

**GOVERNMENT TO GOVERNMENT AGREEMENT
BETWEEN THE STATE OF MINNESOTA
AND THE
RED LAKE BAND OF CHIPPEWA INDIANS
FOR A SPECIFIC HIGHWAY CONSTRUCTION PROJECT**

This is a Government to Government Agreement ("Agreement") between the State of Minnesota, Department of Transportation ("MnDOT"), and the Red Lake Band of Chippewa Indians ("Band"), a sovereign nation and federally-recognized Indian tribe. Collectively, MnDOT and the band are referred to as the "parties" in this Agreement.

Recitals

MnDOT is authorized to enter into this Agreement by Minnesota Statutes §161.368, which provides that "the Commissioner [of Transportation] may enter into agreements with Indian tribal authorities for the purpose of providing maintenance, design, and construction to highways on tribal lands."

The Band is authorized to enter into this Agreement by the Constitution and Laws of the Red Lake Nation.

The Band is a federally-recognized Indian tribe with sovereignty over its territory, and having an interest in preserving and protecting its political, economic, and cultural rights and heritage. The Band desires to have full involvement in all infrastructure projects, including transportation projects, within the exterior boundaries of the Red Lake Nation.

The parties have determined the need for a highway construction project within the exterior boundaries of the Red Lake Nation. The project, TH 1 SP 0404-36, is located on Trunk Highway 1 from 2.2 miles East of the Jct. of TH 89 to the East Red Lake Reservation Line and consists generally of grading, centerline culvert replacement, turn lane construction, guardrail removal, replacement of Bridge 424, bituminous paving and related restorations (the "Project"). The Project is programmed for construction in 2022 and will be funded with MnDOT State funds.

The Band and MnDOT have entered into a separate general agreement for planning highway construction projects (MnDOT Agreement# 1037020), the terms of which are generally applicable to the Project.

The parties have agreed that the Band should award and administer contracts for the Project, recognizing the Band's governmental, employment, and economic development interests.

The parties have entered into this project-specific Agreement in order to set forth MnDOT's financial obligations for constructing the Project, and to provide other terms governing the construction and administration of the Project.

AGREEMENT

A. Project Description and Plans

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1. *Project Description.* The Project is located on, along, and adjacent to Trunk Highway 1, within the exterior boundaries of the Red Lake Nation from 2.2 miles East of the Jct. of TH 89 to the East Red Lake Reservation Line and consists generally of grading, centerline culvert replacement, turn lane construction, guardrail removal, installation of Bridge 04X05, bituminous paving and related restorations.
2. *Project Plans.* MnDOT and the Band have developed plans, *specifications*, and special provisions for the Project construction under MnDOT Agreement #1037020. The MnDOT-approved plans, specifications, and special provisions are on file with the State's District Engineer at Bemidji, and they are incorporated into this Agreement by reference.

B. Limitations on this Agreement

1. *Limitations.* This Agreement itself shall not constitute a contract, compact, annual funding agreement, or other agreement under the Indian Self- Determination and Education Assistance Act and no provisions of the ISDEAA are specifically adopted, *incorporated* by reference, or otherwise included in this Agreement.

C. Right-of Way-Use

1. *Limited Right to Occupy.* The State grants to the Band (and its contractors and consultants) the right to occupy Trunk Highway Right-of-Way as necessary to perform the work described in the Project Plans. This right is limited to the purpose of constructing *the* project, and administering such construction, and may be revoked by the State at any time, with or without cause. Cause for revoking this right of occupancy includes, but is not limited to, breaching the terms of this or any other agreement (relevant to this project) with the State, failing to provide adequate traffic control or other safety measures, failing to perform the construction properly and in a timely manner, and failing to observe applicable environmental laws or terms of applicable permits. The State will have no liability to the Band (or its contractors or consultants) for revoking this right of occupancy.

D. Band Responsibilities

1. *Contract Award.* The Band shall award a contract for construction of the Project, using the Band's laws, *processes*, and procedures. The Band will make the contract award using the MnDOT-approved plans, specifications, and *special* provisions. Except for minor changes, the Band will obtain the MnDOT's written concurrence prior to making changes to the plans, specifications, and special provisions.
2. *Construction Monitoring.* The Band will perform all contract administration, inspection, and *environmental* monitoring *necessary* for the Project construction, as more fully set forth in Article F of this Agreement and Exhibit A.
3. *Financial Accounting.* The Band will keep detailed records of Project expenditures, including all internal, *consultant*, contractor and supplier costs, all in accordance with Generally Accepted

Accounting Principles.

4. *Other Record-Keeping.* The Band will *keep* other detailed records concerning the Project, as necessary to *provide* MnDOT with normal and customary records concerning the construction of the Project including, but not limited to shop drawings, as-built plans, contract changes, surveys, and test results.

E. Project Funding

1. *State Funding.* As described in Article E, MnDOT will provide state Trunk Highway Funds to cover the portion of the Project not paid by the Band. MnDOT will pay MnDOT's share directly to *the* Band as provided in Article E of this Agreement.

F. Project Cost Estimates; Contract Cost; Payment Procedures; Overruns/Extra Work; Claims; Consultant Costs; Return of Unused Funds

1. *Contract Cost.* MnDOT has *obtained* an independent cost estimate. The parties have agreed upon an *estimated* construction cost of \$2,852,907.75 as described in Exhibit B (the "Construction Cost") to construct the Project in accordance with the plans, specifications, and special provisions. MnDOT's estimated share of the Construction Cost is \$2,852,907.75. The Construction Cost includes an allowance for the Band's 3% TERO Fee. MnDOT will ensure that state funds sufficient to cover the Construction Cost (minus the funds provided by the Band) are made available to the Band. In addition to the Construction Cost, MnDOT will pay the Band for Contract Administration as described in Article F; the parties have agreed upon estimated Contract Administration Costs of \$145,980.00 as described in Exhibit C. The Construction Cost and Contract Administration Costs are collectively referred to as the "Contract Cost"; the Contract Cost is an amount sufficient to cover all costs for the Project including Contract Administration; Construction Monitoring and Quality Assurance; and Compliance with Environmental Quality Standards, which are all detailed in Article F of this Agreement.
2. *Band's Payment Process.* The Band will make *payments* to its contractor, in accordance *with* the specifications and special provisions, for work completed by the contractor.
3. *State Payment Process.* MnDOT will pay its share of the Contract Cost (which is the Contract Cost as defined in Section E.1 less the Band share of the Contract Cost) to the Band as follows: every 14 days the Band will create a pay voucher in AASHTOWARE *describing* payments due to the prime contractor and will notify the MnDOT Resident Engineer through AASHTOWARE that the pay voucher has been created. The MnDOT Resident Engineer will review the pay voucher. If the MnDOT Resident Engineer has concerns about the pay voucher, the MnDOT Resident Engineer will contact the Band's Engineer to discuss those concerns; if the concerns cannot be resolved, then the dispute resolution provisions of Paragraph G.2 and Exhibit D will be followed. Once the MnDOT Resident Engineer approves the pay voucher, the Band will pay the prime contractor and will promptly invoice MnDOT for the amount of the approved pay voucher plus any contract administration fees incurred by the Band during the applicable 14 day time period. If the MnDOT

Resident Engineer has concerns about the invoice, the MnDOT Resident Engineer will contact the Band's Engineer to discuss those concerns; if the concerns cannot be resolved, then the dispute resolution provisions of Paragraph G.2 and Exhibit D will be followed. MnDOT will promptly pay the Band the invoiced amount.

4. *Overruns & Extra Work.* As construction *progresses*, the Contract Cost may prove to be insufficient, due to items overrunning, or due to necessary and desirable changes to the Project which will constitute Extra Work. It is the intent of the parties that MnDOT will provide state funds to cover legitimate overruns and Extra Work. MnDOT's responsibility for overruns and Extra Work is limited to amounts approved using the following process:
5. If the Band identifies items that are *overrunning* or are likely to overrun, the Band must immediately notify MnDOT in writing. If MnDOT concurs in the overruns, MnDOT will take necessary steps to make funds available to cover the overruns. MnDOT's concurrence in overruns will not be unreasonably withheld, conditioned, or delayed. If MnDOT does not concur in the overruns, the parties will promptly meet to discuss how to resolve or mitigate the overruns. Prompt notice of overruns is critical to allow the parties to mitigate problems and costs. The Band will not authorize overruns until MnDOT notifies the Band that MnDOT has encumbered funds sufficient to cover the overruns.
 - a. If the Band identifies work necessary for the satisfactory completion of the Project, and that work will be Extra Work under the contract, the Band will seek MnDOT's concurrence prior to authorizing or approving that work. If MnDOT concurs in the Extra Work, MnDOT will take necessary steps to make funds available to cover the Extra Work. MnDOT's concurrence in Extra Work will not be unreasonably withheld, conditioned, or delayed. If MnDOT does not concur in the Extra Work, the parties will promptly meet to discuss how to resolve or mitigate the Extra Work. Prompt notice of Extra Work is critical to allow the parties to mitigate problems and costs. This same process will also be followed if the Band's contractor asserts that it is entitled to payment for Extra Work.
 - b. Overrun and Extra Work costs concurred in by MnDOT will be called "Approved Extra Costs".
6. *Contractor Claims.* If the Band's *contractor* makes a claim for additional compensation, the Band will require its contractor to provide a written claim
7. certified in accordance with MnDOT Standard Specification 1517. The Band will handle the claim in accordance with MnDOT 1517, and will consult with MnDOT on resolving the claim. The *Band* will seek MnDOT's *concurrence* in any claim settlement. MnDOT's concurrence in a claim settlement will not be unreasonably withheld, conditioned, or delayed. If MnDOT does not concur in the claim settlement, the parties will promptly meet to discuss how to resolve or mitigate the claim settlement. A claim settlement concurred in by MnDOT will be called "Approved Claim Costs".

G. Administration, Monitoring, Environmental Quality, and Municipal Utilities

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1. *Contract Administration.* The Band will provide a full-time Tribal Engineering staff member to be in Responsible Charge of the Project. The Band will be responsible for administering the Project *construction in accordance* with the Project plans, MnDOT Standard Specifications (2020 edition), and special provisions. The Band may, at its option, hire a consultant to perform this contract administration work. The Band will take all reasonable and prudent measures to ensure that the Band's contractor diligently and continuously carries out the work in accordance with the plans, specifications, special provisions, and Project schedule. The Band will require its contractor to provide a baseline schedule and regular updates to the baseline schedule, and the Band will monitor and ensure its contractor's adherence to an approved schedule.
2. *Construction Monitoring and Quality Assurance by the Band.* The Band will provide construction inspection in accordance with the MnDOT Contract Administration Manual. The Band will conduct *Quality Control/Quality Assurance* tests in accordance with the Schedule of Materials Control in effect at the time of Project construction. The Band may, at its option, hire a consultant to perform this service.
3. *Monitoring by MnDOT.* MnDOT may conduct its own inspection of the Project, at its own expense, upon a 24-hour notice to the Band (this notice must include at least four hours of a day on which construction activity is scheduled). If MnDOT identifies problems or concerns with the *Project* construction, MnDOT will promptly bring those concerns to the attention of the Band's employee in responsible charge of the Project. The parties will promptly meet, as necessary, to discuss concerns.
4. *Environmental Quality.* Recognizing the importance of maintaining environmental quality within the exterior boundaries of the Red Lake Nation, the Band will comply with all environmental laws *applicable* to the Project construction. The Band will work with MnDOT to develop contract specific special provisions related to soil, water, and air pollution, and landscaping and vegetation, and herbicide use.
5. *Municipal Utilities.* Maintenance of any municipal-owned utilities construction, without cost or expense to the State.

H. General Provisions

1. *Sovereignty.* Nothing in this Agreement shall be construed as a waiver of the Band's sovereign immunity. The Band does not, by entering into this Agreement, consent to the jurisdiction of a state court to hear any claims or disputes arising under this Agreement, whether arising as *claims* against the Band itself, it's wholly owned entities, or any employee of the Band performing work hereunder, except as provided in Article G.2 of this Agreement. No Band employee shall be subject to the jurisdiction of a state court as a result of having performed work associated with the Project. Nothing in this Agreement shall be construed as a *waiver* of the State or MnDOT's sovereignty, sovereign immunity, or of any limitation of liability afforded to MnDOT or the State by its laws. MnDOT and the State of Minnesota do not, by entering into this Agreement, consent to the jurisdiction of a tribal court to hear any claims or disputes arising under this Agreement, whether

arising as claims against the State itself or against any employee of the State performing work hereunder, except as provided in Article G.2 of this Agreement. No MnDOT or state employee shall be subject to the jurisdiction of the Band's Tribal Court as a result of having performed design, inspection, or other work associated with the Project.

2. *Dispute Resolution.* The parties agree that they have a mutual desire to resolve Project-related disputes expeditiously, *informally*, and at the lowest level possible. Disputes will be initially addressed by the State's Resident Engineer and the Band's Tribal Engineering employee who is in responsible charge of the Project. If the Dispute is not resolved at that level, it will be referred to the Tribal Chairman and the Commissioner of Transportation. Disputes that are not resolved through this partnering process will be resolved in accordance with the Dispute Resolution Process described in Exhibit D.
3. *MnDOT's Obligation Capped.* MnDOT's financial obligation is limited to MnDOT's share of the Contract Cost as provided in article E.1 plus Approved Extra Costs as provided in Article E.4 plus Approved Claim Costs as provided in Article E.5. MnDOT is not acting as a surety or guarantor of any tribal, governmental, or private bond or financing instrument used for the planning, design, or construction of the Project.
4. *Severability.* If any provision of this *Agreement* is held invalid by a court of competent jurisdiction, the remaining provisions will continue in full force and effect unless the end result would then frustrate the purpose of this Agreement. In that event, the terms shall be interpreted in a manner calculated to lead to successful *completion* of the Project by the Band using the obligated state funds or, if that is impossible or inequitable, in a manner intended to restore the parties to the *status quo ante*.
5. *Representative Capacity.* The signatories have not executed this Agreement as individuals, but solely in their capacities as officials of their respective governments. Each signatory represents that they are duly authorized to execute *this* Agreement on behalf of *their* respective government or agency.
6. *Merger; Amendments.* This Agreement contains all of the terms and conditions governing the Project as agreed to between the *Band* and MnDOT. No other understanding, whether written or oral, will be used to vary the terms of this Agreement. Any amendment to this Agreement must be made in a writing signed by parties to this Agreement.
7. *Status of Employees.* No employee of the Band, or employee of any contractor used by the Band, will be *considered* a State employee *for* any purpose. No employee of MnDOT will be considered an employee of the Band for any purpose.
8. *Audit.* The Band will comply with applicable State auditing procedures. Records relating to the Project will be retained for a minimum of six years and the band will make those records available to the State, the Legislative Auditor, or the State *Auditor* upon written request. This provision does not require the Band to produce any records not directly related to the Project.

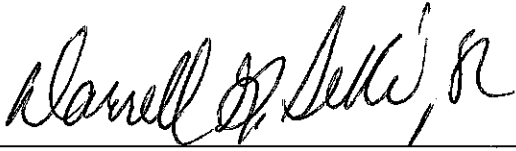
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9. *Nondiscrimination.* The Band *agrees* that it will not discriminate against employees or applicants for employment on the Project because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, or age.
10. *Data Practices Act.* All data provided to *the* State by the Band will be treated in accordance with the *Minnesota* Government Data Practices Act, Minnesota Statutes chapter 13.
11. *Effective Dates.* This *Agreement* will be effective on the date last signed by the parties below, including all necessary State of Minnesota *Officials* as required by Minnesota Statutes §16C.05, and all necessary Red Lake Nation officials as required by laws applicable to the Band. This Agreement will remain in effect until the Project has achieved "Final Contract Acceptance" in accordance with MnDOT Standard Specification 1516, and all financial obligations imposed by this Agreement have been met.
12. *Exhibits.* Exhibits A through D are attached and incorporated into this Agreement.
13. *Electronic Contracting and Signatures.* The *parties* agree to contract by electronic means. This includes using *electronic* signatures and converting original documents to electronic records.
14. *Authorized Representatives.* Each party's *Authorized* Representative will have responsibility to administer this Agreement; and to give and receive any notices required or permitted under this Agreement.
 - a. The *Band's* authorized representative is the Tribal Engineer at Red Lake, **MN**.
 - b. The State's authorized representative is the District Engineer at Bemidji, **MN**.

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MnDOT Agreement# 1049414

**RED LAKE BAND OF
CHIPPEWA INDIANS**



Darrell G. Seki, Sr.
Chairman

Date: 6/22/22

MnDOT Agreement# 1049414

**STATE OF MINNESOTA
ENCUMBRANCE VERIFICATION**

Signature: Brenda
Bard

Digitally signed by
Brenda Bard
Date: 2022.06.27
14:35:00 -05'00'

Date:

SWIFT Contract No.:

214665

SWIFT PO No.:

3000650184

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION (as delegated)**

Signature: Nancy Daubenberger

Digitally signed by Nancy
Daubenberger
Date: 2022.06.29 11:44:00 -05'00'

Date:

**STATE OF MINNESOTA
COMMISSIONER OF ADMINISTRATION (as delegated)**

Signature:

DocuSigned by:

Sara Friedland

Date:

6/30/2022

ADMIN 77281

EXHIBIT A - SCOPE OF WORK**1. Expected Outcomes.**

- 1.1. The Band will provide staff and services as necessary to meet the expected outcomes of this Agreement, which are: (1) construction is inspected to ensure conformance to plans and specifications, (2) samples are taken and tests are performed in conformance to the applicable "Materials Control Schedule", and (3) construction work is adequately documented.
- 1.2. The Band is responsible for determining the means, methods, and sequence of work.
- 1.3. The Band is responsible for construction staking and all survey needs of the project.

2. Personnel Requirements.

- 2.1. The Band must provide a project engineer/supervisor, chief inspector, at least 2 additional inspectors, and a 2-person survey crew. The chief inspector will be working on SP 0404-36, and will work in coordination with State's Project Engineer/Supervisor. The combination of inspectors must, at a minimum, have the following certifications:
 - (1) Aggregate Production
 - (2) Bituminous Street levels 1 & 2
 - (3) Bituminous Plant levels 1 & 2
 - (4) Concrete Field levels 1 & 2
 - (5) Concrete Field levels 1 & 2
 - (6) Grading & Base levels 1 and 2.
 - (7) ADA Inspection Certification
 - (8) Erosion Control Site Management

3. Construction Inspection and Testing Requirements. The Band must:

- 3.1. Provide tools and equipment needed to perform the work including, but not limited to:
 - 3.1.1. Cellular telephone, computer, and WiFi access;
 - 3.1.2. Tools, supplies, and equipment including, but not limited to, testing equipment;
 - 3.1.3. Personal Protective Equipment (**PPE**) including, but not limited to, Safety vests meeting American National Standards Institute (ANSI) Class 11, Class E long pants (for night work), hard hats, hats, fall protection, safety glasses, steel-toed boots, and hearing protection;
 - 3.1.4. Vehicle(s) for the inspector(s) use, equipped with a beacon on the approved products list, which can be found at: www.dot.state.mn.us/products/vehiclelighting/index.html; and
 - 3.1.5. Other incidentals needed to perform the work.
- 3.2. Meet with the State's Project Engineer or Supervisor before the pre-construction meeting. Understand the State's standard construction practices. Become familiar with the construction plans, contract documents, and the construction contractor's proposed schedule, prior to the date work commences.
- 3.3. Attend construction meetings necessary for close coordination during day-to-day progress of the work or as required to carry out the construction contract. Meetings may include a preconstruction

meeting and a close out meeting.

- 3.4. Conduct concrete certification tests according to the Materials Control Schedule including, but not limited to, air tests, slump tests, and taking test cylinders.
- 3.5. Conduct grading certification tests according to the Materials Control Schedule including, but not limited to gradations, moisture, and density.
- 3.6. Conduct bituminous pavement sampling tests according to the Materials Control Schedule including, but not limited to, asphalt cement samples, temperatures, and quantity weigh tickets.
- 3.7. Exercise the "Authority and Duties of the Inspector" in accordance with MnDOT Standard Specification 1510. Promptly inform the State's Project Engineer/Supervisor of issues requiring the Project Engineer's/Supervisor's attention or action including, but not limited to, problems encountered in the field. Coordinate with the State's Project Engineer/Supervisor to reject the construction contractor's work and materials not meeting contract requirements.
- 3.8. Accurately measure and record contract pay items on a daily basis.
- 3.9. Obtain, document, and file test report records or certificates of compliance for materials incorporated into the project.
- 3.10. Communicate regularly with the State's Project Engineer/Supervisor including, but not limited to, the results of certification testing, field inspection, and measuring pay items.
- 3.11. Provide the services required under this contract as necessary to accommodate the construction contractor's schedule. This may include overtime, nights, weekends, and holidays.
- 3.12. Perform field operations in accordance with Occupational Safety and Health Administration (OSHA) regulations and accepted safety practices.
- 3.13. Use the AASHTOWARE system to enter and maintain Daily Work Reports and Daily Diaries, making a complete and accurate record of all activities and events relating to the project and a record of all work completed by the construction contractor.
- 3.14. Collect, properly label or identify, all original diaries, logs, notebooks, accounts, records, reports, and other documents prepared in the performance of this contract. Provide all paper and electronic documents to MnDOT upon completion or termination of the construction contract.
- 3.15. Enter construction diaries and pay item measurements into computer applications designated MnDOT, on a daily basis.
- 3.16. Perform daily reviews of construction signing, detour signing, and construction traffic control maintenance. Take any corrective action when necessary and notify MnDOT's Construction Project Engineer/Supervisor of such action.
- 3.17. Perform reviews of temporary and permanent erosion control measures on the project for compliance with applicable permits and specifications. Keep a diary of these reviews including, but not limited to, written or verbal instructions for remedial action given to the construction contractor.
- 3.18. Complete all necessary field finalizing of the project documentation in accordance with the MnDOT Specifications and MnDOT's Contract Administration Manual.
- 3.19. Perform such other work as the Band deems necessary to achieve the expected outcomes of this contract.

3.20. Use the AASHTOWARE system to create pay vouchers for payment to prime contractor.

4. Surveying. The Band must:

- 4.1. Provide all necessary computations, stakes and marks to establish lines, slopes, elevations, points, continuous profile grades in accordance with MnDOT 1508 and the requirements shown in the Plan for Construction Staking; so that the contractor's forces are able to construct all required work for the Project in accordance with the requirements of this Agreement; and so that MnDOT Engineers and Inspectors are able to complete all necessary inspection and duties. The staking shall include, but not be limited to, clearing and grubbing, removals, grading, culverts, embankments, borrow, aggregate base course, pavements, bridges, utilities, signs, pavement markings, erosion control and turf establishment items to complete the Project as represented in the Plans. The Surveying must be done in a way that is timely, and that is reflective of the continuing and ongoing nature of construction and inspection activities which will generally require frequent, separate Project visits by the Band's survey crew to the Project to accommodate the various stages of construction and inspection activities that will occur.
- 4.2. Prepare to make all necessary surveying checks for field verification of actual conditions and shall make the necessary minor surveying and staking adjustments to fit the construction to actual field conditions. In addition, some Plan details may be dependent upon actual field conditions at the time of construction. It may be necessary to perform some field survey or office computations in order to stake these components. All work referred to in this paragraph is considered part of the work of Construction Surveying and no additional payment will be made for this work.
- 4.3. Be responsible for the preservation of all reference points, monuments, government land corners, horizontal and vertical control points, stakes, and marks that are established by MnDOT or others within the Project limits. If the Band or its surveyor fails to preserve these items and if they must be reestablished by MnDOT, MnDOT will deduct a charge from monies due or becoming due the Band according to MnDOT's costs.
- 4.4. Be responsible to review, balance, adjust, correct, and investigate MnDOT provided data and to perform work on survey data and control points that may be necessary to use the survey points and data, all at no extra cost to MnDOT, unless it is determined by the MnDOT Engineer that latent errors existed in the information provided by MnDOT.
- 4.5. Start and end all level runs, traverses, or GPS control surveys, from known control. Complete all control surveys at no worse than the standards specified for supplemental control in Chapter 2, MnDOT Surveying and Mapping Manual.
- 4.6. Unless otherwise agreed to, set all stakes and marks in accordance with the Staking Information Sheets included in the Plan.
- 4.7. Furnish and install traffic control devices in accordance with the Field Manual for Temporary Traffic Control Zone Layouts, Part VI, (MN MUTCD), when contractor crew members are exposed to traffic.
- 4.8. Perform all construction surveying for all Project construction as shown in MnDOT 1508, and shall install reference points as needed for the use of any public utility crews that are staking or accomplishing utility relocation or construction associated with the Project.
 - 4.8.1. From Horizontal and Vertical Control Points established by the Engineer.

physical object placed as the monument.

4.12.8. Furnish survey documentation and as-built Survey Data to MnDOT's Authorized Representative within the time limits indicated in the surveying work schedule.

5. Deliverables. The following is a brief summary of the deliverables under this contract:

- 5.1. Documents required by MnDOT's Schedule of Materials Control and Contract Administration Manual;
- 5.2. Daily Work Reports and Daily Diaries;
- 5.3. Material certification and testing results;
- 5.4. Pay voucher created at least once per month, using AASHTOWARE;
- 5.5. Project final documents including, but not limited to, closed contract pay items, materials exception report, overrun/underrun letter and all final documents properly submitted in appropriate envelopes; and
- 5.6. For bridge projects, complete and submit the following to the Bridge Office: (1) as-built sheets, (2) Pile-driving records, and (3) All other submittals required by the Bridge Special Provisions including Quality Assurance/Quality Control (QA/QC) submissions.
- 5.7. Furnish survey documentation and as-built Survey Data to the Engineer within the time limits indicated in the surveying work schedule.

6. Reduced Staffing Needs.

- 6.1. The Band will withdraw any personnel or halt any services no longer required, within a reasonable time after the lack of need becomes apparent to the Band, or at MnDOT's request.

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EXHIBIT B - T.H. 1 S.P. 0404-36 Bid Costs

S.P. 0404-36 SCHEDULE OF BID ITEMS (05-04-22)					
ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT BID PRICE	BID AMOUNT
2021.501	MOBILIZATION	LUMP SUM	1.00	102,400.00	102,400.00
2101.505	CLEARING	ACRE	0.89	4,560.00	4,058.40
2101.505	GRUBBING	ACRE	0.89	9,855.00	8,770.95
2104.503	REMOVE PIPE CULVERTS	LIN FT	1,251.00	15.50	19,390.50
2104.503	SAWING BITUMINOUS PAVEMENT (FULL DEPTH)	LIN FT	1,682.00	4.50	7,569.00
2104.503	REMOVE GUARDRAIL-TYPE 31	LIN FT	1,521.00	4.00	6,084.00
2104.504	REMOVE BITUMINOUS PAVEMENT	SQ YD	8,997.00	4.00	33,988.00
2106.507	EXCAVATION-COMMON (P)	CU YD	21,409.25	11.50	246,206.38
2106.507	SELECT GRANULAR EMBANKMENT (CV) (P)	CU YD	22,632.08	22.50	509,221.80
2106.507	COMMON EMBANKMENT (CV) (P)	CU YD	4,773.52	15.50	73,989.56
2106.601	DEWATERING	LUMP SUM	1.00	27,500.00	27,500.00
2106.602	CONSTRUCT TEMPORARY BYPASS	EACH	2.00	9,755.00	19,510.00
2106.504	GEOTEXTILE FABRIC TYPE 7	SQ YD	15,805.00	4.00	63,220.00

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EXHIBIT B - T.H. 1 S.P. 0404-36 Bid Costs

2123.51	DOZER	HOUR	20.00	190.00	3,800.00
2211.507	AGGREGATE BASE (CV) CLASS 6 (P)	CU YD	3,030.50	33.50	71,216.75
2254.502	GUIDE POST TYPE SPECIAL	EACH	4.00	107.00	428.00
2360.509	TYPE SP 12.5 WEARING COURSE MIXTURE (3 B)	TON	3,074.05	157.50	484,162.88
2412.502	16X10 PRECAST CONCRETE BOX CULV END SEC	EACH	2.00	45,550.00	91,100.00
2412.503	16X10 PRECAST CONCRETE BOX CULVERT	LIN FT	84.00	2,875.00	241,500.00
2451.507	COARSE AGGREGATE BEDDING (CV) (P)	CU YD	196.00	56.73	11,123.00
2451.507	FINE AGGREGATE BEDDING (CV) (P)	CU YD	742.90	39.00	28,973.10
2501.502	12" RC SAFETY APRON	EACH	2.00	1,670.00	3,340.00
2501.502	18" RC SAFETY APRON	EACH	2.00	1,810.00	3,620.00
2501.502	24" RC PIPE APRON	EACH	2.00	2,140.00	4,280.00
2501.502	24" RC SAFETY APRON	EACH	8.00	2,110.00	12,660.00
2501.502	36" RC PIPE APRON	EACH	8.00	3,150.00	18,900.00
2501.502	36" RC SAFETY APRON	EACH	4.00	3,690.00	14,760.00
2501.502	44" SPAN RC PIPE-ARCH APRON	EACH	4.00	3,940.00	15,760.00

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2501.502	48" RC SAFETY APRON AND GRATE DESIGN 3128	EACH	5.00	8,510.00	51,060.00
2501.503	12" RC PIPE CULVERT DESIGN 3006	LIN FT	36.00	135.00	4,860.00
2501.503	18" RC PIPE CULVERT DESIGN 3006	LIN FT	24.00	140.00	3,360.00
2501.503	24" RC PIPE CULVERT DESIGN 3006	LIN FT	238.00	140.00	33,320.00
2501.503	36" RC PIPE CULVERT DESIGN 3006	LIN FT	720.00	225.00	162,000.00
2501.503	44" SPAN RC PIPE-ARCH CULV CLINA	LIN FT	116.00	310.00	35,960.00
2501.503	48" RC PIPE CULVERT DESIGN 3006	LIN FT	210.00	360.00	75,600.00
2501.602	CLEAN PIPE CULVERT	EACH	3.00	10,990.00	32,970.00
2511.507	RANDOM RIPRAP CLASS III (P)	CU YD	584.70	113.50	66,363.45
2511.507	RANDOM RIPRAP CLASS V (P)	CU YD	15.30	150.00	2,295.00
2563.601	TRAFFIC CONTROL	LUMP SUM	1.00	19,725.00	19,725.00
2563.601	TRAFFIC CONTROL SUPERVISOR	LUMP SUM	1.00	18,000.00	18,000.00
2563.601	PORTABLE SIGNAL SYSTEM	LUMP SUM	1.00	24,775.00	24,775.00
2563.602	PORTABLE CHANGEABLE MESSAGE SIGN	EACH	2.00	4,100.00	8,200.00
2573.501	STABILIZED CONSTRUCTION EXIT	LUMP SUM	1.00	3,000.00	3,000.00

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2573.501	EROSION CONTROL SUPERVISOR	LUMP SUM	1.00	12,550.00	12,550.00
2573.502	CULVERT END CONTROLS	EACH	16.00	213.00	3,408.00
2573.503	SILT FENCE, TYPE MS	LIN FT	11,956.00	4.05	48,421.80
2573.503	SEDIMENT CONTROL LOG TYPE STRAW	LIN FT	740.00	4.80	3,552.00
2573.601	TEMPORARY STREAM DIVERSION SYSTEM	LUMP SUM	1.00	33,400.00	33,400.00
2574.505	SOIL BED PREPARATION	ACRE	5.66	213.00	1,205.58
2574.507	COMMON TOPSOIL BORROW	CU YD	200.00	41.50	8,300.00
2574.508	FERTILIZER TYPE 3	POUND	1,981.00	1.90	3,763.90
2575.505	SEEDING	ACRE	5.66	212.80	1,204.45
2575.508	SEED MIXTURE 33-381	POUND	198.10	52.90	10,479.49
2575.508	HYDRAULIC REINFORCED FIBER MATRIX	POUND	22,074.00	2.25	49,666.50
2575.504	ROLLED EROSION PREVENTION CATEGORY 2B	SQ YD	770.00	2.55	1,963.50
2582.503	4" SOLID LINE PAINT	LIN FT	9,370.00	0.38	3,560.60
2862.503	4" BROKEN LINE PAINT	LIN FT	1,082.00	0.38	411.16
TOTAL BID AMOUNT				\$	2,852,907.75

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EXHIBIT D – DISPUTE RESOLUTION PROCESS

Mediation. In the event of any dispute, claim, question or disagreement ("Dispute") arising from or relating to this Agreement or the breach thereof, the parties hereto agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Rules before resorting to binding arbitration.

Arbitration. If a party in good faith concludes that a Dispute is not likely to be resolved by mediation, then, upon notice by that party to the other, all Disputes shall be finally and exclusively settled by arbitration administered by the AAA in accordance with the provisions of its Commercial Arbitration Rules. Within ten days after the commencement of arbitration, each party shall select one person to act as arbitrator and the two selected shall select a third arbitrator within ten days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the AAA. The third arbitrator shall be a practicing attorney, actively engaged in the practice of law for at least ten years and a member in good standing of the bar of Minnesota. Alternatively, the third arbitrator may be a retired judge of the federal court or the trial court of the state of Minnesota. The third arbitrator shall have the AAA-acknowledged expertise in the appropriate subject matter. The place of arbitration shall be the county in which the project is located. The award shall be made within nine months of the filing of the notice of intent to arbitrate, and the arbitrators shall agree to comply with the schedule before accepting appointment. However, this time limit may be extended by agreement of the parties or by the majority of the arbitrators, if necessary. Any award rendered in any such arbitration proceeding shall be final and binding.

Enforcement. Judgment upon any award rendered by the arbitrators against any party shall, upon the request of the prevailing party, be entered in the Tribe's tribal court system ("Tribal Court") or in a Minnesota District Court and such proceeding shall be conducted subject to the rules and procedures thereof; the parties agree that the Tribal Court or District Court shall have the power to enforce, but not review or modify, the arbitrators' award. Each party, for itself and its authorities and instrumentalities, agrees that it shall accept and be bound by the award of the arbitrators or a judgment, ruling or order which is final (because either the time for appeal has expired or the judgment or order is issued by the court having final appellate jurisdiction over the matter and is not subject to collateral attack). The parties agree that such agreement constitutes a limited waiver of sovereign immunity solely for the purposes of enforcing the provisions of this Agreement and not a general or complete waiver of sovereign immunity.

Document Discovery. Consistent with the expedited nature of arbitration, each party will, upon the written request of the other party, promptly provide the other with copies of documents, provided such documents are relevant to the issues raised by any claim or counterclaim. Any dispute regarding discovery, or the relevance or scope thereof, shall be determined by the chair of the arbitration panel and such determination shall be conclusive. All discovery shall be completed within 45 days following the appointment of the arbitrators.

Preliminary Relief. Either party may apply to the panel of arbitrators seeking injunctive relief until the arbitration award is rendered or the Dispute is otherwise resolved. Either party also may, without waiving any remedy under this agreement, seek from the Tribal Court or District Court, any interim or provisional

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relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitration panel (or pending the arbitration panel's determination of the merits of the Dispute).

Waiver of Trial by Jury. The parties hereby waive all rights to trial by jury in connection with any action brought or maintained hereunder.