

### ADDENDUM NO. 3

DATE: August 31, 2020

TO: All Bidders

FROM: Penny Owens, Purchasing Agent

SUBJECT: Addendum No. 3 – Third Creek Greenway Bank Slope Stabilization Project

BIDS TO BE OPENED: September 2, 2020, at 11:00 a.m. (Eastern)

This addendum is published to provide responses to questions received from potential bidders. This addendum becomes a part of the Contract Document and modifies the original specifications as noted.

**Addition of Federal Clauses:** The use of potential federal funding on this contract requires the addition of the following clauses and Contractor's agreement to said clauses:

**Compliance with Federal Law, Regulations and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**No Government Obligation to Third Parties.**

1. The City of Knoxville and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City of Knoxville, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

***Program Fraud and False or Fraudulent Statements and Related Acts .***

1. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

**Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the

Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_

Signature of Contractor's Authorized Official

\_\_\_\_\_

Name and Title of Contractor's Authorized Official

\_\_\_\_\_

Date

**Access to Records and Reports.** The following access to records requirements apply to this Contract:

1. The Contractor agrees to provide the City of Knoxville, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

**Compliance with the Contract Work Hours and Safety Standards Act.**

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work

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

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

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

#### **Clean Air Act.**

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### **Federal Water Pollution Control Act.**

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as

amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**Equal Employment Opportunity.** During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as

provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### ***Government-Wide Debarment and Suspension.***

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

### **Davis-Bacon and Copeland Anti-Kickback Act Requirements**

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FEMA, the Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally

Financed and Assisted Construction.” In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

**Recycled Products/Recovered Materials Requirements (42 U.S.C. 6962; 40 CFR Part 247; Executive Order 12873)** - The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

**Americans with Disabilities Act (42 USC 12101, *et seq.*) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794; 49 USC 5301(d))** — The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990, as amended, 42 USC §12101, *et seq.*; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794; 49 USC §5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

***CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT,***

***SUSPENSION, AND OTHER RESPONSIBILITY MATTERS***

The Primary Participant/Contractor, certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency,
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction,- violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. If the primary participant (potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

THE PRIMARY PARTICIPANT/CONTRACTOR \_\_\_\_\_  
CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF  
THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND  
UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE  
APPLICABLE THERETO.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed Name and Title of Contractor's Authorized Official



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND  
VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS**

**(This form is for Sub-Contractors)**

The potential lower tier participant \_\_\_\_\_ certifies,  
by submission of this proposal, that neither it nor its principals is presently debarred, suspended,  
proposed for debarment, declared ineligible, or voluntarily excluded from participation in this  
transaction by any Federal department or agency.

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


\_\_\_\_\_  
Signature/Authorized Certifying Official Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Applicant/Organization

\_\_\_\_\_  
Date Signed

## 2020 HIGHWAY PREVAILING WAGE RATES

		
CLASSIFICATION	CRAFT NUMBER	2020
Blaster	1	23.03
Bricklayer	2	16.60
Carpenter/Leadsperson	3	20.40
Class "A" Operators	4	22.29
Class "B" Operators	5	19.88
Class "C" Operators	6	20.66
Class "D" Operators	7	19.18
Concrete Finisher	8	18.38
Drill Operator (Caisson)	9	34.55
Electrician	10	32.85
Farm Tractor Operator (Power Broom)	11	15.72
Ironworkers Reinforcing	12	18.96
Ironworkers (Structural)	13	19.67
Large Crane Operator	14	23.80
Mechanic (Class I) Heavy Duty	15	24.99
Mechanic (Class II) Light Duty	16	22.14
Painter/Sandblaster	17	30.69
Skilled Laborer	18	17.85
Survey Instrument Operator	19	26.45
Sweeping Machine (Vacuum) Operator	20	18.27
Truck Driver (2 axles)	21	17.88
Truck Driver (3/4 axles)	22	17.36
Truck Driver (5 or more axles)	23	19.57
Unskilled Laborer	24	15.33
Worksite Traffic Coordinator	25	19.66

Effective 01/01/2020

REGION 1  
Shelby

REGION 2  
Crockett  
Dyer  
Fayette  
Gibson  
Hardeman  
Haywood  
Lake  
Lauderdale  
Obion  
Tipton  
Weakley

REGION 3  
Benton  
Carroll  
Chester  
Decatur  
Hardin  
Henderson  
Henry  
Houston  
Humphreys  
McNairy  
Perry  
Stewart  
Wayne

REGION 4  
Madison

REGION 5  
Cheatham  
DeKalb  
Dickson  
Macon  
Montgomery  
Robertson  
Smith  
Sumner  
Troup  
Williamson  
Wilson

REGION 6  
Bedford  
Cannon  
Coffee  
Franklin  
Giles  
Grundy  
Hickman  
Lawrence  
Lewis  
Lincoln  
Marion  
Marshall  
Maury  
Moore  
Rutherford  
Warren

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REGION 7  
Anderson  
Campbell  
Clay  
Cumberland  
Fentress  
Jackson  
Morgan  
Overton  
Pickett  
Putnam  
Roane  
Scott  
White

REGION 8  
Hamilton

REGION 9  
Bledsoe  
Blount  
Bradley  
Loudon  
McMinn  
Meigs  
Monroe  
Polk  
Rhea  
Sequatchie  
Sevier  
Van Buren

REGION 10  
Knox

REGION 11  
Carter  
Claiborne  
Cocke  
Grainger  
Greene  
Hamblen  
Hancock  
Hawkins  
Jefferson  
Johnson  
Sullivan  
Unicoi  
Union  
Washington

REGION 12  
Davidson

**RULES  
OF  
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

**CHAPTER 0800-03-02  
PREVAILING WAGE COMMISSION RULES**

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**0800-03-02-.01 DEFINITIONS.**

- (1) As used in these rules, unless the context otherwise requires:
- (a) “Apprentices” means those persons registered individually under a bona fide apprenticeship program registered with the Bureau of Apprenticeship and Training of the United States Department of Labor. The state agency contracting officer shall require the contractor or subcontractor using the apprentice to submit evidence of his/her indenture and/or apprenticeship registration when the apprentice’s name first appears on a submitted payroll.
  - (b) “Commission” means the Prevailing Wage Commission or its administrative delegate, the Department of Labor and Workforce Development (“Department”).
  - (c) “Covered Worker” means a worker employed on a state construction project as defined by T.C.A. § 12-4-402(6).
  - (d) “Subcontractor” means one who performs part of the work called for in the contract. This term shall include materialmen whose employees engage in the substantial operations at the project site, provided the employees of the materialmen devote as much as 20 percent of their work time on the construction site.
  - (e) “State contract” means any contractual agreement, written or oral, entered into by any person, firm or corporation with this state for the performance of work on a state highway construction project.
  - (f) “Highway contractor” means any contractor, subcontractor, person, firm, or corporation engaged in a state construction project for the purpose of building, rebuilding, locating, relocating, or repairing any public highway.
  - (g) “Public highway” means any street, road, highway, expressway, bridge, or viaduct, including an adjacent right-of-way, that is constructed or maintained by the state, or any municipality or political subdivision of the state, and that is funded in whole or in part with federal or state highway funds.
  - (h) “State highway construction project” means any construction project for the purpose of building, rebuilding, locating, relocating, or repairing any public highway.
- (2) Tennessee Prevailing Wage Rates apply to any highway contractor entering into a state contract for the performance of work on state highway construction projects. If an entity not

(Rule 0800-03-02-.01, continued)

defined above so chooses to include prevailing wage rates, the Tennessee Department of Labor and Workforce Development has no jurisdiction to enforce those prevailing wage rates.

**Authority:** T.C.A. §§ 12-4-402, 12-4-403, 12-4-413, and 12-4-415. **Administrative History:** Original Rule filed June 14, 1976; effective July 14, 1976. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Repeal and new rule filed June 30, 2006; effective September 13, 2006. Amendments filed April 8, 2019; effective July 7, 2019.

#### **0800-03-02-.02 CLASSIFICATION OF COVERED WORKERS.**

- (1) All contractors and subcontractors must classify covered workers in the contract and payroll records in conformity with the schedule of classifications issued by the Commission.
  - (a) The Commission hereby issues the following classifications of crafts of workers and helpers to be used for workers employed by highway contractors and subcontractors.
    1. “Blaster” means a person qualified by reason of training, knowledge, experience and registration to fire or detonate explosives in blasting operations.
    2. “Bricklayer” means one who lays out work from plans; sets up templates and guidelines; lays bricks, concrete blocks, tiles or other materials in the construction of manholes, catch basins, drop inlets, sidewalks, retaining walls, and other incidental structures; and may perform other related duties.
    3. “Carpenter” means one who lays out work from plans or sketches; builds wooden structures, such as concrete forms, falsework, pouring chutes, scaffolds, etc.; builds in place to line and grade, or prefabricates in units to be erected later; builds forms for bridges, drainage structures, walls, etc.; and may perform other related duties.
    4. “Class A Operator” means one who operates a backhoe/hydraulic excavator (¾ yard and over), crane, end loader (3 yards and over), motor patrol finish; and is further defined as follows:
      - (i) “Backhoe Operator” means one who operates boom-type equipment to hoist and move materials, raise and lower heavy weights, and perform other related operations; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The equipment is used for such work as excavations and may be used for other miscellaneous tasks for which crane or stick-type equipment is required.)
      - (ii) “Crane Operator” means one who operates boom-type equipment less than 20 tons to hoist and move materials, raise and lower heavy weights and perform other related operations; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The equipment is used for such work as pouring concrete and setting steel. This work is subjected to strict inspection and must conform closely to specifications. The equipment may also be used for other miscellaneous tasks for which crane or stick-type equipment is required which may include hoist operations and pile driving operations.)
      - (iii) “Loader Operator (3 yards and over)” means one who operates a rubber-tired or crawler-type tractor with an attached bucket on the front end; moves levers to raise and lower to dump contents of bucket; may oil,

(Rule 0800-03-02-.02, continued)

grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The machine is used to load materials from stockpiles, excavations, charging batch plants, and loading trucks.)

- (iv) “Motor Patrol Operator (Finish)” means one who rides in a control cab of a motor grader to move levers and hand-wheels to guide the machine and to regulate the scraper blade; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The blade is mounted on a carrying and turning circle at the front of the machine. The equipment is used to level dirt to a fine grade and to lay asphalt and flexible base materials. This work is subjected to strict inspection and must conform closely to specifications.)
5. “Class B Operator” means one who operates a backhoe/hydraulic excavator (less than  $\frac{3}{4}$  yard), bulldozer, loader (less than 3 yards), motor patrol (rough), tractor (crawler/utility), scraper, shovel, or trenching machine; and is further defined as follows:
- (i) “Bulldozer Operator” means one who operates a large tractor with a concave steel blade or push block mounted in front of the chassis; regulates heights of blades or push blocks from the ground; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The equipment is used to level, distribute and push earth. The work is subjected to strict inspection and must conform closely to specifications. The equipment may also be used as a pusher to load earth-carrying equipment. At times a ripper attachment is used for ripping the earth prior to loading the scraper.)
  - (ii) “Motor Patrol Operator (Rough)” means one who rides in a control cab of a motor grader to move levers and hand-wheels to guide the machine and to regulate the scraper blade; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The blade is mounted on a carrying and turning circle at the front of the machine. The equipment is used to level dirt to a rough grade and to lay asphalt and flexible base materials.)
  - (iii) “Scraper Operator” means one who operates a self-propelled rubber tired or tractor drawn unit known as a scraper, pan, etc. to excavate, transport, and deposit materials moved in normal grading operations; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (iv) “Shovel Operator (Dragline)” means one who operates boom-type equipment to hoist and move materials, raise and lower heavy weights, and perform other related operations; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The equipment is used for such work in excavations to load haulage equipment with material. Equipment may be used for other miscellaneous tasks for which crane or stick-type equipment is required. It may include hoist operations and pile driving operations.)
  - (v) “Trenching Machine Operator” means one who moves levers to operate a power-driven machine that digs trenches for sewers, water, drainage, oil, or gas pipelines; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related

(Rule 0800-03-02-.02, continued)

duties. (Note: The trenching machine is mounted on crawler treads or rubber tires with the digging equipment usually consisting of an endless chain or wheel of edged buckets that excavate and deposit the material on a conveyor belt that in turn discharges the material at the side of the trench.)

6. "Class C Operator" means one who operates an asphalt paver, concrete finishing machine, concrete paver, scale, spreader (self-propelled), concrete grinder, asphalt milling machine, or boring machine (horizontal); and is further defined as follows:
- (i) "Asphalt Milling Machine Operator" means one who uses a specialized machine to mill asphalt for use in resurfacing highways, etc.; and may perform other related duties.
  - (ii) "Asphalt Paver Machine Operator" means one who manipulates hand or foot levers to control movements of a paving machine that spreads and levels asphalted concrete on the sub-grade of a highway; turns hand-wheels to raise or lower screeds, and regulates width of screeds; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (iii) "Concrete Finishing Machine Operator" means one who operates a self-propelled machine which travels on concrete paving forms; levels fresh concrete to an approximate grade and contour by pushing and pulling two (2) screeds over the surface; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (i) "Concrete Grinder Operator" means one who uses a self-propelled machine to grind out concrete surfaces; and may perform other related duties.
  - (ii) "Concrete Paver Operator" means one who operates a paving machine that travels on forms or in slipform operation; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (iii) "Scale Operator" means one who weighs materials in trucks prior to deliveries; records net and gross weights, truck numbers, and kinds of materials; may weigh empty trucks on the truck scale in order to compute net weights; may issue weight tickets on certain types of scale equipment since the job is clerical in nature; and may perform other related duties.
  - (iv) "Spreader Operator (Self-Propelled)" means one who drives a self-propelled vehicle, consisting primarily of a hopper mounted on pneumatic-tired wheels, used to spread crushed aggregate on bituminous roadway material; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (v) "Concrete Barrier Rail (Transfer) Machine Operator" means a heavy vehicle used to transfer concrete lane dividers which are used to relieve traffic congestion during rush hours; it is also used temporarily during construction work.

(Rule 0800-03-02-.02, continued)

2. "Class D Operator" means one who operates a bobcat, central mixing plant, concrete pump, concrete saw, curb machine (automatic or manual), dozer or loader (stockpile), drill (piling), mulcher or seeder, rock drill (truck mounted), roller (asphalt), roller (compaction self-propelled), soil stabilization machine, tractor (boom and hoist), bituminous distributor machine, pump, track drill, or striping machine; and is further defined as follows:
  - (i) "Bituminous Distributor Machine Operator" means one who operates a machine that spreads and levels hot-mix bituminous paving material on the sub-grade of highways and streets; and may perform other related duties.
  - (ii) "Bobcat Operator" means one who uses small tractor-type equipment for excavations, backfill trenching or smoothing with a blade-lift, scoop or bucket; and may perform other related duties.
  - (iii) "Boring Machine Operator (Horizontal)" means one who sets up and operates a drilling mechanism that drills holes horizontally; levels a machine by placing timbers under wheels or tracks; inserts and fastens drill steel in chuck; adjusts angles of drill towers and bolts into position; controls drilling and speed of drill by moving levels; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (iv) "Central Mix Plant Operator (Asphalt or Concrete)" means one who operates a stationary or portable batching plant in mixing concrete materials or asphaltic materials and aggregates to produce asphaltic or concrete paving materials; adjusts controls for required mixture of the materials; operates controls that admit materials separately from storage hoppers or mixing bins; observes indicators that show when proper amounts of materials have been made; discharges materials from bins into trucks or other carriers or mixers; and may perform other related duties.
  - (v) "Concrete Saw Operator" means one who operates a water-cooled power saw with either a diamond or an abrasive blade to saw expansion and contraction joints in concrete paving or asphaltic pavements; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (vi) "Curb Machine Operator (Automatic)" means one who operates a self-propelled machine which finishes fresh concrete to a contour by pushing and pulling two (2) screeds over the surface; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (vii) "Curb Machine Operator (Manual)" means one who operates a manual curb machine which by auger action forces compacted fresh concrete or asphalt through a tube to form an extruded curb along a contour to a grade; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (viii) "Distributor Operator (Bituminous)" means one who drives a truck equipped with a tank and controls for regulating distribution of bituminous materials for highway surfacing; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.



(Rule 0800-03-02-.02, continued)

- (ix) "Dozer or Loader (Stock Pile Only)" means one who operates a rubber-tired or crawler-type tractor with an attached bucket on the front end; moves levers to raise and lower to dump contents of bucket; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The machine is used to load materials from stockpiles, charging batch plants, and loading trucks.)
- (x) "Drill Operator (Piling)" means one who sets up and operates a drill mechanism for driving piling; levels and positions drill; adjusts angle of drill; controls drilling and speed of drill by moving controls; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xi) "Mulcher or Seeder Operator" means one who operates a mulching machine for the placement of mulched materials; operates a gun for distribution; feeds machine as required; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xii) "Pile Driver Operator" means one who operates a machine either crane or skid mounted with leads and hammer or jets for driving piling; assists other workers in setting up pile drive leads; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xiii) "Pump Operator" means one who operates a concrete, fuel, or other fluid pump; sets up pump and lays pipes or flexible lines; operates power unit of pump; takes pipelines apart to clean and store; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xiv) "Roller Operator (Asphalt)" means one who operates a self-propelled machine with either two or three steel flat wheels, which is used to compact plant mix asphalt pavement; rides on the platform of a machine and moves levers, pedals, or throttles to control and guide the machine; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xv) "Roller Operator (Other than Asphalt)" means one who operates a crawler tread tractor to pull a grid, sheepfoot, or extra-heavy pneumatic roller, which is used to compact earth fills, flexible bases, etc.; operates a tractor by manipulating the throttle, levers, and pedals and steers tractor by working levers or pedals that individually control both crawler treads; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xvi) "Soil Stabilization Machine Operator" means one who operates a self-propelled rubber tired or crawler-type equipment to mix and spread road materials for soil stabilization with cement, asphalt, lime, fly ash, etc.; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xvii) "Striping Machine Operator" means one who rides the back of a paint truck and uses a specialized machine on pavement to apply paint or thermo

(Rule 0800-03-02-.02, continued)

plastic; aligns lower carriages as necessary; and may perform other related duties.

- (xviii) "Track Drill Operator" means one who operates a drilling machine, such as a wagon drill, air trac, well driller, etc. for the purpose of drilling rock, shale, or other materials; starts, stops and services portable air compressors; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
- (xix) "Tractor Operator (Boom and Hoist)" means one who operates a rubber-tired or crawler-type tractor with an attached boom and hoist; moves levers to raise and lower materials and miscellaneous items in trenches and excavations; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
3. "Concrete Finisher" means one who finishes wet surfaces to grade with hand tools, floats, trowels, screeds, templates and straight edges on all types of concrete work requiring a fine finish; and may perform other related duties.
4. "Drill Operator (Caisson)" means one who sets up and operates a drill mechanism for caissons; levels and positions drill; adjusts angle of drill; controls drilling and speed of drill by moving controls; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
5. "Electrician" means one who plans and executes the layout of electrical conduits; installs wiring systems, switch-panels, and bus bars; works on overhead distribution systems and underground distribution systems; and may perform other related duties.
6. "Farm Tractor Operator (Power Broom)" means one who operates a small gasoline or diesel powered four-wheel, rubber-tired tractor of the farm type; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The tractor is used to pull pneumatic rollers and is operated by steering with the wheel and brake clutch.)
7. "Ironworker - Reinforcing" means one who performs layout work of rods within an area to be paved; fastens rods in place with wire or fasteners and bends or adjusts as required; selects and places steel bars or spirals in concrete forms to reinforce concrete; may cut rods with hack-saw or oxyacetylene torch; may bend rods, using a rod-bending machine; may prefabricate reinforcement assembly for placement complete in forms; and may perform other related ironwork duties.
8. "Ironworker - Structural" means one who works as a member of a group that raises and places fabricated structural-steel members, such as girders, plates, and columns to unite them permanently to form a completed structural-steel framework; heats rivets, signals erection cranes, splices cables, and rigs equipment which may include dismantling and erecting large units of equipment; may spin suspension bridge cables; and may perform other related ironwork duties.
9. "Large Crane Operator" means one who operates boom-type equipment equal to or greater than 20 tons to hoist and move materials, raise and lower heavy weights and perform other related operations; may oil, grease or otherwise

(Rule 0800-03-02-.02, continued)

service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The equipment is used for such work as pouring concrete and setting steel. This work is subjected to strict inspection and must conform closely to specifications. The equipment may also be used for other miscellaneous tasks for which crane or stick-type equipment is required which may include hoist operations and pile driving operations.)

10. "Mechanic - Class I (Heavy Duty)" means one who assembles, sets up, adjusts, maintains and repairs all types of construction equipment, such as internal combustion engines, air compressors, pumps, concrete mixers, heavy earth moving equipment, rock crushers, and paving equipment; may perform the duties of a welder in repair of equipment; and may perform other related duties.
11. "Mechanic - Class II (Light Duty)" means one who assembles, sets up, adjusts, maintains and repairs all types of construction equipment, such as internal combustion engines, air compressors, pumps, concrete mixers, heavy earth moving equipment, rock crushers, and paving equipment; may perform the duties of a welder in repair of equipment; and may perform other related duties and periodically needs and receives assistance from a mechanic - Class I.
12. "Painter or Sandblaster" means one who sandblasts surfaces of structures, stone, etc. by currents of air or steam carrying sand at a high velocity in painting preparation; paints sign posts, signs, bridges and structures, etc. with either a brush, roller or spray; and may perform other related duties.
13. "Skilled Laborer" means one who is an air tool operator, asphalt raker, chain saw operator, concrete mixer operator (less than 1 yard), concrete rubber, edger, fence erector, form setter (steel road), guard rail erector, mechanic's helper (tire changer or oiler), mortar mixer, nozzleman or gun operator (gunitite), pipelayer, sign erector, or survey helper/rodman; and is further defined as follows:
  - (i) "Air Tool Operator" means one who is a semi-skilled laborer who uses a tool driven by compressed air to perform such work as breaking old pavement, loosening or digging hard earth, trimming bottoms and sides of trenches, breaking large rocks, chipping concrete, trimming or cutting stone or compaction of earthen backfill; and may perform other related semi-skilled duties.
  - (ii) "Asphalt Raker" means one who distributes asphalted road-building materials evenly over a road surface by raking and brushing material to correct thickness; directs asphalt shovelers when to add or take away material to fill low spots or to reduce high spots; and may perform other related duties.
  - (iii) "Chain Saw Operator" means one who operates a chain saw with employer fuel or current for power; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
  - (iv) "Concrete Mixer Operator (Less Than 1 Yard)" means one who operates a small portable concrete mixing machine to mix sand, gravel, cement and water to make concrete; starts power units and does loading of materials; controls mixing by levers to discharge concrete from drums; rises drums with water to remove adhering concrete; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The small machines are

(Rule 0800-03-02-.02, continued)

sometimes charged by operators shoveling in the proportions of materials directly into the mixing drums, while others have a skip into which materials are shoveled or dumped before being hoisted into the mixing drums.)

- (v) "Concrete Rubber" means one who uses tools on exposed surfaces of concrete masonry after the forms have been removed to patch holes with fresh concrete; rubs surfaces with abrasive stone to remove rough spots; and may perform other related duties.
  - (vi) "Fence Erector" means one who digs holes for posts, drives posts, attaches fences, and pours incidental concrete; and may perform other related duties.
  - (vii) "Form Setter (Steel Road)" means one who fits together, aligns and grades metal road forms for holding concrete in place on road and street surfaces; dismantles, moves and cleans forms after concrete hardens; and may perform other related semi-skilled duties.
  - (viii) "Guard Rail Erector" means one who digs holes for posts, drives posts, attaches guard rails, pours incidental concrete, and paints guard rails; and may perform other related duties.
  - (ix) "Handler" means a person qualified by reason of training, knowledge, experience and registration to accept custody and possession of explosives in blasting operations.
  - (x) "Nozzleman or Gunman (Gunitite)" means one who handles the equipment and directs the placing of concrete or mortar that is moved by pneumatic equipment such as gunitite; may fine-grade and place wire mesh at times; and may perform other related semi-skilled duties.
  - (xi) "Pipelayer" means one who lays, connects, inspects and tests water lines, force mains, gas lines, sanitary or storm sewers and drains, underground telephone and electric ducts or other utilities manufactured from clay, concrete, steel, plastic, cast iron pipe, or other similar materials; may smooth bottom of trench to proper elevation by scooping with a shovel; receives pipe lowered from top of trench; inserts spigot end of pipe into bell end of last laid pipe; adjusts pipe to line and grade; caulks and seals joint with cement or other sealing compound; may connect threaded or flanged joint pipe; may assemble and place corrugated metal or plastic pipe; and may perform other related duties.
  - (xii) "Sign Erector" means one who reads plans; makes layouts for erection of signs; cuts, ties, and sets reinforcing steel; sets forms for concrete; pours concrete; sets anchor bolts; erects wood or metal structures; places clamps, brackets, or other required hardware on structures; and may perform other related duties.
  - (xiii) "Welder's Helper (Any Class to Which the Work Is Incidental)" means one who is a learner or worker semi-skilled in welding who assists the welder in electric arc and acetylene welding; assists in oxyacetylene cutting and layout; and may perform other related duties.
14. "Survey Instrument Operator" means one who obtains data pertaining to angles, elevations, points, and contours used for construction, mapmaking, mining, or other purposes, using an alidade, level, and transurveying instruments; compiles

(Rule 0800-03-02-.02, continued)

notes, sketches, and records of data obtained and work performed; directs work of subordinate members of survey team; and performs other duties relating to surveying work as directed by chief of party.

15. "Sweeping Machine (Vacuum) Operator" means one who drives a sweeping machine that cleans streets of trash and other accumulations; fills water tank of machine from hydrant; drives sweeper along street near curbs; moves controls to activate rotary brushes and water spray so that machine automatically picks up dust and trash from paved streets and deposits it in a dirt trap at the rear of the machine; and pulls lever to dump refuse in piles at curbs for removal.
16. "Truck Driver (2 Axles)" means one who drives a multi-rear axle truck for transporting construction materials; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties. (Note: The truck may have various kinds of bends attached, such as a dump, flat bed, water tank, etc. The truck may be a water wagon, service truck, hoist truck, etc.)
17. "Truck Driver (3 or 4 Axles)" means one who may pull a semi-trailer or trailer to transport construction equipment and materials.
18. "Truck Driver (5 or More Axles on the Road or Heavy Duty Off-the-Road)" means one who either operates a truck on the road with 5 or more axles or a heavy duty off-road truck, either rigid frame or articulated; may oil, grease or otherwise service and make necessary adjustments to equipment as needed; and may perform other related duties.
19. "Unskilled Laborer" means one who works in construction covering many unskilled occupations; works with all crews doing everything from pick and shovel work to cleaning up lumber, and hammering, shoveling and placing concrete; applies coats of oil to inside face of forms; strips forms; works on rock crushers to feed traps; opens cement sacks to batch plant; lowers pipes into ditches for pipelayers; works with dirt crew to move construction layout stakes; serves as dump man; spreads hot asphaltic material over roadbeds with shovel; operates hand concrete buggy or wheelbarrow; helps painter to prepare surfaces for painting and cleans paint equipment; carries rods to forms or attaches them to cable of hoisting machines; and may perform other related duties; and is further defined as follows:
  - (i) "Mortar Mixer (Hand)" means one who mixes proportions of material in skip; may do or oversee loading of materials in skip by shoveling; and may perform other related duties.
  - (ii) "Survey Helper/Rodman" means one who performs any of the following duties to assist in surveying land: holds level or stadia rod at designated points to assist in determining elevations and laying out stakes for mapmaking, construction, mining, land, and other surveys; calls out reading or writes station number and reading in notebook; marks points of measurement with elevation, station number, or other identifying mark; measures distance between survey points, using a steel or cloth tape or surveyor's chain; marks measuring points with keel (marking crayon), paint sticks, scratches, tacks, or stakes; places stakes at designated points and drives them into the ground at specified elevations, using a hammer or hatchet; and cuts and clears brush and trees from the line of survey, using a brush hook, knife, ax, or other cutting tools.

(Rule 0800-03-02-.02, continued)

20. "Worksite Traffic Coordinator" means one who supervises and coordinates activities of workers engaged in installing and repairing traffic signals, and erecting signs or devices, such as traffic islands and barriers; and may perform other related duties.

**Authority:** T.C.A. §§ 12-4-405(3)(A), 12-4-405(3)(B), 12-4-411, and 12-4-415. **Administrative History:** Original Rule filed June 14, 1976; effective July 14, 1976. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Repeal and new rule filed June 30, 2006; effective September 13, 2006. Amendments filed April 8, 2019; effective July 7, 2019.

### **0800-03-02-.03 EFFECTIVE DATES.**

Pursuant to the Prevailing Wage Act for State Highway Construction Projects (Act), the Commission shall determine and establish the prevailing wage rate annually for covered workers of highway contractors on state highway construction projects. The highway wage rate promulgated by the Commission shall be effective from January 1 to December 31 of each year. No contract shall be let by any state agency or by any municipality, county, or other political subdivision for a state highway construction project not in compliance with the prevailing wage rates as established by the Commission.

**Authority:** T.C.A. §§ 12-4-403, 12-4-405(4), 12-4-406, 12-4-408, and 12-4-415. **Administrative History:** Original Rule filed June 14, 1976; effective July 14, 1976. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Amendments filed April 8, 2019; effective July 7, 2019.

### **0800-03-02-.04 CONSTRUCTION WAGES.**

The bid specifications issued by the state agency contracting for a state highway construction project shall include the prevailing wage rates that are in effect ten (10) days preceding the date the bids are received. The same rates that are contained in the bid specifications shall be made a part of the contract awarded pursuant to the bid.

**Authority:** T.C.A. §§ 12-4-407, 12-4-408, and 12-4-415. **Administrative History:** Original Rule filed June 14, 1976; effective July 14, 1976. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Amendments filed April 8, 2019; effective July 7, 2019.

### **0800-03-02-.05 REGULATIONS FOR CONTRACTORS AND CONTRACTS.**

- (1) All state highway construction project contracts between the contracting state agency and the highway contractor shall contain a provision requiring the contractor and all subcontractors to pay the prevailing wage and shall include the following:
  - (a) All contractors and subcontractors shall:
    1. Classify all covered workers in conformity with the schedule of classifications issued by the Commission in accordance with Rule 0800-03-02-.02.
    2. Post the prevailing wage rates at the site of construction in a prominent place and make these rates available to all covered workers employed on the project at all reasonable times.
    3. Pay overtime compensation as required by any applicable federal or state laws, rules, or regulations or as may be required by the contract with the state agency.
    4. Make only those deductions from wages authorized by law.
    5. Submit weekly a copy of all payrolls to the contracting state agency. The contractor or subcontractor shall certify that the payrolls are correct and

(Rule 0800-03-02-.05, continued)

complete, and that the wage rates paid to covered workers during the reporting period equal or exceed those determined by the Commission, and that the classifications set forth for each covered worker conform with the work she/he performs. The contracting state agency shall promptly submit the contractor's or subcontractor's weekly payroll statements to the Commission. The contractor or subcontractor shall make its employment records available for inspection by representatives of the contracting state agency, the Commission, and the Department, and shall permit such representative to visit construction projects at all reasonable times.

6. Incorporate into each awarded contract a bonding provision in accordance with T.C.A. § 12-4-409.
7. Pay the rate of wages established by the Commission on all classifications of work that may be used by the contractor or subcontractor in carrying out the contractual agreement between the contractor or subcontractor and the contracting state agency.
8. The Commission or any employee of any contractor or subcontractor whose wages are determined pursuant to the Act may maintain an action against any contractor or subcontractor for the breach of any condition of any performance bond given under the provisions of the Act, and, in case of breach of any provision of such bond, the particular state agency which awarded the contract may advertise the work and relet the contract in the same manner as the original letting.

**Authority:** T.C.A. §§ 12-4-403, 12-4-405(1)(B), 12-4-405(4), 12-4-408, 12-4-409, 12-4-410, 12-4-411, 12-4-412, 12-4-413, and 12-4-415. **Administrative History:** Original Rule certified filed June 10, 1974. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Repeal and new rule filed June 30, 2006; effective September 13, 2006. Amendments filed April 8, 2019; effective July 7, 2019.

#### **0800-03-02-.06 REGULATIONS FOR STATE AGENCIES.**

- (1) State agencies entering into state highway construction project contracts shall submit the name(s) of the project(s), address(es) of the project site(s), and name(s) and address(es) of the successful bidder(s) to the Department within ten (10) working days of the state highway construction project start date.

**Authority:** T.C.A. §§ 12-4-408, 12-4-413, and 12-4-415. **Administrative History:** Original Rule certified filed June 10, 1974. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Amendments filed April 8, 2019; effective July 7, 2019.

#### **0800-03-02-.07 INSPECTION PROCESS.**

The Department shall:

- (1) Check the weekly payrolls submitted by contractors and subcontractors and conduct interviews at the construction site in order to determine that workers have been properly classified in accordance with the work performed by them.
- (2) Ascertain whether the prevailing wage rates have been posted at the construction site in a prominent place.
- (3) Interview workers to determine whether all wages earned have been paid.

(Rule 0800-03-02-.07, continued)

- (4) Examine weekly payrolls submitted by contractors and subcontractors in order to determine whether hourly rates equal or exceed those determined by the Commission have been paid for the classifications of covered workers.

**Authority:** T.C.A. §§ 12-4-408, 12-4-410, 12-4-411, 12-4-412, 12-4-413, 12-4-414, and 12-4-415.

**Administrative History:** Original Rule certified filed June 10, 1974. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Amendments filed April 8, 2019; effective July 7, 2019.

#### **0800-03-02-.08 PREVAILING WAGE SURVEY.**

- (1) Contractors who elect to respond to the prevailing wage survey shall submit the data required in T.C.A. § 12-4-405 by regular mail or via electronic transmission to the Department on the portion of any construction projects on which they worked. No other contractor may submit data on behalf of a subcontractor.
- (2) The term “immediately preceding calendar quarter” referred to in T.C.A. § 12-4-405(1)(A) and (B) means the months of July, August, and September.
- (3) Contractors who furnish payroll data to the Department for its prevailing wage shall provide straight time hourly wage rates. Fringe benefits or overtime rates shall not be included in the hourly rates submitted.
- (4) In each prevailing wage determination, the Commission shall have the authority to designate the classifications of crafts of workers. The Commission is not restricted to the use of the classifications enumerated in T.C.A. § 12-4-405, and it may from time-to-time combine or group classifications, add new classifications, and delete classifications.
- (5) If the Department rejects payroll documentation submitted by a contractor the Department shall notify the affected contractor or his representative, as soon as possible, of the reasons for not considering the documentation in the Commission’s prevailing wage rate determination. The affected contractor or his representative shall be advised of the right to appear and testify at the public hearing relative to the prevailing wage determination. Incomplete surveys received by the Department may be completed by the contractor providing the information within a reasonable time after submission, but in no case later than the date of the public hearing setting the rates.
- (6) Contractors who furnish payroll documentation to the Department in response to the prevailing wage survey shall provide such data to the Department by October 31 of the survey year. Documentation which is sent by mail or via electronic transmission must be postmarked no later than October 31 and must be received by the Department by the third state business day following October 31.
- (7) In any classification of a craft of workers listed on the prevailing wage survey form where four (4) or fewer nonaffiliated company survey responses are received, these responses may be excluded from establishing the rates. Where the data is excluded, the Commission may continue the rate in existence at the time of the survey or adjust it pursuant to T.C.A. § 12-4-405(4).

**Authority:** T.C.A. §§ 12-4-405, 12-4-406, and 12-4-415. **Administrative History:** Original rule certified filed June 10, 1974. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Amendments filed April 8, 2019; effective July 7, 2019.



**0800-03-02-.09 COPY FEE.**

- (1) Pursuant to Tenn. Code Ann. § 10-7-503(g) and rule 0800-08-01 of the Department, upon request any citizen of the state of Tennessee may obtain a copy of the information in the agency record.
  - (a) Fees and charges for copies will be in accordance with the Office of Open Records Counsel's (OORC) Schedule of Reasonable Charges:
    1. \$0.15 per page for letter and legal-size black and white copies.
    2. \$0.50 per page for letter and legal-size color copies.
    3. Labor when the time exceeds 1 hour.
    4. If an outside vendor is used, the actual costs assessed by the vendor.
  - (b) Fees may be paid in the form of cash, money order, cashier's check or other approved methods. Fees shall be made payable to Tennessee Department of Labor & Workforce Development and presented to the records custodian.
  - (c) Payment in advance will be required when costs are estimated to exceed \$75.00.

**Authority:** T.C.A. § 12-4-415. **Administrative History:** Original rule certified filed June 10, 1974. Amendment filed March 12, 1987; effective April 26, 1987. Amendments filed April 8, 2019; effective July 7, 2019.

**0800-03-02-.10 REPEALED.**

**Authority:** Chapter 368, Tennessee Public Acts of 1975. **Administrative History:** Original rule certified filed June 10, 1974. Amendment filed March 12, 1987; effective April 26, 1987.

**END OF ADDENDUM NO. 3**