

Connecticut DOT

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Bureau of Engineering and Construction

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ENGINEERING & CONSTRUCTION DIRECTIVE

Bureau Chief/Chief Engineer

Milestone Incentives and Milestone Liquidated Damages on Construction Projects

This directive provides guidance and establishes procedures for the use of Milestone Incentives and Milestone Liquidated Damages (M-I/M-LD) Owned Special Provisions in construction contracts. It has been issued to ensure that Construction and Engineering have a clear mutual understanding of the purpose of an applicable incentive or milestone liquidated damages and to establish consistency so that the provisions are legally enforceable and are specified, administered and enforced appropriately.

When warranted, M-I/M-LD provisions are used to motivate a contractor to complete specific tasks by a milestone date. Their purpose is to limit the impacts to traffic flow during construction stages or detours, to maintain the project's original completion date by ensuring that major phases of the project are completed on time, and to ensure that construction is completed before important occasions or events. Examples include the beginning of the school year, winter, holidays, or significant local events that could be adversely impacted by the delayed completion of a project milestone. Ultimately, the use of these provisions results in projects that are completed on time and within budget with corresponding reduced road user costs and reduced project administration costs.

M-I/M-LD provisions are NOT for use on every project. Generally, M-I/M-LD provisions should be limited to those projects whose construction would severely disrupt traffic or services, significantly increase road user costs, have a significant impact on adjacent neighborhoods or businesses, or would provide a major improvement or increased capacity to the highway system.

For large, complex projects, the Designer must coordinate with District management to determine the applicability of M-I/M-LD provisions. This should occur initially at project scoping and following the Public Information stage. The M-I/M-LD provisions and corresponding calculations are to be included in the 60% Design Review submission for review and concurrence by the applicable Construction District Engineer.

ECD-2021-1 January 25, 2021

In developing the Department's M-I/M-LD provisions, the FHWA Code of Federal Regulations, FHWA Technical Advisories, AASHTO sources, published independent research studies, and court case history were taken into account as well as consultation with the FHWA and the Connecticut Assistant Attorney General.

Milestone Incentive and Milestone Liquidated Damages Guidance Document:

For detailed procedures and processes refer to the "Milestone Incentives and Milestone Liquidated Damages Guidance Document".

Contract Provisions:

The M-I/M-LD owned special provisions will supplement the following articles:

- "Contract Time and Liquidated Damages"
- Article 1.03.09 Contractor Readiness Plan
- Article 1.08.03 Prosecution of Work
- Article 1.08.09 Failure to Complete Work on Time

Other Liquidated Damages provisions:

M-I/M-LD provisions are developed and considered separately from "Contract Completion Liquidated Damages and "Lane Use, Hourly Liquidated Damages". For informational purposes those are described below:

- "Contract Completion Liquidated Damages" (LD's) are a daily amount set forth in the contract to be deducted from the contract price to cover additional costs incurred by the Department because of the contractor's failure to complete *all* of the contract work within the number of calendar days or workdays specified or by the completion date specified.
- "Lane Use, Hourly Liquidated Damages" are determined separately by the Traffic Division in accordance with their current guidelines and procedures. If warranted, these are hourly liquidated damages applied for each hour or portion thereof in which the contractor interferes with normal traffic operations during the restricted hours provided in the contract's special provision for Article 1.08.04 "Limits of Operations."