Kansas Department of Wildlife and Parks managed areas for which this agency has administrative authority.

We provide the following comments and general recommendations, when applicable:

- **We advocate for stream crossing, bridge, and dam designs that allow for aquatic organism passage. KDWP is willing to provide technical assistance on incorporating aquatic organism passage.**
- **KDWP advocates for the use of span or bottomless type bridge/culvert designs (e.g., conservation culverts). Consult the Kansas Fish Passage Guide for design considerations: <https://ksoutdoors.com/Services/Environmental-Reviews/Kansas-Fish-Passage-Guide>**
- **Bury culverts a minimum of 12 inches below the existing streambed grade to prevent perching and allow aquatic organism passage.**
- **Avoid channel widening and streambank degradation during project construction. Streambank and streambed should be restored to a functioning stream system.**
- **Avoid placing riprap below the Ordinary High Water Mark.**
- **Avoid impacts to existing streams and rivers, adjacent riparian zones, wetlands, and native prairie and woodland areas.**
- **Minimize all bank or instream activity, particularly during general fish spawning season (March 1 – Aug. 31).**
- **Prevent the introduction of aquatic or terrestrial non-native, invasive species during construction. Clean, Drain, and Dry all equipment of water, mud, plant material, and other debris prior to beginning construction. Equipment should be cleaned with pressurized, hot water (120F) or dried for 5 days. Non-native, invasive species in the riparian area should be controlled during construction until native vegetation is established.**

- **Erosion control blankets can pose impacts for reptiles and amphibians by ensnaring and entrapping individuals moving over/through the mesh. We recommend using compost, mulch, or biodegradable/natural fiber blankets (coconut/coir fiber is common) as potential alternatives to plastic erosion control blankets. Such alternatives can also promote the growth of vegetation further improving bank stability. Though less preferable than the aforementioned options, loose-weave mesh is also acceptable, specifically types with weaves that are not welded at the intersections that would allow the opening to expand if an animal attempts to pass through.**
- **Avoid fuel spills or other contaminant releases. Have operational contingency plans (such as a Spill Prevention, Control, and Countermeasure plan), which comply with all applicable guidance from Kansas Department of Health and Environment in place to respond to leaks and spills. For more information about SPCC plans, see: <https://www.epa.gov/sites/production/files/documents/spccbluebroch.pdf>.**
- **Incorporate principles of low impact development (LID), such as permeable asphalt pavement, porous concrete, swales, bioretention, or raingardens. More info. on LID: <http://www.epa.gov/owow/NPS/lid/>**
- **Implement and maintain standard erosion-control Best-Management-Practices during all aspects of construction by installing sediment barriers (wattles, filter logs, rock ditch checks, mulching, or any combination of these) across the entire construction area to prevent sediment and spoil from entering aquatic systems. Barriers should be maintained at high functioning capacity until construction is completed and vegetation is established. For more information, go to: <http://www.kdheks.gov/stormwater/#construct>**
- **Reseed disturbed areas with native warm-season grasses, forbs, and trees.**

Results of our review indicate there will be no significant impacts to critical wildlife habitats; therefore, no special mitigation measures are recommended. The project will not impact any public recreational areas, nor could we document any potential impacts to currently-listed threatened or endangered species or species in need of conservation. No Department of Wildlife and Parks permits or special authorizations will be needed if construction is started within one year, and no design changes are made in the project plans. Permits may still be required from other agencies, and we recommend consultation with all other applicable regulatory authorities.

Since the Department's recreational land obligations and the State's species listings periodically change, if construction has not started within one year of this date, or if design changes are made in the project plans, the project sponsor must contact this office to verify continued applicability of this assessment report. For our purposes, we consider construction started when advertisements for bids are distributed.

Please consider this email our official review for this project. Thank you for the opportunity to provide these comments and recommendations. Please let me know if you have any questions or concerns about the preceding information.

Please direct all review materials electronically to kdwpt.ess@ks.gov to streamline the review process for all parties.

Thank you.

Zack Cordes | Ecologist
Kansas Department of Wildlife and Parks
 512 SE 25th Ave. | Pratt, KS 67124

T: (620) 672-0822 | ksoutdoors.com

C: (785) 410-9652 | chickadeecheckoff.com

Plotted by : jmarkel 16-JAN-2026 16:00
File : 001_2211840_title sheet.dgn

INDEX OF SHEETS

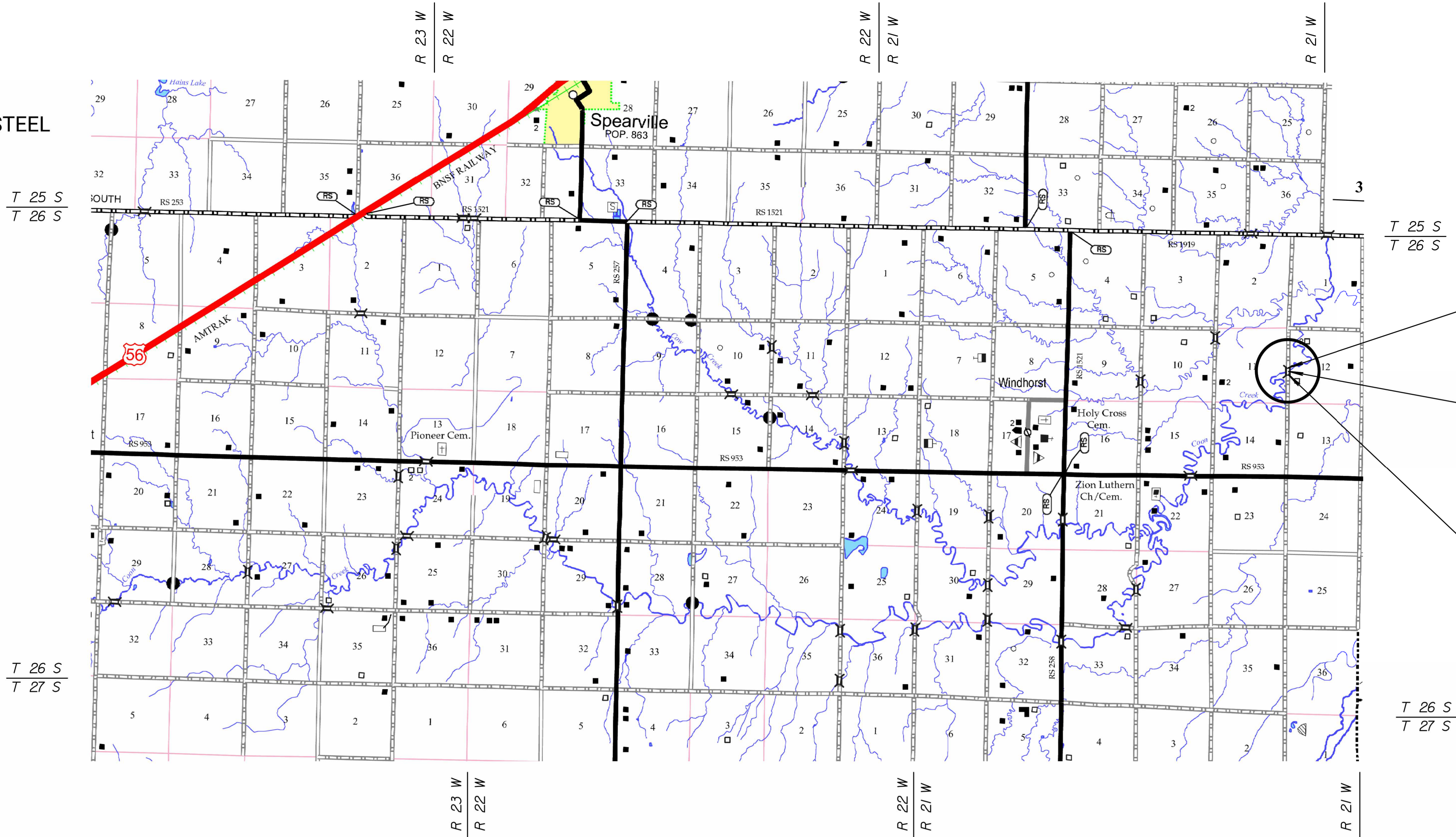
1. TITLE SHEET
2. TYPICAL SECTION SHEET
3. PLAN & PROFILE
4. MISCELLANEOUS GUARDRAIL DETAILS
5. CONSTRUCTION LAYOUT
- 6-8. BRIDGE DETAILS
9. STANDARD PILE DETAILS
10. SUPPORTS AND SPACERS FOR REINFORCING STEEL
11. PERMANENT SEEDING
12. TRAFFIC CONTROL
- 13-17. CROSS SECTIONS

FORD CO. KANSAS

KLBIP Bridge OS 101 Replacement

KM Project No. 2211840

STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	1	17



Sta. 36+60.00 END
Project Ford Co. OS 101

Sta. 33+08.50
Br. No. 000290575006025
44' Single Span Steel Beam
Bridge (SBMS).
28' Roadway, Skew 30° Lt.

Sta. 31+10.00 BEGIN
Project Ford OS 101



This Project Meets the Requirements for
using AASHTO's Geometric Design Guidelines
for Low-Volume Roads.

CONVENTIONAL SIGNS

COUNTY LINE	---	CENTER LINE OF PROJECT	50'
CITY LIMITS	---	TERRACE	---
STATE OR NATIONAL LINE	---	CULVERTS	---
TOWNSHIP, SECTION or GRANT LINE	---	DROP INLET & STORM SEWER	---
PROPERTY LINE	---	ACCESS CONTROL	---
HIGHWAY FENCE	---	POWER POLE	---
EXISTING FENCE	---	TELEPHONE POLE	---
GUARDRAIL	---	MARSH	---
CONSTRUCTION LIMITS	---	HEDGE	---
RIGHT OF WAY LINE	---	TREES	---
TRAVELED WAY	---	PROFILE ELEVATION	---
RAILROADS	---	STREAM or CREEK	---

SUMMARY OF BID QUANTITIES

ITEMS	QUANTITY	UNIT
Contractor Construction Staking	Lump Sum	L.S.
Mobilization	Lump Sum	L.S.
Removal of Existing Structure	Lump Sum	L.S.
Clearing and Grubbing	Lump Sum	L.S.
Common Excavation	115	Cu. Yds.
Common Excavation (Contractor Furnished)	952	Cu. Yds.
Compaction of Earthwork (Type B)(MR-90)	800	Cu. Yds.
Steel Beam Bridge	Lump Sum	L.S.
Steel Sheet Piles (7 Ga.) (Galvanized)	2,600	Sq. Ft.
Steel Piles (HP 12x53)	910	Lin. Ft.
Cast Steel Pile Points	18	Each
Guardrail Steel Plate	125.00	Lin. Ft.
Signing Object Marker (Type 3)	4	4
Contractor Furnished PDA	1	Each
Permanent Seeding	Lump Sum	L.S.
Traffic Control	Lump Sum	L.S.

This Project will be closed to all traffic
during construction.

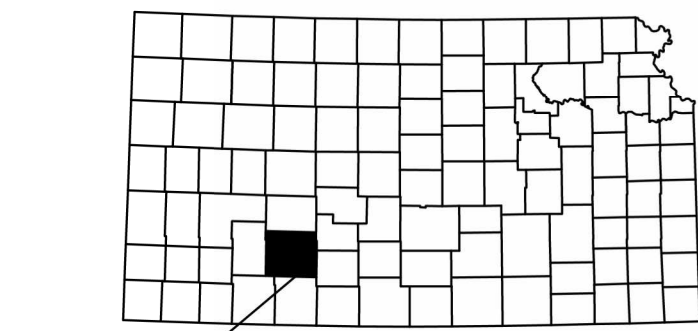
KIRKHAM
MICHAEL

217 N. Douglas, ELLSWORTH, KANSAS 67439
(785) 472-3163 FAX (785) 472-3817

RECOM. FOR APPROVAL-DATE

B. Ross 1-15-26

LOCAL PUBLIC OFFICIAL



Ford Co.

DATE	
BY	
REFERENCES NOTED	
REFERENCES CHECKED	

Plotted by : jmarkel 16-JAN-2026 16:02
File : 003_2211840_P&P.dgn

Utilities		
Telephone:	AT&T	1-800-778-9140
Power:	Victory Electric	1-620-227-2139

NOTE: The Contractor shall contact Jeff Hubbell, P.E. at (620) 371-7731 if their construction methods require protection from the overhead power.

Horizontal Project Datum: KRCS Zone 14 Dodge City for project coordinates.

Vertical Datum: North American Vertical Datum NAVD88 (Geoid 88).

DATUM BENCHMARK NAVD 88
CP-2 is the Datum Bench Mark. Two OPUS solutions were obtained and checked at CP-2.
Elev. = 2265.57

All trees, hedge rows, shelterbelts, and woody shrubs notshown to be removed and located between the construction limits and the right-of-way line or easement lines shall be spared unless directed by the Engineer to be removed.

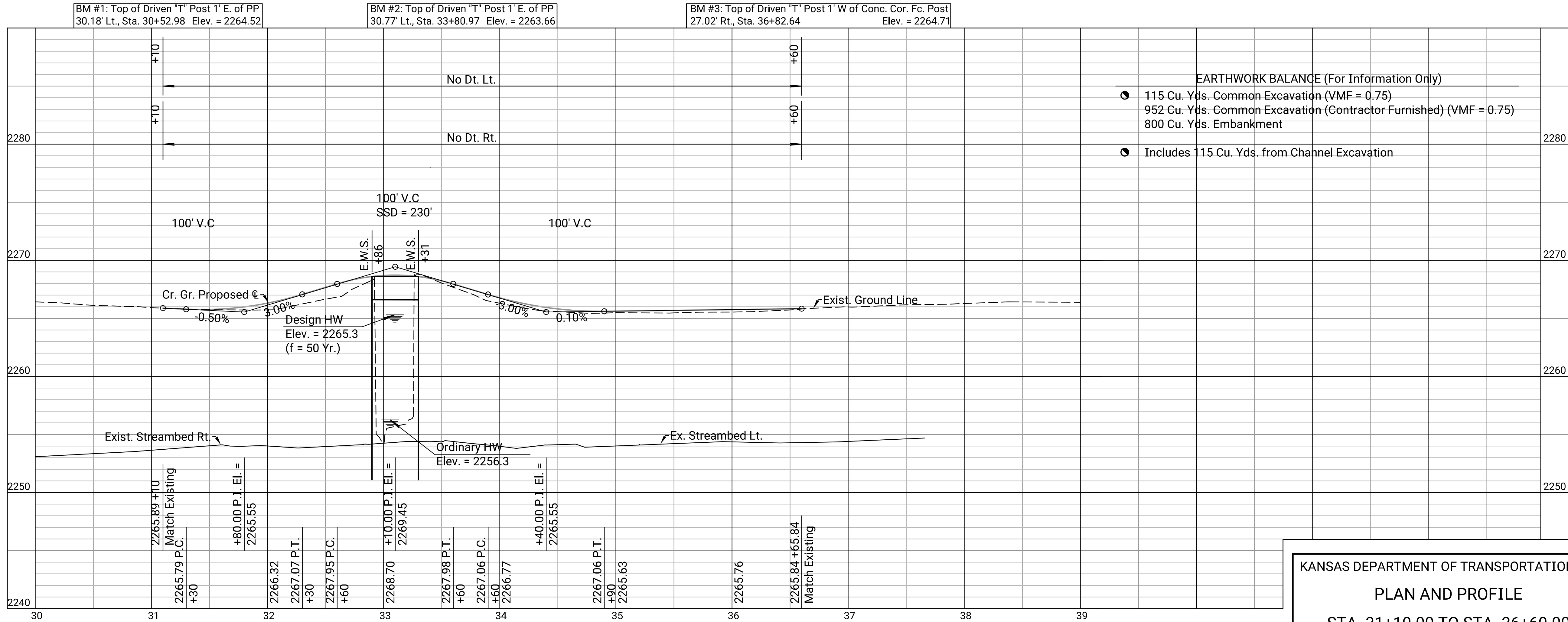
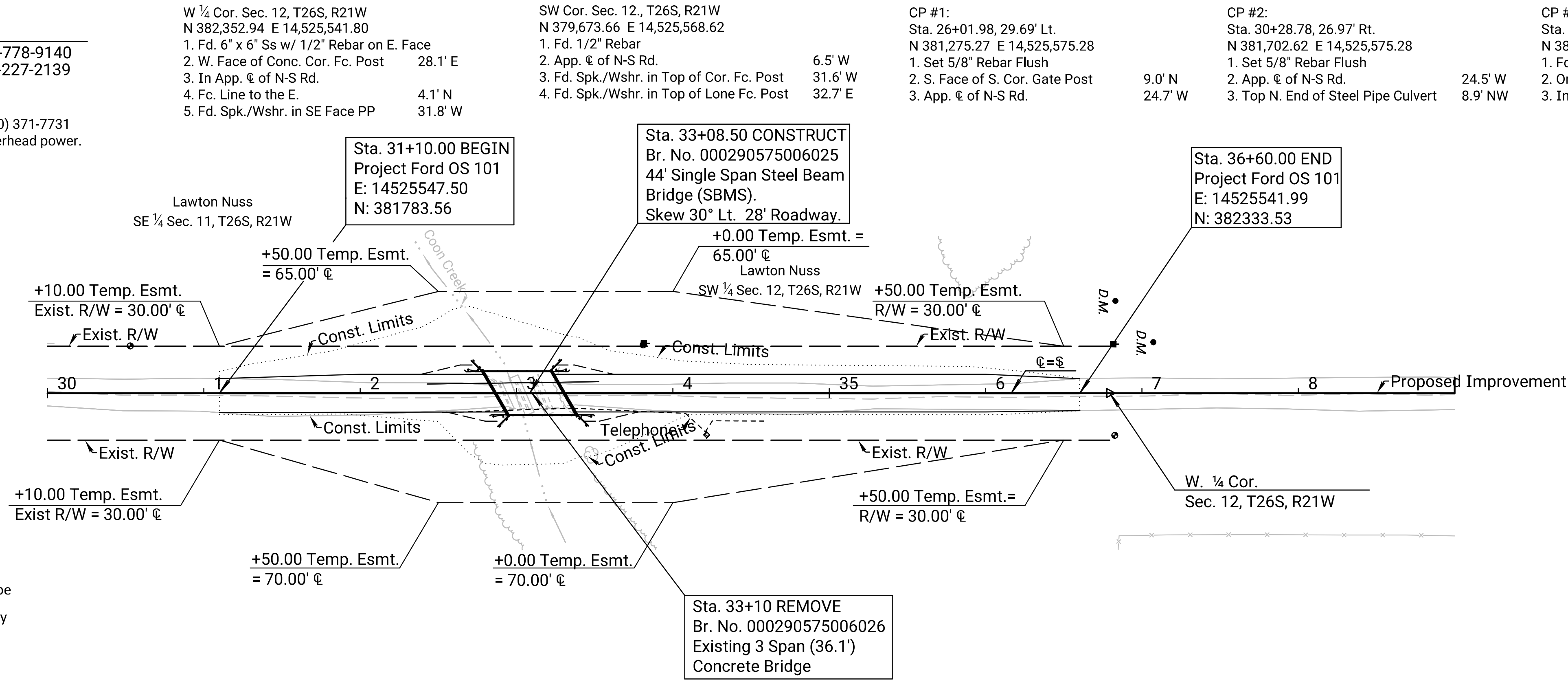
Excavation shown to be wasted shall be wasted on sites provided by the Contractor. These sites shall be approved by the Engineer as to suitability, appearance, and site location. Locations that in the opinion of the Engineer will leave an unsightly appearance will not be approved.

All disposal sites must be approved by the Kansas Dept. of Health and Environment. Material either stockpiled or disposed of in a flood plain would require a Kansas State Dept. of Agriculture permit. Any material dumped in waters of the United States or wetlands is subject to U.S. Corps of Engineers permitting regulations.

It is the responsibility of the Contractor to contact Kansas One-Call and field verify the locations of any utilities.

Contractor shall install and maintain traffic control to close the road. This shall be subsidiary to other bid items of the project.

Seeding of areas disturbed by construction will be performed by the contractor.



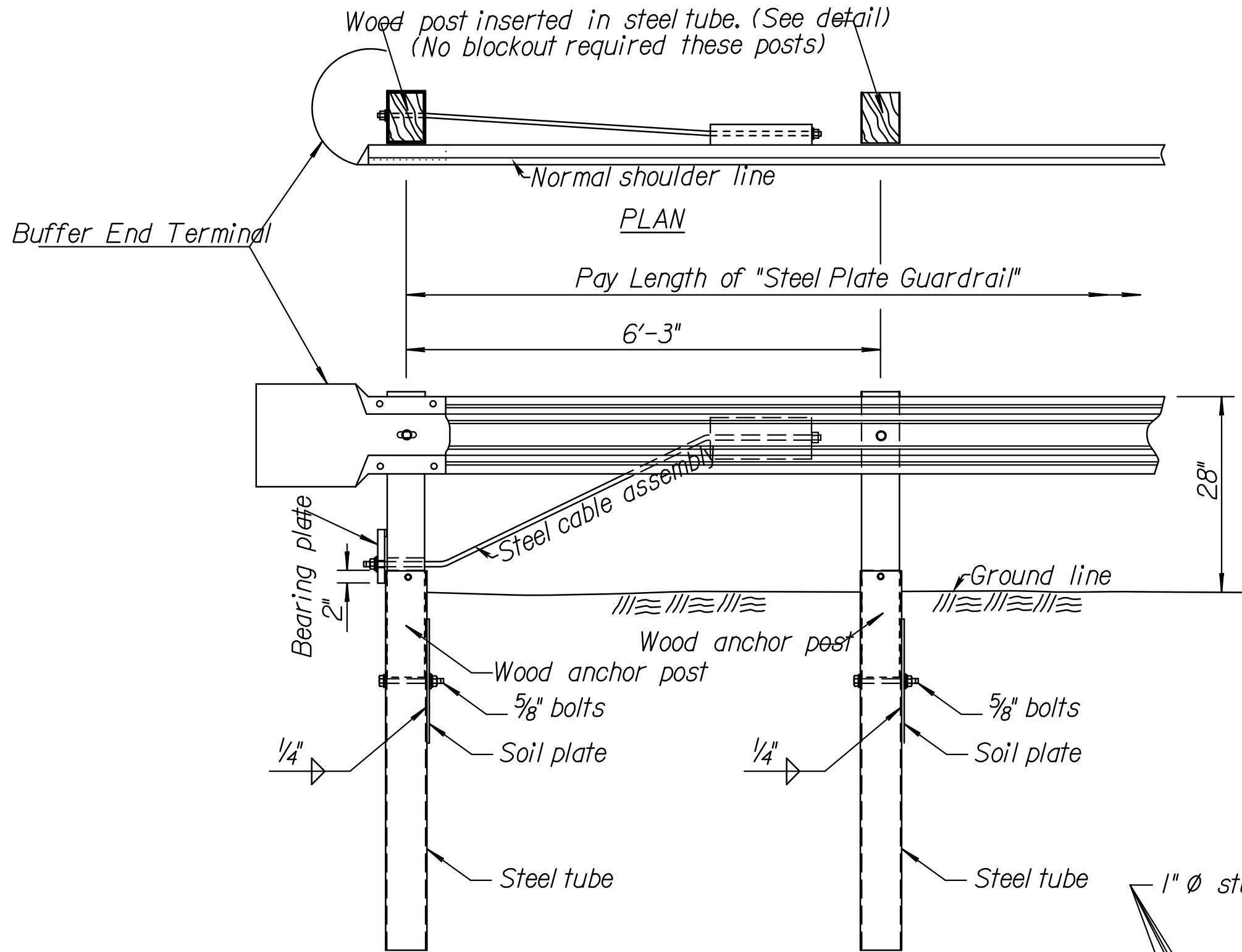
EARTHWORK BALANCE (For Information Only)			
115 Cu. Yds. Common Excavation (VMF = 0.75)	952 Cu. Yds. Common Excavation (Contractor Furnished) (VMF = 0.75)	800 Cu. Yds. Embankment	2280
Includes 115 Cu. Yds. from Channel Excavation			

KANSAS DEPARTMENT OF TRANSPORTATION
PLAN AND PROFILE
STA. 31+10.00 TO STA. 36+60.00

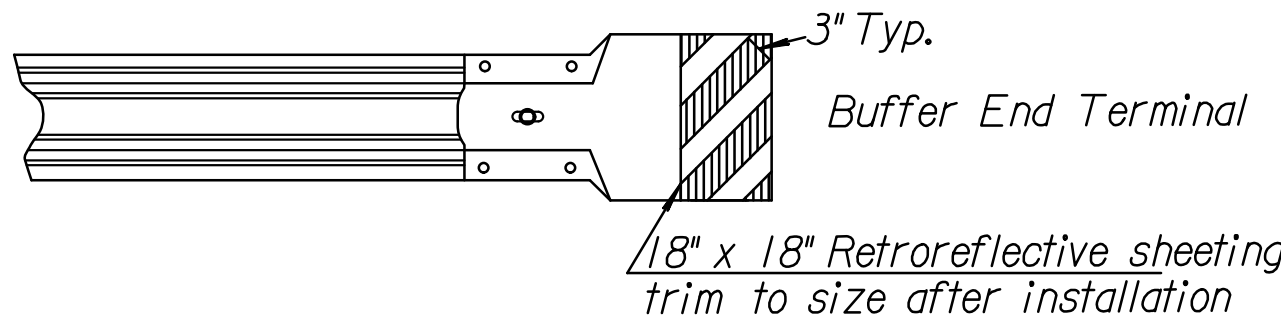
STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	4	17

GENERAL NOTE

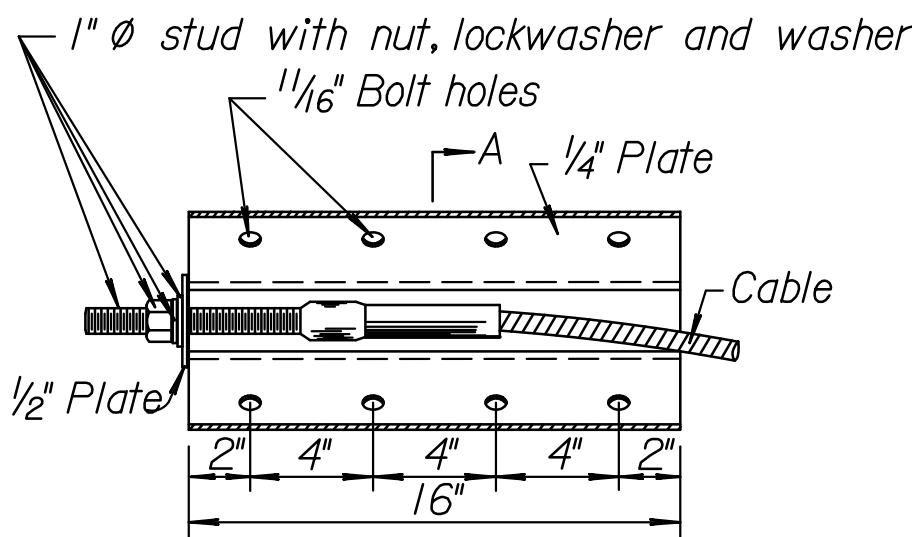
Terminal end posts consist of a wood post inserted into a steel tube see details on this sheet.
The steel soil tubes may be driven with an approved driving head. Set steel tube and soil plate before installing wood anchor post assembly. Do not drive steel soil tubes with wood post in the tube. Backfill and satisfactorily compact around steel soil tubes placed in drilled holes to prevent tube settlement.
Galvanize all steel parts after fabrication.
Lap guardrail splices, including terminal connector, in the direction of traffic.
Where traffic is temporarily carried in the opposite direction of final configuration, lap rail splices in the direction of the permanent traffic.
All work and materials required for the installation of Barrier Terminal Type II are considered subsidiary to the bid item "Steel Plate Guardrail".
Include Type II end terminal in pay length of "Steel Plate Guardrail".



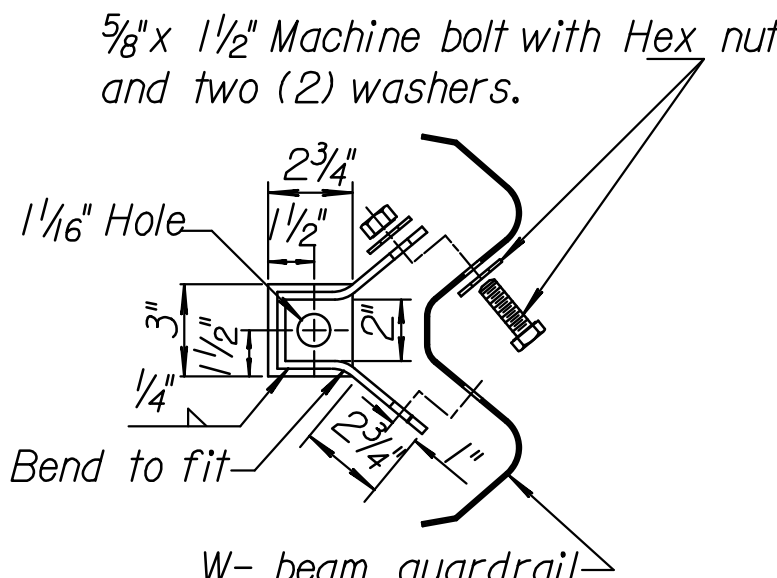
DETAIL OF ANCHOR ASSEMBLY



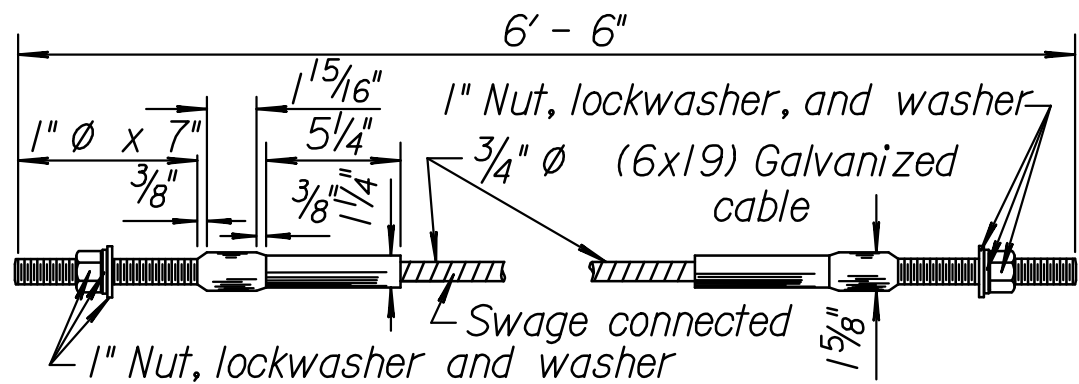
Note: Apply retroreflective sheeting to the buffer end of the terminal after installation. Thoroughly clean and dry steel prior to installation. Locate sheeting to provide maximum visibility to approaching traffic.



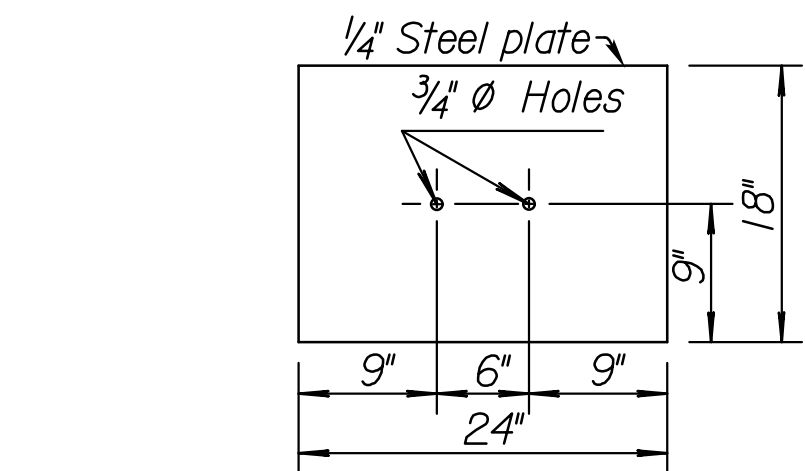
ANCHOR PLATE



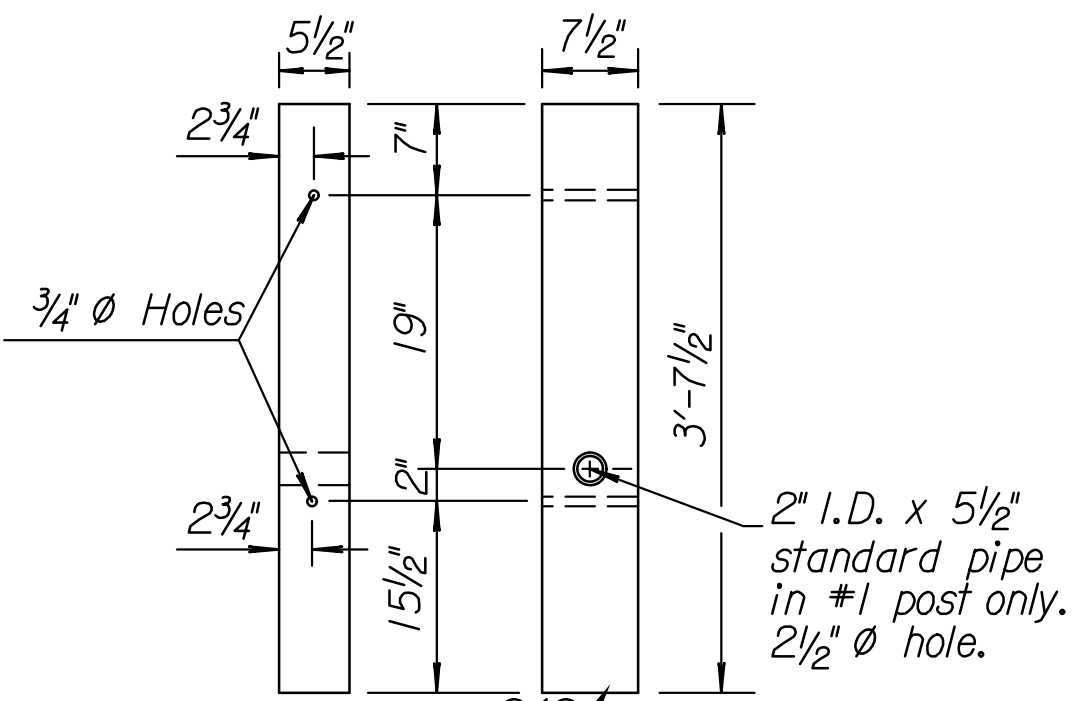
MODIFIED SECTION A-A



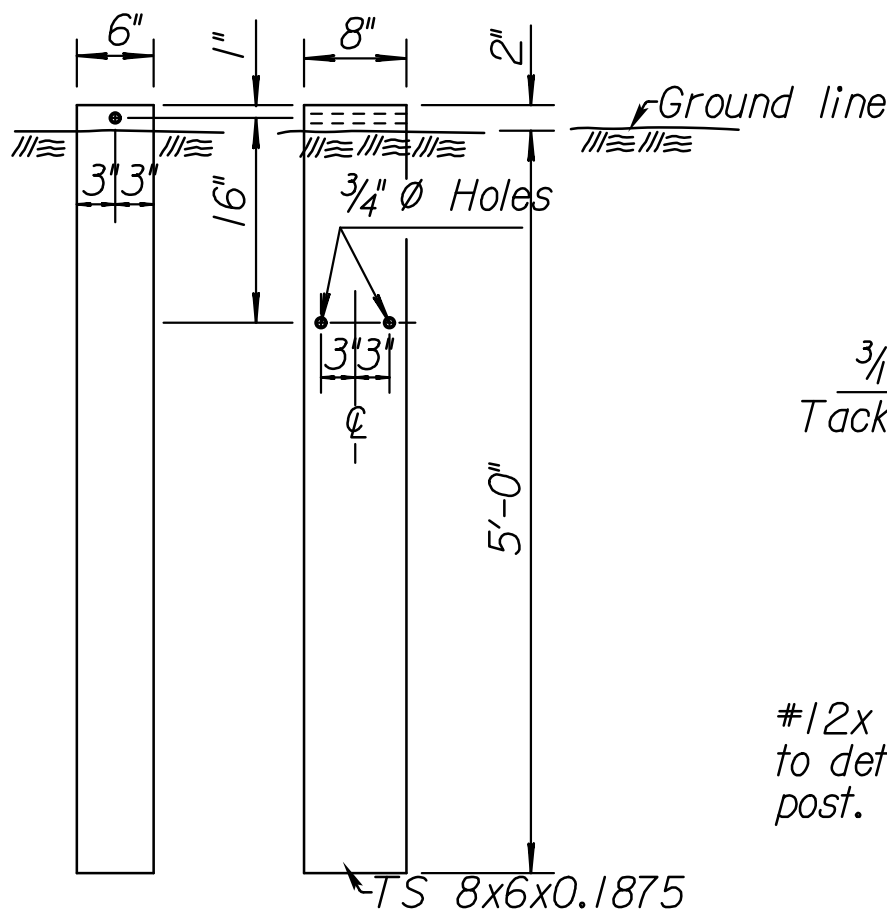
CABLE ASSEMBLY (1 each)
(40,000 lbs. min. breaking strength)
Tighten cable to taut tension.



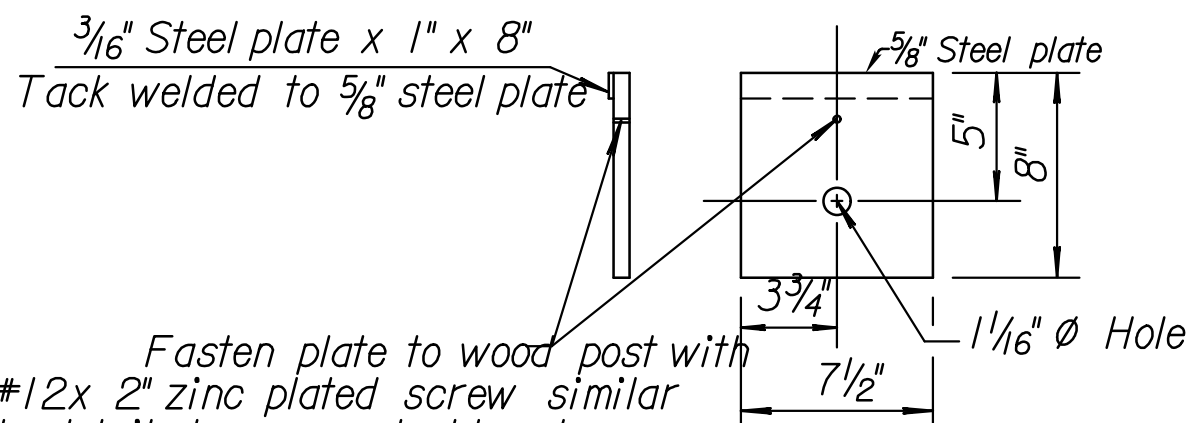
SOIL PLATE



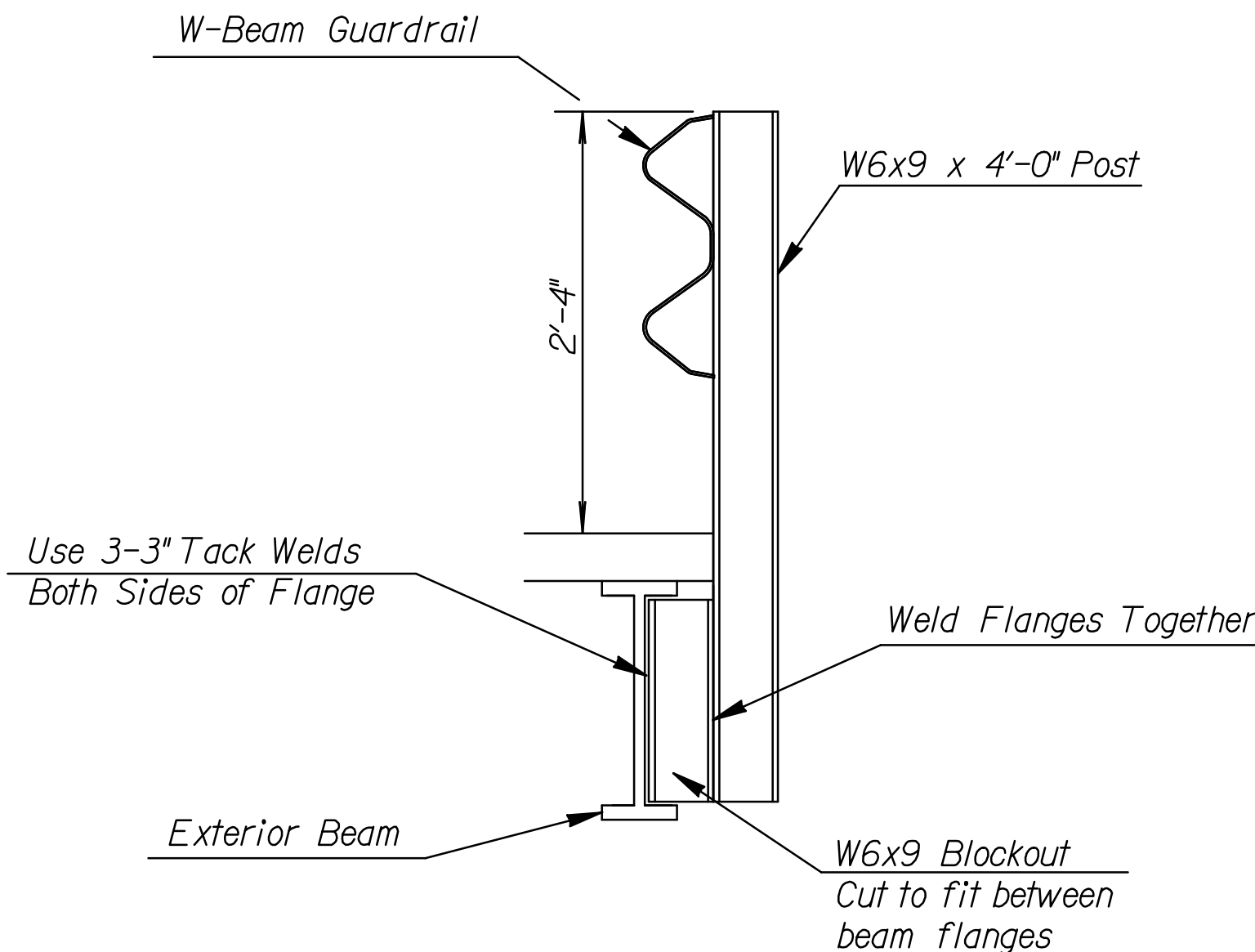
BCT WOOD POST



STEEL TUBE



BEARING PLATE

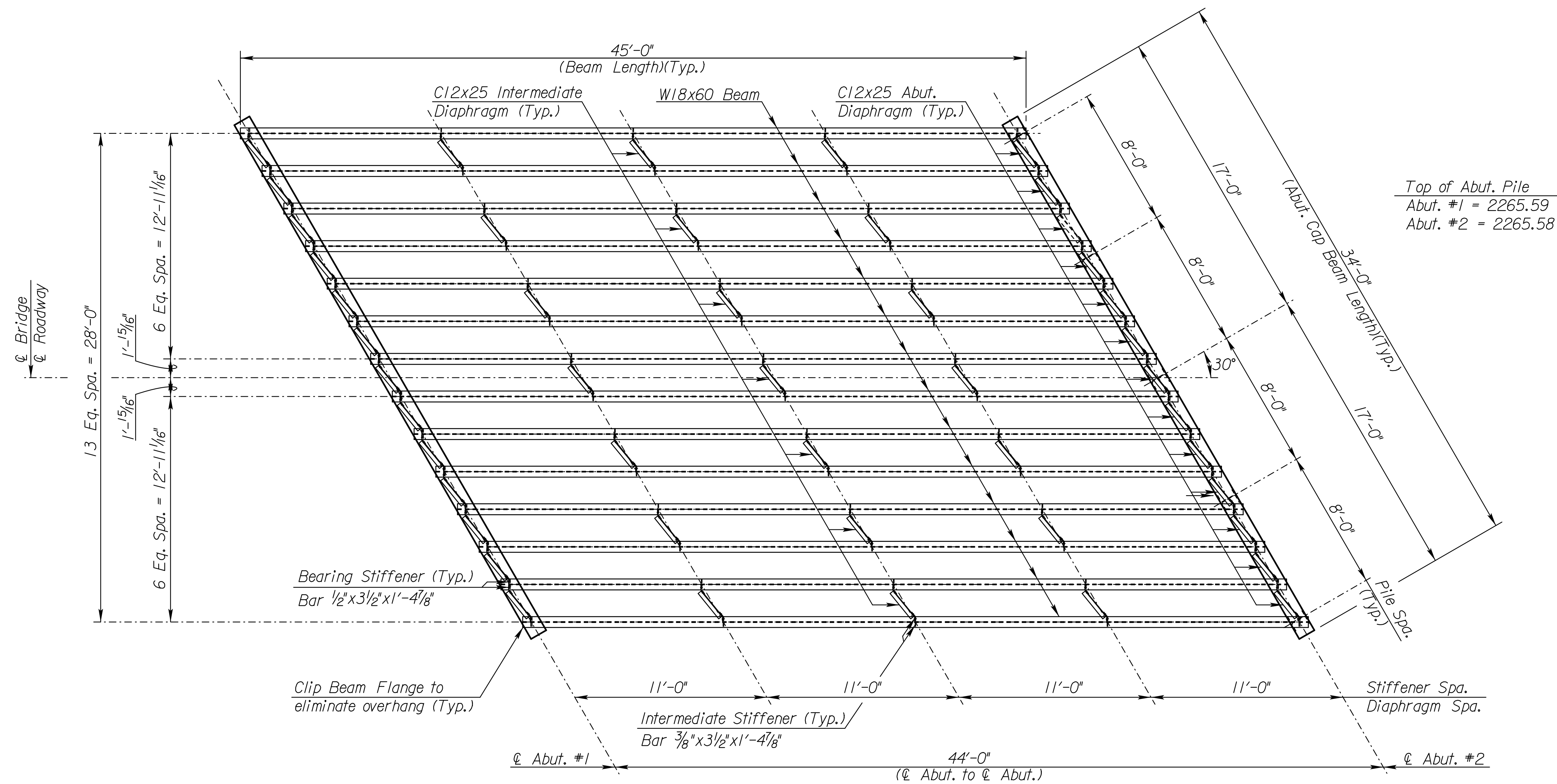


GUARDRAIL POST LOCATED ON BRIDGE

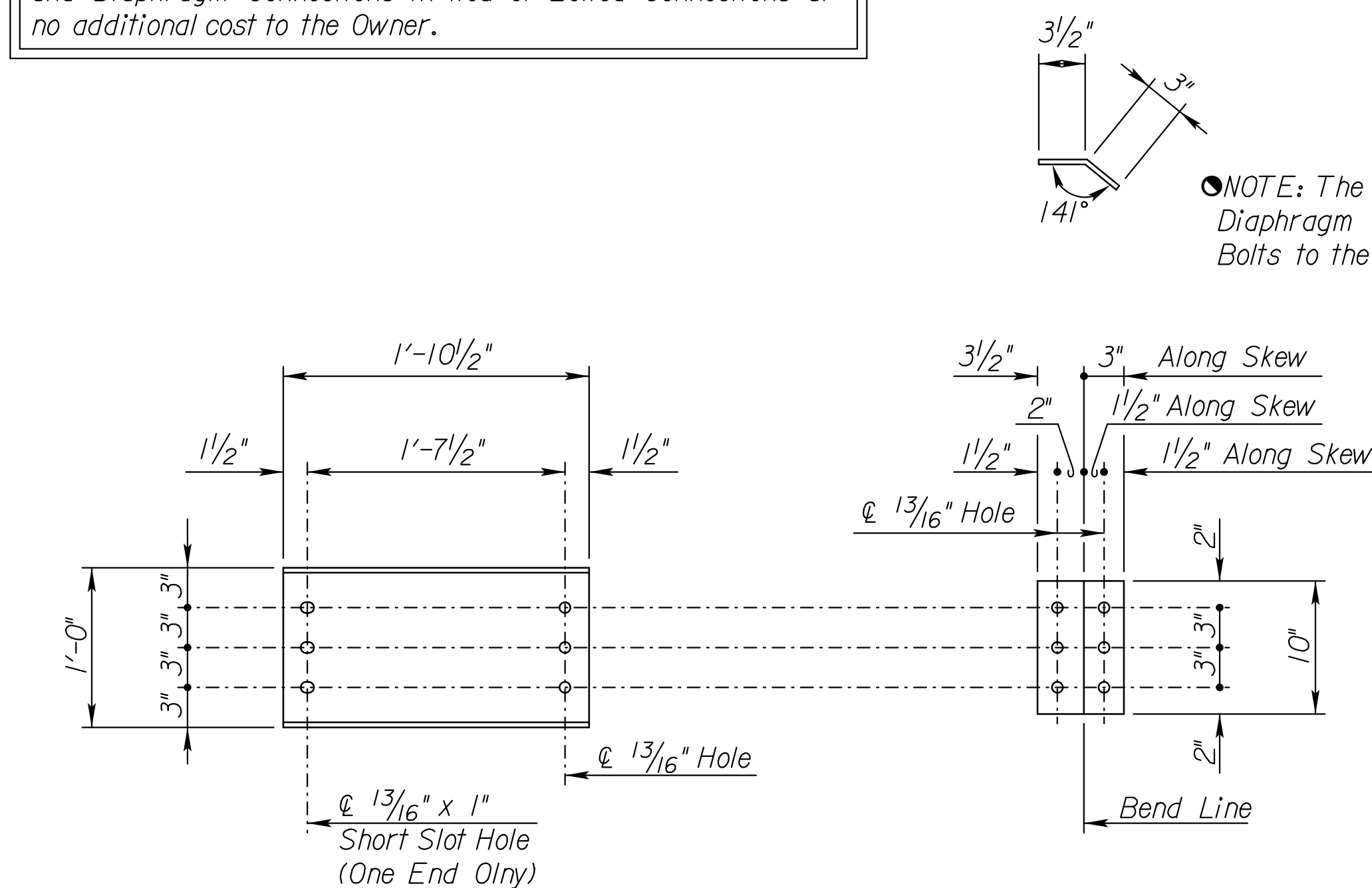
KIRKHAM MICHAEL
217 N. DOUGLAS, ELLSWORTH, KANSAS 67439
VOICE (785) 472-3163 FAX (785) 472-3817

MISCELLANEOUS GUARDRAIL
DETAILS & BARRIER
TERMINAL TYPE II

STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	6	17



The Contractor has the option of field welding the Bent Plate and Diaphragm Connections in lieu of Bolted Connections at no additional cost to the Owner.

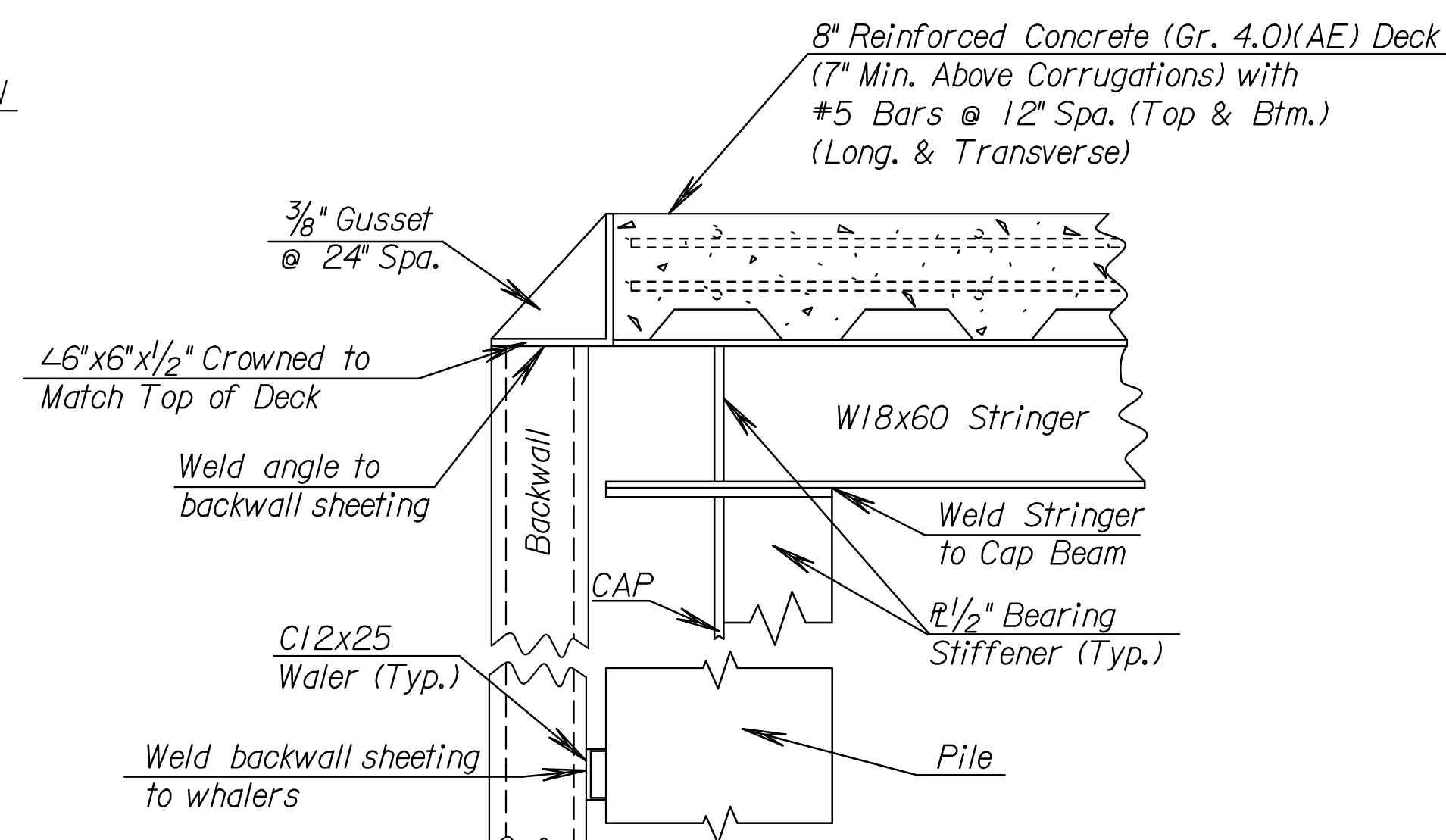


DIAPHRAGM DETAILS
(C12x25)
(47 Required)

● BENT PLATE DETAILS

(Bar $\frac{3}{8}" \times 6\frac{1}{2}" \times 0'-10"$)
(94 Required)
(564 - $\frac{3}{4}" \phi \times 2\frac{1}{4}"$ A325 Bolts Required)

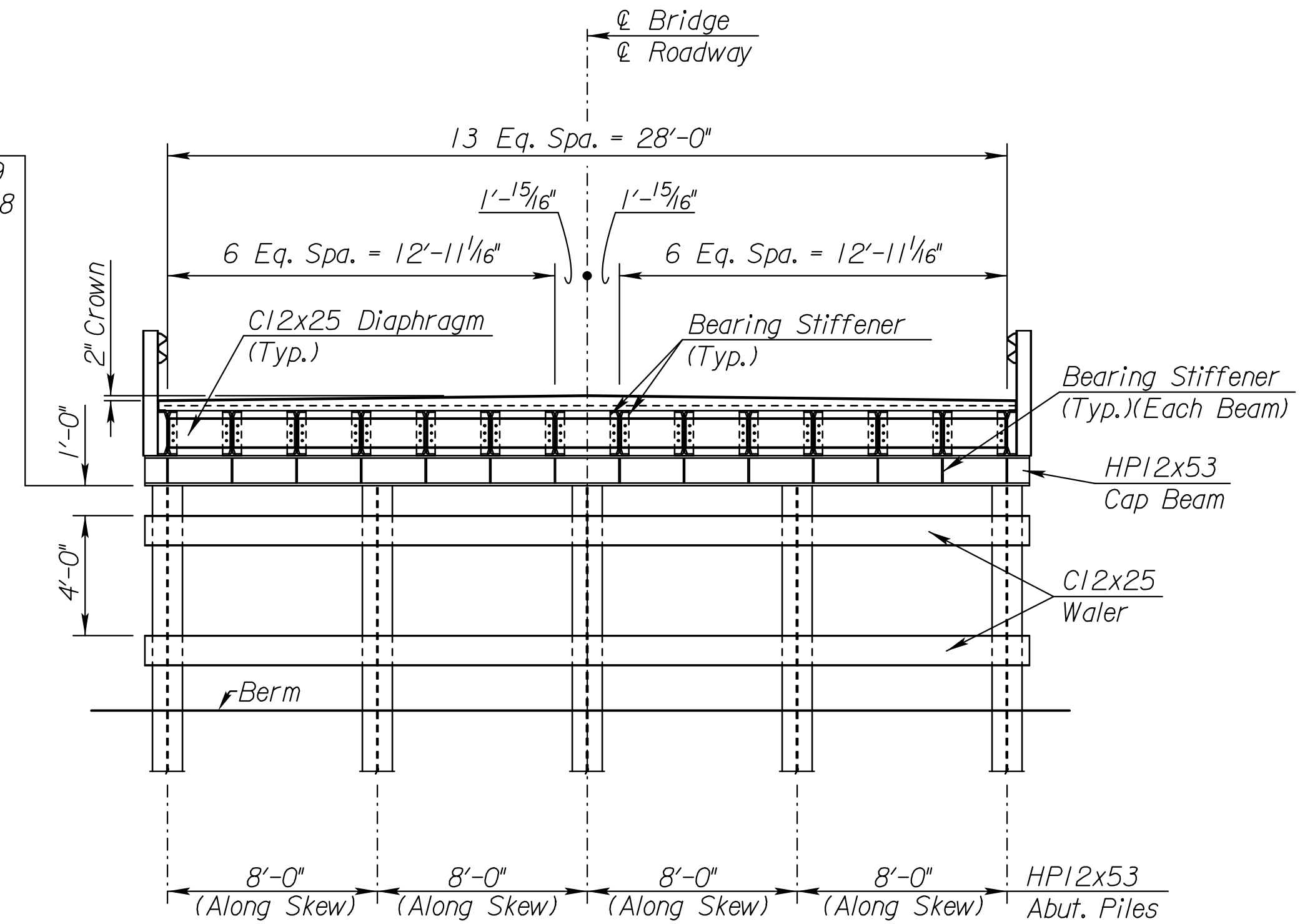
SUPERSTRUCTURE FRAMING PLAN



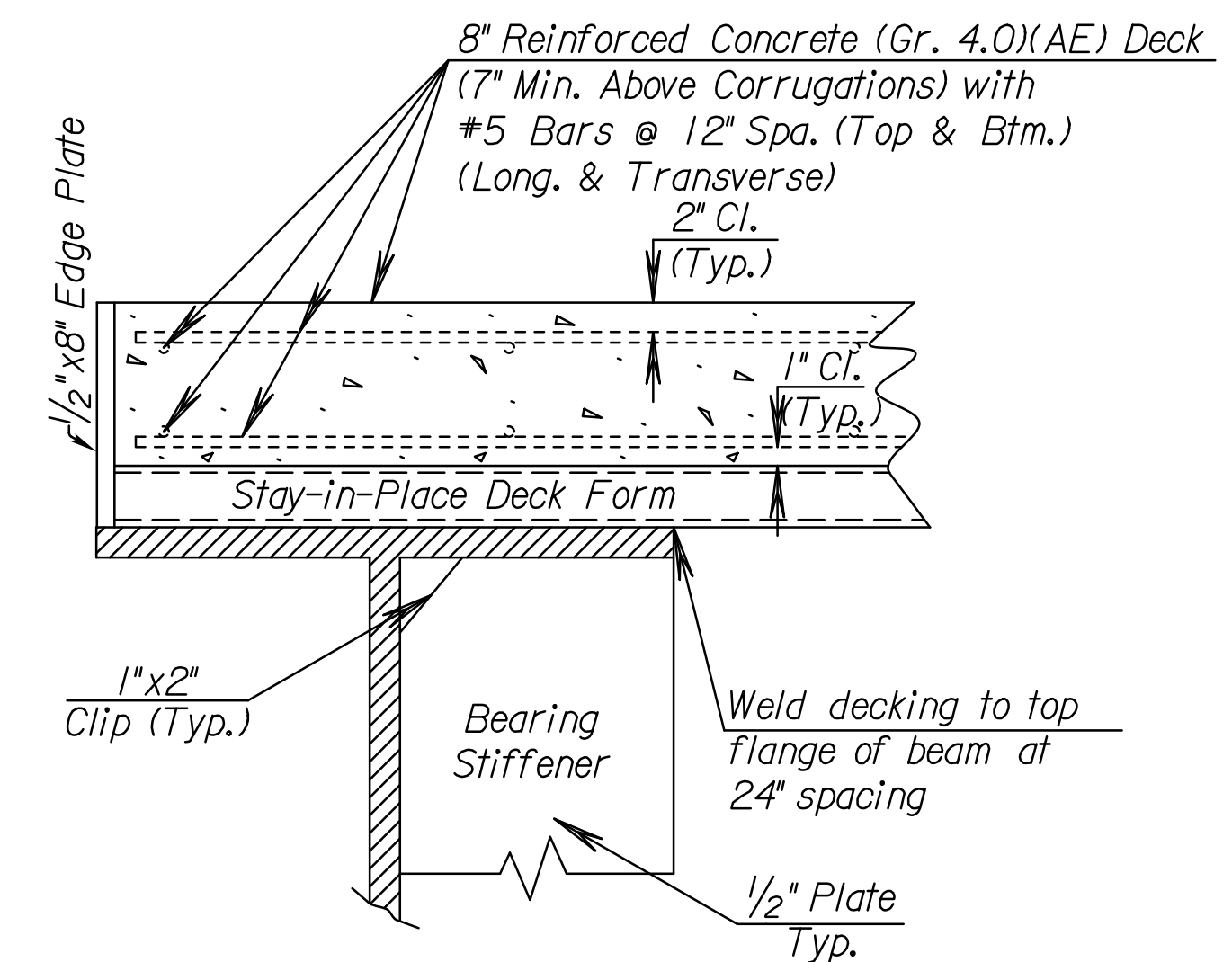
EWS DETAIL

Bill of Reinforcing (For Information Only)				
Mark	Size	No.	Length	Remarks
Longitudinal	#5	58	44'-6"	-
Transverse	#5	92	32'-5"	Along Skew

NOTE: 8" Reinforced Concrete (Gr. 4.0)(AE) Deck By Contractor Shall be Subsidiary to the bid Item "Steel Beam Bridge".



ABUTMENT DETAIL
(Perpendicular to Roadway unless noted otherwise)
(Sheeting not shown for clarity)



EDGE PLATE DETAIL

No Scale



217 N. DOUGLAS, ELLSWORTH, KANSAS 67439
VOICE (785) 472-3163 FAX (785) 472-3817

BRIDGE DETAILS

Plotted by : jmarkel 16-JAN-2026 16:03
File : 008-2211840 Misc. Details.dgn

GENERAL NOTES

CONSTRUCTION SPECIFICATIONS: 2015 Standard Specifications for State Road and Bridge Construction as published by the Kansas Department of Transportation.

DESIGN SPECIFICATIONS: AASHTO Specifications, 2017 Edition and latest interim Specifications. Load and Resistance Factor Design.

DESIGN LOADING: HL-93

UNIT STRESSES:

Concrete (Gr. 4.0)(AE)	$f_c = 4.0 \text{ ksi}$
Reinforcing Steel (Gr. 60)	$f_y = 60 \text{ ksi}$
Steel Piles	$f_y = 50 \text{ ksi}$
Structural Steel ASTM A709 (Gr. 50)	$f_y = 50 \text{ ksi}$
Structural Steel ASTM A709 (Gr. 36)	$f_y = 36 \text{ ksi}$

CONCRETE: Use Concrete (Grade 4.0)(AE) for the Bridge Deck. Bevel all exposed edges of all concrete with a $\frac{3}{4}$ " triangular molding. The Concrete (Grade 4.0)(AE) won't be paid for directly, but shall be subsidiary to the bid item "Steel Beam Bridge".

REINFORCING STEEL: All reinforcing steel shall conform to ASTM A615 (Grade 60) requirements. The reinforcing steel used in the Concrete Deck won't be paid for directly, but shall be subsidiary to the bid item "Steel Beam Bridge".

SHEET PILING: Wingwalls and backwalls shall be interlocking, galvanized, 7 ga. steel sheet piling driven not less than ten feet of penetration below streambed or refusal, whichever is less. The abutment backwall shall be driven tight against cap and beams with two waler supports spaced equally between natural ground and top of stringer. The sheet piling shall be welded to the walers, end plates, and wing caps.

Each wingwall shall be constructed with two HPI2x53 steel piles (@ 40' each pile). The top of each wingwall shall be capped with C5x6.7 channel iron.

STRUCTURAL STEEL: The W18x60 steel beams shall be ASTM A709 (Gr. 50) steel. All other steel shall be ASTM A709 (Gr. 36) steel. ASTM A36 Steel may be substituted for ASTM A709 (Gr. 36) Steel.

Diaphragms shall be placed between stringers at the $\frac{1}{4}$ points within the span and at the abutment locations as shown on the plans.

Contractor shall install W-Beam Bridge Rail and Barrier Terminal Type II as shown in the plans. This work will be paid for as "Steel Plate Guardrail".

STRUCTURAL STEEL WELDING: Material, Fabrication and Construction shall conform to ANSI/AASHTO/AWS D1.5 - 2020 Specifications or KDOT Specifications. All field Welders shall be qualified and experienced. If requested by the Engineer, the Contractor shall be required to provide the welder's certification and previous welding experience.

The bridge will not be painted as part of this project.

PILING: Abutment piling shall be HPI2x53 steel pile and driven to a minimum bearing of 46 tons per pile. As a minimum drive each pile to load and penetration, but in no case shall the pile be driven to more than 110% of the Pile Driving Formula Load. Pile lengths were estimated based off a geological investigation. The Contractor will be paid for the actual amount of piling driven. Pile splices and cut-off shall be Subsidiary to "Piles (Steel)(HPI2x53)".

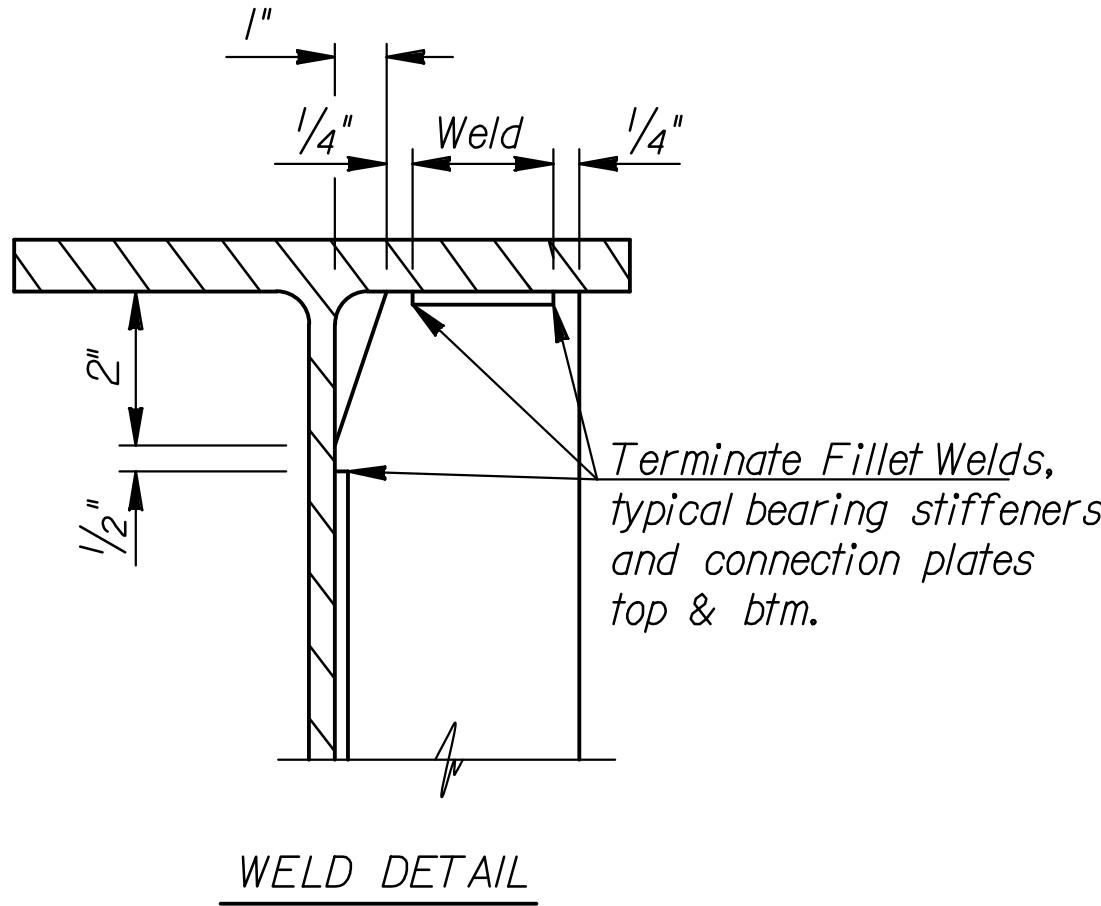
Remove, replace or correct to the satisfaction of the Engineer improperly driven, broken, or otherwise defective piles. Otherwise drive an additional pile at no extra cost.

PILE SPLICES: Splices for steel piles shall be in accordance with the Standard Specifications.

DRIVING FORMULA: Driving formula shall conform to the Standard Specifications.

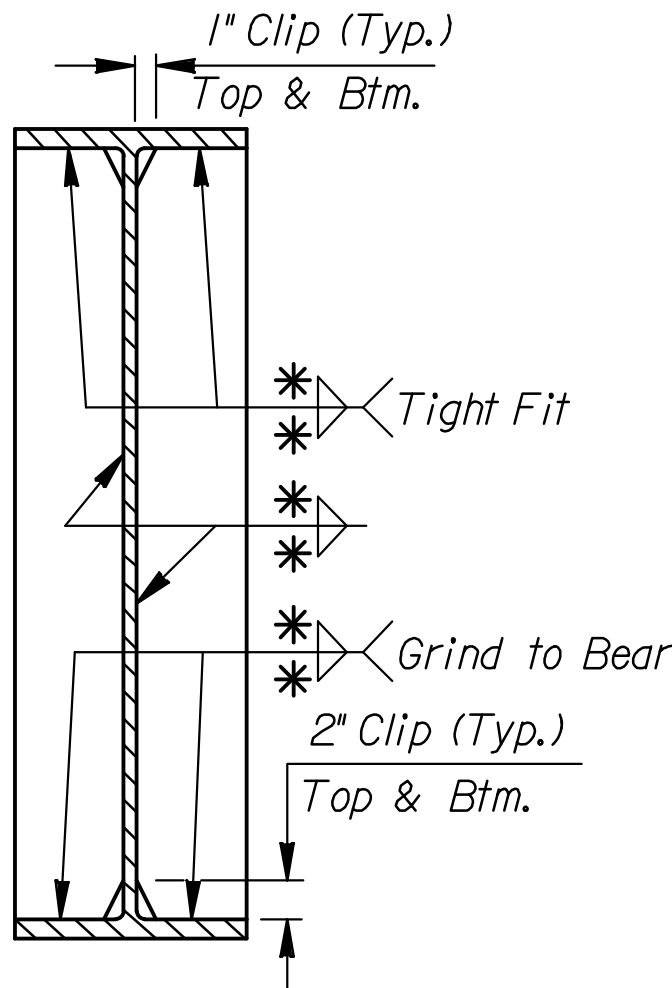
CONTRACTOR FURNISHED PDA: Use the Pile Driving Analyzer equipment at the locations shown on the Construction Layout. Use Pile Driving Analyzer equipment and methods compliant with KDOT Special Provisions. The Piling shall remain in place as permanent piling. Drive the piling to the resistance value of 71 tons at the Abutments (Strength I divided by Phi).

LRFD DESIGN PILE LOAD:				
Design Loading (Tons/Pile)	<u>Strength I</u>	<u>Service I</u>	<u>Phi</u>	
Abutments:	46	30	0.65	



Bearing Stiffeners shall be placed on the Pile Cap at the beam and pile locations. Stiffener plates may be placed on the bridge opening side of the pile cap only.

Bearing Stiffeners on the W18x60 beams shall be placed at the abutments. These plates shall be placed on both sides of the beams.



BEARING STIFFENERS

MINIMUM FILLET WELD SIZES	
Material Thickness of thicker part joined	Minimum size of fillet weld
To $\frac{7}{8}$ " inclusive	$\frac{1}{4}$ "
Over $\frac{7}{8}$ "	$\frac{5}{16}$ "

Note: Minimum fillet weld size need not exceed the thickness of the thinner part joined.

STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	8	17

RECAPITULATION OF BRIDGE QUANTITIES (For Information Only)		
ITEM	QUANTITY	UNIT
ASTM A709 (Gr. 50)		
† Beam: W18x60 (14 @ 45'-0")	37,800	Lbs.
ASTM A709 (Gr. 36)		
† Beam Bearing Stiffener: Bar $\frac{1}{2}$ "x3 $\frac{1}{2}$ "x1'-4 $\frac{3}{4}$ " (56 Required)	470	Lbs.
† Beam Intermediate Stiffener: Bar $\frac{3}{8}$ "x3 $\frac{1}{2}$ "x1'-4 $\frac{3}{4}$ " (84 Required)	530	Lbs.
† Pile Cap Beam Stiffener: $\frac{1}{2}$ "x5"x0'-11" (34 Required)	265	Lbs.
† Edge Plate: $\frac{1}{2}$ x8"x45'-0" (2 Required)	1,225	Lbs.
† Angle: $\angle$ 6"x6"x $\frac{1}{2}$ " (2 @ 33'-0")(Crowned)	1,315	Lbs.
† Triangular Gusset Plate: $\frac{1}{2}$ "x6"x0'-6" (34 Required)	65	Lbs.
† Diaphragms: C12x25 (47 @ 1'-10 $\frac{1}{2}$ ")	2,205	Lbs.
† Waler: C12x25 (4 @ 34'-0" & 8 @ 9'-0")	5,200	Lbs.
† Wingwall Cap: C5x6.7 (4 @ 10'-0")(Cut to Match)	270	Lbs.
† Guardrail Bridge Post: W6x9 (14 @ 4'-0")	505	Lbs.
† Guardrail Bridge Post Blockout: W6x9 (14 @ 1'-0")	125	Lbs.
Concrete (Gr. 4.0)(AE)		
† Bridge Deck (Based on an 8" Uniform Deck)	31.7	Cu. Yds.
Reinforcing Steel (Gr. 60)		
† Bridge Deck	5,800	Lbs.
ASTM A572 (Gr. 50)		
☹☹ Abutment 1: Pile HPI2x53 (4 @ 58' and 1 @ 68')	300	Lin. Ft.
☹☹ Abutment 2: Pile HPI2x53 (5 @ 58')	290	Lin. Ft.
☹☹ Wingwalls: Pile HPI2x53 (8 @ 40')	320	Lin. Ft.
† Pile Cap Beam: HPI2x53 (2 @ 34'-0")	3,604	Lbs.
† ASTM A857 or A653 (Gr. 36)		
† Stay-In-Place Bridge Forms (Or Approved Equal)	1,283	Sq. Ft.
ASTM A857 (Gr. 36)		
☹☹ Steel Sheet Piles: (7 Ga.) (Galvanized)	2,600	Sq. Ft.

NOTE: Items not listed separately in the contract shall be considered subsidiary to other items in the contract.

☹☹ Items bid separately in the Contract.

† Items subsidiary to the bid item "Steel Beam Bridge".

**KIRKHAM
MICHAEL**
217 N. DOUGLAS, ELLSWORTH, KANSAS 67439
VOICE (785) 472-3163 FAX (785) 472-3817

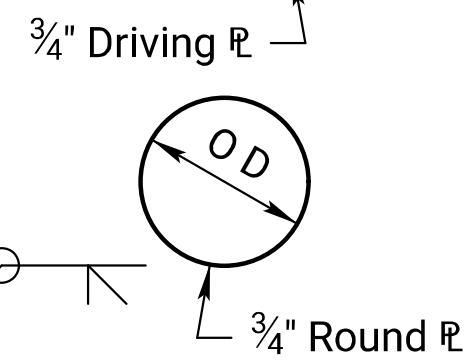
GENERAL NOTES
AND
MISCELLANEOUS DETAILS

OD	10 ³ / ₄ "	T. = ‡
OD	12 ³ / ₄ "	T. = ‡
OD	14"	T. = ‡

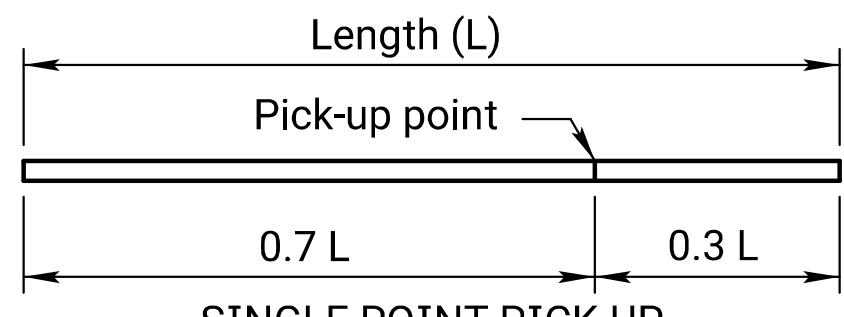
‡ See the Geology Report or "Summary of Quantities" for Pipe Pile wall thickness

Note:
Pile shall be driven with a steel head having a projecting ring fitting inside the pipe. Clearance between ring and pipe should be 1/4".

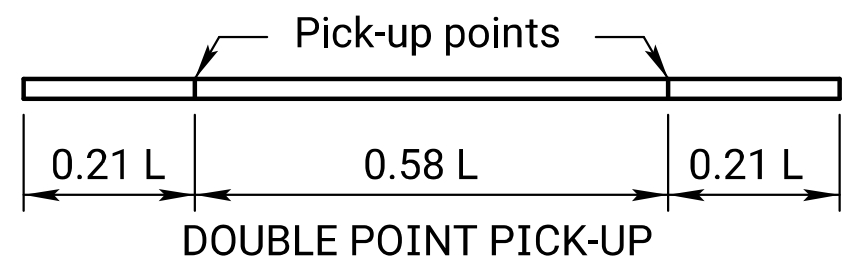
Note:
Pile pipe may be spiral welded, longitudinal welded, or seamless steel pipe.



PLAIN ROUND CAST-IN-PLACE CONCRETE PILES



SINGLE POINT PICK-UP

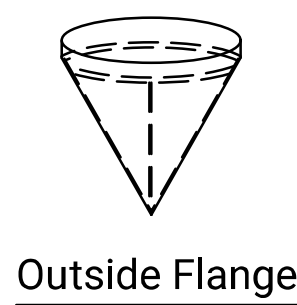


DOUBLE POINT PICK-UP

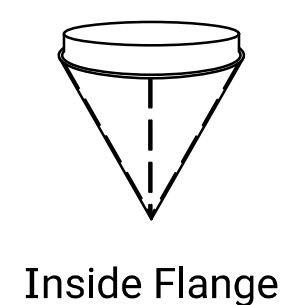
PICK-UP POINTS FOR PRESTRESSED PILING

Max. length - 55' single point pick-up
Max. length - 80' double point pick-up

Note: Piles shall be marked at Pick-up points to indicate proper points for attaching handling lines.

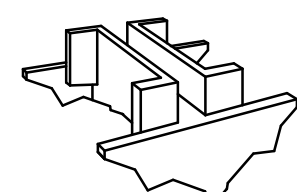


Outside Flange



Inside Flange

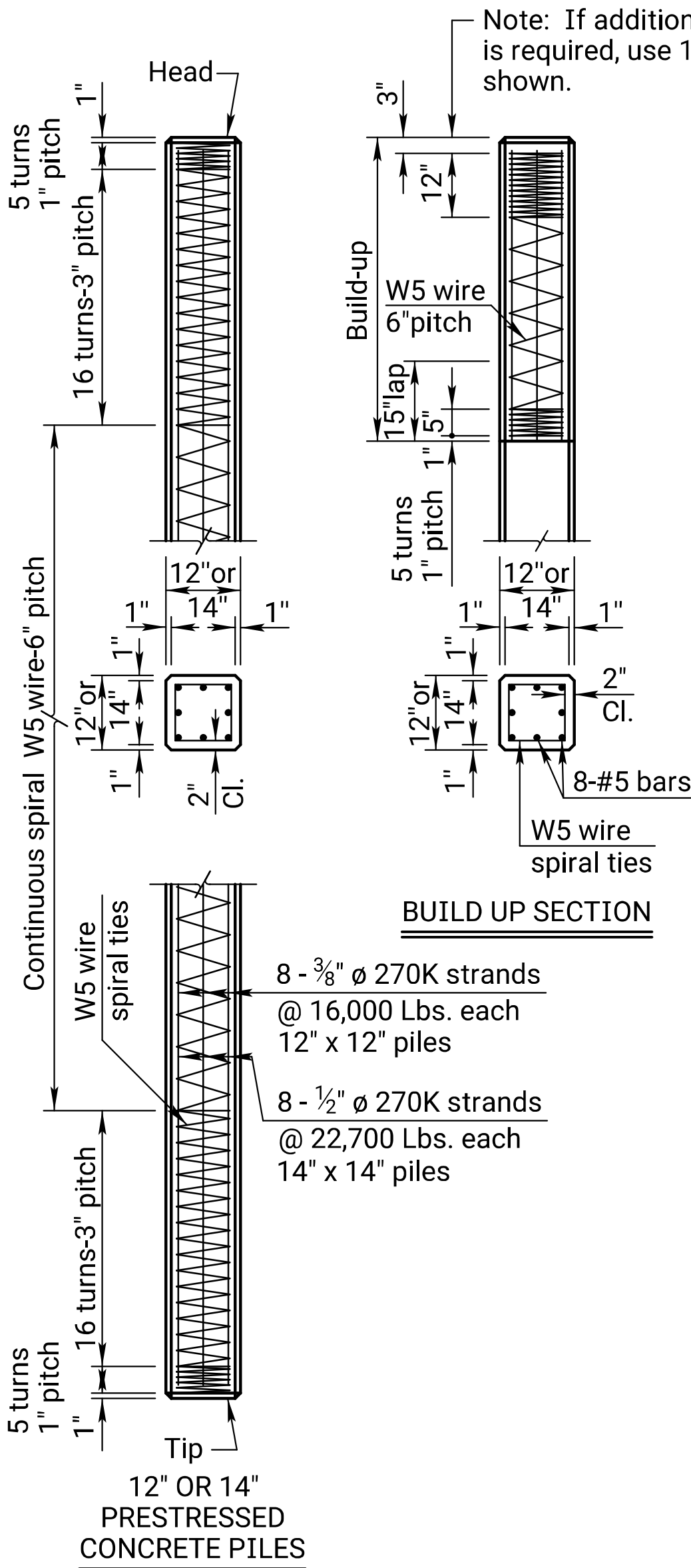
SHELL PILE POINT



H-Pile Point

CAST STEEL PILE POINT

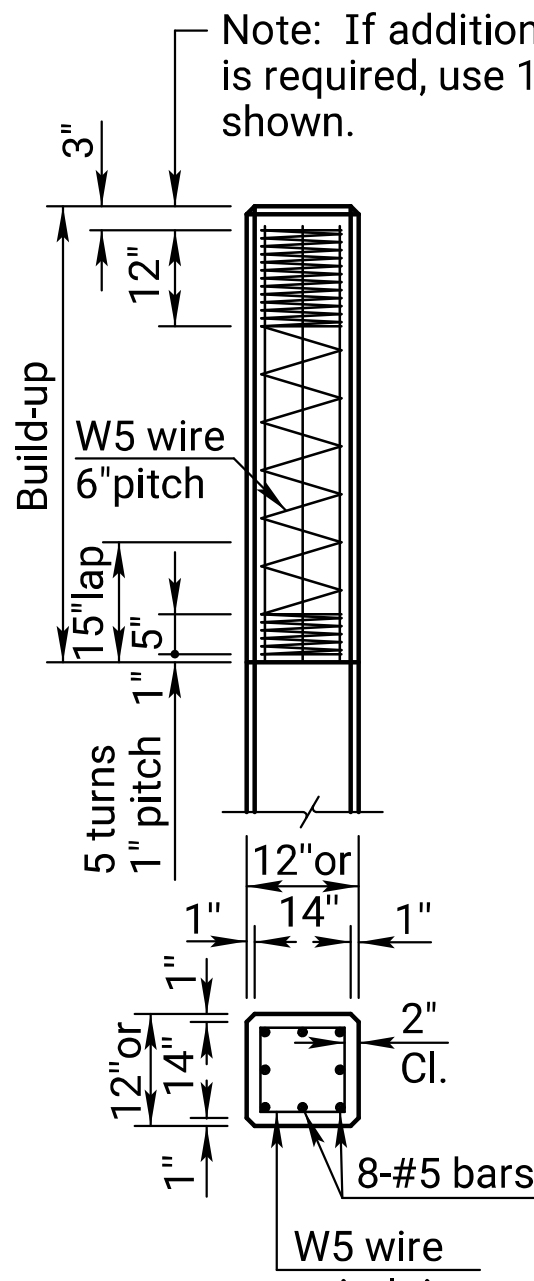
The pile point shall be a one-piece unit of cast steel. Weld pile points in accordance with manufacturer's recommendations to each steel pile before driving.



BUILD UP SECTION

8 - 3/8" ϕ 270K strands
@ 16,000 Lbs. each
12" x 12" piles

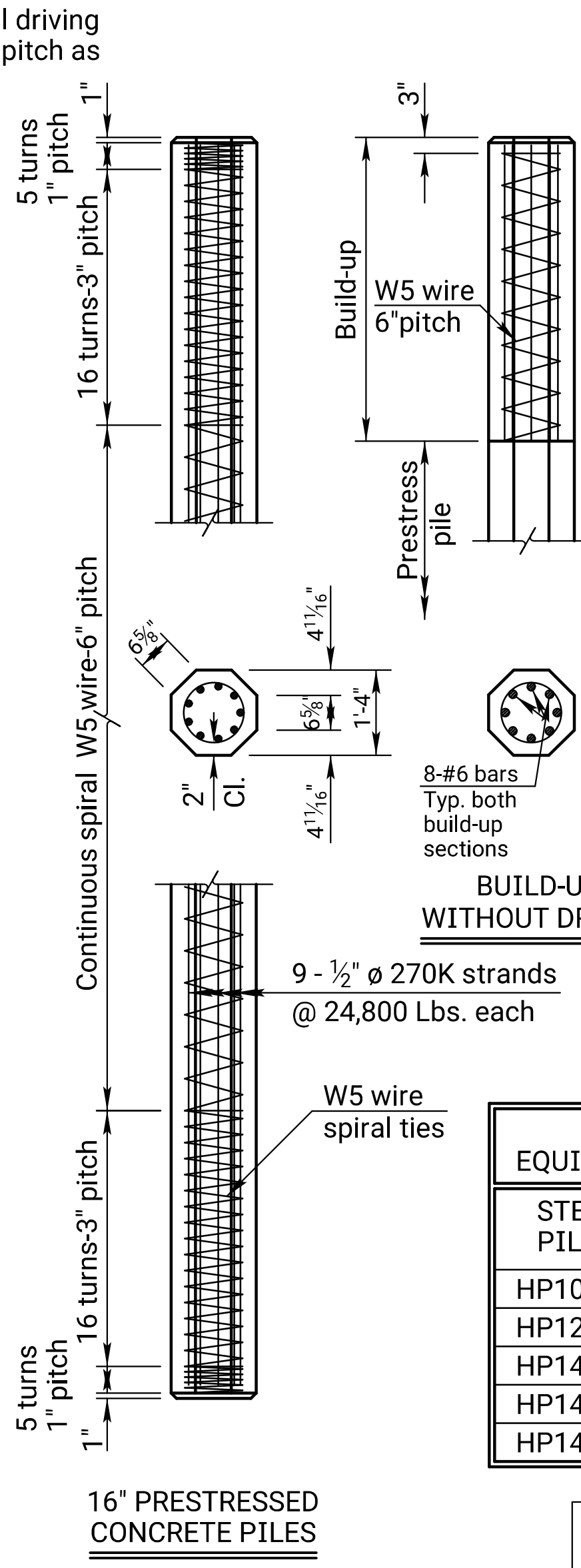
8 - 1/2" ϕ 270K strands
@ 22,700 Lbs. each
14" x 14" piles



BUILD UP SECTION

8 - 3/8" ϕ 270K strands
@ 16,000 Lbs. each
12" x 12" piles

8 - 1/2" ϕ 270K strands
@ 22,700 Lbs. each
14" x 14" piles



16" PRESTRESSED CONCRETE PILES

FOR INFORMATION ONLY EQUIVALENT POINT BEARING PILES		
STEEL PILES	CONCRETE PILES	
	Pipe	Pre-stress
HP10x42	10 ³ / ₄ "	
HP12x53	12 ³ / ₄ "	
HP14x73	14	12
HP14x102		14
HP14x117		16

SPICES: Splices for steel piles and shell piling shall be in accordance with details shown on this sheet and the Standard Specifications.

For integral pile bent abutments and piers, if a pile splice is required, do not locate the pile splice within a region extending 2'-0" above and 10'-0" below the bottom of the concrete web wall. For abutments, locate the pile splice at least 10'-0" below top of fill.

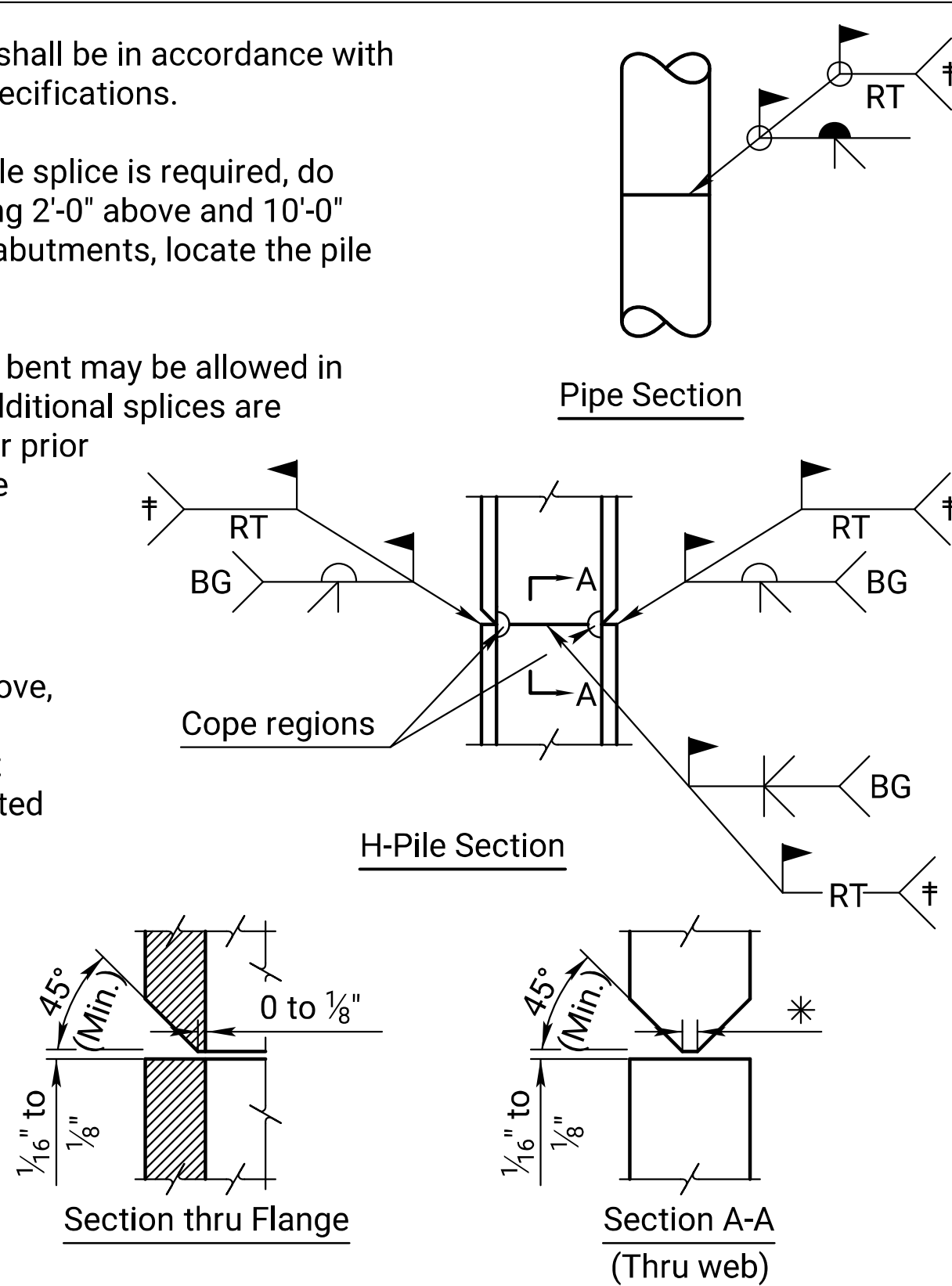
With the approval of the Engineer, one splice per bent may be allowed in the region described above without testing. If additional splices are anticipated, based on the geology, the Contractor prior to driving, will locate the splice so that the splice will not fall within the regions described above.

‡ For integral pile bent abutments and piers, if a splice is located within the regions described above, then the Contractor will test the welds by Radiograph (RT) test methods. Repair and retest any welds not passing the test(s). Each weld tested will have written confirmation of results. Report these results to the Engineer. This work is not paid for directly, but is subsidiary to "Piles".

* Minimum as required by welding process.

BG = Backgouge

PILE SPLICE DETAILS



GENERAL NOTES

PRESTRESSED PILES: Fabricate prestressed concrete pile splices in accordance with the Manufacturer's recommendations subject to the approval of the Engineer.

Method of attachment of pile to build-up may be by any of the methods given in the notes on "Alternate Methods." If mild reinforcing steel is used for attachment, the area shall be no less than that used in the build-up.

ALTERNATE METHODS: Method of attachment of a pile to build-up may be by any of the following methods:

1. Cut off at least 2'-0" of pile and expose a minimum of 2'-0" of strands.
2. Cast 8-#6, or 8-#5 bars (equally spaced) into pile head. All bars shall extend into pile head and project from pile head a minimum of 2'-0".
3. Drill 8 holes in pile head (equally spaced) for installation of 8 grouted dowel bars of same size and length as in 2.
4. Provide cored holes for bars as in 3.

No bars or strands are to extend from head of pile or build-up into footing or pile cap unless approved by the Engineer.

TEST PILES: Drive test piles where called for on the bridge plans. The test piles located within the limits of the substructure will become a part of the bridge pile system.

DRIVING FORMULA: Driving formula shall conform to the Standard Specifications.

MEASUREMENT AND PAYMENT: Measurement and payment for all piles shall comply with the Standard Specifications.

REINFORCEMENT: Use reinforcing steel conforming to ASTM A615, Grade 60. Hoops and spirals may be either plain or deformed bars.

PRESTRESSING STEEL: Use uncoated seven-wire low relaxation prestressing strand conforming to ASTM A416, Gr. 270.

STEEL PILE: Steel pile shall conform to the requirements of the Standard Specifications.

PILE POINTS: Pile points shall conform to the dimensions shown and to requirements of the Standard Specifications.

SPECIFICATIONS: Standard Specifications for State Road and Bridge Construction as currently used by the Kansas Department of Transportation.

CONCRETE: Concrete for cast-in-place shall be f'c = 3,500 PSI. Concrete for prestressed shall be f'c = 5,000 PSI.

WELDING: All field welding shall meet the requirements of the Standard Specifications.

Use only Shielded Metal Arch Welding SMAW (stick welding) for pile splices.

Use only low hydrogen E7018, 7016, or 7015 series welding rod (electrode) for all welding applications during pile splicing.

New electrodes are to be purchased for each KDOT project. The electrodes shall arrive on the project in factory hermetically sealed containers, opened and labeled with indelible ink in front of the engineer. The label shall include the current date and the project number. If the container seal is questionable or shows signs of damage the electrode is to be dried in an oven at least one hour at a temperature of 700°F to 800°F.

Upon removal from intact hermetically sealed factory packaging or the drying oven the electrode is to be placed in a storage oven with a minimum temperature of 250°F.

When electrodes are removed from the hermetically sealed container or storage oven and exposed to the atmosphere for less than 4 hours place into the storage oven for at least 4 hours before removing for use.

If electrode is exposed to the atmosphere for 4 hours or more (or 9 hours for moisture resistant electrodes designated with an R in their labeling) then electrode can be dried in a drying oven at a temperature of 450°F to 550°F.

If the electrode is exposed to the atmosphere for 4 hours or more a second time or the rod becomes wet discard rod.

CAST-IN-PLACE SHELLS: Steel shells for cast-in-place concrete piles shall conform to the requirements of the Standard Specifications.

All piles driven without a mandrel shall be of the minimum thicknesses shown. Piles driven with a mandrel shall be of sufficient strength and thickness to withstand driving without injury and to resist harmful distortion and/or buckling due to soil pressure after the mandrel is removed.

Remove, replace or correct to the satisfaction of the Engineer improperly driven, broken or otherwise defective pipe piles. Otherwise drive an additional pile at no extra cost.

The Contractor shall maintain a light suitable for visual inspection of the pile on the job at all times prior to and during the filling of the pipe.

PAINT: All paint shall comply with the Standard Specifications, or as specified on the plans.

MILL TEST REPORTS: Steel piles test reports and steel shell test reports shall comply with the Standard Specifications.

04	08-16-18	Add splice web section, clarify note	M.L.L.	J.P.J.
03	09-15-15	Clarify Notes	J.P.J.	C.E.R.
02	06-18-12	Clarify f'c, rod type, use and weld	J.P.J.	T.L.F.
NO.	DATE	REVISIONS	BY	APPD

KANSAS DEPARTMENT OF TRANSPORTATION

STANDARD PILE DETAILS

BR110

FHWA APPROVAL		10-04-12	APPD.	Terry L. Fleck	
DESIGNED	J.P.J.	DETAILED	QUANTITIES	TRACED	R.A.A.
DESIGN CK.	DETAIL CK.	QUAN.CK.	TRACE CK.		

STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	10	17

GENERAL NOTES

Reference is made to the latest edition of the CRSI "Manual of Standard Practice" for recommended industry practices concerning reinforcing steel.

Use only the following types of bar supports:

- 1) Wire Bar Supports:
- a) Epoxy coated reinforcing: Class 1 Protection
- b) Non-epoxy coated reinforcing: Class 1, 2, or 3 Protection
- 2) Plastic Bar Supports
- 3) Supplementary bars

When securing epoxy coated reinforcement, use tie wires or metal clips that are epoxy or plastic coated.

Do not weld reinforcing steel to bar supports or to other reinforcing steel. Shop weld spacer frames for haunched slabs.

Tie bars at all intersections around the perimeter of each mat and at not less than 2'-0" centers or at every intersection, whichever is greater.

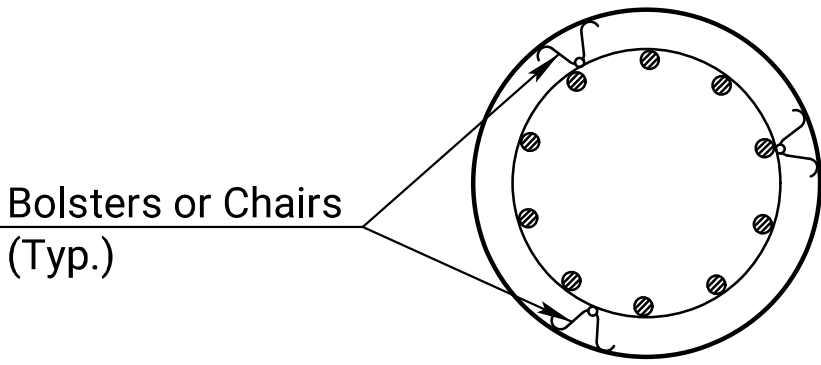
Where more than one length of bar support is required, lap the end legs so they are locked or tied together.

Use proper height supports to maintain the distance between the reinforcing and the formed surface or the top surface of deck slabs within 1/4" of that indicated on the plans.

Spacings shown are maximums. Use sufficient supports, as determined by the Engineer, to retain the reinforcing steel in position.

Construct any platforms, required for the support of workers and/or equipment during concrete placement, directly on the forms and not on the reinforcing steel.

Designs and arrangements of Supports or Spacers other than as shown on this sheet, may be used with the permission of the Engineer.



SECTION A-A

05	11-10-10	Column Bar Supports Required	J.P.J.	T.L.F.
04	12-01-05	Drilled Shaft Spiral Steel Placement	J.P.J.	K.F.H.
03	08-21-00	Added Pre-Cast Panel Detail	R.A.M.	K.F.H.
NO.	DATE	REVISIONS	BY	APPD

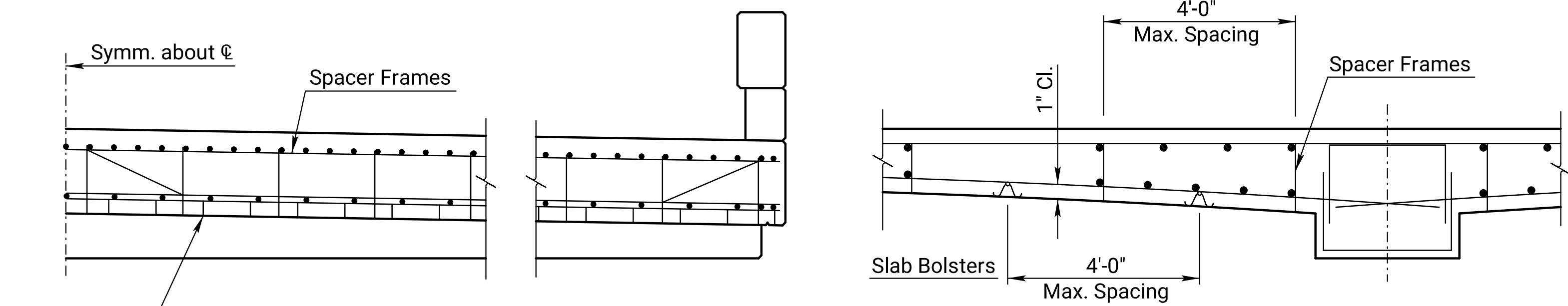
KANSAS DEPARTMENT OF TRANSPORTATION

SUPPORTS AND SPACERS FOR REINFORCING STEEL

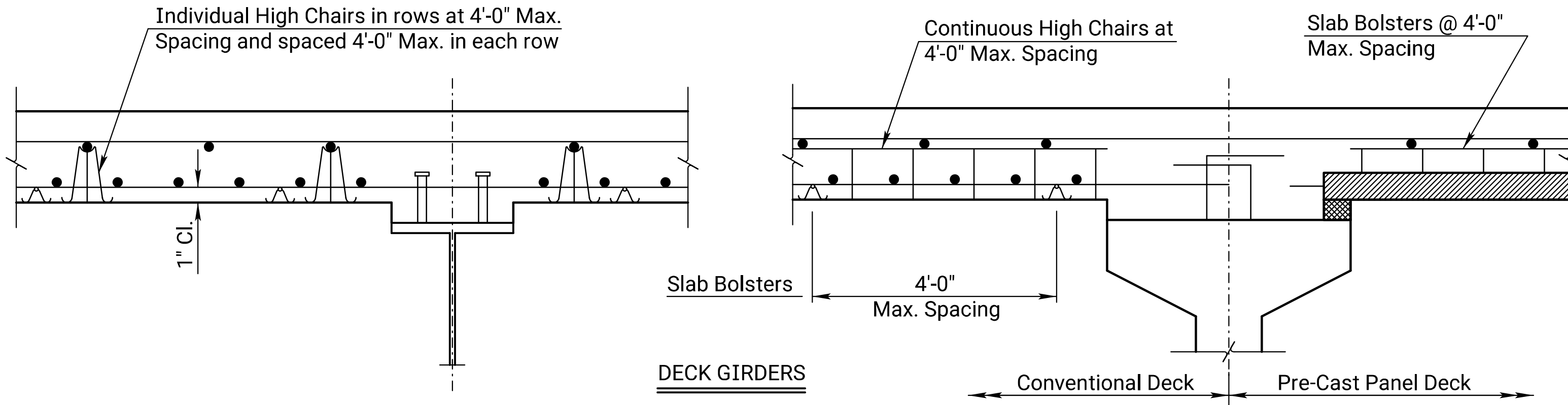
BR120

DESIGNED	R.A.M.	DETAILED	R.A.A.	QUANTITIES	TRACED	R.A.A.
DESIGN CK.	L.R.R.	DETAIL CK.	R.A.M.	QUAN. CK.	TRACE CK.	R.A.M.

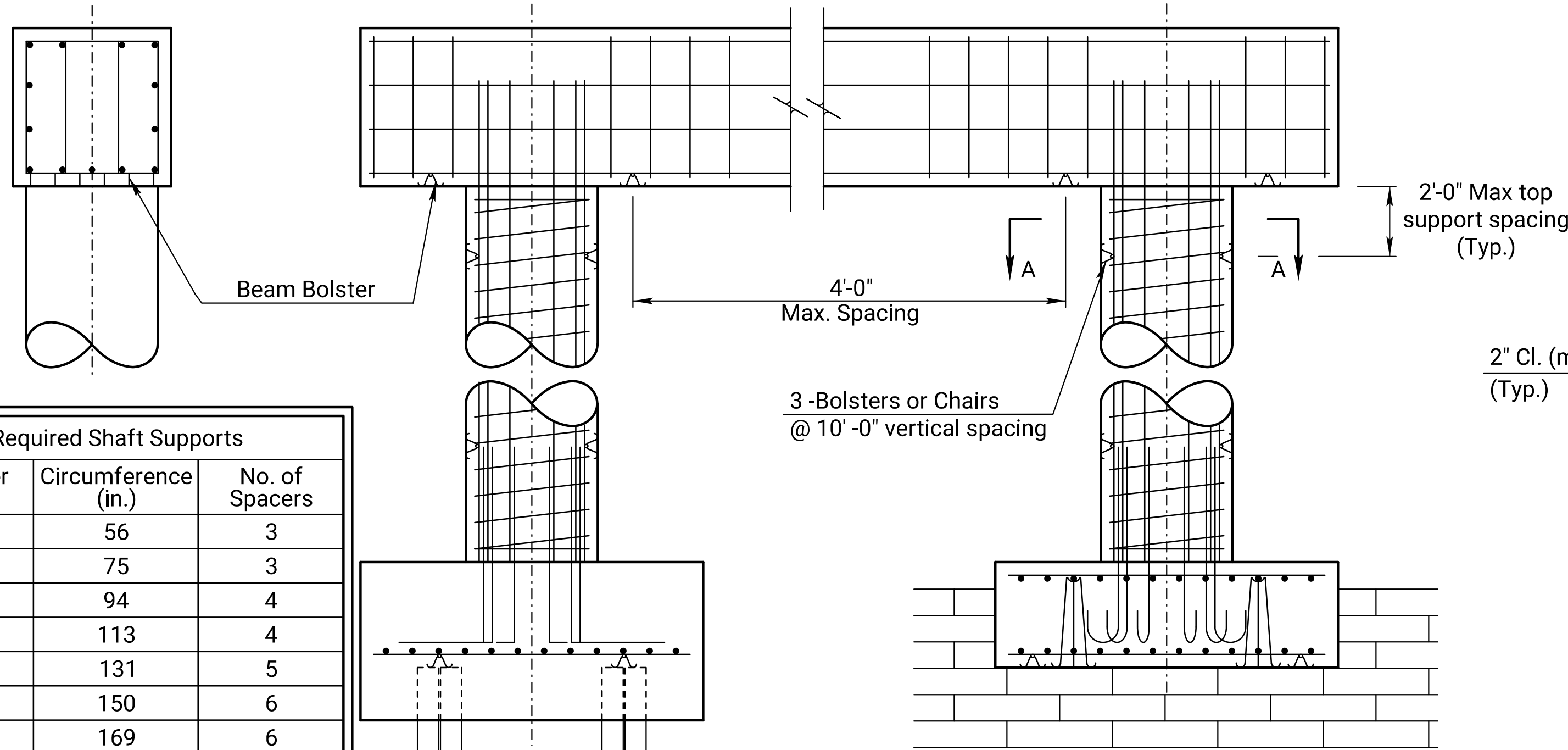
KDOT Graphics Certified 01-13-2026



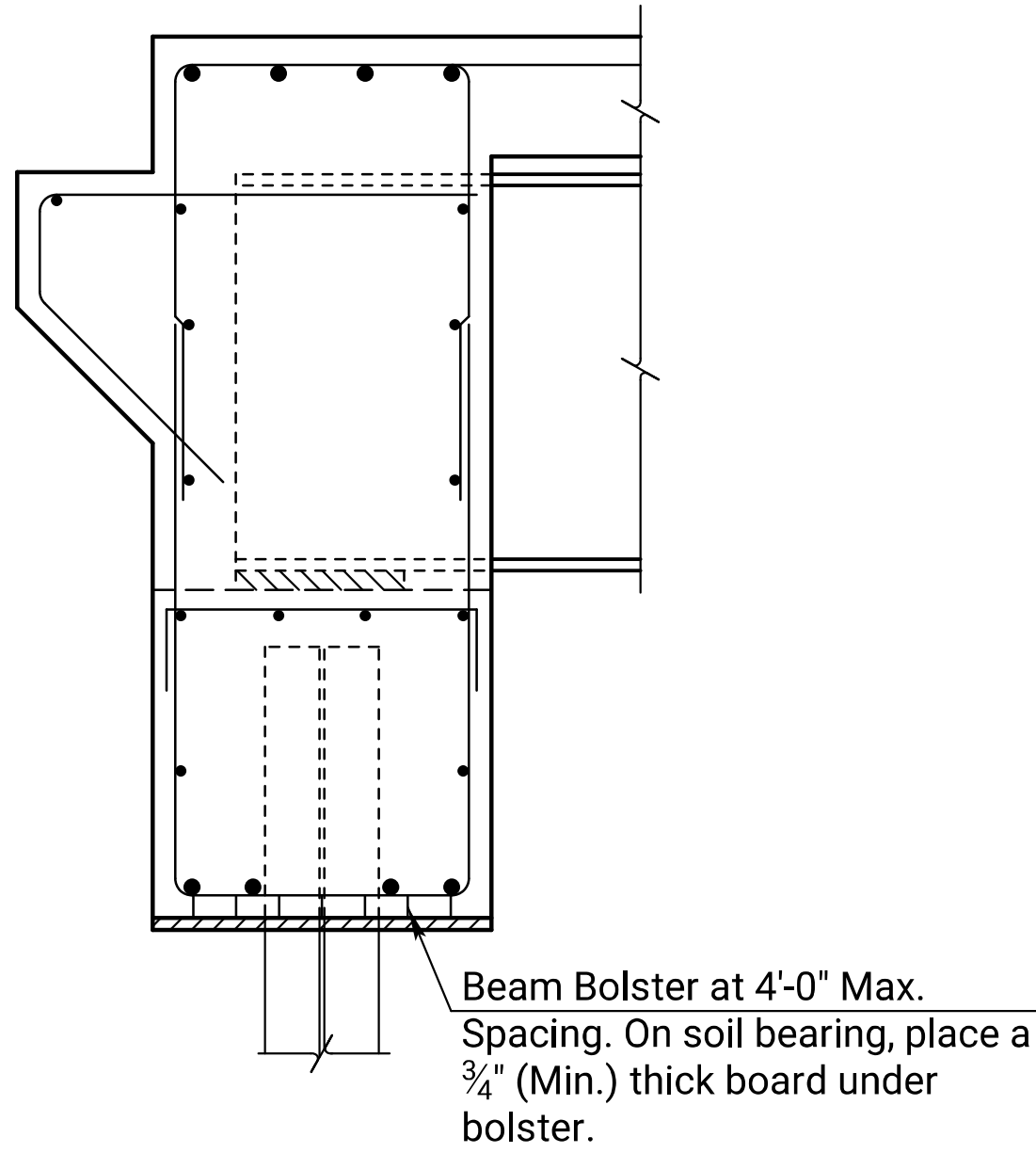
CONTINUOUS HAUNCHED SLAB



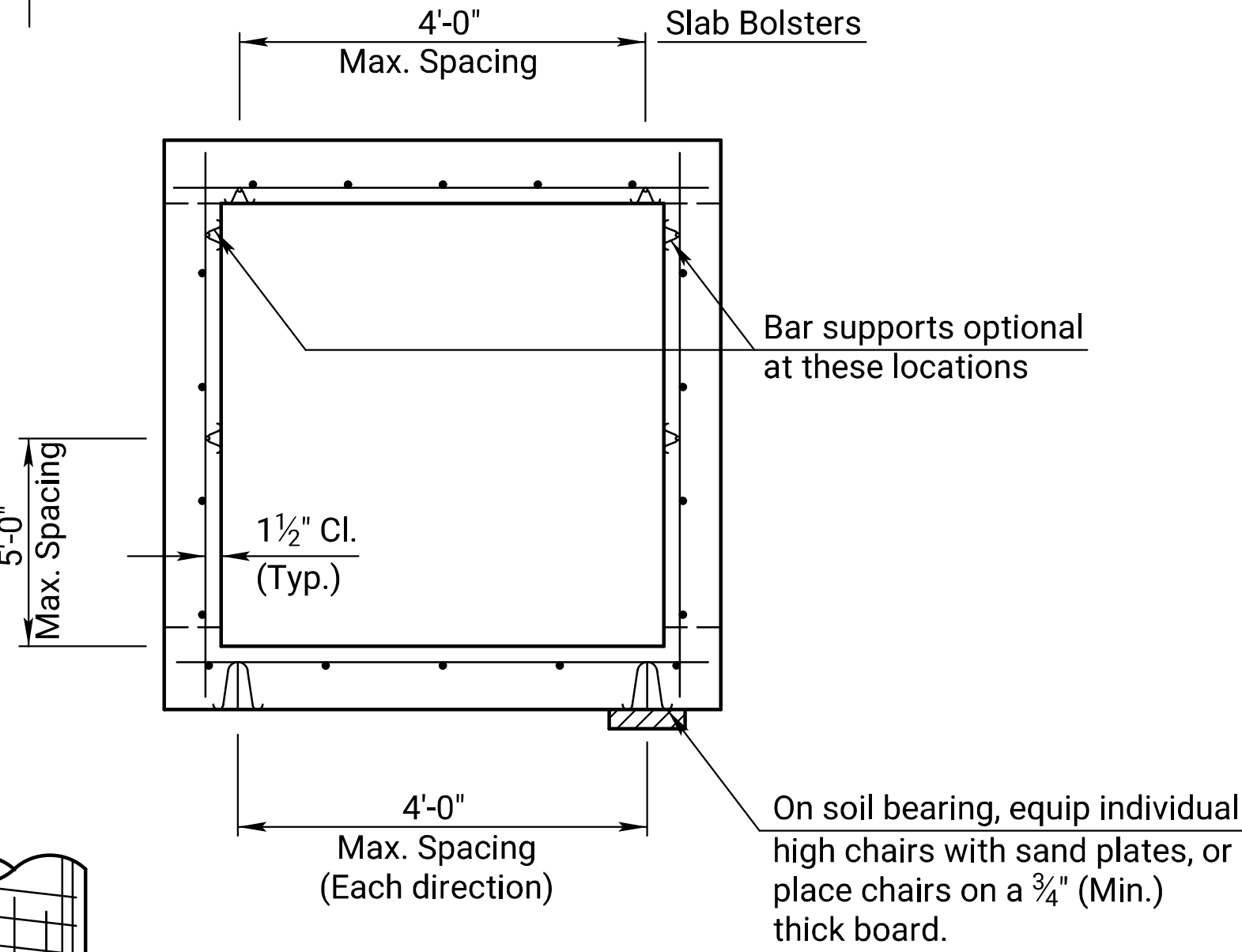
DECK GIRDERS



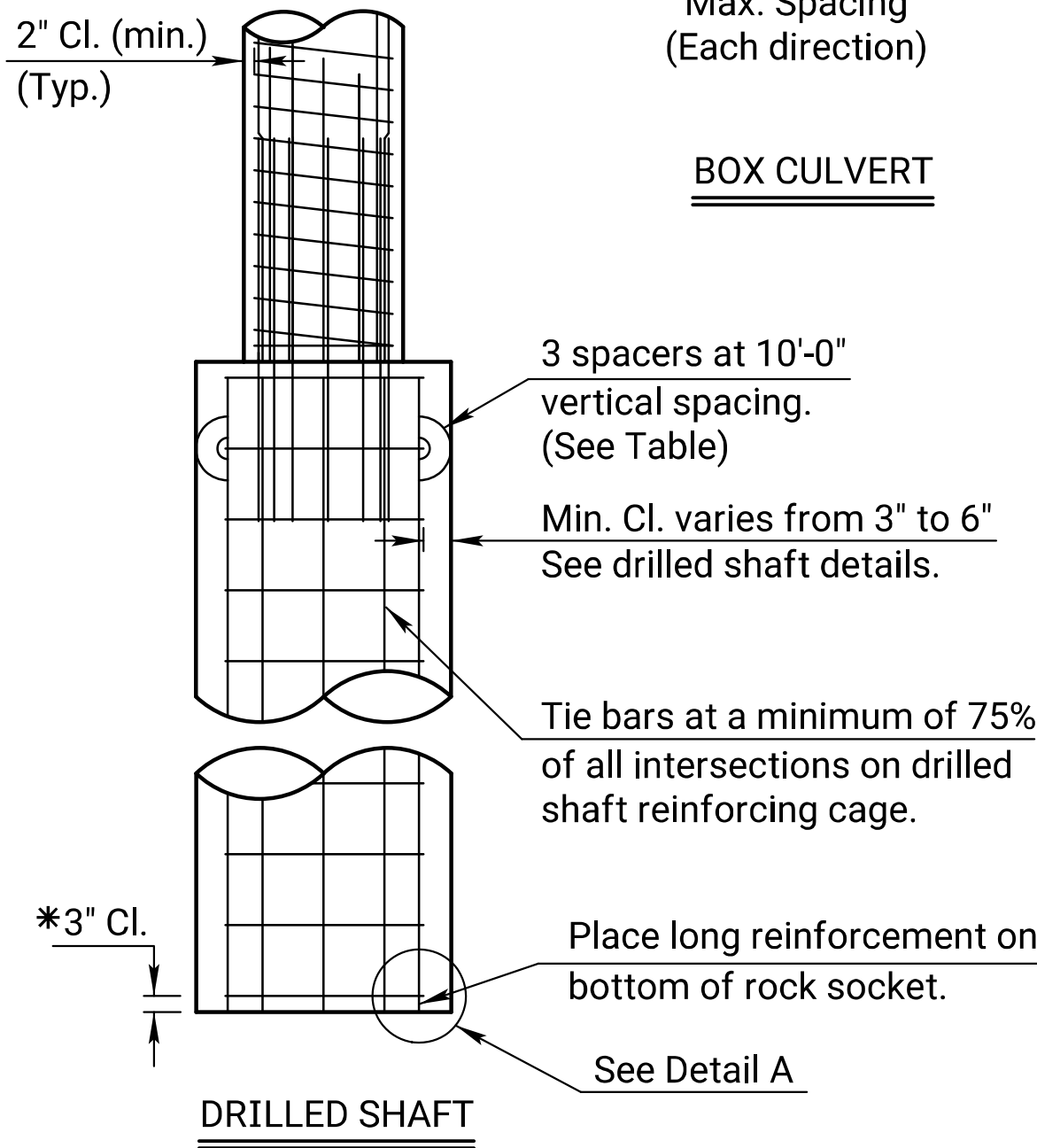
PIER



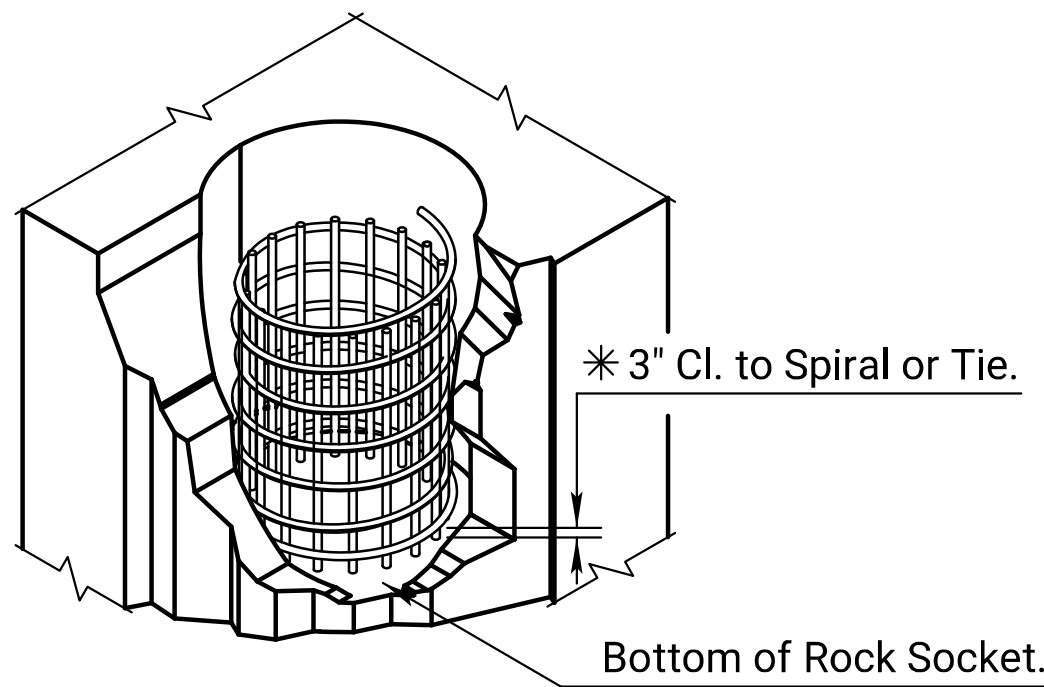
ABUTMENT



BOX CULVERT



DRILLED SHAFT



* Note: Longitudinal reinforcing steel is placed on the bottom of the rock socket. Maintain 3" clearance from the bottom of rock socket to the first spiral or tie bar.

Required Shaft Supports		
Diameter (in.)	Circumference (in.)	No. of Spacers
18	56	3
24	75	3
30	94	4
36	113	4
42	131	5
48	150	6
54	169	6
60	188	7
66	207	7
72	226	8
78	244	9
84	263	9
90	282	10
96	301	11
102	320	11
108	339	12

Plotted by : jmarkel 16-JAN-2026 16:03
File : 010-2211840la850_Permanent Seeding.dgn

STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	11	17

GENERAL NOTES

The entire disturbed area, excepting the paved or surfaced areas, steep rocky slopes and areas of undisturbed native sod or other desirable vegetation shall be fertilized (limed when required), seeded and mulched. Soil preparation shall conform to the Standard Specifications except as noted below.

All borrow areas shown on the plans are to be fertilized, seeded, and mulched. However, operation in borrow areas where crops are growing may be omitted when requested by the owner.

If temporary cover has provided stable slopes with no erosion, seed the permanent grasses into the existing cover. If there has been erosion that requires repair prior to seeding, then it may be necessary to regrade the area, resulting in bare ground.

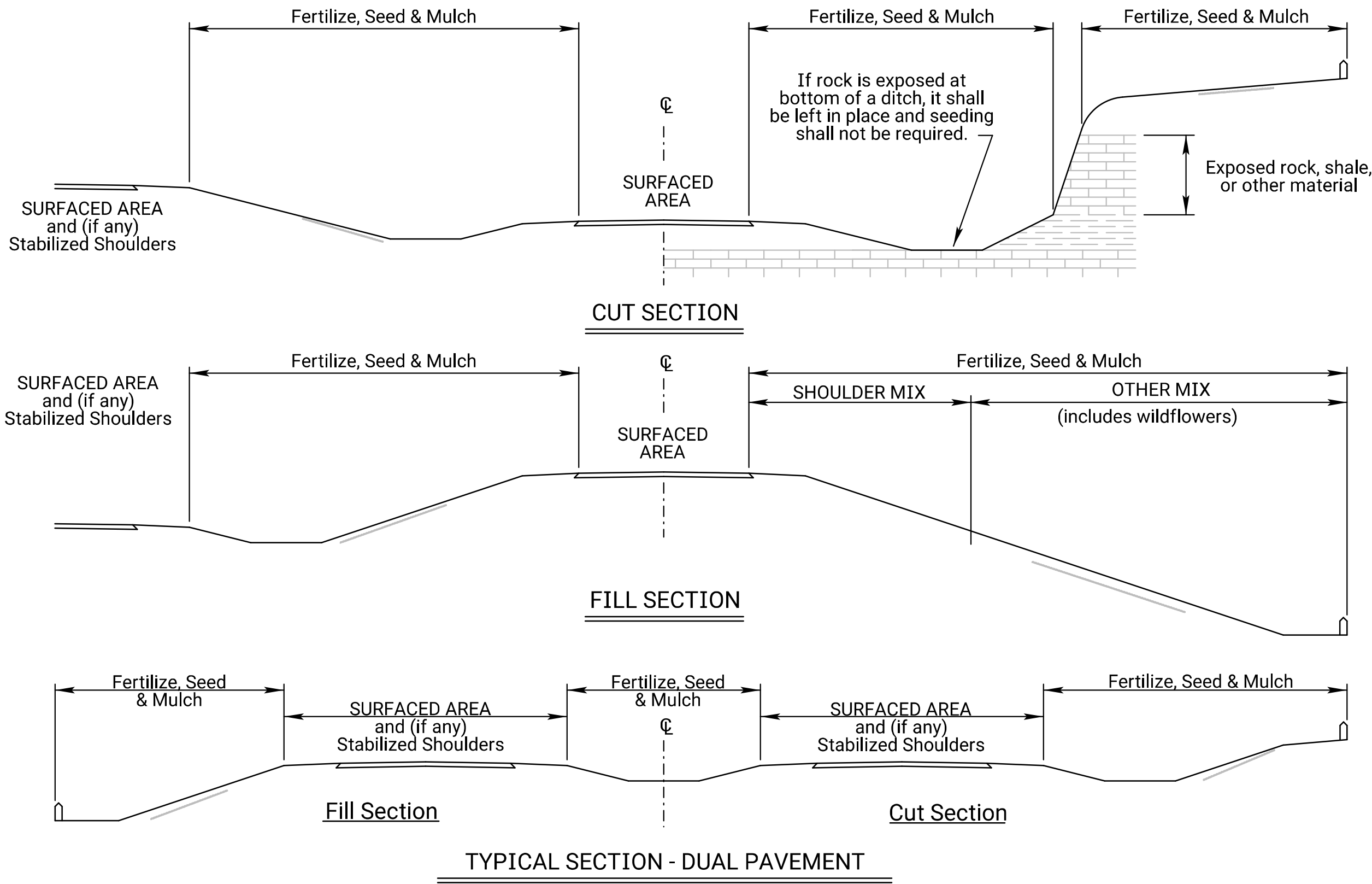
KDOT District Shoulder mix is typically placed 15 feet for 2-lane roads and 30 feet for 4-lane roads. Includes outside roadsides, turfed potions of shoulders, and turfed portion of the median.

KDOT District "Other" mix is designated as all other turf areas, except the Shoulder. Usually includes a Native Wildflower Mix.

NOTE: Projects less than 1 acre shall be bid as "Seeding" by the lump sum. All disturbed areas shall be seeded, fertilized and mulched at the listed rate per acre. The acres are estimated.

Refer to KDOT Standard Specifications, Division 900, Section 905 "Seeding", and Section 907 "Sodding", for the seeding and sodding seasons.

*See LA852A for mulching quantity. The quantity of mulch is estimated (Acres of Seeding x 1.5 x 2 tons/acre). The total mulch required shall be determined in the field. The bid item for mulching shall be paid for according to the KDOT Standard Specifications.



SUMMARY OF SEEDING QUANTITIES

P.L.S. RATE/ACRE	ACRES	BID ITEM	QUANTITY	UNIT
48.8	0.2	District Six Shoulder Mix	Lump Sum	Lump Sum

District One/Four

District One/Four Shoulder Mix

P.L.S. RATE	Name	QTY (lb)
0.5	Blue Grama Grass Seed (Lovington)	
4.5	Buffalograss Seed (Treated)	
45	Perennial Ryegrass	
2.6	Prairie Junegrass	
6.3	Side Oats Grama Grass Seed (El Reno)	
45	Tall Fescue (Endophyte Free)	
6	Western Wheatgrass Seed (Barton)	
109.9	TOTAL (lb)	

District One/Four Other Mix

P.L.S. RATE	Name	QTY (lb)
2	Big Bluestem Grass Seed (Kaw)	
10	Canada Wildrye Grass Seed	
2	Indiangrass Seed (Osage)	
2	Little Bluestem Grass Seed (Aldous)	
6.3	Side Oats Grama Grass Seed (El Reno)	
10	Sterile Wheatgrass (Regreen/Quick Guard)	
0.7	Switchgrass Seed (Blackwell)	
0.5	Tall Dropseed	
4	Western Wheatgrass Seed (Barton)	
37.5	TOTAL (lb)	

District Two/Five

District Two/Five Shoulder Mix

P.L.S. RATE	Name	QTY (lb)
0.5	Blue Grama Grass Seed (Lovington)	
4.5	Buffalograss Seed (Treated)	
45	Perennial Ryegrass	
2.6	Prairie Junegrass	
7	Side Oats Grama Grass Seed (El Reno)	
45	Tall Fescue (Endophyte Free)	
6	Western Wheatgrass Seed (Barton)	
0.5	Sand Dropseed Grass Seed	
111.1	TOTAL (lb)	

District Two/Five Other Mix

P.L.S. RATE	Name	QTY (lb)
2	Big Bluestem Grass Seed (Kaw)	
10	Canada Wildrye Grass Seed	
2	Indiangrass Seed (Osage)	
2	Little Bluestem Grass Seed (Aldous)	
5.1	Sand Bluestem Seed	
0.5	Sand Dropseed Grass Seed	
2	Sand Lovegrass Seed	
7	Side Oats Grama Grass Seed (El Reno)	
10	Sterile Wheatgrass (Regreen/Quick Guard)	
1	Switchgrass Seed (Blackwell)	
0.5	Tall Dropseed Seed	
4	Western Wheatgrass Seed (Barton)	
46.1	TOTAL (lb)	

District Three/Six

District Three/Six Shoulder Mix

P.L.S. RATE	Name	QTY (lb)
1	Blue Grama Grass Seed (Lovington)	0.2
24.5	Buffalograss Seed (Treated)	4.9
1	Sand Dropseed Grass Seed	0.2
6.3	Side Oats Grama Grass Seed (El Reno)	1.26
10	Sterline Wheatgrass (Regreen/Quick Guard)	2
6	Western Wheatgrass Seed (Barton)	1.20
48.8	TOTAL (lb)	9.76

District Three/Six Other Mix

P.L.S. RATE	Name	QTY (lb)
2	Big Bluestem Grass Seed (Kaw)	
1	Blue Grama Grass Seed (Lovington)	
8.8	Buffalograss Seed (Treated)	
2	Indiangrass Seed (Osage)	
2.5	Little Bluestem Grass Seed (Aldous)	
5.1	Sand Bluestem Grass Seed (Garden)	
1	Sand Dropseed Grass Seed	
6.3	Side Oats Grama Grass Seed (El Reno)	
10	Sterile Wheatgrass (Regreen/Quick Guard)	
1	Switchgrass Seed (Blackwell)	
4	Western Wheatgrass Seed (Barton)	
43.7	TOTAL (lb)	

NATIVE WILDFLOWER MIX 1

PLS RATE	NAME	QTY (lb)
0.3	Butterfly Milkweed	
0.3	Common Milkweed	
0.3	Black Eyed Susan	
0.5	Blanket Flower	
0.5	False Sunflower	
0.5	Lance-Leaf Coreopsis	
0.2	Maximilian Sunflower	
0.1	New England Aster	
0.2	Pinnate Prairie Coneflower	
0.2	Plains Coreopsis	
0.6	Purple Coneflower	
0.3	Upright Prairie Coneflower	
0.3	Lemon Mint	
0.2	Pitcher Sage	
0.2	Wild Bergamot	
1.0	Illinois Bundleflower	
0.2	Common Evening Primrose	
0.1	Hoary Verbena	
0.8	Purple Prairie Clover	
0.3	Roundhead Lespedeza	
3.0	Showy Partridge Pea	
0.2	White Prairie Clover	
10.3	Total (lb)	

NATIVE WILDFLOWER MIX 2

PLS RATE	NAME	QTY (lb)
0.3	Butterfly Milkweed	
0.3	Black Eyed Susan	
0.5	Black Sampson Coneflower	
1.0	Blanket Flower	
0.2	Maximilian Sunflower	
0.2	Plains Coreopsis	
0.2	Upright Prairie Coneflower	
0.2	Western Yarrow	
0.3	Lemon Mint	
0.4	Pitcher Sage	
1.5	Illinois Bundleflower	
0.2	Common Evening Primrose	
1.0	Blue Wild Indigo	
0.4	Leadplant	
0.4	Purple Prairie Clover	
0.3	White Prairie Clover	
7.4	Total (lb)	

Package and deliver the wildflower seed separately from the grass seed mix. Package and deliver the Tall Drop Seed separately from the grass seed and the wildflower mix. Place the grass seed (except Tall Drop Seed) in the large seed box and drill (cover) seed 1/8" -1/4". Place the wildflower seed in a separate seed box and drill (cover) seed 1/16" maximum. Place the Tall Drop Seed in a separate (third) seed box and place the seed (using the seed drill) on the soil surface. OPTION: Broadcast Tall Drop Seed on the soil surface.

GRASS & WILDFLOWER SEEDING SEASONS

COOL SEASON GRASSES	WARM SEASON GRASSES & WILDFLOWERS
February 15 thru April 20 August 15 thru September 30	November 15 thru June 1
SPECIES	SPECIES
Bluegrasses	Bermuda Grass
Brome Grasses	Big Bluestem
Canada Wildrye	Blue Grama
Fescues	Buffalo Grass
Prairie Junegrass	Indiangrass
Ryegrasses	Little Bluestem
Sterile Wheatgrass	Sand Bluestem
Tall Dropseed	Sand Dropseed
Western Wheatgrass	Sand Lovegrass
	Side Oats Grama
	Switchgrass
	Wildflower Mixes
When the area to be seeded is 1 acre or more, if Cool Season grasses are mixed with Warm Season grasses, seed the area during the Warm Season.	
When the area to be seeded is less than 1 acre, seed the area any time of the year.	

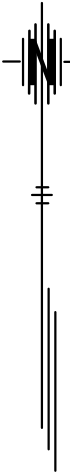
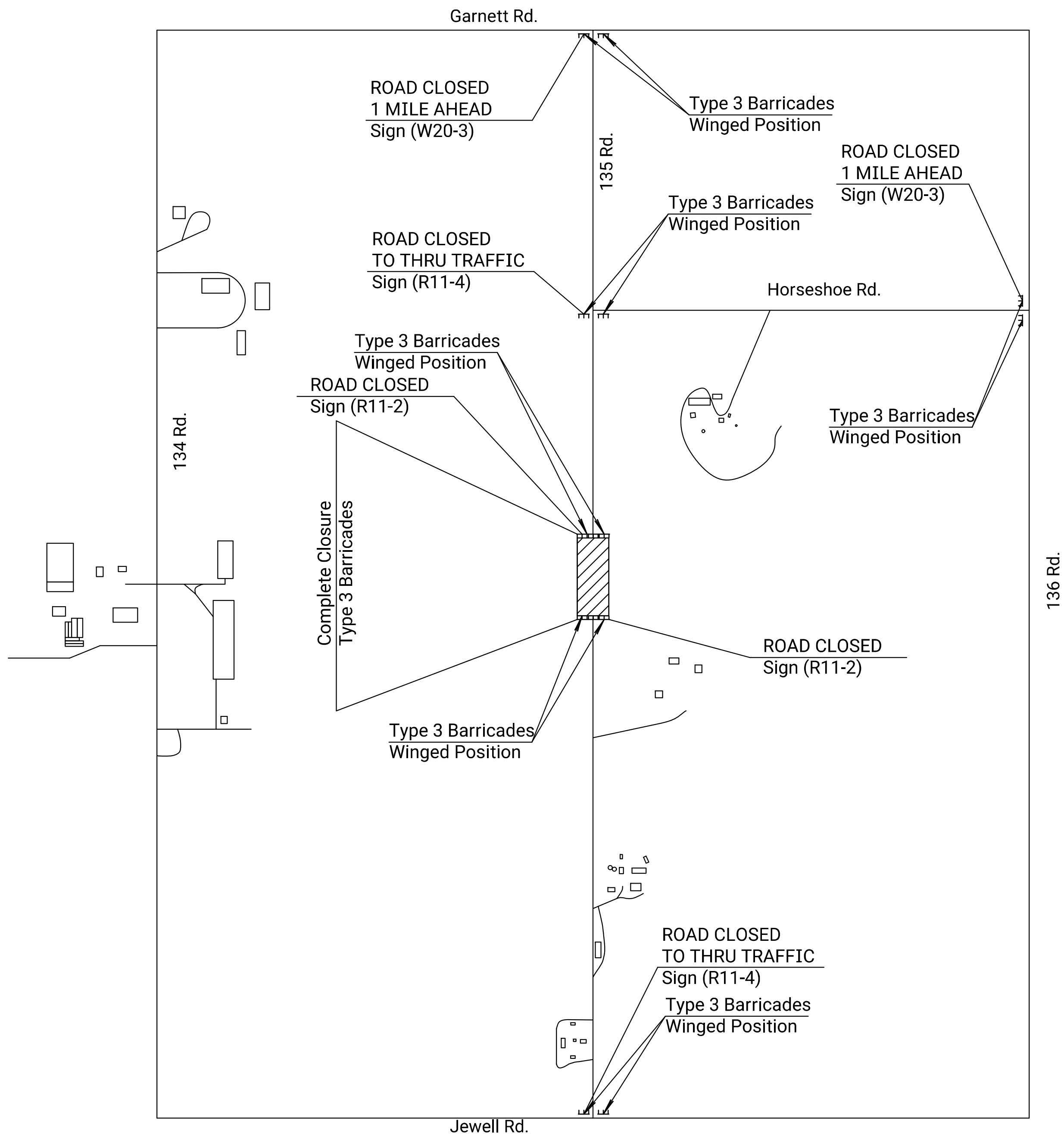
SODDING SEASONS

COOL SEASON GRASSES	WARM SEASON GRASSES
March 1 thru April 15 September 1 thru November 15	May 15 thru September 1
SPECIES	SPECIES
Bluegrass Sod	Buffalo Grass Sod
Fescue Sod	
If the soil is workable, the Engineer may allow placement of sod between November 15 and March 1. If sod is placed during this time, maintain the sod until 20 days after the beginning of the spring sodding season.	

03	09-12-24	Addition of tables for District Seed Mix	M.E.C.	M.L.
02	11-25-20	Updated Seeding / Sodding Periods Charts	M.R.D.	M.L.
01	08-03-20	Revised Standard	M.R.D.	S.H.S.
NO.	DATE	REVISIONS	BY	APPD

KANSAS DEPARTMENT OF TRANSPORTATION				
PERMANENT SEEDING SUMMARY OF SEEDING QUANTITIES				
LA850				
FHWA APPROVAL		03-27-25	APPD.	Mervin Lare
DESIGNED	DETAILED	QUANTITIES	TRACED	
DESIGN CK.	DETAIL CK.	QUAN.CK.	TRACE CK.	

All traffic control devices shall be placed in accordance with the applicable KDOT Traffic Control Standards. The Contractor shall provide all signs and other traffic control devices for proper traffic control of all construction activities. Quantities listed are estimated only. Contractor operations may require additional signs and traffic control devices, this will be Subsidiary to the bid item "Traffic Control".

[illegible]

*Quantity most used on the project at any one time

[illegible]

Barricades *		Channelizing Devices *		
Type 3 (4' to 12')	Pedestrian	Fixed	Portable	Pedestrian
14				

Lighted Devices *	
Work Zone Warning Light (Type "A" Low Intensity)	12
Work Zone Warning Light (Red Type "B" High Intensity)	
Arrow Display	
Portable Changeable Message Sign	

STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2024	12	17

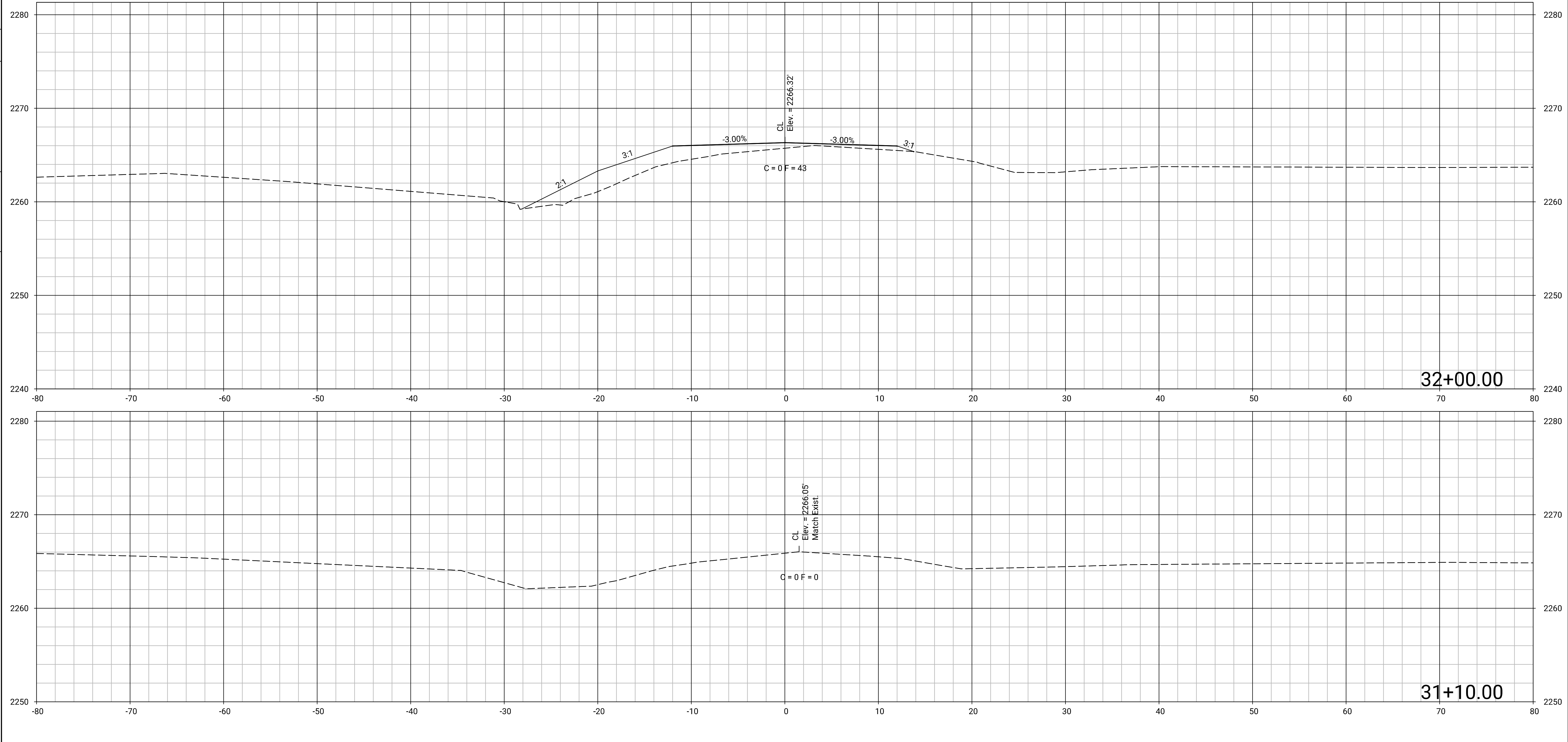
[illegible]

NO.	DATE	REVISIONS					BY	APP'D	
KANSAS DEPARTMENT OF TRANSPORTATION TRAFFIC CONTROL SUMMARY OF DEVICES RECAPITULATION OF QUANTITIES TE795									
FHWA APPROVAL		06-01-15		APP'D.		Kristina Erickson			
DESIGNED	B.A.H.	DETAILED	R.W.B.	QUANTITIES		TRACED			
DESIGN CK.		DETAIL CK.		QUAN.CK.		TRAC CK.			

STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	13	17

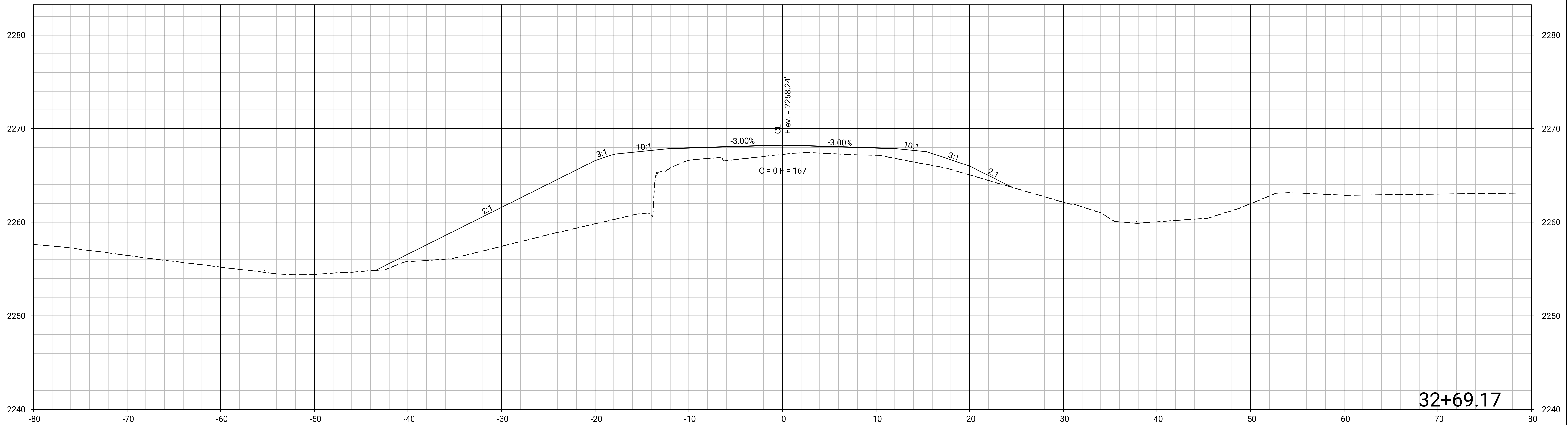
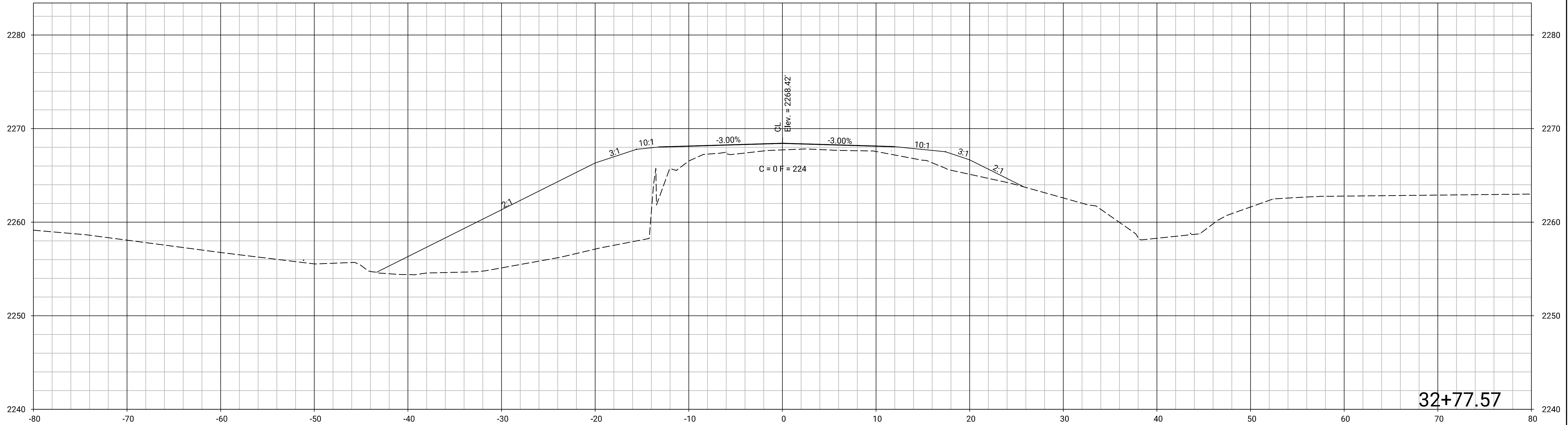
REFERENCES NOTED	BY	DATE
REFERENCES CHECKED		

Plotted by : jmarkel 16-JAN-2026 16:04
File : 2211840_XS.dgn



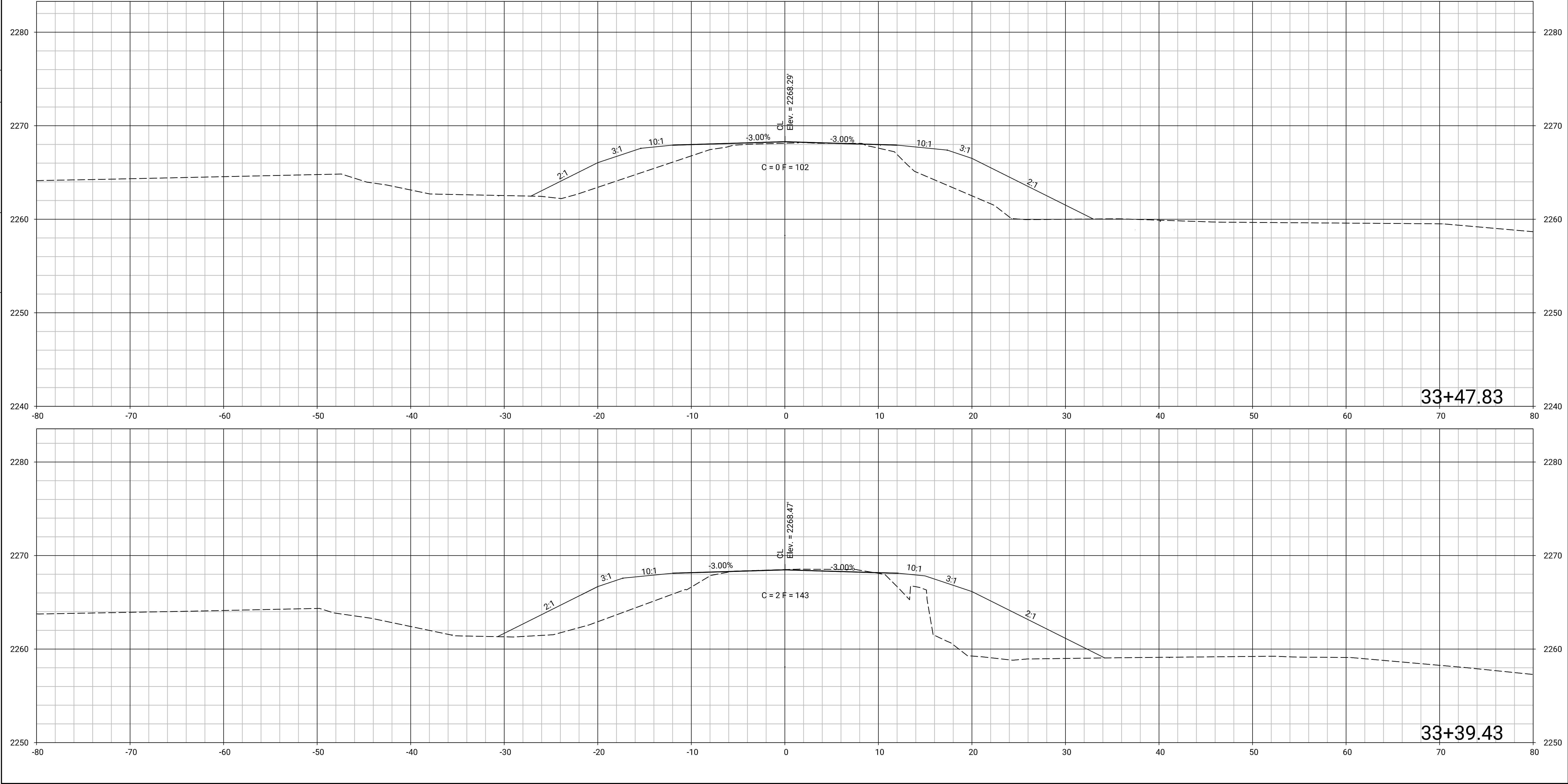
STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	14	17

	BY	DATE
REFERENCES NOTED		
REFERENCES CHECKED		



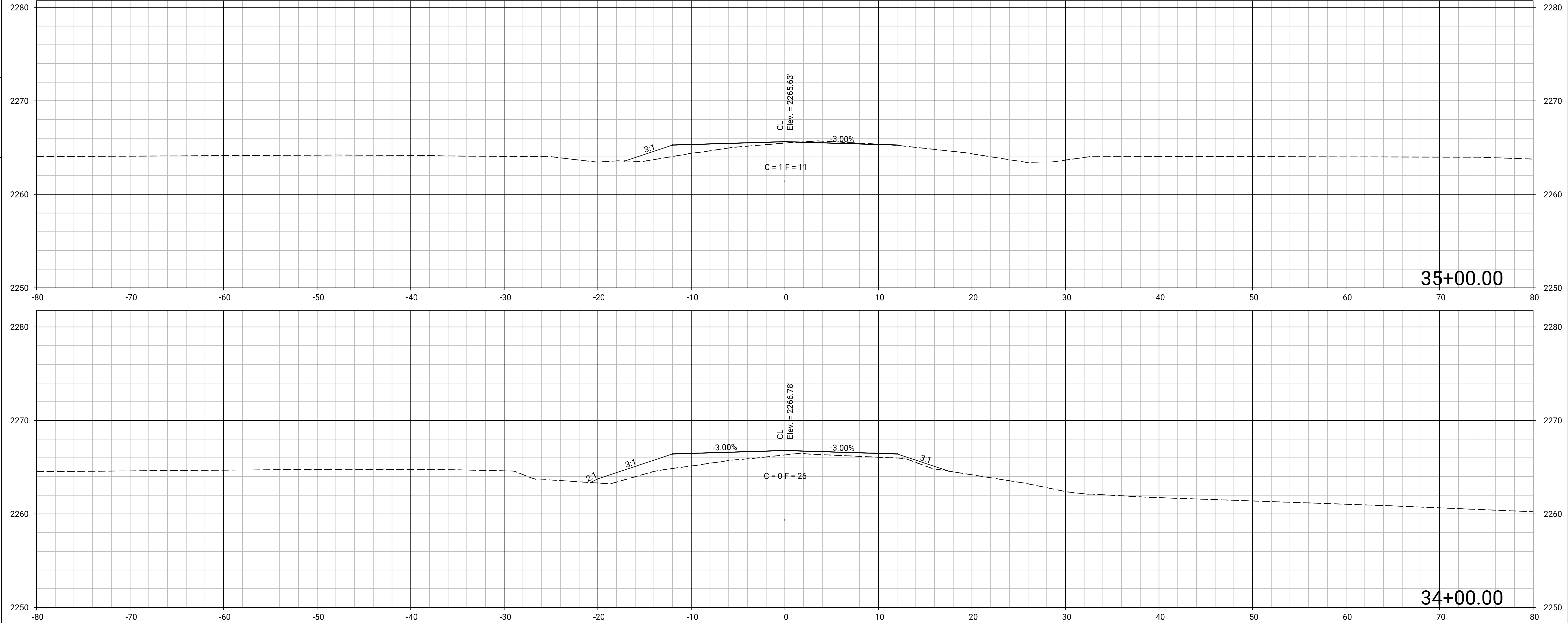
STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	15	17

REFERENCES NOTED	BY	DATE
REFERENCES CHECKED		



STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	16	17

REFERENCES NOTED	BY	DATE
REFERENCES CHECKED		



STATE	PROJECT NO.	YEAR	SHEET NO.	TOTAL SHEETS
KANSAS	Ford Co. OS 101	2026	17	17

REFERENCES NOTED	BY	DATE
REFERENCES CHECKED		

