SECTION 00180 - PROSECUTION AND PROGRESS

(Follow all instructions. If there are no instructions above a subsection, paragraph, or sentence, then use the subsection, paragraph, or sentence on all projects. All other modifications to this Section will require Department of Justice approval. (See the Specification and Writing Style Manual, Chapter 3.) Remove all instructions before preparing the final document.)

Comply with Section 00180 of the Standard Specifications modified as follows:

00180.20 Subcontracting Limitations - Replace this subsection, except for the subsection number and title, with the following:

(a) General - The Contractor's own organization shall perform Work amounting to at least 30% of the original Contract Amount. The value of subcontracted Work is the full compensation to be paid to the Subcontractor(s) for all pay items in the subcontract(s).

(b) Own Organization - The term "own organization", as used in Section 00180, includes only employees of the Contractor, Equipment owned or rented by the Contractor, Incidental rental of operated Equipment, truck hauling of materials, and Materials and Equipment to be incorporated into the Work purchased or produced by the Contractor.

(c) Rental of Operated Equipment - The use of Equipment rented with operators, except truck hauling of materials which is addressed in 00180.20(e), will be allowed without a subcontract only when the following requirements are met:

(1) Written Request - The Contractor has submitted to the Engineer a written request describing the work or service to be provided, its estimated cost, and the estimated duration. The Engineer must approve the request before the work or service is provided.

(2) Limitations - The use of Equipment rented with operators is limited to performing minor, Incidental, short-duration work or services under the direct supervision of the Contractor or subcontractor, with Equipment not customarily owned, leased, or operated by a Contractor, or with Equipment that is temporarily unavailable to the Contractor.

(3) Submittals - The Contractor shall provide the Engineer with a copy of the rental agreement or purchase order covering the work or service to be provided. The Contractor shall make certain that the provider of approved work or services submits payrolls required under Section 00170 and complies with applicable Contract provisions, including without limitation 00170.07. The work or service provider will not be considered a subcontractor under the Contract, but will be considered an agent of the Contractor in the performance of work or service.

(4) Revocation of Approval - The Engineer may revoke approval for the work or services provided through rented, operated Equipment at any time the Engineer determines that the work is outside that authorized under 00180.20(c-2). Unless the Contractor promptly submits to the Engineer a subcontract agreement for consent under 00180.21, the work or service provider shall be immediately removed from the Project Site.

(d) Disadvantaged Business Enterprise (DBE) - Every agreement to perform Work, including without limitation subcontracts, trucking services agreements, purchase orders, and rental agreements, shall indicate whether the Work will be performed by a DBE or non-DBE.

(e) Trucking - For all truck hauling of materials not performed with trucks owned and operated by the Contractor. This Section does not apply to delivery of materials by or for or from a Supplier.

(1) Trucking Services Agreement - The Contractor shall submit at the pre-construction meeting one or more proposed trucking services agreements for all trucking services for hauling materials. The proposed agreements shall include:

- Statement specifying whether the services will be provided by a DBE;
- Statement specifying whether the services will be provided by an owner/operator;
- Prompt payment clause (10 days) (ORS 279C.580);
- Interest penalty clause (ORS 279C.580);
- Lower tier clause. (ORS 279C.580);
- Statement about the provider's ability to file a complaint with the Construction Contractors Board. (ORS 279C.515);
- Statement that workers shall be paid not less than the specified minimum hourly rate of wage (ORS 279C.830) as applicable;
- Provision requiring the provider to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4) or (9) or has elected to not file a bond under ORS 279C.836 (7) or (8) or is otherwise not applicable;
- Insurance clauses that include Commercial Automobile Liability and Workers Compensation (ORS 656.017 unless exempt under ORS 656.126);
- Provision requiring the provider to comply with applicable Contract provisions including without limitation Record Requirements in 00170.07; and
- Construction Contractors Board License Number if applicable.

The Agency must review and consent to the proposed trucking services agreements prior to use.

(2) Limitations - The approved trucking services agreements shall be used for all trucking services for hauling materials not provided by trucks owned and operated by the Contractor except for committed DBE's that require a subcontract under 00180.21. The Contractor shall execute a trucking services agreement with

every trucking services provider for hauling materials prior to the trucking services provider doing any work on the Project Site.

(3) Submittals - The Contractor shall provide the Engineer with an executed copy of the trucking services agreement not later than 2 days after the trucking services provider for hauling materials has started work. The Contractor shall make certain that the provider of approved trucking services submits payrolls required under Section 00170, complies with applicable Contract provisions, including without limitation 00170.07, and complies with applicable trucking services agreement provisions. The work or service provider will not be considered a subcontractor under the Contract, but will be considered an agent of the Contractor in the performance of work or service. If the trucking services are provided by an owner/operator:

- Attach a copy of the data required under 00170.65(e) to the trucking services agreement; and
- Each truck shall have the name of the owner/operator clearly displayed on the side of the truck.

(4) Revocation of Approval - The Engineer may revoke approval for trucking services provided under the trucking services agreement at any time the Engineer determines that the work or service is outside that authorized under 00180.20(e). Upon revocation of approval, the service provider shall be immediately removed from the Project Site.

If the services under Rental of Operated Equipment or Trucking are provided by a committed DBE firm a subcontract is required under 00180.21. For this purpose a committed DBE firm is one that was identified by the Contractor to meet an assigned DBE goal including DBE firms substituting for DBE firms committed as a condition of contract award.

(Use the following subsection .40(b) when limitations prevent all contractor work before a specified date. Fill in the specific date.)

00180.40(b) On-Site Work - Add the following paragraph to the end of the subsection:

The Contractor shall not begin On-Site Work before ___(Date)_____, unless approved by the Engineer.

(Use the following lead in sentence and subsection .40(c) when limitations are included in the Special Provision. Delete the limitations that do not apply.)

Add the following subsection:

00180.40(c) Specific Limitations - Limitations of operations specified in these Special Provisions include, but are not limited to, the following:

Limitations	**Subsection**
Cooperation with Utilities	00150.50
Cooperation with Other Contractors	00150.55

Railway Work ..... 00170.01(e)
On-Site Work ..... 00180.40(b)
Contract Completion Time ..... 00180.50(h)
Right-of-Way and Access Delays 00180.65
Traffic Lane Restrictions ..... 00220.40(e)
Special Events ..... 00220.40(e)
In-water Work Restrictions ..... 00290.34(a)
Noise Control 00290.32
Maintenance Under Traffic 00620.43
Opening Sections to Traffic 00745.51

(Use a paragraph like the following example when limitations prevent contractor work within the limits of the project, before a specified date or for a duration. Replace the example language and fill in the specific dates.)

The drawbridge may be temporarily closed to river traffic from ___(Date)____, to ___(Date)____ .

(Use the following paragraphs when the project is within irrigation districts. Obtain information from the Region Utilities Specialist.)

[Begin irrigation paragraphs]

When submitting the supplemental "look ahead" Project Work schedule, the Contractor shall show all Work that impacts the __(insert irrigation district name)__ canals and channels.

Irrigators have legal rights to use irrigation water from the canals and channels of the __(insert irrigation district name)__ in __(insert contact office location of the irrigation district for the project)__ .

During the irrigation season of __(insert date: example April 1)__ through __(insert date: example October 31)__, the Contractor shall not restrict the flow of water or contaminate the water of the __(insert irrigation district name)__ .

During the non-irrigation season of __(insert date: example November 1)__ through __(insert date: example May 31)__, the Contractor shall allow a __(insert number of days)__ day stock water run approximately every 30 days. The Contractor shall contact the __(insert irrigation district name)__ for the stock water run times.

[End irrigation paragraphs]

The Contractor shall be aware of and subject to schedule limitations in the Standard Specifications that are not listed in this subsection.

00180.41 Project Work Schedules - After the paragraph that begins "One of the following Type…" add the following paragraph:

(Obtain the type of schedule ("A", "B", or "C") from the project Scheduler. Insert the type in the blank.)

In addition to the "look ahead" Project Work schedule, a Type _____ schedule as detailed in the Standard Specifications is required on this Contract.

(Use the following subsection .42 if requested by the Utility Coordinator. If requested, use one of the following options as instructed below and delete the one that does not apply.)

[Option 1 - Use this subsection .42 when requested by the Utility Coordinator.]

[Begin Option 1]

00180.42 Preconstruction Conference - Add the following paragraph to the end of this subsection:

The Contractor shall conduct a group Utilities scheduling meeting with representatives from the Utility companies involved with this Project and the Engineer before the preconstruction conference. The Contractor shall incorporate the Utilities time needs into the Contractor's schedule submitted at the preconstruction conference.

[End Option 1]

[Option 2 - Use this subsection .42 when requested by the Utility Coordinator for large projects with complex utility issues. Be sure to also include subsection 00150.50(c).]

[Begin Option 2]

00180.42 Preconstruction Conference - Replace this subsection, except for the subsection number and title, with the following:

Unless otherwise approved in writing by the Engineer, before any Work is performed and within 30 Calendar Days of the Notice to Proceed, the Contractor shall meet with the Engineer for a preconstruction conference at a time mutually agreed upon.

Before beginning On-Site Work and before the preconstruction conference, the Contractor shall conduct a Utility scheduling meeting with representatives from the Utilities involved with this Project and with the Engineer. The Contractor shall incorporate the time needs of the Utilities into the Contractor's schedule submitted at the preconstruction conference.

The Contractor shall submit a written Utility Coordination Report to the Engineer not later than seven Calendar Days after the Utility scheduling meeting. The Utility Coordination Report shall:

- Identify each specific Utility;
- Identify Utility contact names and numbers;
- Identify dates for Utility scheduling for the entire Project;
- Contain documents showing that the Contractor has accomplished Utility locates; and
- Contain documents showing that Utility locates, along with applicable construction activities, have been reviewed and discussed on-site with Utility representatives.

The Contractor shall hold monthly Utility coordination meetings with Utilities and the Engineer to coordinate Project activities with Utilities and on-going Utility relocation work. The Contractor shall hold monthly Utility coordination meetings in the office or in the field, as appropriate. The Utility coordination meetings shall include, but not be limited to:

- Detailed discussions of existing and abandoned Utilities,
- Detailed discussions of de-energizing and re-energizing service lines,
- Detailed discussions of critical locations for potholing of Utilities,
- Detailed discussions of Project activities, and
- Detailed discussions of on-going Utility relocations in upcoming Project activity areas.

During the monthly Utility coordination meetings, the Utilities will provide Utility drawings and discuss the scope, extent, locations, and significance of all Utility facilities before the Contractor begins work in a new activity area. The Contractor shall incorporate this information into the Project schedules and furnish the Utilities copies of the updated Project schedules.

The Contractor shall plan and schedule all Utility adjustment operations well in advance of On-Site Work. When the Contractor becomes aware of Utility conflicts not previously identified, the Contractor shall notify the applicable Utilities in writing the same Calendar Day. The Contractor shall allow Utilities at least ___ week(s) (___ Calendar Day(s)) to relocate (adjust) the Utility conflicts not previously identified.

[End Option 2]

Add the following subsection:

(Use one of the following four .50(h) subsection options, as appropriate. Fill in the blanks.)

(If either durable pavement markings (00865) or high performance pavement markings (00866) are required, and the completion date is after September 15, check with the Scheduler and request two completion times.)

(If permanent seeding (01030) or planting (01040) is required, and the completion date is outside the planting seasons (see 01030.43(b) or 01040.41 and .42), check with the Scheduler and request two completion times.)

[Option 1 - Use this option when on-site work is to be controlled.]

00180.50(h) Contract Time - The Contractor shall complete all Work to be done under the Contract before the elapse of ___ Calendar Days, or not later than _____, whichever occurs first.

Recording of the elapse of Calendar Days will begin on the day the Contractor begins On-Site Work as defined in 00110.20.

[Option 2 - Use this option when permanent seeding or planting is required. Exclude the establishment from the contract time. Delete what does not apply. Remove parentheses.]

00180.50(h) Contract Time - The Contractor shall complete all Work to be done under the Contract, except for (seeding establishment) (and) (plant establishment), not later than _____.

[Option 3 - Use this option when there are two completion times. Delete what does not apply. Remove parentheses.]

00180.50(h) Contract Time - There are two Contract Times on this Project as follows:

(1) The Contractor shall complete all Work to be done under the Contract, except for _____, not later than _____.

(When permanent seeding or planting is required, exclude the establishment from the contract time.)

(2) The Contractor shall complete all Work to be done under the Contract (, except for (seeding establishment) (and) (plant establishment),) not later than _____.

[Option 4 - Use this option when none of the three options above apply.]

00180.50(h) Contract Time - The Contractor shall complete all Work to be done under the Contract not later than _____.

(Use the following subsection .65 when right-of-way access delays are necessary. Fill in the blanks with the appropriate information.)

00180.65 Right-of-Way and Access Delays - Add the following paragraph and bullet to the end of this subsection:

It is anticipated that the ending date of an anticipated delay for the following properties will be as shown:

- File ___(R/W file number) (Stations right and left)_____ not later than ___(Date)___.

(Use one of the following subsection .85(b) options as instructed below. Delete the one that does not apply.)

[Option 1 - Use this subsection .85(b) on projects that have one completion time. Select the dollar amount from the table listed below.)

00180.85(b) Liquidated Damages - Add the following to the end of this subsection:

The liquidated damages for failure to complete the Work on time required by 00180.50(h) will be $_____ per Calendar Day *.

* Calendar Day amounts are applicable when the Contract time is expressed on the Calendar Day or fixed date basis.

[Option 2 - Use this subsection .85(b) on projects that have two completion times. To determine the values to use, do the following:

For the first value (first blank) calculate the total estimated biddable contract amount of all the work to be finished by the first completion date. For the second value (second blank), use the total estimated biddable contact amount. For the combined value (third blank), use the second value. Do not use a cumulative total for the third blank. [For example: (1) Complete all work to be done under the Contract, except paving, not later than July 1, 200x. (2) Complete all work to be done under the Contract not later than September 1, 200x. The total estimated contract amount is $2,100,000. The estimated biddable contract amount for paving is $300,000. To calculate the estimated biddable contract amount for the work to be finished by the first completion date for determining the value for the first blank; all work to be done ($2,100,000) except paving ($300,000) would be $1,800,000. From the table, the value to choose is $800. To determine the value for the second blank; all work to be done would be $2,100,000. From the table, the value to choose is $1,100. To determine the value for the third blank, use the second value which is $1,100.])

00180.85(b) Liquidated Damages - Add the following paragraphs to the end of this subsection:

There are two daily amounts of liquidated damages on this Project as follows:

Liquidated damages for failure to complete the Work on time required by 00180.50(h-1) will be $ _____ per Calendar Day *. Liquidated damages for failure to complete the Work on time required by 00180.50(h-2) will be $ _____ per Calendar Day *. If liquidated damages should become payable concurrently under the combination of 00180.50(h-1) and (h-2), liquidated damages will be $ _____ per Calendar Day *.

* Calendar Day amounts are applicable when the Contract time is expressed on the Calendar Day or fixed date basis.

(Use the following table to determine the liquidated damages to be filled in above. Delete the table when finished.)

Engineers Estimate		
For More Than	**To and Including**	**Liquidated Damages**
$ 0	$ 25,000	$ 50
25,000	50,000	100
50,000	100,000	300
100,000	500,000	600
500,000	1,000,000	700
1,000,000	2,000,000	800
2,000,000	5,000,000	1,100
5,000,000	10,000,000	1,200
10,000,000	20,000,000	2,000

20,000,000	30,000,000	2,700
30,000,000	–	3,400

(Use the following lead-in paragraph and subsection .85(c) on projects that have lane closures or rolling slowdown closures and where there is a need to have Liquidated Damages to encourage the Contractor to finish the work on time. Normal limits (weekend closure limitations) are listed in the 2015 Standard Specs subsection 00220.40(e). Any Specific limits for all appropriate closures must be inserted in the Special Provisions subsection 00220.40(e) Lane Restrictions.)

Add the following subsection:

00180.85(c) Lane Closures and Rolling Slowdown Closures - Lane closures and rolling slowdown closures beyond the limits specified will inconvenience the traveling public and will be a cost to the Agency.

(Use the following subsection (1) when Liquidated Damage's will be assessed. Check with the Designer. Remove the number and heading if no other closures are allowed. Remove parentheses and use the references to 00220.40(f) only when 00220.40(f) is included in the project. Otherwise delete the references and parentheses.)

(1) Lane Closures - It is impractical to determine the actual damages the Agency will sustain in the event traffic lanes are closed beyond the limits listed in 00220.40(e) (or 00220.40(f)). Therefore, the Contractor shall pay to the Agency, not as a penalty, but as liquidated damages, $500 per 15 minutes, or for a portion of 15 minutes, per lane, for any lane closure beyond the limits listed in 00220.40(e) (or 00220.40(f)). In addition to the liquidated damages, all added cost for traffic control measures, including flagging, required to maintain the lane closures beyond the allowed time limits, will be at no additional cost to the Agency. The required traffic control measures will be as determined by the Engineer.

The Engineer will determine when it is safe to reopen lanes to traffic. Assessment of liquidated damages will stop when all lanes have been safely reopened. Any liquidated damages assessed under these provisions will be in addition to those listed in 00180.85(b).

(Use the following subsection (2) on projects that have limited access roadways and allow the Rolling Slowdown Method of traffic control listed in 00220.40(g). Renumber if appropriate and delete ", but not in addition to (1) above".)

(2) Rolling Slowdown Closures - It is impractical to determine the actual damages the Agency will sustain in the event traffic lanes are closed by the Rolling Slowdown Method. Therefore, the Contractor shall pay to the Agency, not as a penalty, but as liquidated damages, $500 per 20 minutes, or for a portion of 20 minutes, per lane, for any lane closure beyond the 20 minute limit listed in 00220.40(g). In addition to the liquidated damages, any added cost for traffic control measures, including flagging or pilot cars, required to maintain the lane closures beyond the allowed time limits, will be at no additional cost to the Agency. The required traffic control measures will be as determined by the Engineer.

The Engineer will determine when it is safe to reopen lanes to traffic. Assessment of liquidated damages will stop when all lanes have been safely reopened. Any liquidated damages assessed under these provisions will be in addition to those listed in 00180.85(b), but not in addition to (1) above for closures of the same lanes.