

**CONTRACT DOCUMENTS FOR  
TRUCK BYPASS WIDENING & CULVERT REPLACEMENT**

**PCN: D19114**

**BID NUMBER B-23-02**

**Grant County, New Mexico**



**April 2023**

**Jesus E. Avitia P.E.**  
**N.M.P.E No. 25777**  
**Project Engineer**  
**Souder, Miller & Associates**

Bid Open Date: May 23, 2023  
Bid Time: 2:00 P.M.

GRANT COUNTY, NEW MEXICO

DISTRICT 1 COMMISSIONER

CHRIS PONCE

DISTRICT 2 COMMISSIONER

ELOY MEDINA

DISTRICT 3 COMMISSIONER

ALICIA EDWARDS

DISTRICT 4 COMMISSIONER

GERALD W. BILLINGS JR.

DISTRICT 5 COMMISSIONER

HARRY BROWNE

SPECIFICATIONS AND CONTRACT DOCUMENTS FOR:

**TRUCK BYPASS WIDENING & CULVERT REPLACEMENT**

**PCN: D19114**

**BID NUMBER B-23-02**

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### NOTICE TO CONTRACTOR:

NTC – 2019 Standard Drawings for Highway and Bridge Construction Updates  
(Effective January 2020 Letting)

NTC – ADA Construction Inspection Procedure

NTC – Additional Named Insured

NTC – Cooperation with Utilities

NTC – Monthly Asphalt Binder Price Adjustment Procedures (01/01/19)

NTC – Non-Mandatory Pre-Bid Conference (01/01/19)  
NTC – Ramp-Up Time  
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NTC – Temporary Access Control Breaks  
NTC – License from Construction Industries Division (CID)  
NTC – NMDOT TLPA – Section 100



## **SPECIAL PROVISIONS**

### **PROJECT SPECIFIC SPECIAL PROVISIONS:**

**SECT 416** (1-21-21) MINOR PAVING

### **STANDARD SPECIAL PROVISIONS:**

**SECT 423** (5-28-19) HOT MIX ASPHALT (HMA) (MAJOR PAVING)

**SECT 511** (5-9-19) CONCRETE STRUCTURES

**SECT 512** (4-15-19) SUPERSTRUCTURE CONCRETE

**SECT 514** (12-20-19) CONCRETE BARRIER RAILING FOR BRIDGES

**SECT 537** (12-20-19) POLYESTER EPOXY CONCRETE OVERLAY

**SECT 543** (12-20-19) METAL RAILING

**SECT 560** (5-9-19) ELASTOMERIC BEARING PADS

**SECT 602** (12-20-19) SLOPE AND EROSION PROTECTION STRUCTURES

**SECT 606** (1-1-19) METAL BARRIER, CABLE BARRIER AND CONCRETE WALL BARRIER

**SECT 632** (1-1-19) REVEGETATION

**SECT 701** (3-26-19) TRAFFIC SIGNS AND SIGN STRUCTURES

**SECT 704** (12-23-19) PAVEMENT MARKINGS

**SECT 704-A** (12-23-19) TEMPORARY MARKING TAPE

**SECT 704-B** (12-23-19) RETROREFLECTIVE PREFORMED PLASTIC MARKINGS

**SECT 704-C** (12-23-19) HOT THERMOPLASTIC MARKINGS

**SECT 704-D** (12-23-19) PREFORMED THERMOPLASTIC MARKINGS

**SECT 706** (3-7-19) SIGNAL AND LIGHTING SERVICE SYSTEMS

**SECT 713** (5-24-19) DETECTORS

**SECT 716** (5-1-19) LUMINAIRES

**SECT 902** (2-11-19) QUALITY CONTROL

**SECT 904** (1-1-19) QUALITY LEVEL ANALYSIS (QLA)

**SECT 906** MINIMUM TESTING REQUIREMENTS (MTR'S)

### SUPPLEMENTAL SPECIFICATIONS

# ENGINEER CERTIFICATION

## TRUCK BYPASS CULVERT REPLACEMENT

These Contract Documents and Construction Specifications for the **Truck Bypass Widening & Culvert Replacement, PCN: D19114; BID NUMBER B-23-02, Grant County, New Mexico** were prepared by:

**Souder, Miller & Associates**  
500 Main Street Suite 504  
Roswell, NM 88203  
(575) 624-2400

The technical material and data contained in the specifications were prepared under the supervision and direction of Jesus E. Avitia, P.E., whose seal as a Professional Engineer licensed to practice in the state of New Mexico is affixed below.



---

**Jesus E. Avitia, P.E.**  
New Mexico PE License #25777

Date

All questions about the meaning of intent of these documents shall be submitted only to the Engineer of Record stated above, **IN WRITING** for interpretations.

## CONTRACT AGREEMENT

This AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ by and between Grant County, a New Mexico municipal corporation ("OWNER") and \_\_\_\_\_ a New Mexico \_\_\_\_\_ ("CONTRACTOR").

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### ARTICLE 1 - CONTRACT DOCUMENTS

The Contract Documents which comprise the entire AGREEMENT between OWNER and CONTRACTOR concerning the Work consist of the following:

- This AGREEMENT
- Exhibits to this AGREEMENT
- All required Bonds
- Notice of Award
- Conditions of the Contract (General, Supplementary, and Other Conditions)
- Project Specifications
- Drawings with each sheet bearing the following general title:

#### **TRUCK BYPASS WIDENING & CULVERT REPLACEMENT PCN: D19114 – BID No. B-23-02**

- Notice to Proceed
- Bid Documents and CONTRACTOR'S *Bid Schedule*
- The Certificate of Insurance
- All Addenda Issued Prior to, and all Modifications Issued after, Execution of this AGREEMENT.

These documents form the Contract, and all are as fully a part of the Contract, as if attached to this AGREEMENT, or repeated herein.

There are no Contract Documents other than those listed above in the Article 1.

### ARTICLE 2 - WORK

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

#### **TRUCK BYPASS WIDENING & CULVERT REPLACEMENT**

and consisting of the following: See attached *Exhibit A*.

### **ARTICLE 3 - TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

The date of commencement of the Work is the date established in the NOTICE TO PROCEED AS ISSUED BY THE OWNER. Substantial Completion shall be achieved per the table shown below:

The date of commencement of the Work is the date established in the NOTICE TO PROCEED AS ISSUED BY THE OWNER. Substantial Completion shall be achieved no later than **Eighty (80)** Weather Working Days, after the date of written "Notice to Proceed", except as hereafter extended by valid written Change Order, by the OWNER. Final Completion shall be achieved no later than **Ten (10)** Weather Working Days after the date of Substantial Completion.

The contract shall include **(30)** Calendar Days Ramp Up Time.

Should the CONTRACTOR neglect, refuse, or otherwise fail to complete the Work within the time specified in this article, the CONTRACTOR agrees, in partial consideration for the award of this Contract, to pay to the OWNER the amount **Identified in Section 108.8 Liquidated Damages of the NMDOT Standard Specifications for Highway and Bridge Construction 2019 Edition** per consecutive Weather Working Day, not as a penalty, but as liquidated damages for such breach of this Contract.

### **ARTICLE 4 - CONTRACT PRICE**

OWNER shall pay CONTRACTOR in current funds for performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, the Contract Price determined as follows: \$X,XXX,XX.XX (including New Mexico Gross Receipts Tax at 6.4375%).

### **ARTICLE 5 - PROGRESS PAYMENTS**

The OWNER shall make progress payments on account of the Contract Price to the CONTRACTOR as provided in the Contract Documents for the period ending the last day of the month as follows:

Not later than forty-five (45) days following receipt by the OWNER, of the undisputed Application, for Payment, one hundred percent (100%) of the portion of the Contract Price properly allocable to labor, materials, and equipment incorporated in the Work, and one hundred percent (100%) of the portion of the Contract Price properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the OWNER; and upon Substantial Completion of the entire Work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Price, less such amounts as the Engineer shall determine for all incomplete Work and unsettled claims as provided in the Contract Documents, which shall be paid in accordance in Article 6 of this Contract.

Valid, undisputed payments, due and unpaid, under the Contract Documents shall bear interest from the date payment is due, at the legal rate established by Laws of 2001, Chapter 68, Section 5. Section 13-4-28, NMSA 1978.

### **ARTICLE 6 - FINAL PAYMENT**

Final payment, constituting the entire undisputed, unpaid balance of the Contract Price, shall be paid by the OWNER to the CONTRACTOR within ten (10) days after notification of the OWNER, by the Architect/Engineer that all incomplete and unacceptable Work that was noted during the Substantial Completion Inspection, and listed on the attachment to the Certificate of Substantial Completion has been corrected, and provided the Contract has been fully performed, and a final Certificate for Payment has been issued by the Architect/Engineer. In addition, the CONTRACTOR shall provide to the OWNER a certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

## **ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS**

CONTRACTOR makes the following representations:

CONTRACTOR has studied and become familiar with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

CONTRACTOR has given OWNER's Representative all conflicts, errors or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by OWNER's Representative is acceptable to CONTRACTOR.

## **ARTICLE 8 - GENERAL AND SPECIAL PROVISIONS**

The OWNER's Representative is Joe Grijalva, County Road Superintendent for Grant County, New Mexico, who is hereinafter called OWNER's Representative and who is to act as OWNER's Representative, assume all duties and responsibilities and have the rights and authority assigned to OWNER's Representative in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

This AGREEMENT shall be governed exclusively by the provisions hereof, and by the laws of the State of New Mexico, as the same from time to time exist.

Terms used in this AGREEMENT, which are defined in the Conditions of the Contract, shall have the meanings designated in those Conditions.

As between the parties to this AGREEMENT: As to all acts or failures to act by either party to this AGREEMENT, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the relevant Date of Substantial Completion of the Work; and as to any acts or failures to act occurring after the relevant Date of Substantial Completion, not later than the date of the OWNER's approval of the Final Certificate of Payment.

The CONTRACTOR shall hold harmless and indemnify the OWNER against any and all injury, loss, or damage, including cost of defense - including but not limited to court costs and attorneys' fees - arising out of the negligent acts, errors, or omissions of the CONTRACTOR.

This AGREEMENT shall not become effective until it is signed by all parties which are required to sign this AGREEMENT.

The CONTRACTOR and his agents and employees are independent CONTRACTORS and are not employees of Grant County. The CONTRACTOR and his agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of Grant County, as a result of this AGREEMENT.

The CONTRACTOR, upon final payment of the amounts due under this AGREEMENT, releases the OWNER, his officers and employees, and Grant County from all liabilities and obligations arising from or under this AGREEMENT, including but not limited to all damages, losses, costs, liability, and expenses, including but not limited to attorneys' fees and costs of litigation that the CONTRACTOR may incur.

The CONTRACTOR agrees not to purport to bind Grant County to any obligation not assumed herein by Grant County unless the CONTRACTOR has express written authority to do so, and then only within the strict limits of that authority.

**Notices.** All notices herein provided to be given, or which may be given, by either party to the other shall be deemed to have been fully given when made in writing and deposited in the United States

mail, postage prepaid - in the instance of notice of termination of work also by certified mail - and addressed as follows:

THE OWNER:

Grant County

THE CONTRACTOR:

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed to either party may be changed by written notice given by such party to the other as here in above provided.

**Gender, Singular/Plural.** Words of any gender used in this AGREEMENT shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context requires otherwise.

**Captions and Section Headings.** The captions and section headings contained in this AGREEMENT are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this AGREEMENT.

**Certificates and Documents Incorporated.** All certificates and documentation required by the provisions of this AGREEMENT shall be attached to this AGREEMENT at the time of Execution and are hereby incorporated by reference as though set forth in full in this AGREEMENT to the extent they are consistent with its conditions and terms.

**Severability.** If any clause or provision of this AGREEMENT is illegal, invalid, or unenforceable under present or future laws effective during the term of this AGREEMENT, then and in that event, it is the intention of the parties hereto that the remainder of this AGREEMENT shall not be affected thereby.

**Waiver.** No provision of this AGREEMENT shall be deemed to have been waived by either party unless such waiver be in writing signed by the party making the waiver and addressed to the other party; nor shall any custom or practice which may evolve between the parties in the administration of the terms hereof be accordance with the terms hereof. Further, the waiver by any party of a breach by the other party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof.

**Entire AGREEMENT.** This AGREEMENT represents the entire contract between the parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This AGREEMENT incorporates all the conditions, agreements, and understandings between the parties concerning the subject matter of this AGREEMENT, and all such conditions, understandings, and agreements have been merged into this written AGREEMENT. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written AGREEMENT.

**Interchangeable Terms.** For purposes of all provisions within this AGREEMENT and all attachments hereto, the terms "AGREEMENT" and "Contract" shall have the same meaning and shall be interchangeable.

**Words and Phrases.** Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Contract Documents shall be used according to such recognized meanings. In the event of a conflict, the more stringent meaning shall govern.

**Relationship of Contract Documents.** The Contract Documents are complementary, and any requirement of one contract document shall be as binding as if required by all.

Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including Sections 30-24-1 through 30-24-3, NMSA 1978, and 30-41-1 through 30-41-3,

NMSA 1978), which prohibit bribes, kickbacks, and gratuities, violations of which constitutes a felony. Further, the Procurement Code (Sections 13-1-28 through 13-1-199, NMSA 1978) imposes civil and criminal penalties for its violation.

A potential CONTRACTOR, or the CONTRACTOR, agrees to comply with state laws and rules pertaining to worker's compensation insurance coverage for its employees. If CONTRACTOR fails to comply with the Worker's Compensation Act, and applicable rules when required to do so, the contract may be canceled effective immediately.

OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have Executed two copies of this AGREEMENT. One counterpart each has been delivered to CONTRACTOR and OWNER's Representative. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by OWNER's Representative on their behalf.

CONTRACTOR

By: \_\_\_\_\_

NM Taxpayer Identification Number: \_\_\_\_\_

Federal Taxpayer Identification Number: \_\_\_\_\_

OWNER  
GRANT COUNTY, NEW MEXICO  
a New Mexico Municipal Corporation

By: \_\_\_\_\_  
Charlene Webb, Grant County Manager

ATTEST:

\_\_\_\_\_

## EXHIBIT A

### TRUCK BYPASS WIDENING & CULVERT REPLACEMENT PCN: D19114 – BID No. B-23-02

#### **Project Scope of Work:**

This roadway project involves two available options herein listed as Alternate No. 1 and Alternate No. 2.

Alternate No.1 entails full reconstruction and widening to 28 feet with 3" hot mix asphalt over 6" basecourse, extending of mainline culverts, permanent signing and striping, and drainage improvements.

Alternate No.2 entails reconstruction and widening to 28 feet with 3" minor paving over 6.5" of processing, placing and compacting with full reconstruction at shoulders, permanent signing and striping, and drainage improvements.



## **Required Documents for Bid Submittal**

**Affidavit of Bidder**

**Bid Guaranty**

**Bidder's List of Quoters for the Disadvantaged Business Enterprise (DBE) Program**

**Notice to Contractors Disadvantaged Business Enterprise**

**Non-Debarment Certification**

**Pay Equity Acknowledgement (Executive Order 2009-049)**

**Subcontractors Fair Practices Act Compliance**

**Bid Bond**

**Statement of Bidders Qualifications**

**Bid Schedule (Form)**

**Subcontractor List**

**Certificate of Insurance**

**Campaign Contribution Disclosure Form**

New Mexico Department of Transportation ("NMDOT")  
Affidavit of Bidder  
PCN: D19114  
BID No. B-23-02

BIDDER: \_\_\_\_\_ TELEPHONE: (    ) \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

The Bidder shall execute this Certification of Bidder. I \_\_\_\_\_ hereby affirm per 23 C.F.R. § 635.112(f) (2009) and as a condition to the NMDOT's execution of this Contract that I have not either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the Bid for this Contract.

**Further affiant sayeth not.**

Title: \_\_\_\_\_

Bidder (print): \_\_\_\_\_

Bidder Signature: \_\_\_\_\_

---

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS:

\_\_\_\_\_ day of \_\_\_\_\_ 2021

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

New Mexico Department of Transportation ("NMDOT")  
Bid Guaranty  
BID No. B-23-02  
Project Control Number ("PCN"):  D19114

BIDDER: \_\_\_\_\_ TELEPHONE: (    ) \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

SURETY: \_\_\_\_\_  
SURETY BUSINESS ADDRESS: \_\_\_\_\_

KNOWN ALL MEN by these presents that the Surety having its registered office at the above address are bound unto the NMDOT in the sum of five percent (5%) of the Total Bid Amount as shown on the Project Bid Schedule for which payment well and truly to be made to the NMDOT the Surety binds itself, its successors and assigns by these presents.

The Surety undertakes to pay the NMDOT up to the above amount upon receipt of the NMDOT's first written demand, without the NMDOT having to substantiate its demand, provided that in its demand the NMDOT will note that the amount claimed by the NMDOT is due to the Bidder failing to return the signed Contract and Contract Bonds within fifteen (15) Days of receiving the Contract. The Guaranty will remain in force up to 30 Days after Bid Opening or as it may be extended by the NMDOT, notice of which extension(s) to the Surety is hereby waived.



**NOTICE TO CONTRACTORS**

**TRUCK BYPASS WIDENING & CULVERT REPLACEMENT**

**PCN: D19114 – BID No. B-23-02**

**Grant County, New Mexico**

YOU ARE HEREBY ADVISED OF THE FOLLOWING:

Contractor is advised that there is no project specific DBE Goal, however, a Bidder's List of Subcontractors will be required.

New Mexico Department of Transportation ("NMDOT")  
Non-Debarment Certification  
BID No. B-23-02  
Project Control Number ("PCN"): D19114

BIDDER: \_\_\_\_\_ TELEPHONE: (    ) \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

The Federal Highway Administration suspends or debar contractors to protect taxpayer dollars and the NMDOT is required to Award Contracts to responsible Bidders. The submission of the Bid is the Bidder's certification that neither it nor its principals are presently suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Project by any federal department or agency. The Bidder further agrees that if it is the lowest Responsible Bidder and awarded the Contract then it shall comply with the following:

1. The Contractor shall verify through the SAM.gov website at <https://www.sam.gov/portal/SAM/##11> that its Subcontractor(s), at any tier(s), is not presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Project. The result of this verification shall be provided in the NMDOT's permission to subcontract request form number A - 1086 and A - 1087; and
2. If circumstances change to render this certification inaccurate then the Contractor shall provide the changed circumstances immediately in writing to the Project Manager.

If the Contractor knowingly makes a false certification the NMDOT may take any available actions under the Contract.

**Failure to acknowledge the terms and conditions above shall render the Bid non-responsive and the Bid shall be rejected.**

I acknowledge

New Mexico Department of Transportation ("NMDOT")  
Pay Equity Reporting Acknowledgement  
New Mexico Executive Order 2009-049  
BID No. B-23-02  
Project Control Number ("PCN"): D19114

BIDDER: \_\_\_\_\_ TELEPHONE: (    ) \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

Pre-Award

The State of New Mexico requires the lowest Responsible Bidder to, in order to contract with Executive Branch Agencies, including the NMDOT, comply with Executive Order 2009-049. To comply with the Executive Order, after receipt of the notice of preliminary award of contract, the lowest Responsible Bidder shall submit per the notice of preliminary award of contract either form PE10-249 or PE250 depending on its number of employees at the time it receives the notice of preliminary award of contract.

Failure of the lowest Responsible Bidder to comply with this Pay Equity Reporting Acknowledgement may constitute just cause for cancellation of the Award and the forfeiture of the Bid Guaranty.

Exemptions exist regarding compliance with the Executive Order. The Executive Order and required forms can be obtained from the following link:

[http://www.generalservices.state.nm.us/slalepurchasir.glpay equity.aspx](http://www.generalservices.state.nm.us/slalepurchasir.glpay%20equity.aspx)

Post-Award

If Contract Time extends beyond one (1) year from the date in the Notice to Proceed, then within ten Days of the annual anniversary date of the Notice to Proceed, the Contractor shall submit to the Project Manager an updated form PE 10-249 or PE250 depending on the number of employees it has at that time.

If at the expiration of Contract Time, more than 180 Days has elapsed since submittal of the last PE 10-249 or PE250, the Contractor shall submit to the Project Manager an updated form PE 10-249 or PE250.

If a Subcontractor, at any tier, performs ten percent or more of the Total Original Contract Amount and has ten or more employees or eight (8) employees in the same job classification then the Contractor shall submit to the Project Manager the PE 10-249 or PE250. The Contractor shall submit the appropriate form with the permission to subcontract package forms A-1086 or A-1087.

If a Subcontractor, at any tier, performs ten percent or more of the Total Original Contract Amount and during the performance of this Work grows to have ten or more employees or eight (8) employees in the same job classification then the Contractor shall immediately submit form PE 10-249 or PE250. Subsequent form PE 10-249 or PE250 submittals, by the Contractor for its Subcontractors, at any tier, shall be due yearly on the anniversary date of the Project Manager's approval of the permission to subcontract package. Failure of the Contractor to comply with this Pay Equity Reporting Acknowledgement shall result in the NMDOT exercising its remedies under the Contract.

I acknowledge:

New Mexico Department of Transportation ("NMDOT")  
 Subcontractors Fair Practices Act Compliance  
 BID No. B-23-02  
 Project Control Number ("PCN"):     D19114    

BIDDER: \_\_\_\_\_ TELEPHONE: (    ) \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_

The Subcontractors Fair Practices Act, NMSA 1978, §§ 13 – 4 – 31 to – 43 (1995), applies to this Project.

The Subcontractors Fair Practices Act prevents Contractors from Bid shopping and Bid peddling. The Subcontractors Fair Practices Act requires that Subcontractor quotes received for specific Work shall be listed when the quote exceeds the listing threshold identified herein.

For this Project, quotes for street lighting and traffic signal Work that exceed the listing threshold in the Advertisement shall be listed.

Only one Subcontractor shall be listed below for each Description of Work.

The listing requirements do not apply if the Contractor:

- 1) Receives no quotes for the Work and the Contractor states the same below; or
- 2) Receives only one quote for the Work, the Contractor states the name of the sole quoter below and the designation of sole quoter below only occurs one time.

Description of Work	Subcontractor (and if sole quoter designation as sole quoter)	Address	Quote Amount

Failure to list a Subcontractor quote, that no quotes were received, or that a sole quote was received for the Work that exceed the listing threshold is the Contractor's representation that it is qualified and shall self perform the Work itself.

Substitutions of listed Subcontractors with other listed Subcontractors or with non-listed Subcontractors are allowed only per Section 13-4-36 and is conditioned upon the written consent of the NMDOT before the substitution occurs.

Failure of the Contractor to comply with the requirements herein shall be grounds for NMDOT's exercising its contractual remedies and the assessment of penalties per Section 13-4-41.



**State Wage Rates**



**LABOR RELATIONS DIVISION**

401 Broadway NE  
 Albuquerque, NM 87102  
 Phone: 505-841-4400  
 Fax: 505-841-4424

226 South Alameda Blvd  
 Las Cruces, NM 88005  
 Phone: 575-524-6195  
 Fax: 575-524-6194

**WWW.DWS.STATE.NM.US**

1596 Pacheco St, Suite 103  
 Santa Fe, NM 87505  
 Phone: 505-827-6817  
 Fax: 505-827-9676

**Wage Decision Approval Summary**

1) Project Title: TRUCK BYPASS WIDENING & CULVERT REPLACEMENT  
 Requested Date: 02/22/2023  
 Approved Date: 02/24/2023  
 Approved Wage Decision Number: GR-23-0533-A

**Wage Decision Expiration Date for Bids: 06/24/2023**

2) Physical Location of Jobsite for Project:  
 Job Site Address: TRUCK BYPASS ROAD  
 Job Site City: SILVER CITY  
 Job Site County: Grant

3) Contracting Agency Name (Department or Bureau): COUNTY OF GRANT  
 Contracting Agency Contact's Name: Veronica Rodriguez  
 Contracting Agency Contact's Phone: (575) 574-0016 Ext.

4) Estimated Contract Award Date: 05/11/2023

5) Estimated total project cost: \$3,590,000.00  
 a. Are any federal funds involved?: No  
 b. Does this project involve a building?: No  
 c. Is this part of a larger plan for construction on or appurtenant to the property that is subject to this project?: No  
 d. Are there any other Public Works Wage Decisions related to this project?: No  
 e. What is the ultimate purpose or functional use of the construction once it is completed?: IMPROVED ROADWAY

6) Classifications of Construction:

Classification Type and Cost Total	Description
<b>Highway/Utilities (A)</b> <b>Cost: \$3,590,000.00</b>	This roadway project involves two available options listed herein as Alternate No.1 and Alternate No.2.  Alternate No. 1 entails full reconstruction and widening to 28 feet with 3"hot mix asphalt over 6" basecourse, extending of mainline culverts, permanent signing and stripping, and drainage improvements.  Alternate No. 2 entails reconstruction and widening to 28 feet with 3"hot mix asphalt over 6.5" of processing, placing and compacting with full reconstruction at shoulders, permanent signing and stripping, and drainage improvements.

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned,  
\_\_\_\_\_, as PRINCIPAL, and  
\_\_\_\_\_, as SURETY are held and firmly bound unto The  
Grant County, New Mexico, hereinafter called the OWNER, in the penal sum of  
\_\_\_\_\_ dollars, (\$\_\_\_\_\_) lawful money of the United  
States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs,  
executors, administrator, successors, personal representatives, and assigns, jointly and  
severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted  
the accompanying Bid, dated \_\_\_\_\_, 20\_\_\_\_, for  
\_\_\_\_\_.

NOW, THEREFORE, if the Principal shall not withdraw said Bid within the period therein  
specified after the Bid Opening of the same or, if no period be specified, within forty-five (45)  
days after the said opening, and shall within the period specified therefore, or if no period be  
specified, within fifteen (15) days after the prescribed forms are presented to Principal for  
signature, enter into a written Contract with the OWNER in accordance with the Bid as  
accepted, and give bond with good and sufficient surety or sureties, as may be required, for the  
faithful performance and proper fulfillment of such Contract, or in the event of the withdrawal of  
said Bid within the period specified, or the failure to enter into such Contract and give such bond  
within the time specified, the Principal shall pay the OWNER the difference between the amount  
specified in said Bid and the amount for which the OWNER may procure the required Work or  
supplies or both, if the latter be in excess of the former, then the above obligation shall be void  
and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their  
several seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the  
name and corporate seal of each corporate party being hereto affixed and these presents  
signed by its undersigned representative, pursuant to authority of its governing body.

In presence of:

[Individual Principal]	[SEAL]
	[Business Address]
	[Partnership] [SEAL]
	[Business Address]

Attest: \_\_\_\_\_

By: \_\_\_\_\_

[Corporate Principal]

\_\_\_\_\_  
[Business Address]

By: \_\_\_\_\_ Affix  
Corporate Seal

\_\_\_\_\_  
Attest: \_\_\_\_\_

\_\_\_\_\_  
[Corporate Surety]

By: \_\_\_\_\_ Affix  
Corporate Seal

Countersigned

By: \_\_\_\_\_

Attorney-in-Fact<sup>1</sup>, State of \_\_\_\_\_

\_\_\_\_\_  
<sup>1</sup>Power-of-attorney for person signing for Surety Company must be attached to bond and must indicate availability for service in the State of New Mexico and a current mailing address.

## STATEMENT OF BIDDER'S QUALIFICATIONS

### (TO BE SUBMITTED BY THE BIDDER AND INCLUDED WITH BID)

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Bidder may submit additional information.

1. Name of Bidder, current N.M. Contractor's License Number, and current Grant County Business Registration Number (if available)
  2. Is the Contractor on the NMDOT Pre-Qualified list?
  2. Permanent main office address
  3. When organized?
  4. If a corporation, where incorporated?
  5. How many years have you been engaged in the contracting business under your present firm or trade name?
  6. Contracts on hand (Schedule these, showing amount of each Contract and the approximate anticipated dates of completion.)
  7. General character of Work performed by your company
  8. Have you ever failed to complete any Work Awarded to you? If so, where and why?
  9. Have you ever defaulted on a Contract? If so, where and why?
  10. List the more important Projects recently completed by your company, stating the approximate cost for each and the month and year completed.
  11. List your major equipment available for this Contract.
  12. Experience in construction work similar in importance to this Project.
  13. Background and experience of the principal members of your organization, including the officers.
  14. Credit available: \$\_\_\_\_\_.
  15. Give bank reference:
- 
16. Will you, upon request, fill out a detailed Financial Statement and furnish any other information that may be required by the OWNER?

17. The undersigned hereby authorizes any person, firm, or corporation to furnish any information requested by the OWNER in verification of the recitals comprising this statement of Bidder's Qualifications. This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, dated at \_\_\_\_\_.

\_\_\_\_\_  
Name of Bidder

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_ )

) ss.

County of \_\_\_\_\_ )

\_\_\_\_\_, the \_\_\_\_\_ of  
Name Position

\_\_\_\_\_ being duly sworn,  
Company Name

deposes and says that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_, 20\_\_\_\_

# TRUCK BYPASS WIDENING & CULVERT REPLACEMENT

BID No. B-23-02

## Alternate No.1 Bid Form

<b>ALTERNATE No. 1 UNIT 1</b>					
ITEM #	ITEM DESCRIPTION	UNIT	QTY	UNIT PRICE	COST
201000	CLEARING AND GRUBBING	L.S.	L.S.		
203000	UNCLASSIFIED EXCAVATION	C.Y.	7800		
203100	BORROW	CU.YD.	3100		
203200	SUBEXCAVATION	CU.YD.	400		
207000	SUBGRADE PREPARATION	S.Y.	43300		
303000	BASE COURSE	TON	9650		
408100	PRIME COAT MATERIAL	S.Y.	70		
416103	MINOR PAVING TYPE I, HMA SP-III	TON	5120		
511000	STRUCTURAL CONCRETE, CLASS A	C.Y.	10		
511030	STRUCTURAL CONCRETE, CLASS AA	C.Y.	320		
515000	REINFORCED CONCRETE FOR MINOR STRUCTURES	C.Y.	70		
540060	REINFORCING BARS GRADE 60	LB	46300		
541200	STRUCTURAL STEEL FOR MISCELLANEOUS STRUCTURE	LB	400		
570030	30" CULVERT PIPE	L.F.	100		
570031	30" CULVERT PIPE END SECTION	EACH	5		
570042	42" CULVERT PIPE	L.F.	10		
570043	42" CULVERT PIPE END SECTION	EACH	2		
570048	48" CULVERT PIPE	L.F.	32		
570049	48" CULVERT PIPE END SECTION	EACH	4		
601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	L.S.	L.S.		
601110	REMOVAL OF SURFACING	S.Y.	22200		
602000	RIPRAP CLASS A	C.Y.	20		
602010	RIPRAP CLASS B	C.Y.	90		
603100	TEMPORARY SOIL STABILANT	ACRE	8		
603260	CULVERT PROTECTION	S.Y.	110		
603261	COMPOSTED MULCH SOCKS	L.F.	2640		
603281	SWPPP PLAN PREPARATION AND MAINTENANCE	L.S.	L.S.		
606001	SINGLE FACE W-BEAM GUARDRAIL	L.F.	575		
606052	END TREATMENT TL-2 END TERMINAL	EACH	8		
607010	BARBED WIRE FENCE (GAME FENCE) 4'	L.F.	210		
607015	BRACES/CORNER POST	EACH	12		
613000	CLEANING CULVERTS AND DRAINAGE STRUCTURES	L.S.	L.S.		
618000	TRAFFIC CONTROL MANAGEMENT	L.S.	L.S.		
621000	MOBILIZATION	L.S.	L.S.		
632000	CLASS A SEEDING	ACRE	7		
632020	CLASS C SEEDING	ACRE	1		
663049	PRE-CONSTRUCTION UTILITY SURVEY	L.S.	L.S.		
667110	MAIL BOX INSTALLATION-SINGLE	EACH	5		
701000	PANEL SIGNS	S.F.	180		
701100	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	L.F.	442		
702610	PORTABLE CHANGEABLE MESSAGE SIGN	EACH	2		
702810	TRAFFIC CONTROL DEVICES FOR CONSTRUCTION	L.S.	L.S.		
703002	OBJECT MARKER TYPE 2	EACH	12		
703003	OBJECT MARKER TYPE 3	EACH	8		
704000	RETROREFLECTORIZED PAINTED MARKINGS 4"	L.F.	72610		
704005	RETROREFLECTORIZED PAINTED MARKINGS 24"	L.F.	30		
801000	CONSTRUCTION STAKING BY THE CONTRACTOR	L.S.	L.S.		
802000	POST CONSTRUCTION PLANS	L.S.	L.S.		
		<b>Bid Alt. No.1 Unit 1</b>			
		<b>TOTAL</b>			

# TRUCK BYPASS WIDENING & CULVERT REPLACEMENT

BID No. B-23-02

## Alternate No.1 Bid Form

ITEM #	ITEM DESCRIPTION	UNIT	QTY	UNIT PRICE	COST
<b>ALTERNATE No. 1 UNIT 2</b>					
201000	CLEARING AND GRUBBING	L.S.	L.S		
203000	UNCLASSIFIED EXCAVATION	C.Y.	500		
203100	BORROW	CU.YD.	200		
207000	SUBGRADE PREPARATION	S.Y.	3900		
303000	BASE COURSE	TON	860		
408100	PRIME COAT MATERIAL	S.Y.	10		
416103	MINOR PAVING TYPE I, HMA SP-III	TON	470		
601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	L.S.	L.S		
601110	REMOVAL OF SURFACING	S.Y.	2000		
603100	TEMPORARY SOIL STABILANT	ACRE	1		
603261	COMPOSTED MULCH SOCKS	L.F.	610		
603281	SWPPP PLAN PREPARATION AND MAINTENANCE	L.S.	L.S.		
618000	TRAFFIC CONTROL MANAGEMENT	L.S.	L.S.		
621000	MOBILIZATION	L.S.	L.S.		
632000	CLASS A SEEDING	ACRE	3		
632020	CLASS C SEEDING	ACRE	0.5		
663049	PRE-CONSTRUCTION UTILITY SURVEY	L.S.	L.S		
663855	ADJUST VALVE BOX TO GRADE	EACH	1		
663865	ADJUST WATER METER TO GRADE	EACH	1		
701000	PANEL SIGNS	S.F.	50		
701100	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	L.F.	65		
702610	PORTABLE CHANGEABLE MESSAGE SIGN	EACH	2		
702810	TRAFFIC CONTROL DEVICES FOR CONSTRUCTION	L.S.	L.S.		
704000	RETROREFLECTORIZED PAINTED MARKINGS 4"	L.F.	6520		
704005	RETROREFLECTORIZED PAINTED MARKINGS 24"	L.F.	30		
801000	CONSTRUCTION STAKING BY THE CONTRACTOR	L.S.	L.S.		
802000	POST CONSTRUCTION PLANS	L.S.	L.S.		
		<b>Bid Alt. No.1 Unit 2</b>			
		<b>TOTAL</b>			
		<b>Bid Alternate No. 1</b>			
		<b>TOTAL SUM</b>			



# TRUCK BYPASS WIDENING & CULVERT REPLACEMENT

BID No. B-23-02

## Alternate No.2 Bid Form

<b>ALTERNATE No. 2 UNIT 1</b>					
ITEM #	ITEM DESCRIPTION	UNIT	QTY	UNIT PRICE	COST
201000	CLEARING AND GRUBBING	L.S.	L.S.		
203000	UNCLASSIFIED EXCAVATION	C.Y.	7800		
203100	BORROW	CU.YD.	3100		
203200	SUBEXCAVATION	CU.YD.	400		
207000	SUBGRADE PREPARATION	S.Y.	21600		
302000	PROCESSING, PLACING AND COMPACTING EXISTING PAVEMENT	S.Y.	21700		
303000	BASE COURSE	TON	2780		
408100	PRIME COAT MATERIAL	S.Y.	70		
416103	MINOR PAVING TYPE I, HMA SP-III	TON	5120		
511000	STRUCTURAL CONCRETE, CLASS A	C.Y.	10		
511030	STRUCTURAL CONCRETE, CLASS AA	C.Y.	320		
515000	REINFORCED CONCRETE FOR MINOR STRUCTURES	C.Y.	70		
540060	REINFORCING BARS GRADE 60	LB	46300		
541200	STRUCTURAL STEEL FOR MISCELLANEOUS STRUCTURE	LB	400		
570030	30" CULVERT PIPE	L.F.	100		
570031	30" CULVERT PIPE END SECTION	EACH	5		
570042	42" CULVERT PIPE	L.F.	10		
570043	42" CULVERT PIPE END SECTION	EACH	2		
570048	48" CULVERT PIPE	L.F.	32		
570049	48" CULVERT PIPE END SECTION	EACH	4		
601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	L.S.	L.S.		
602000	RIPRAP CLASS A	C.Y.	20		
602010	RIPRAP CLASS B	C.Y.	90		
603100	TEMPORARY SOIL STABILANT	ACRE	8		
603260	CULVERT PROTECTION	S.Y.	110		
603261	COMPOSTED MULCH SOCKS	L.F.	2640		
603281	SWPPP PLAN PREPARATION AND MAINTENANCE	L.S.	L.S.		
606001	SINGLE FACE W-BEAM GUARDRAIL	L.F.	575		
606052	END TREATMENT TL-2 END TERMINAL	EACH	8		
607010	BARBED WIRE FENCE (GAME FENCE) 4'	L.F.	210		
607015	BRACES/CORNER POST	EACH	12		
613000	CLEANING CULVERTS AND DRAINAGE STRUCTURES	L.S.	L.S.		
618000	TRAFFIC CONTROL MANAGEMENT	L.S.	L.S.		
621000	MOBILIZATION	L.S.	L.S.		
632000	CLASS A SEEDING	ACRE	7		
632020	CLASS C SEEDING	ACRE	1		
663049	PRE-CONSTRUCTION UTILITY SURVEY	L.S.	L.S.		
667110	MAIL BOX INSTALLATION-SINGLE	EACH	5		
701000	PANEL SIGNS	S.F.	180		
701100	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	L.F.	442		
702610	PORTABLE CHANGEABLE MESSAGE SIGN	EACH	2		
702810	TRAFFIC CONTROL DEVICES FOR CONSTRUCTION	L.S.	L.S.		
703002	OBJECT MARKER TYPE 2	EACH	12		
703003	OBJECT MARKER TYPE 3	EACH	8		
704000	RETROREFLECTORIZED PAINTED MARKINGS 4"	L.F.	72610		
704005	RETROREFLECTORIZED PAINTED MARKINGS 24"	L.F.	30		
801000	CONSTRUCTION STAKING BY THE CONTRACTOR	L.S.	L.S.		
802000	POST CONSTRUCTION PLANS	L.S.	L.S.		
		<b>Bid Alt. No. 2 Unit I</b>			
		<b>TOTAL</b>			

# TRUCK BYPASS WIDENING & CULVERT REPLACEMENT

BID No. B-23-02

## Alternate No.2 Bid Form

ITEM #	ITEM DESCRIPTION	UNIT	QTY	UNIT PRICE	COST
<b>ALTERNATE No. 2 UNIT 2</b>					
201000	CLEARING AND GRUBBING	L.S.	L.S		
203000	UNCLASSIFIED EXCAVATION	C.Y.	500		
203100	BORROW	CU.YD.	200		
207000	SUBGRADE PREPARATION	S.Y.	1900		
302000	PROCESSING, PLACING AND COMPACTING EXISTING PAVEMENT	S.Y.	2000		
303000	BASE COURSE	TON	230		
408100	PRIME COAT MATERIAL	S.Y.	10		
416103	MINOR PAVING TYPE I, HMA SP-III	TON	470		
601000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	L.S.	L.S		
603100	TEMPORARY SOIL STABILANT	ACRE	1		
603261	COMPOSTED MULCH SOCKS	L.F.	610		
603281	SWPPP PLAN PREPARATION AND MAINTENANCE	L.S.	L.S.		
618000	TRAFFIC CONTROL MANAGEMENT	L.S.	L.S.		
621000	MOBILIZATION	L.S.	L.S.		
632000	CLASS A SEEDING	ACRE	3		
632020	CLASS C SEEDING	ACRE	0.5		
663049	PRE-CONSTRUCTION UTILITY SURVEY	L.S.	L.S		
663855	ADJUST VALVE BOX TO GRADE	EACH	1		
663865	ADJUST WATER METER TO GRADE	EACH	1		
701000	PANEL SIGNS	S.F.	50		
701100	STEEL POST AND BASE POST FOR ALUMINUM PANEL SIGNS	L.F.	65		
702610	PORTABLE CHANGEABLE MESSAGE SIGN	EACH	2		
702810	TRAFFIC CONTROL DEVICES FOR CONSTRUCTION	L.S.	L.S.		
704000	RETROREFLECTORIZED PAINTED MARKINGS 4"	L.F.	6520		
704005	RETROREFLECTORIZED PAINTED MARKINGS 24"	L.F.	30		
801000	CONSTRUCTION STAKING BY THE CONTRACTOR	L.S.	L.S.		
802000	POST CONSTRUCTION PLANS	L.S.	L.S.		
		<b>Bid Alt. No. 2 Unit 2</b>			
		<b>TOTAL:</b>			
		<b>Bid Alternate No. 2</b>			
		<b>TOTAL SUM:</b>			

**BID FORM/SCHEDULE**

BIDDER agrees to perform all of the work described in the specifications and shown on the plans for the following unit or lump sum prices. Bidder understands award will be made to the bidder providing a responsive, responsible bids that meets and satisfies all requirements herein and results in the lower overall cost to the county. Only in the event the lowest bid for Alternate No. 1 exceeds available funds, the lowest bid price for Alternate No. 2 may be awarded. Amounts are to be in both words and figures. In case of a discrepancy, the amount shown in words will govern.

**GRANT COUNTY  
TRUCK WIDENING & CULVERT REPLACEMENT  
PCN: D19114; BID NUMBER B-23-02**

**BID RECAP:**

TOTAL BID ALTERNATE 1 UNIT 1    \$ \_\_\_\_\_  
IN WORDS: \_\_\_\_\_  
\_\_\_\_\_

TOTAL BID ALTERNATE 1 UNIT 2    \$ \_\_\_\_\_  
IN WORDS: \_\_\_\_\_  
\_\_\_\_\_

TOTAL BID ALTERNATE 1    \$ \_\_\_\_\_  
IN WORDS: \_\_\_\_\_  
\_\_\_\_\_

TOTAL BID ALTERNATE 2 UNIT 1    \$ \_\_\_\_\_  
IN WORDS: \_\_\_\_\_  
\_\_\_\_\_

TOTAL BID ALTERNATE 2 UNIT 2    \$ \_\_\_\_\_  
IN WORDS: \_\_\_\_\_  
\_\_\_\_\_

TOTAL BID ALTERNATE 2    \$ \_\_\_\_\_  
IN WORDS: \_\_\_\_\_  
\_\_\_\_\_

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

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

**NOTE: Gross receipts tax shall be paid with each pay request as it is submitted at the current tax rate for Grant County , New Mexico ( 6.4375%, Grant County for Unit I , 8.2375%, Silver City for Unit II)**

To the Grant County, New Mexico (hereinafter called "OWNER"), the undersigned, (hereinafter called "BIDDER"), in compliance with your invitation for bids for the construction of **TRUCK BYPASS WIDENING & CULVERT REPLACEMENT**, having carefully examined the Contract Documents and the site of the proposed Work, and being familiar with all of the conditions surrounding the construction of the proposed Project including the availability of materials and labor, hereby proposes the furnish all labor, materials, and supplies, and to construct the Project in accordance with the Contract Documents, within the time set forth herein, and at the unit prices stated above. These prices are to cover all expenses incurred in performing the Work required under the Contract Documents of which this Bid Schedule is a part. Quantities shown in this Bid Schedule are estimated and actual payment will be made on the basis of the unit Bid prices for confirmed quantities as constructed.

BIDDER acknowledges receipt of the following addenda: \_\_\_\_\_

\_\_\_\_\_

12-HOUR CALL-OUT

\_\_\_\_\_

Authorized Signature of Bidder

\_\_\_\_\_

Business Name of Bidder

**BID FORM/SCHEDULE**

**GRANT COUNTY  
TRUCK WIDENING & CULVERT REPLACEMENT  
PCN: B-23-02; BID NUMBER B-23-02**

---

Authorized Signature of Bidder

---

Printed Name and Title of Authorized Signature

---

BIDDER'S New Mexico Contractor's License No. & Classification

---

BIDDER'S Current Grant County, New Mexico Business License No. (if available)

---

Address

---

Telephone

---

Fax

(SEAL) If Bid Proposal is submitted by a corporation

**SUBCONTRACTOR LISTING**  
**INVITATION TO BID**  
**Bid Number: B-23-02**

The Subcontractor Listing Threshold for this Project is \$17,500.00, and Attached to the Bid in Compliance with 13-4-32 thru 13-4-43 NMSA 1978, Together with the City or County location of their place of business listed. The following subcontractors will work on the construction of the project if the bid is accepted. List only one entry for each category of work as defined by Contractor. Bidder represents that it is licensed and qualified to Perform 100% of the category of work for which no subcontractor is listed. D.W.S Registration Number required if amount of work exceed \$60,000.

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/County: \_\_\_\_\_ State: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_  
Amount (\$): \_\_\_\_\_  
License No.: \_\_\_\_\_  
DWS Registration No. \_\_\_\_\_

-No bidder whose bid is accepted shall permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid without the consent of the County.

-No bidder whose bid is accepted, other than in the performance of change orders causing changes or deviations from the original contract, shall sublet or subcontract any portion of the work in excess of the listing threshold as to which the original bid did not designate a subcontract unless:

(1) the bidder fails to receive a bid from a category of work. Under such circumstances, the bidder may subcontract. The bidder shall designate on the listing form that no proposal was received or;

(2) the bidder fails to receive more than one bid for a category of work. Under such circumstances, the bidder may subcontract. The bidder shall state on the listing form that only one subcontractor's proposal was received, together with the name of the subcontractor. This designation shall not occur more than one time on the subcontractor list.

\_\_\_\_\_  
(Signature of Business Representative)\*

\_\_\_\_\_  
(Date)

\*Must be an authorized signatory for the Business.

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS:

THAT, *[Insert the name or legal title of the CONTRACTOR]*

\_\_\_\_\_ as Principal,  
herein after called the CONTRACTOR, and *[Insert the legal title of the surety and address]*

\_\_\_\_\_ a corporation organized and existing under and  
by virtue of the laws of the State of \_\_\_\_\_ and  
authorized to do business in the State of New Mexico, hereinafter called the Surety, are held  
and firmly bound unto *[Insert the name or legal title and address of the OWNER]*

\_\_\_\_\_ as Obligee, hereinafter called the OWNER, in the  
amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), for the payment whereof  
CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors,  
and assigns, jointly and severally, firmly by these presents.

WHEREAS, CONTRACTOR has by written AGREEMENT dated  
\_\_\_\_\_, \_\_\_\_\_, entered into a Contract described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ which Contract is by reference made a part hereof and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if CONTRACTOR shall  
faithfully perform and complete said Contract according to its terms and comply with all  
requirements of law, then this obligation shall be null and void; otherwise it shall remain in full  
force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the OWNER.

Whenever the CONTRACTOR shall be, and shall be declared by the OWNER to be, in default  
under the said Contract, the OWNER having performed its obligations hereunder, the Surety  
may promptly remedy the default or shall promptly:

1. Complete the contract in accordance with its terms and conditions, or
2. At OWNER'S option, obtain a Bid or Bids for submission to the OWNER for completing  
said Contract in accordance with its terms and conditions and, upon determination by the  
OWNER and Surety of the lowest responsible Bidder, arrange for a Contract between such  
Bidder and the OWNER and make available as Work progresses (even though there should be  
a default or a succession of defaults under the Contract or Contracts of completion arranged  
under this paragraph) sufficient funds to pay the cost of completion less the balance of the  
Contract price but not exceeding, including other costs and damages for which the Surety may  
be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the  
Contract price", as used in this paragraph shall mean the total amount payable by the OWNER  
to the CONTRACTOR under the Contract and any amendments thereto less the amount  
previously paid by the OWNER to the CONTRACTOR.



The Surety acknowledges that said Contract may contain express guarantees and agrees that said guarantees, if any, are covered by the Surety's obligation hereunder.

Right of action with respect to any express guarantees in the Contract shall accrue from the date of completion and formal acceptance of the Work under the Contract.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the OWNER named herein or its successors or assigns.

SIGNED AND SEALED \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
[Contractor-Principal]

In presence of: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Surety]

Approved as to form:

By: \_\_\_\_\_

Attorney for the Owner

Title: \_\_\_\_\_

Countersigned:

\_\_\_\_\_  
Surety's Authorized New Mexico Agent for Service

**LABOR AND MATERIAL PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS:

THAT, *[Insert the name or legal title and address of the CONTRACTOR]*

\_\_\_\_\_, as Principal, hereinafter called the CONTRACTOR, and *[Insert the legal title of the surety and address]*

\_\_\_\_\_, a corporation organized and existing under and by virtue of the laws of the State of \_\_\_\_\_ and authorized to do business in the State of New Mexico, hereinafter called the Surety, as held and firmly bound unto *[Insert the name or legal title and address of the OWNER]*

\_\_\_\_\_ as Obligee, hereinafter called the OWNER and supplier of labor, material or supplies as joint obligees, in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally firmly by these presents.

WHEREAS, CONTRACTOR has by written AGREEMENT dated \_\_\_\_\_, 20\_\_\_\_ entered into a contract described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, which contract is by reference made a part hereof and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if the CONTRACTOR shall pay as they become due all just claims for labor performed and materials and supplies furnished upon or for the Work under the Contract, whether said labor be performed and materials and supplies be furnished under the original Contract or any contract there-under, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions.

The right to sue on this bond accrues only to the OWNER and the parties to whom the right is granted pursuant to Section 13-4-1 et. seq., NMSA 1978 (1988 repl. pamp.) and New Mexico Law; and any such right shall be exercised only in accordance with the provisions and limitations of said statutes.

SIGNED AND SEALED ON \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
[Contractor-Principal]

In presence of: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
[Surety]

\_\_\_\_\_  
Attorney for the Owner

By: \_\_\_\_\_

Title: \_\_\_\_\_

Countersigned:

\_\_\_\_\_  
Surety's Authorized New Mexico Agent for Service

This bond is issued simultaneously with performance bond in favor of OWNER and suppliers of labor, materials or supplies for the faithful performance of the Contract.

**CERTIFICATE OF INSURANCE**

**PLEASE ATTACH AN INSURANCE CERTIFICATE  
FROM A NEW MEXICO LICENSED INSURANCE AGENT**

## CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to Chapter 81, Laws of 2006, any prospective contractor seeking to enter into a Contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or local public body during the two (2) years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two (2) years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two (2) year period.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

**“Applicable Public Official”** means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

**“Campaign Contribution”** means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or un-reimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

**“Contract”** means any agreement for the procurement of items of tangible personal property, services, professional services, or construction.

**“Family Member”** means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

**“Pendency of the Procurement Process”** means the time period commencing with the public notice of the Request for Proposals and ending with the award of the Contract or the cancellation of the Request for Proposals.

**“Person”** means any corporation, partnership, individual, joint venture, association or any other private legal entity.

**“Prospective Contractor”** means a person who is subject to the competitive sealed proposal process set forth in the Procurement Codes or is not required to submit a competitive

sealed proposal because that person qualifies for a sole source or a small purchase contract.

**“Representative of a Prospective Contractor”** means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_

Amount(s) of Contribution(s): \_\_\_\_\_

Nature of Contribution(s): \_\_\_\_\_

Purpose of Contributions(s): \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (Position)

## **NOTICE TO CONTRACTORS**

NTC – Grant County Replaces NMDOT  
NTC – 2019 Standard Drawings for Highway and Bridge Construction Updates  
(Effective January 2020 Letting)  
NTC – 2019 Standard Drawings for Highway and Bridge Construction Disclaimer  
NTC – ADA Construction Inspection Procedure  
NTC – Additional Named Insured  
NTC – Cooperation with Utilities  
NTC – Monthly Asphalt Binder Price Adjustment Procedures (01/01/19)  
NTC – Non-Mandatory Pre-Bid Conference (01/01/19)  
NTC – Ramp-Up Time  
NTC – Contract Time  
NTC – Schedule Format  
NTC – Stockpile (01/01/19)  
NTC – Approved Products List  
NTC – Electronic Data Files  
NTC – Gross Receipts Tax  
NTC – New Mexico Employees Health Coverage  
NTC – Office of Inspector General  
NTC – Patents on Milling Equipment and Milling Operations  
NTC – Professional Services  
NTC – Quality Standards for Traffic Control Devices  
NTC – Return of Lobbying Disclosure/Disclosure of Lobbying Activities Form  
NTC – Temporary Access Control Breaks  
NTC – License from Construction Industries Division (CID)  
NTC – NMDOT TLPA – Section 100

## NOTICE TO CONTRACTORS

### 2019 Standard Drawings for Highway and Bridge Construction Updates (Effective January 2020 Letting)

The 2019 Edition of the New Mexico Department of Transportation Standard Drawings for Highway and Bridge Construction shall apply in addition to the following:

Delete the following 2019 Standard Drawings for Highway and Bridge Construction:

#### **Standard Section 511 - Concrete Structures**

- 511-65-2/3, Concrete Box Culvert Triple Opening – Design Fills B, C, D, E, Dimensions and Rebar Schedule (4-9-07)

#### **Standard Section 543 - Metal Railing for Bridges**

- 543-02-1/1, Metal Railing Type "A" (11-13-09)
- 543-03-1/2, Metal Railing Type "D" (11-13-09)
- 543-03-2/2, Metal Railing Type "D" Details (11-13-09)

#### **Standard Section 564 - Preformed Closed Cell Foam Bridge Joint Seals**

- 564-01-1/1, Preformed Closed Cell Foam Bridge Joint Seal (6-24-13)

#### **Standard Section 602 - Slope and Erosion Protection Structures**

- 602-08-1/2, Wire Enclosed Tire Bales for Erosion Control or Earth Retaining (1-9-12)
- 602-08-2/2, Wire Enclosed Tire Bales for Erosion Control or Earth Retaining (1-9-12)

#### **Standard Section 606 - Metal Barrier, Cable Barrier and Concrete Wall Barrier**

- 606-22-1/4, 20' Concrete Barrier General Notes & Reinforcing Schedule (1-26-17)
- 606-22-2/4, 20' Concrete Barrier Fabrication and Reinforcement Details (1-26-17)
- 606-22-3/4, 20' Concrete Barrier Staking & Anchoring Details (1-26-17)
- 606-22-4/4, 20' Concrete Barrier Staking & Connection Details (1-26-17)

#### **Standard Section 702 - Construction Traffic Control Devices**

- Delete all 702 Standard Drawings

#### **Standard Section 707 - Signal and Lighting Standards**

- 707L-08-1/7, High Mast Luminaire Support Structures Type VI (12-15-08)
- 707L-08-2/7, High Mast Luminaire Support Structures Type VI (12-15-08)
- 707L-08-3/7, High Mast Luminaire Support Structures Type VI (12-15-08)
- 707L-08-4/7, High Mast Luminaire Support Structures Type VI (12-15-08)
- 707L-08-5/7, High Mast Luminaire Support Structures Type VI (12-15-08)
- 707L-08-6/7, High Mast Luminaire Support Structures Type VI (12-15-08)



Add the following Standard Drawings to the 2019 Standard Drawings for Highway and Bridge Construction:

**Standard Section 206 - Excavation and Backfill for Culverts and Minor Structures**

- 206-11-1/1, Fill Heights for HDPE and PP Pipe Excavation Details (12-16-19)

**Standard Section 511 - Concrete Structures**

- 511-65-2/3, Concrete Box Culvert Triple Opening - Design Fills B, C, D, E, Dimensions and Rebar Schedule (2-19-19)

**Standard Section 514 - Concrete Barrier Railing for Bridges**

- 514-10-1/1, Bridge Number Plate, TAG and Survey Marker (12-16-19)

**Standard Section 543 - Metal Railing**

- 543-09-1/1, Bridge Number Plate, TAG and Survey Marker (12-16-19)

**Standard Section 606 - Metal Barrier, Cable Barrier and Concrete Wall Barrier**

- 606-22-1/4, 20' Concrete Barrier General Notes & Reinforcing Schedule (12-17-19)
- 606-22-2/4, 20' Concrete Barrier Fabrication and Reinforcement Details (12-17-19)
- 606-22-3/4, 20' Concrete Barrier Staking & Anchoring Details (12-17-19)
- 606-22-4/4, 20' Concrete Barrier Staking & Connection Details (12-17-19)

**Standard Section 702 - Construction Traffic Control Devices**

- 702-01-1/1, Traffic Control General Notes (12-11-19)
- 702-02-1/1, Temporary Traffic Markings for Construction (12-11-19)
- 702-03-1/3, Double Fines in Work Zones Signing Layout (12-11-19)
- 702-03-2/3, Double Fines in Work Zones and B.O.P and E.O.P (Approach and Departure) Sign Face Details (12-11-19)
- 702-03-3/3, Project Limit Signing (12-11-19)
- 702-04-1/2, 4 Lane, Interstate/Non-Interstate, Typical Crossover Signing (12-11-19)
- 702-04-2/2, 4 Lane, Interstate/Non-Interstate, Typical Crossover Signing (12-11-19)
- 702-05-1/1, Inside/Median and Outside Lane Operations for Divided Interstates & Non-Interstates (12-11-19)
- 702-06-1/1, Examples of Temporary Pedestrian Detour Routing for Roadways with Posted Speeds of 40 MPH or Less (12-11-19)

**Standard Section 707 - Signal and Lighting Standards**

- 707L-08-1/9, High Mast Luminaire Support Structures Type VI (12-8-11)
- 707L-08-2/9, High Mast Luminaire Support Structures Type VI (12-8-11)
- 707L-08-3/9, High Mast Luminaire Support Structures Type VI (12-8-11)
- 707L-08-4/9, High Mast Luminaire Support Structures Type VI (12-8-11)
- 707L-08-5/9, High Mast Luminaire Support Structures Type VI (12-8-11)
- 707L-08-6/9, High Mast Luminaire Support Structures Type VI (12-8-11)
- 707L-08-7/9, High Mast Luminaire Support Structures Type VI (12-8-11)

### **Standard Section 730 - Weigh-In-Motion System and Continuous Count Station**

- 730-01-1/3, Weigh-In-Motion (WIM) Undivided Section Details (12-17-19)
- 730-01-2/3, Weigh-In-Motion (WIM) Divided Section Details (12-17-19)
- 730-01-3/3, Weigh-In-Motion (WIM) 6-Lane Section Details (12-17-19)
- 730-02-1/3, Continuous Count Station (CCS) Undivided Section Details (12-17-19)
- 730-02-2/3, Continuous Count Station (CCS) Divided Section Details (12-17-19)
- 730-02-3/3, Continuous Count Station (CCS) 6-Lane Section Details (12-17-19)
- 730-03-1/2, Radar Continuous Count Station 1 to 4 Lanes Single Sensor (12-17-19)
- 730-03-2/2, Radar Continuous Count Station 5 to 8 Lanes Dual Sensors (12-17-19)

The added Standard Drawings are available at the following link:

<https://dot.state.nm.us/content/nmdot/en/Standards.html>

## NOTICE TO CONTRACTORS

### ADA Construction Inspection Procedure

PCN B-23-02

#### General Comments

NMDOT is recognized as a Title II public entity under the Americans with Disabilities Act of 1990 (Public Law 101-336) (the "ADA"). The ADA provides protections to individuals with disabilities that are at least equal to those provided by the nondiscrimination provisions of title V of the Rehabilitation Act of 1973. The ADA extends the prohibition of discrimination in federally assisted programs, established by section 504 of the Rehabilitation Act, to all activities of State and local government, irrespective of the funding source for the program. As a Title II entity NMDOT must comply with the ADA to make public facilities accessible so as to prohibit discrimination against any "qualified individual with a disability"

Meeting ADA compliance is an ongoing NMDOT obligation, which requires commitment and diligence on multiple levels from project planning through construction of a public right-of-way (PROW) facility.

For this project, to ensure ADA compliance is met, the Contractor shall implement the NMDOT ADA Construction Inspection Policy and Procedure. This Work shall be considered incidental to the completion of the Project and no additional payment shall be made. Failure to comply with this Notice to Contractors may be deemed a Nonconformance in accordance with Specification Section 101.4 "Terms and Definitions" and subject the Contractor to Specification Section 108.9 "Default of Contract".

#### ADA Construction Compliance Requirement:

**All constructed ADA facilities meet the *Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of -Way (PROWAG)*, July 26, 2011, which may be accessed through the State Construction Bureau webpage (<http://dot.state.nm.us/content/nmdot/en/Construction.html>).**

#### Construction Inspection Procedure

The ADA Curb Ramp Documentation forms attached to this Notice to Contractors will be used for the inspection process to ensure compliance with both PROWAG guidelines and NMDOT construction Plan design. The ADA Curb Ramp documentation forms and this procedure will be discussed at the mandatory Pre-Bid Meeting, if one is held, and the Pre-Construction Conference.

**Procedure:** The following procedure describes the use of the NMDOT ADA Curb Ramp Documentation form and the inspection process.

## ADA Construction Inspection Procedure

PCN: B-23-02

Page 2

1) The Contractor must provide notice to the Project Manager in accordance with Standards Specification 105.10 "Inspection of Work".

- The Contractor shall use only a 24 inch electronic digital ("Smart") level with 0.1% slope accuracy shall be permitted for ADA construction and inspection Acceptance.
- The Contractor and the NMDOT shall calibrate each Smart level prior to performing the next step.
- The Contractor and NMDOT shall select which curb ramp form best aligns with the type to be inspected.
- Before scheduling delivery of concrete and with an NMDOT inspector present, the Contractor shall complete the Pre-Pour Inspection Form verifying that the concrete formwork is constructed to dimensions and grades shown on plans and meets PROWAG, 2011 technical design criteria and NMDOT Construction Plans.
- The NMDOT inspector will verify that the measurements on the Pre-Pour Form meet the requirements or require correction of all discrepancies in accordance with Standard Specification 105.11 "Removal of Unacceptable and Unauthorized Work", before scheduling of concrete to ensure the finished concrete Work will meet PROWAG and NMDOT Construction Plans.
- When all measurements meet the Contract requirements then the NMDOT inspector will permit the concrete pour.
- The Contractor shall repeat the procedure using the Constructed Inspection Form after the concrete pour to ensure the curb ramp(s) meets PROWAG compliance and NMDOT Construction Plan design criteria.
- The NMDOT inspector will verify measurements on the Constructed Inspection Form. Once the NMDOT inspector has verified the measurements the Work will be eligible for payment. Unacceptable Work will be subject to Standard Specification 105.11 "Removal of Unacceptable and Unauthorized Work".

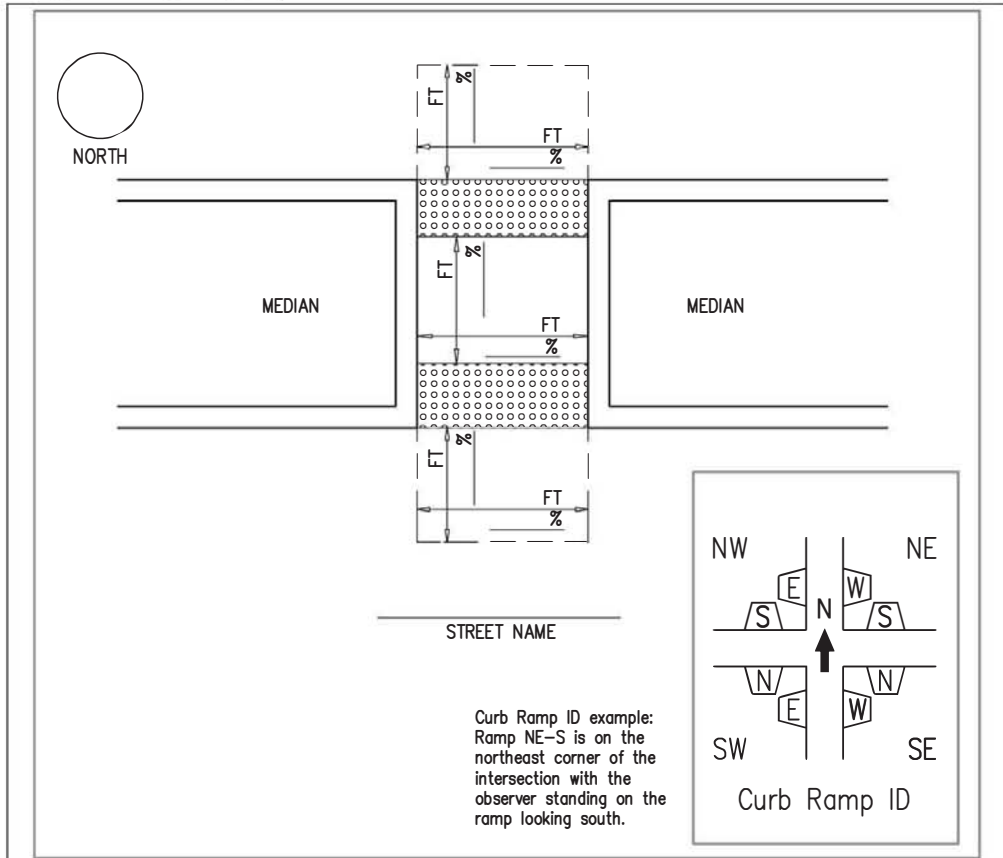
The Contractor shall prepare the final documentation to include all applicable field measurements documented on the ADA Curb Ramp Documentation inspection forms; verification of measurements by the inspector; and a minimum of two (2) pictures of the constructed curb ramp(s). The Contractor shall submit the completed forms to the NMDOT Project Manager, before the next Progress Payment. Payment for ADA Curb Ramps will not occur until all documents have been submitted and accepted by the Project Manager.

The Contractor shall protect and maintain the constructed ADA facilities until such time that Final Acceptance of the ADA facility occurs. Final Acceptance occurs in accordance with Standards Specification section 109.10 "Project Closure".



ADA Curb Ramp Documentation  
Type: Median – Area of Refuge

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

LEVEL CALIBRATION

NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

NMDOT PROJECT #: \_\_\_\_\_

NMDOT DISTRICT #: \_\_\_\_\_

CURB RAMP MP#: \_\_\_\_\_

STA: \_\_\_\_\_ OFFSET: \_\_\_\_\_

CORNER: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_

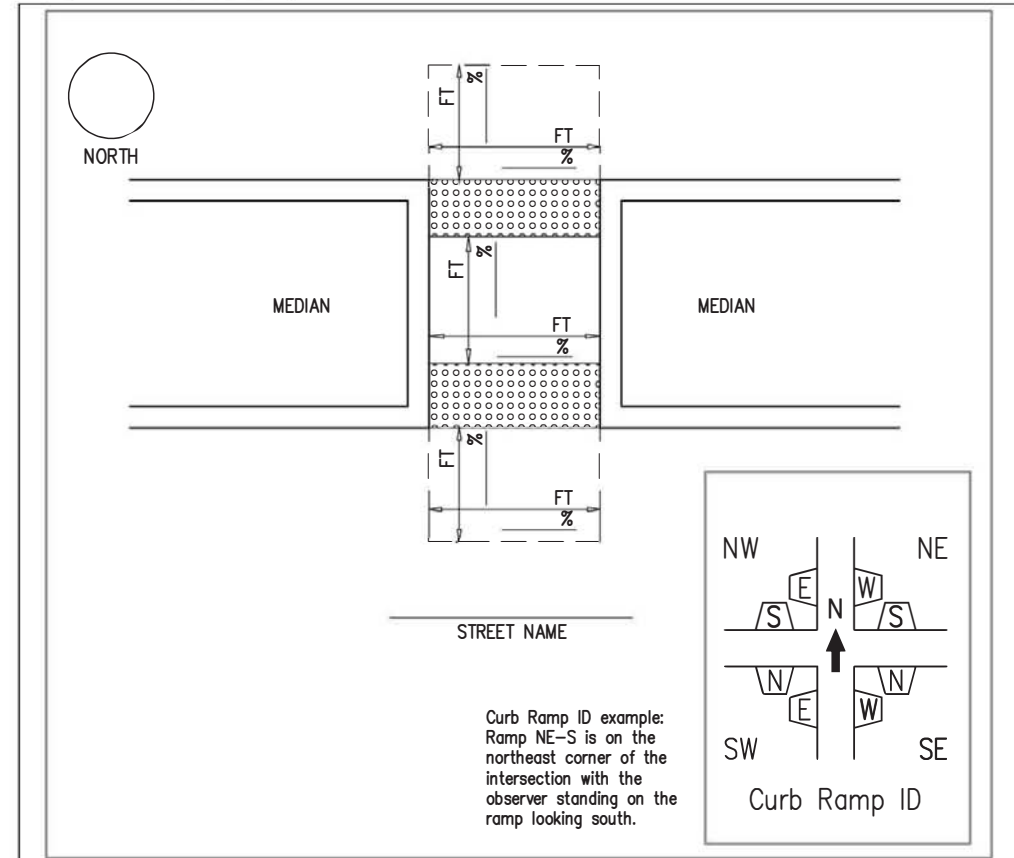
DATE: \_\_\_\_\_

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Median – Area of Refuge

Constructed Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

LEVEL CALIBRATION

NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

NMDOT PROJECT #: \_\_\_\_\_

NMDOT DISTRICT #: \_\_\_\_\_

CURB RAMP MP#: \_\_\_\_\_

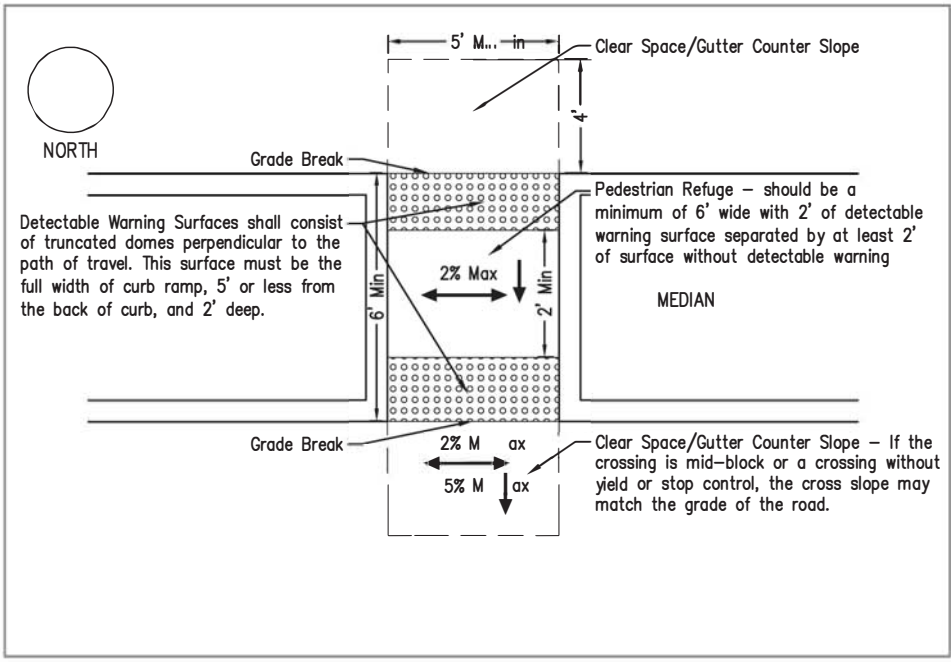
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CORNER: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_

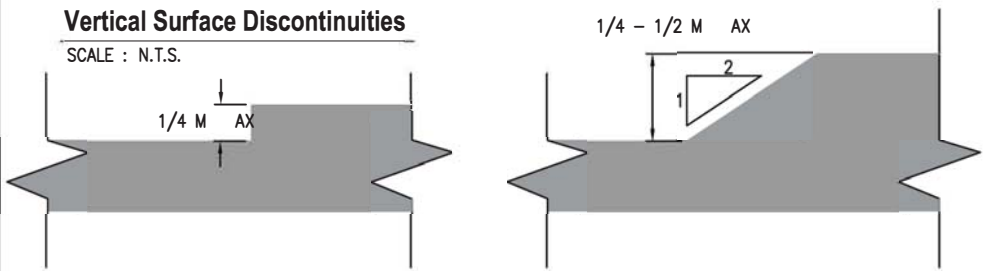
DATE: \_\_\_\_\_

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



**Vertical Surface Discontinuities**

SCALE : N.T.S.



Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50%. The bevel shall be applied across the entire vertical surface discontinuity.

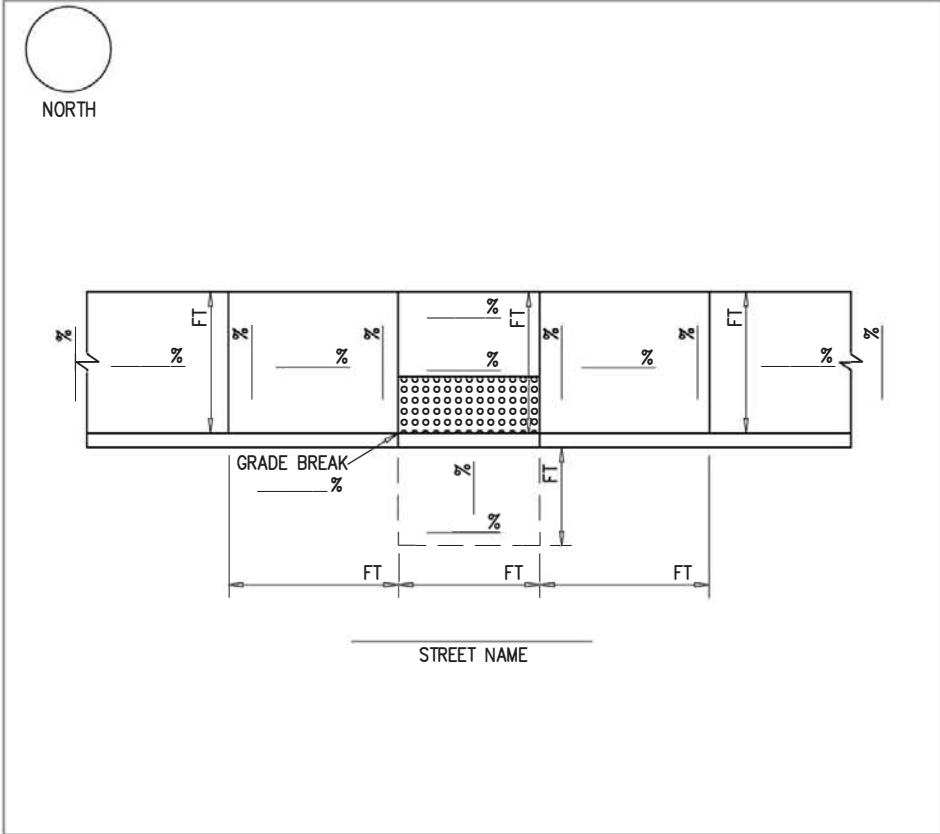
**COMMENTS:**

Empty box for comments.



ADA Curb Ramp Documentation  
Type: Mid-Block Parallel

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
LEVEL CALIBRATION  
 NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_  
 CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

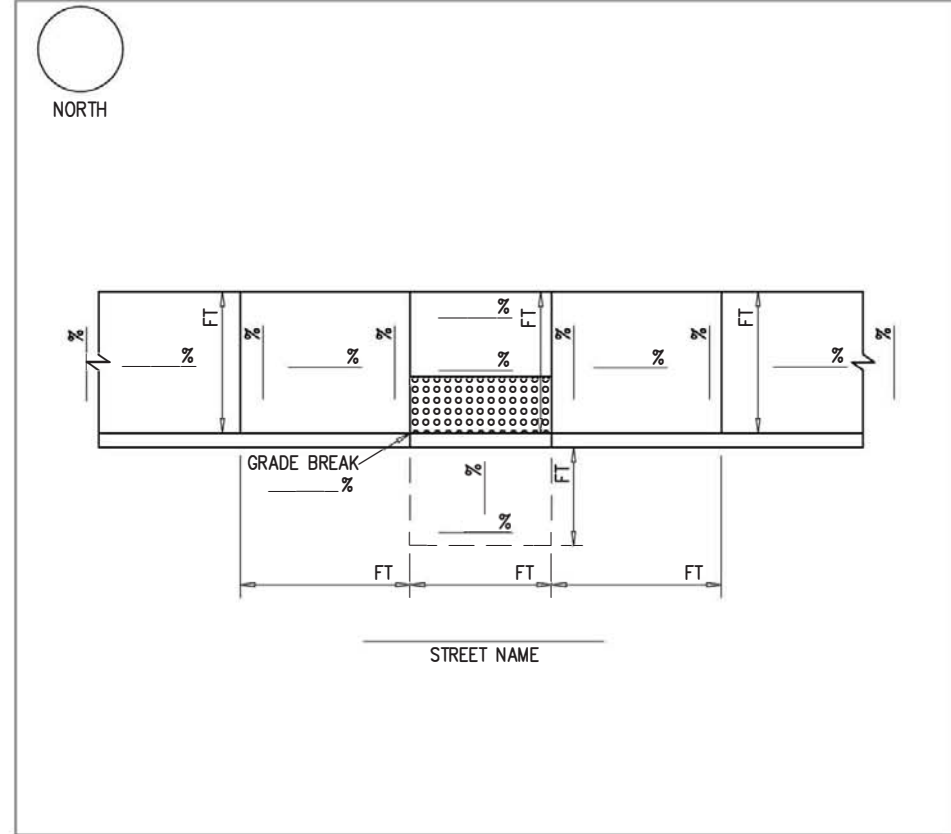
NMDOT PROJECT #:
NMDOT DISTRICT #:
CURB RAMP MP#:
STA:                      OFFSET:
CORNER:
CITY/STATE:
DATE:

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Mid-Block Parallel

Constructed Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
LEVEL CALIBRATION  
 NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_  
 CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

NMDOT PROJECT #:
NMDOT DISTRICT #:
CURB RAMP MP#:
STA:                      OFFSET:
CORNER:
CITY/STATE:
DATE:

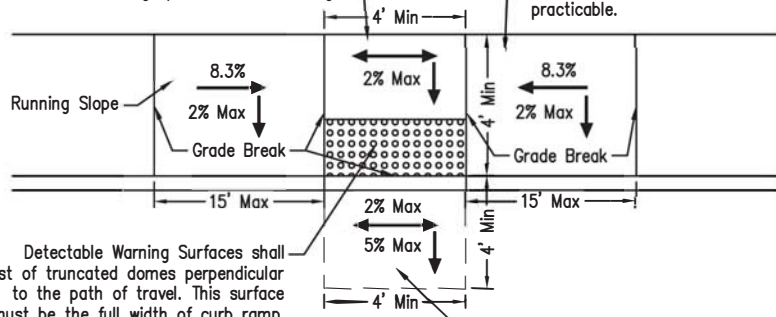
\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



NORTH

Where the turning space is constrained at the back-of-sidewalk, the turning space shall be 4' min by 5' min. The 5' dimension shall be provided in the direction of the ramp run. If the turning space is constrained on two or more sides the turning space shall be 5' long.

Running Slope - shall be 8.3% maximum but shall not require the ramp length to exceed 15'. To avoid chasing grade indefinitely when connecting to steep grades, the running slope shall be extended as flat as maximum extent practicable.

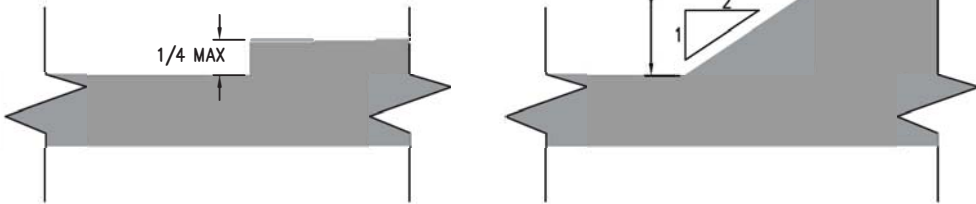


Detectable Warning Surfaces shall consist of truncated domes perpendicular to the path of travel. This surface must be the full width of curb ramp, 5' or less from the back of curb, and 2' deep.

Clear Space/Gutter Counter Slope - If the crossing is mid-block or a crossing without yield or stop control, the cross slope may match the grade of the road.

### Vertical Surface Discontinuities

SCALE : N.T.S.



Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50%. The bevel shall be applied across the entire vertical surface discontinuity.

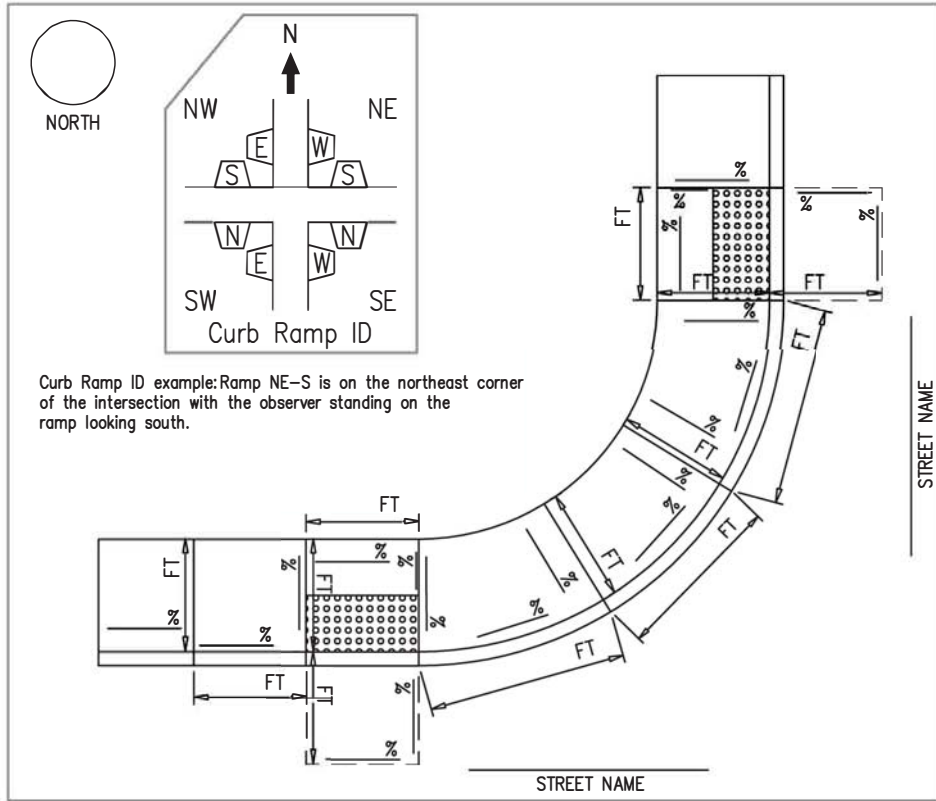
### COMMENTS:





ADA Curb Ramp Documentation  
Type: Parallel (Directional)

Pre-Pour Inspection



Curb Ramp ID example: Ramp NE-S is on the northeast corner of the intersection with the observer standing on the ramp looking south.

INSPECTOR SIGNATURE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
 \_\_\_\_\_  
 LEVEL CALIBRATION  
 NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_  
 CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

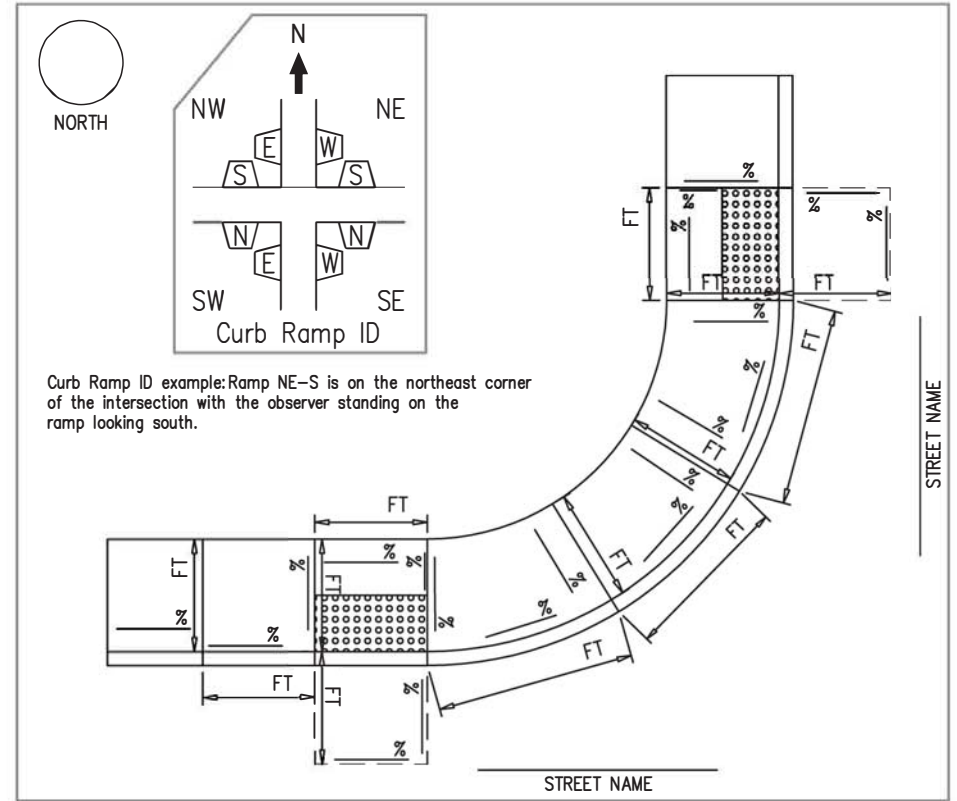
NMDOT PROJECT #: \_\_\_\_\_  
 NMDOT DISTRICT #: \_\_\_\_\_  
 CURB RAMP MP#: \_\_\_\_\_  
 STA: \_\_\_\_\_ OFFSET: \_\_\_\_\_  
 CORNER: \_\_\_\_\_  
 CITY/STATE: \_\_\_\_\_  
 DATE: \_\_\_\_\_

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Parallel (Directional)

Constructed Inspection



Curb Ramp ID example: Ramp NE-S is on the northeast corner of the intersection with the observer standing on the ramp looking south.

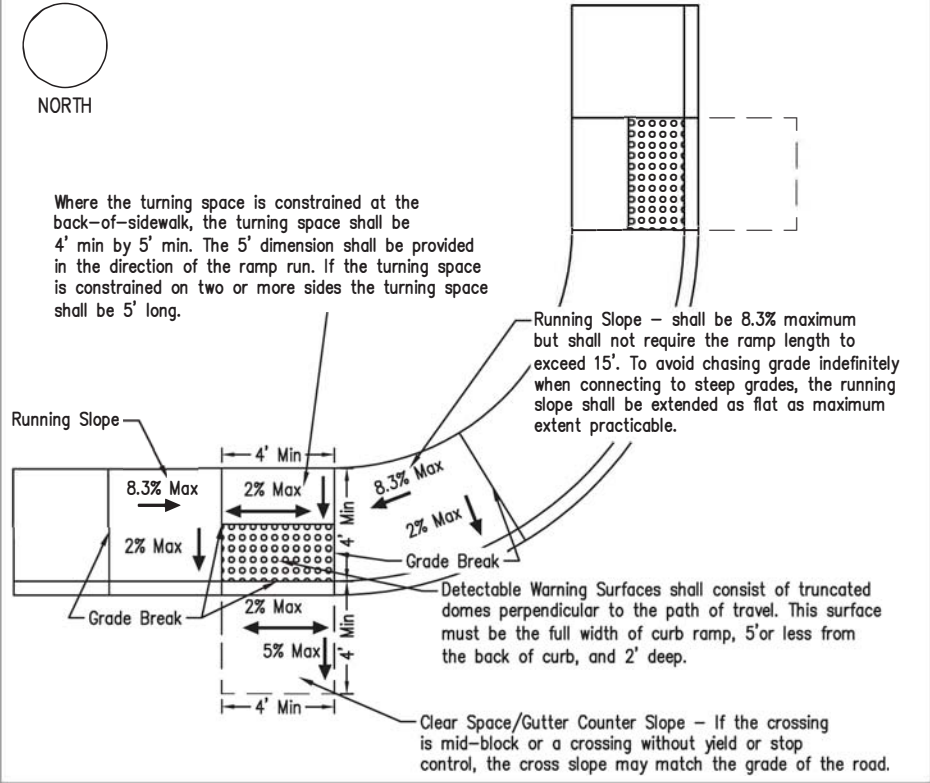
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 PRINT NAME: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
 \_\_\_\_\_  
 LEVEL CALIBRATION  
 NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_  
 CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

NMDOT PROJECT #: \_\_\_\_\_  
 NMDOT DISTRICT #: \_\_\_\_\_  
 CURB RAMP MP#: \_\_\_\_\_  
 STA: \_\_\_\_\_ OFFSET: \_\_\_\_\_  
 CORNER: \_\_\_\_\_  
 CITY/STATE: \_\_\_\_\_  
 DATE: \_\_\_\_\_

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*

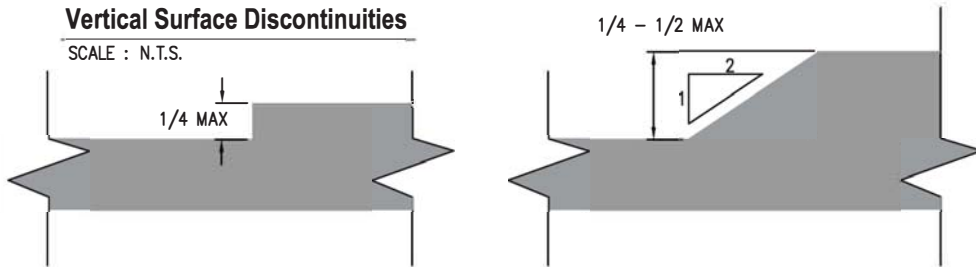


Where the turning space is constrained at the back-of-sidewalk, the turning space shall be 4' min by 5' min. The 5' dimension shall be provided in the direction of the ramp run. If the turning space is constrained on two or more sides the turning space shall be 5' long.



**Vertical Surface Discontinuities**

SCALE : N.T.S.



Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50%. The bevel shall be applied across the entire vertical surface discontinuity.

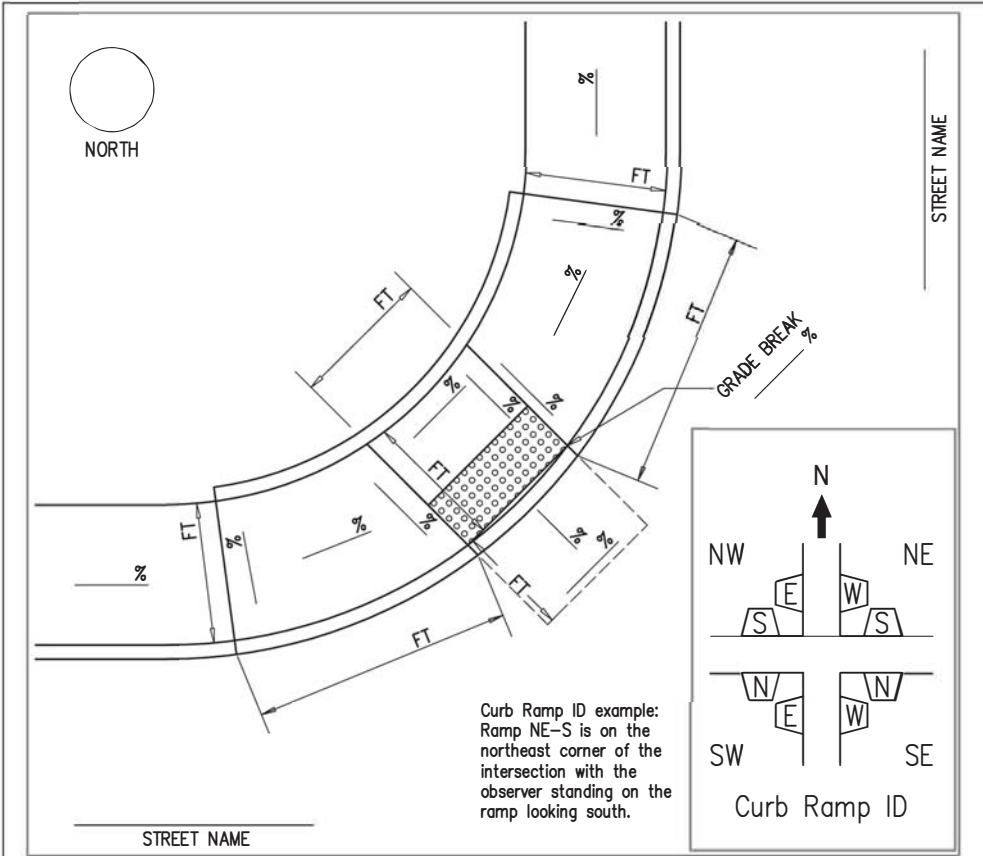
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ADA Curb Ramp Documentation  
Type: Parallel (Diagonal)

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

LEVEL CALIBRATION

NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

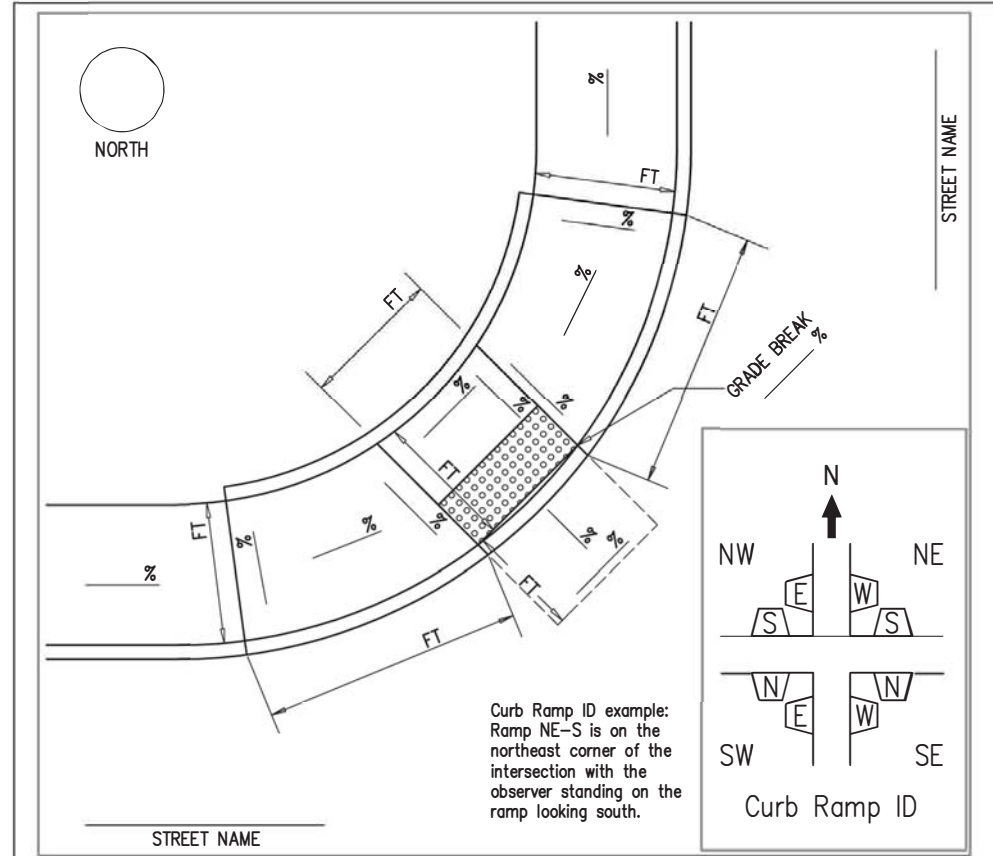
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NMDOT DISTRICT #:	
CURB RAMP MP#:	
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CITY/STATE:	
DATE:	

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Parallel (Diagonal)

Constructed Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

LEVEL CALIBRATION

NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

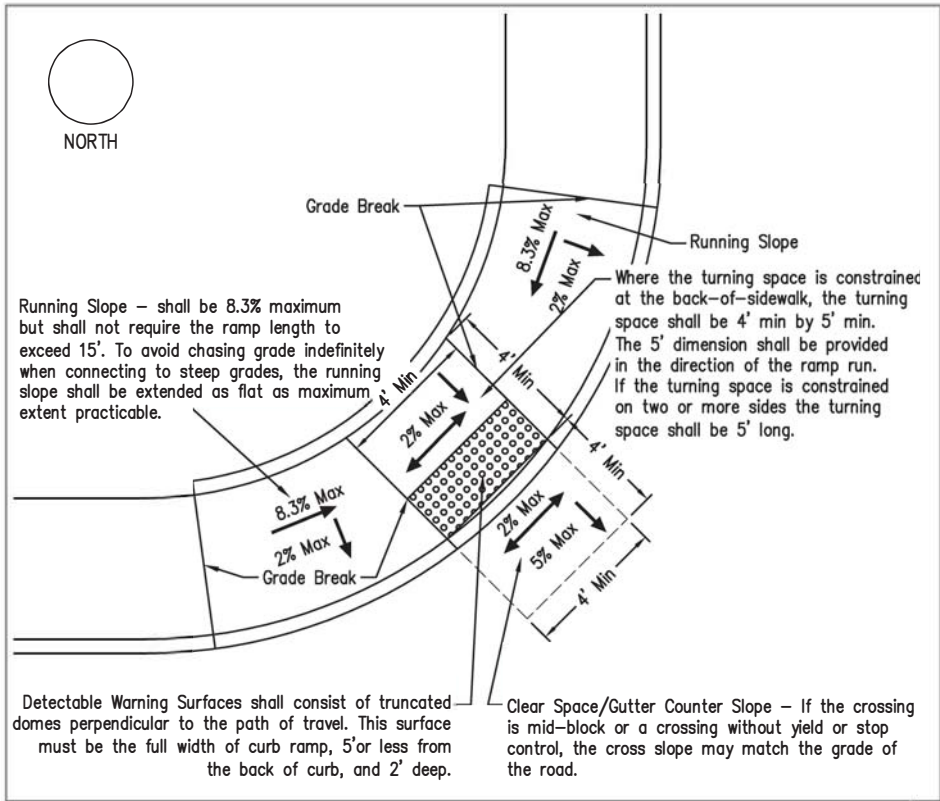
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NMDOT DISTRICT #:	
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CITY/STATE:	
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\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



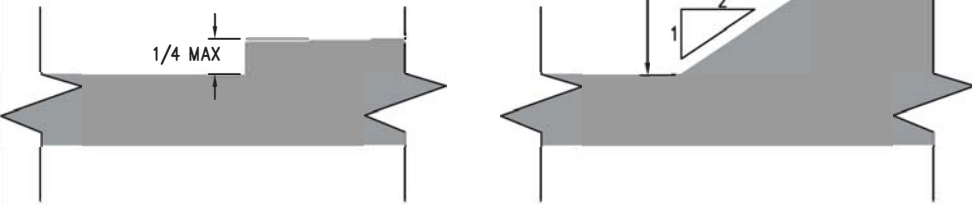
ADA Curb Ramp Documentation  
Type: Parallel (Diagonal)



**Vertical Surface Discontinuities**

SCALE : N.T.S.

1/4 - 1/2 MAX



Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50%. The bevel shall be applied across the entire vertical surface discontinuity.



ADA Curb Ramp Documentation  
Type: Parallel (Diagonal)

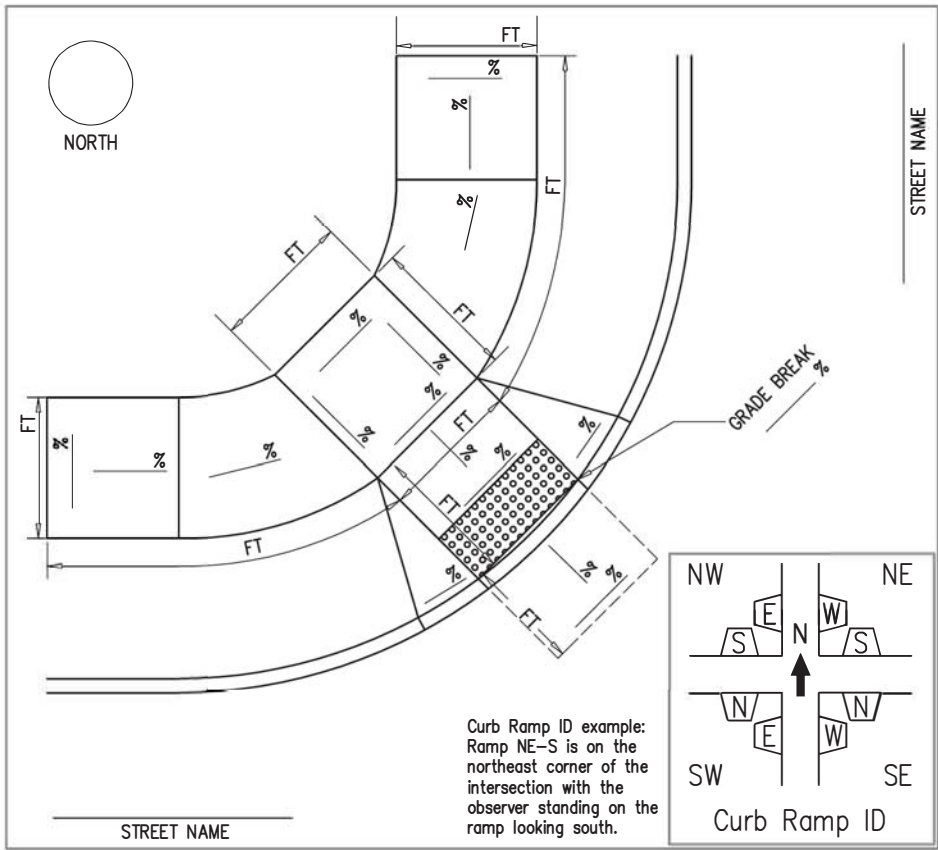
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ADA Curb Ramp Documentation  
Type: Perpendicular- Detached Walk

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

LEVEL CALIBRATION

NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

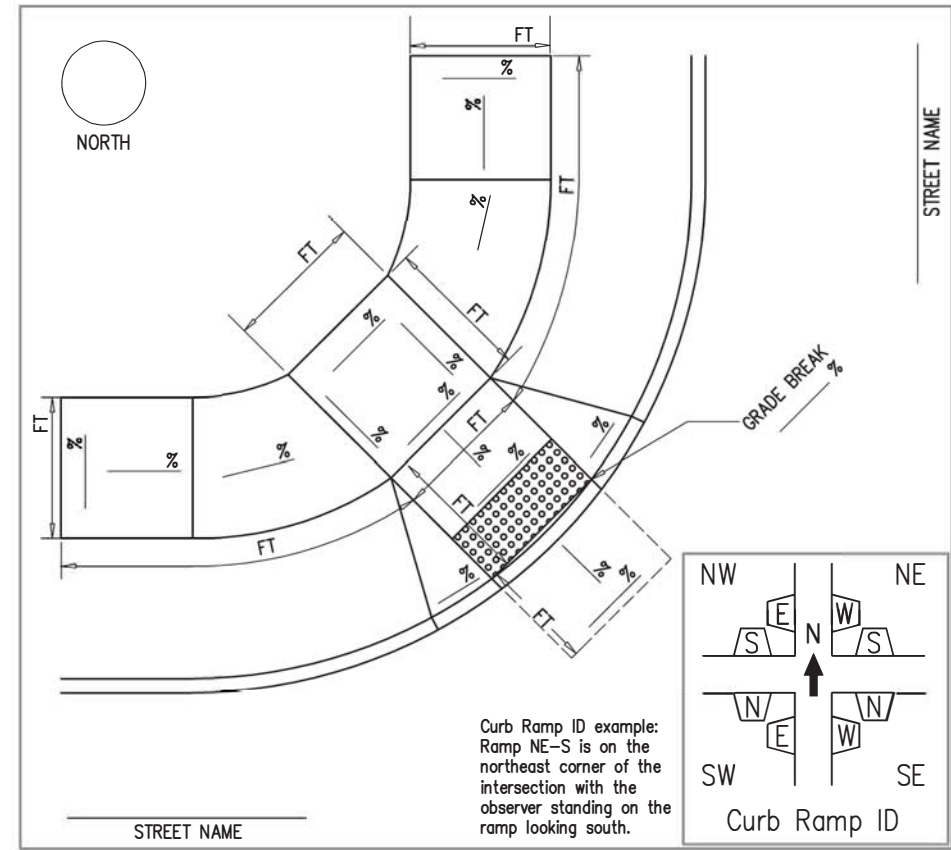
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CITY/STATE:
DATE:

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Perpendicular- Detached Walk

Constructed Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

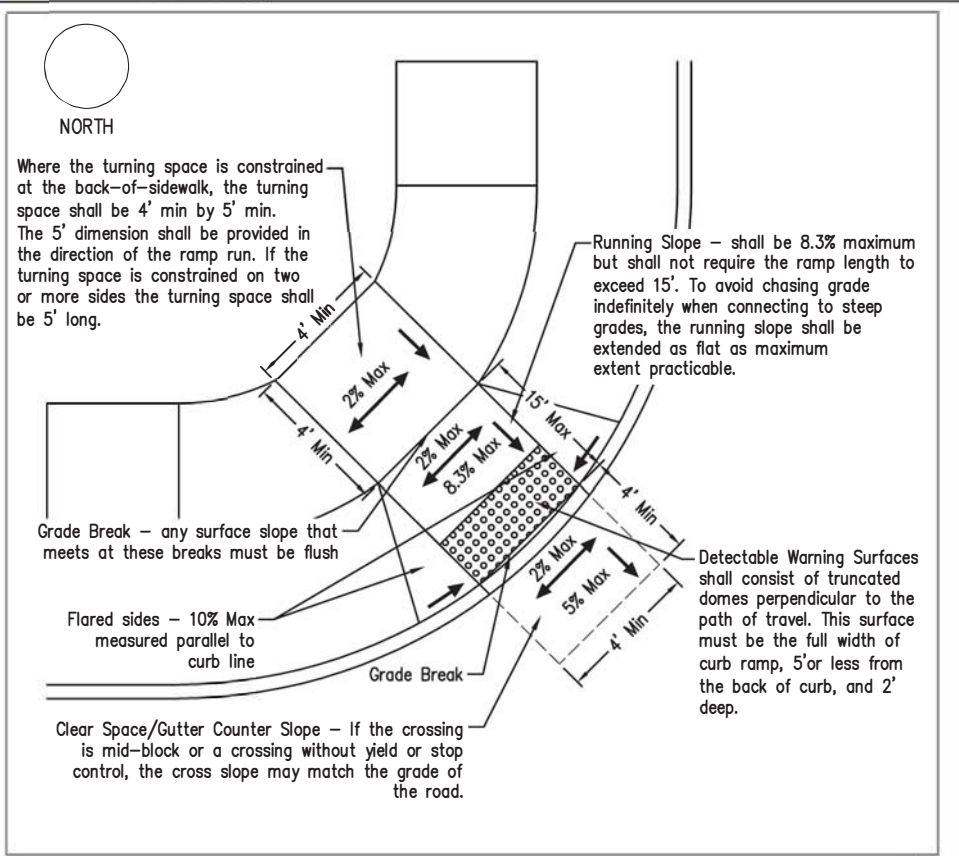
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CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

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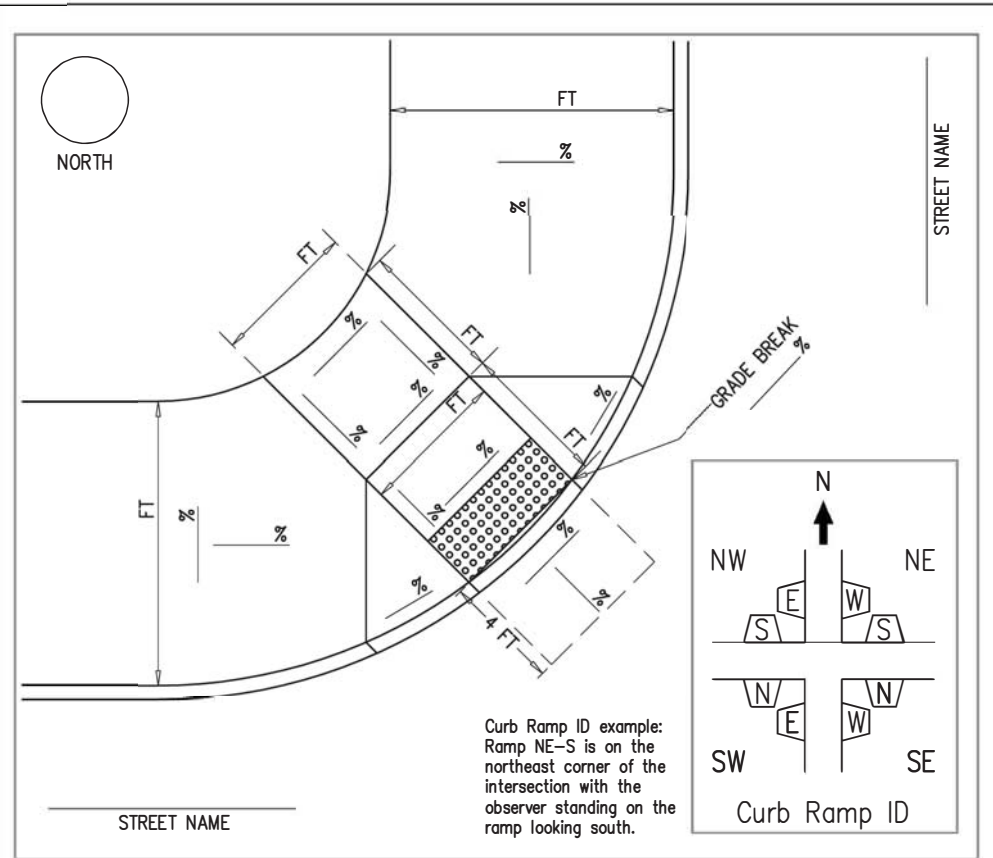
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ADA Curb Ramp Documentation  
Type: Perpendicular (Diagonal)

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

LEVEL CALIBRATION

NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

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CITY/STATE: \_\_\_\_\_

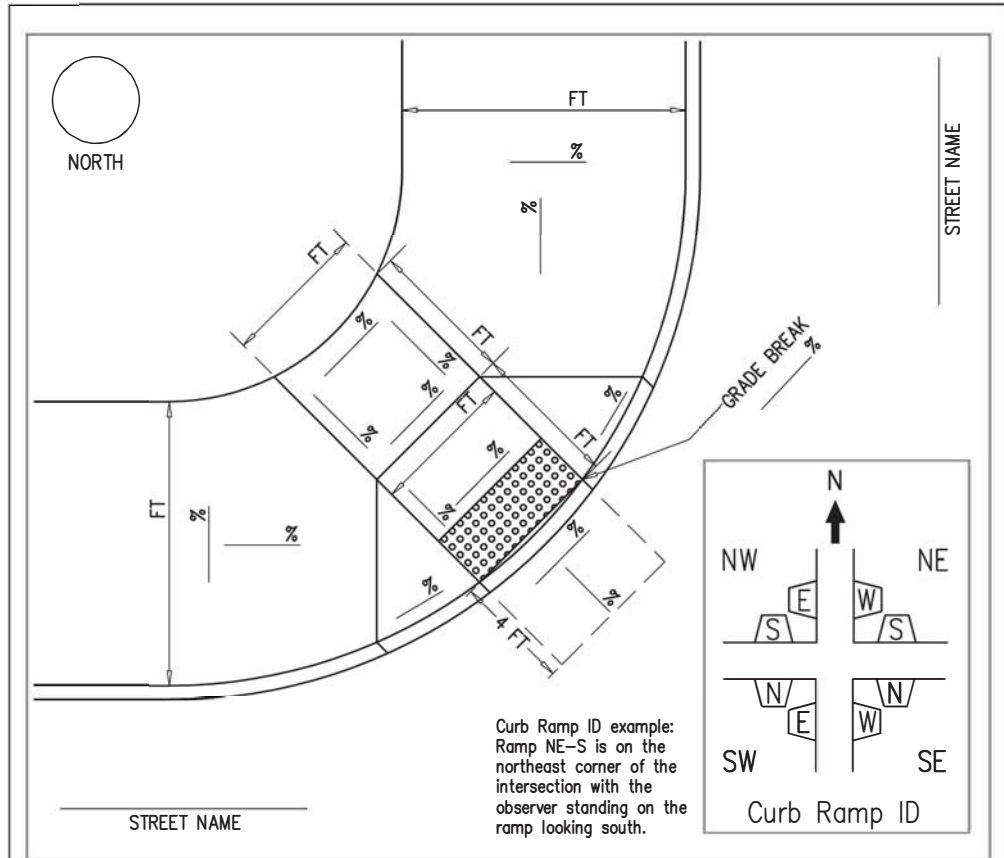
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\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Perpendicular (Diagonal)

Constructed Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

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NMDOT DISTRICT #: \_\_\_\_\_

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DATE: \_\_\_\_\_

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*

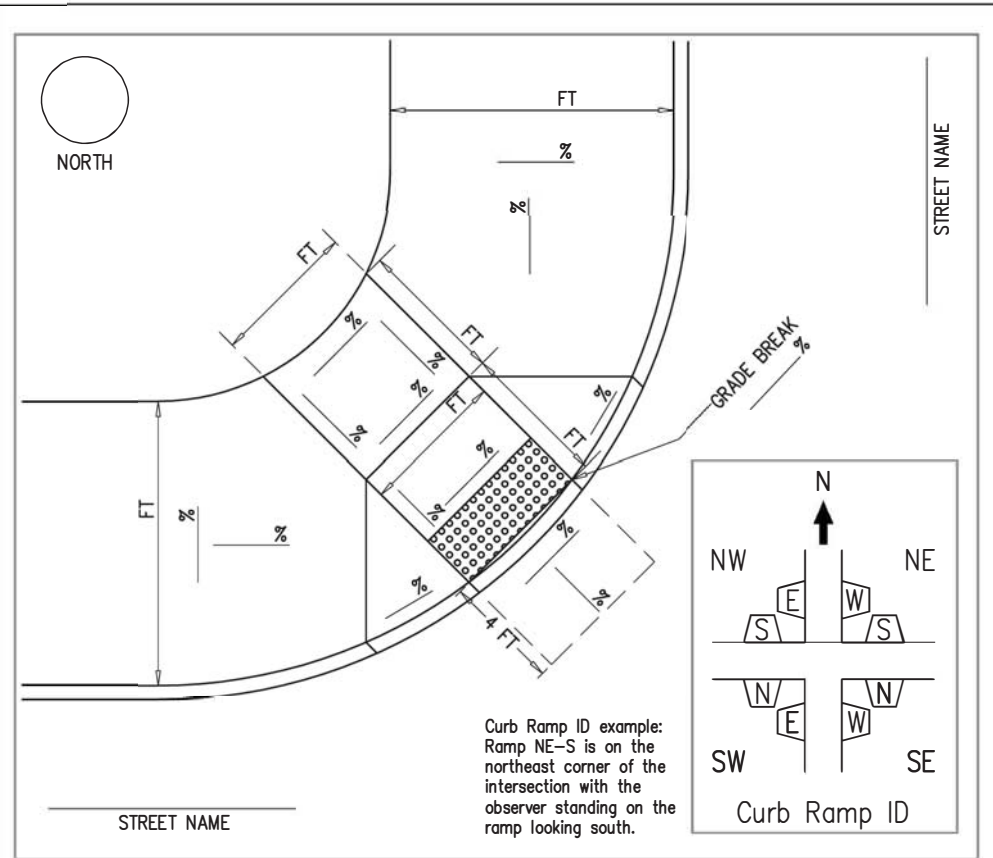






ADA Curb Ramp Documentation  
Type: Perpendicular (Diagonal)

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

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CONTRACTOR SIGNATURE: \_\_\_\_\_

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NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

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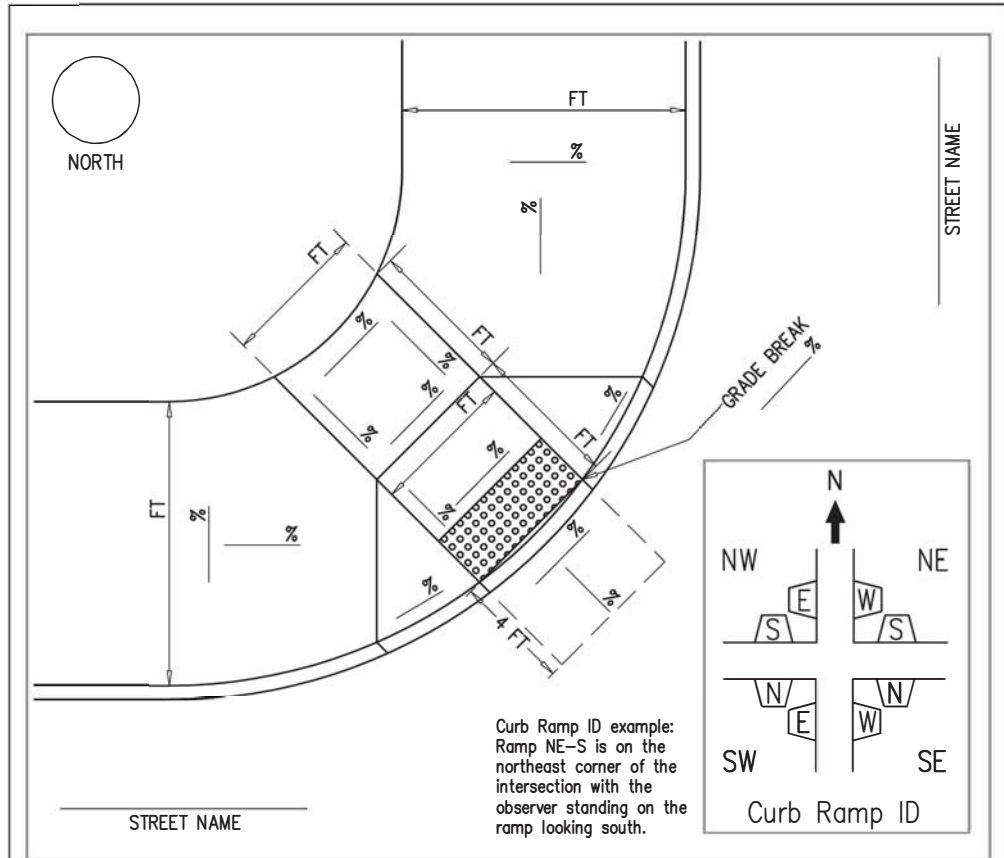
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DATE:

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ADA Curb Ramp Documentation  
Type: Perpendicular (Diagonal)

Constructed Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

LEVEL CALIBRATION

NMDOT INSPECTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

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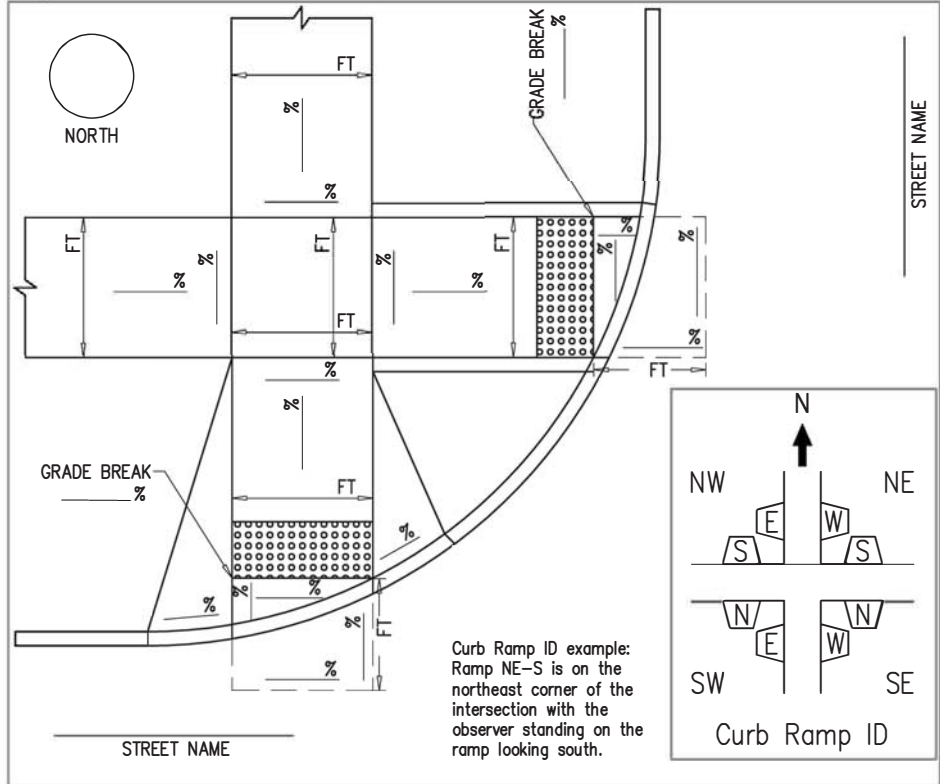
\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*





ADA Curb Ramp Documentation  
Type: Perpendicular (Directional)

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
LEVEL CALIBRATION  
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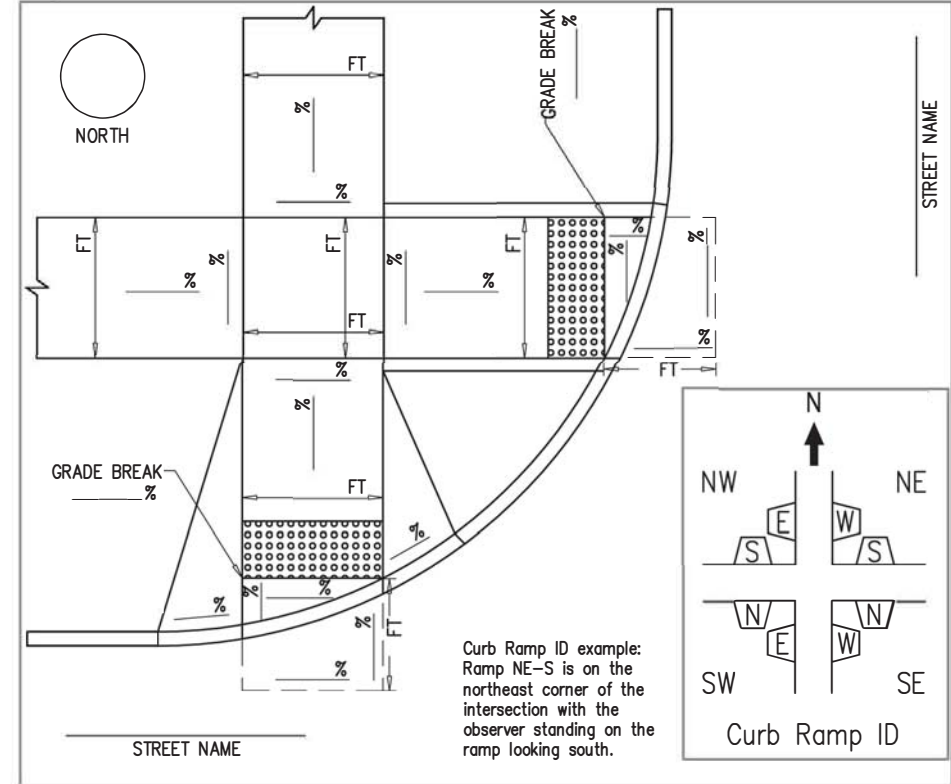
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\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Perpendicular (Directional)

Constructed Inspection

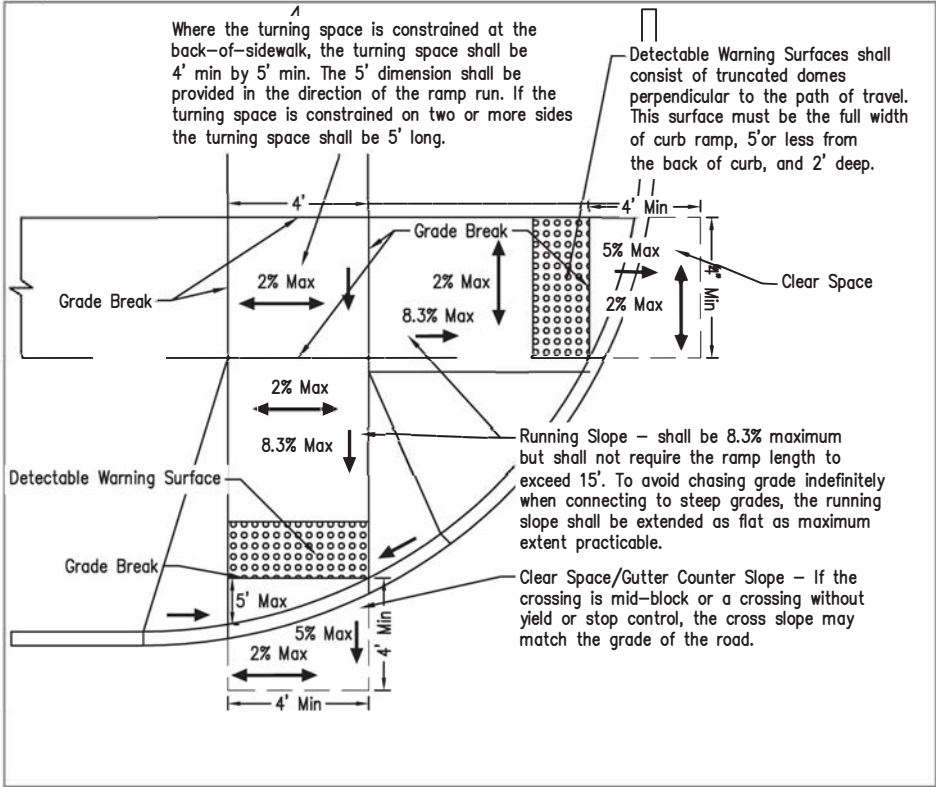


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LEVEL CALIBRATION  
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 CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

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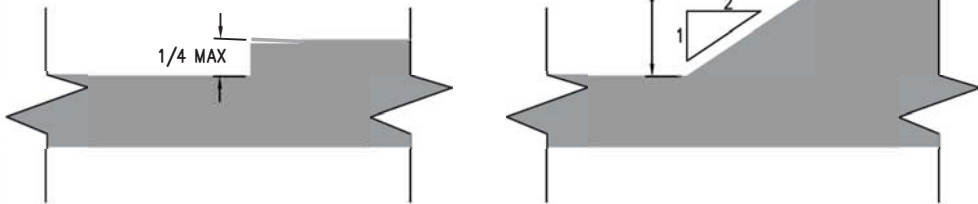
\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*

ADA Curb Ramp Documentation  
Type: Perpendicular (Directional)



**Vertical Surface Discontinuities**

SCALE : N.T.S.



Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50%. The bevel shall be applied across the entire vertical surface discontinuity.

ADA Curb Ramp Documentation  
Type: Perpendicular (Directional)

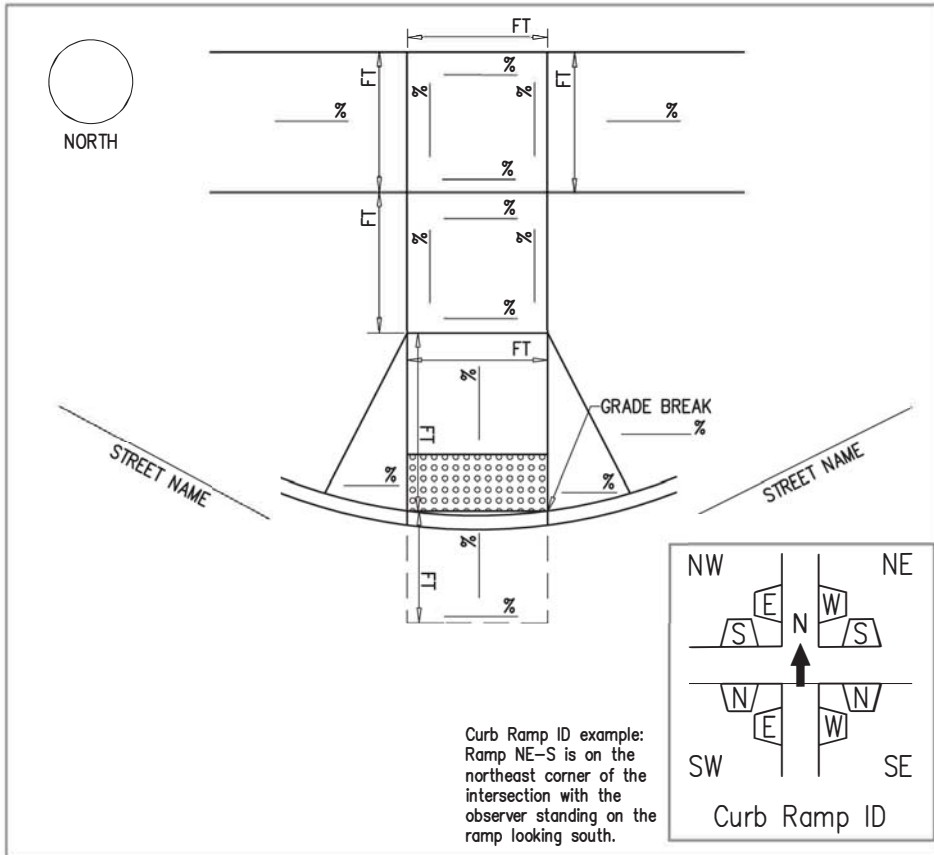
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ADA Curb Ramp Documentation  
Type: Perpendicular (Radial)

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
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 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
 LEVEL CALIBRATION  
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 CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

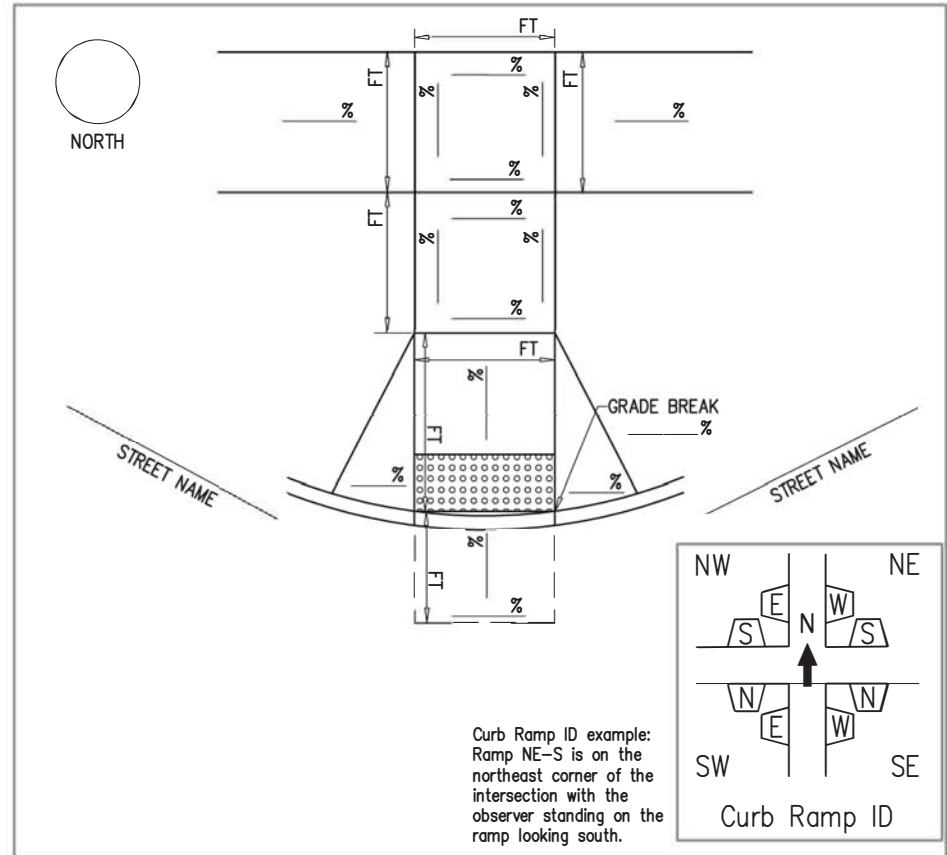
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STA:	OFFSET:
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CITY/STATE:	
DATE:	

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Perpendicular (Radial)

Constructed Inspection

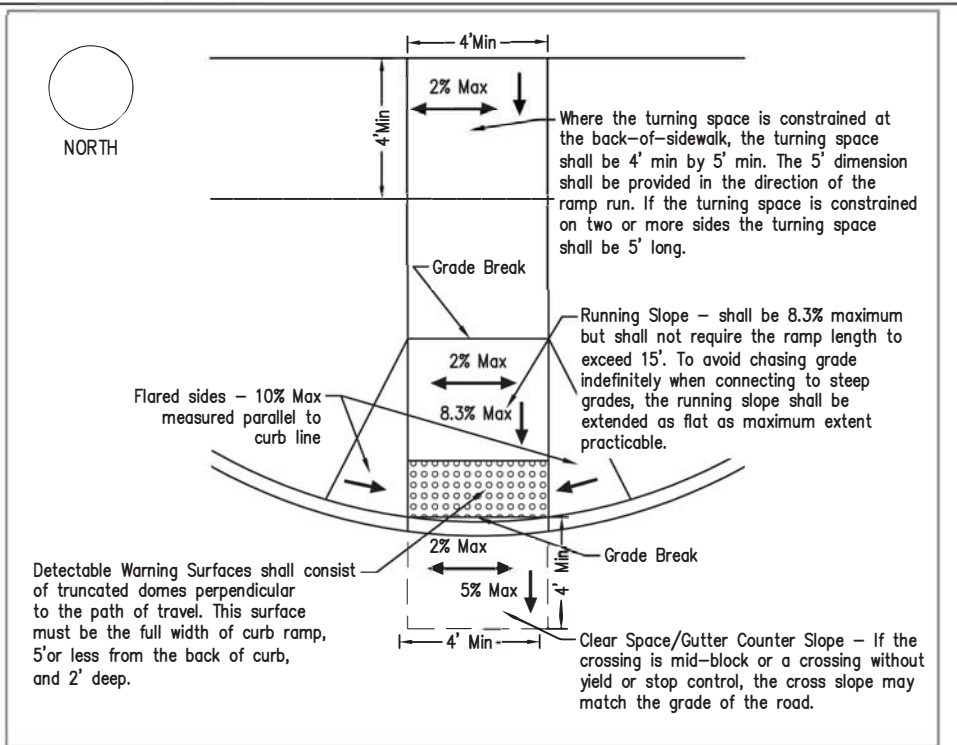


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 CONTRACTOR INITIAL \_\_\_\_\_ DATE \_\_\_\_\_

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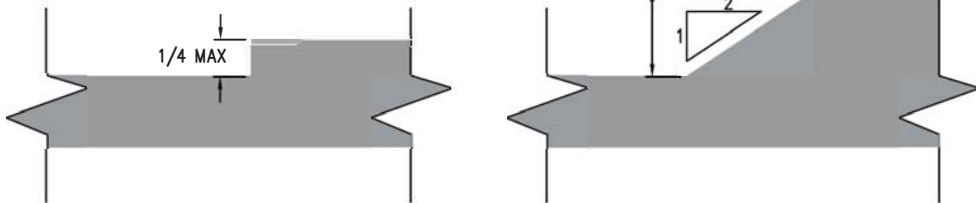
\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*

ADA Curb Ramp Documentation  
Type: Perpendicular (Radial)



**Vertical Surface Discontinuities**

SCALE : N.T.S.



Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50%. The bevel shall be applied across the entire vertical surface discontinuity.

ADA Curb Ramp Documentation  
Type: Perpendicular (Radial)

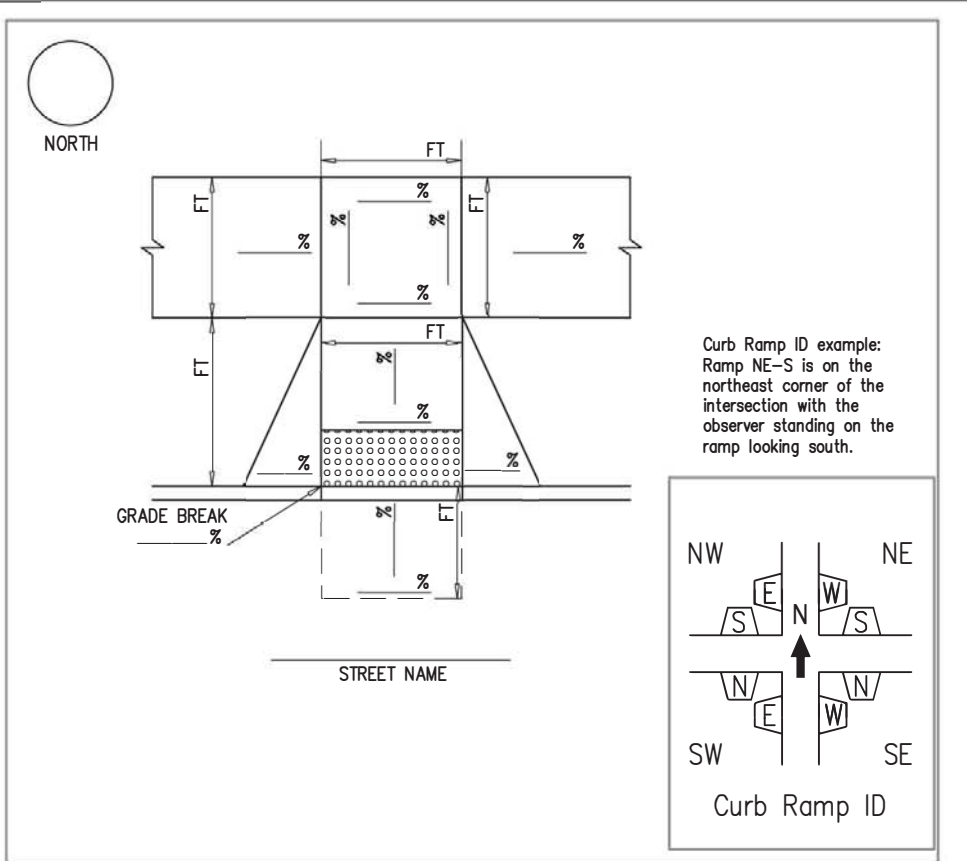
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ADA Curb Ramp Documentation  
Type: Perpendicular

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
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 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
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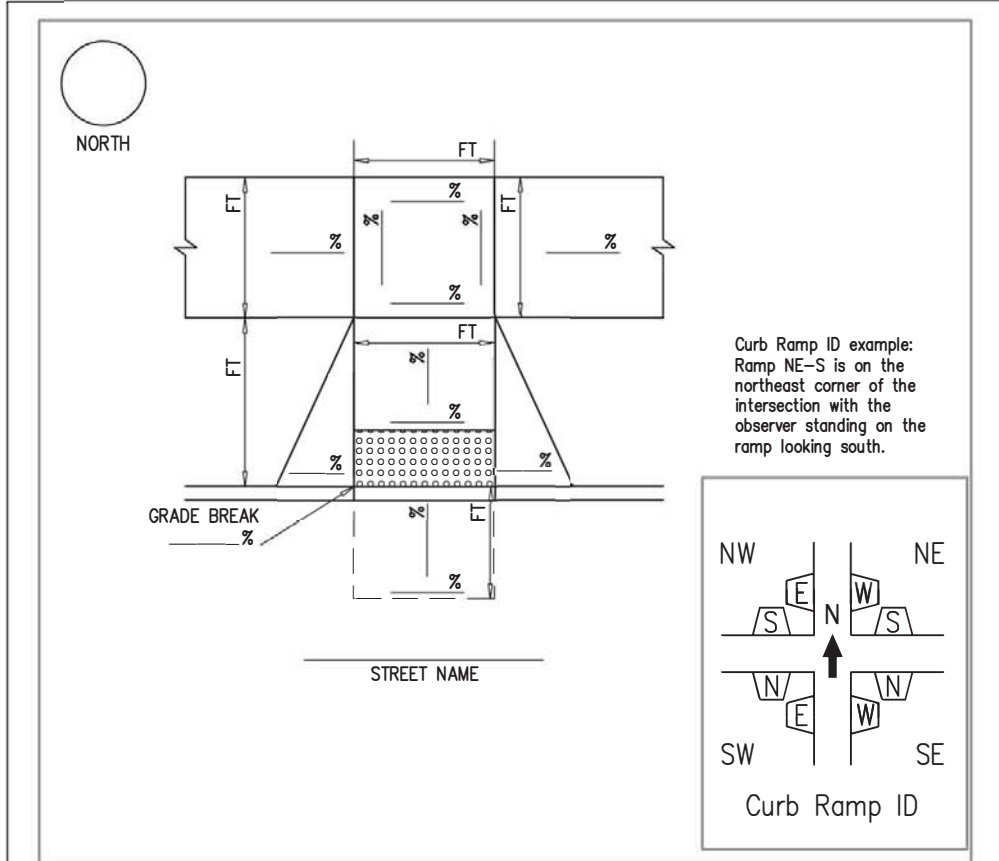
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ADA Curb Ramp Documentation  
Type: Perpendicular

Constructed Inspection



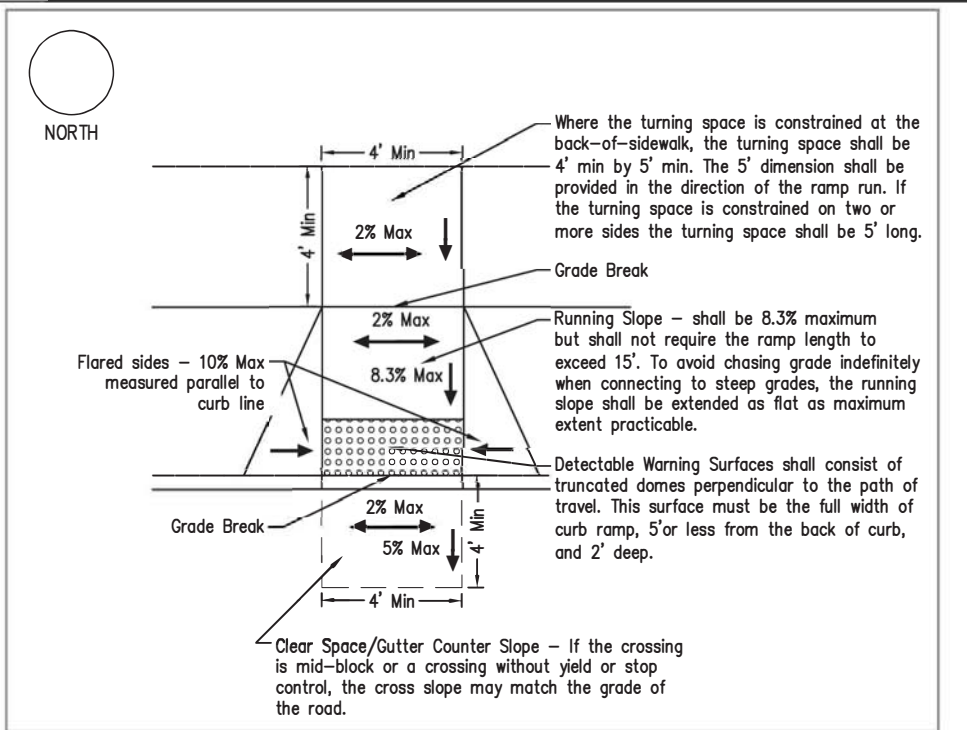
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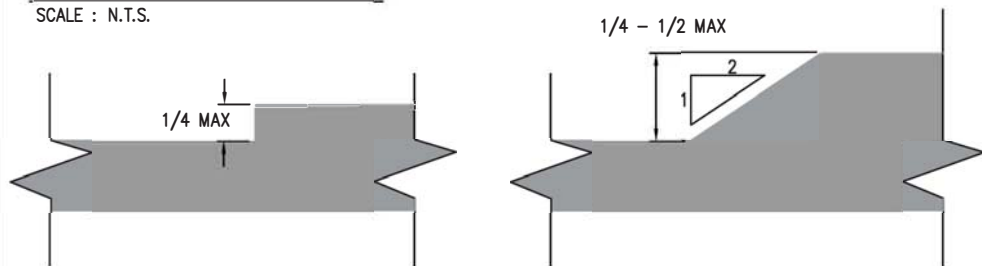


ADA Curb Ramp Documentation  
 Type: Perpendicular



**Vertical Surface Discontinuities**

SCALE : N.T.S.



Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50%. The bevel shall be applied across the entire vertical surface discontinuity.

ADA Curb Ramp Documentation  
 Type: Perpendicular

**COMMENTS:**

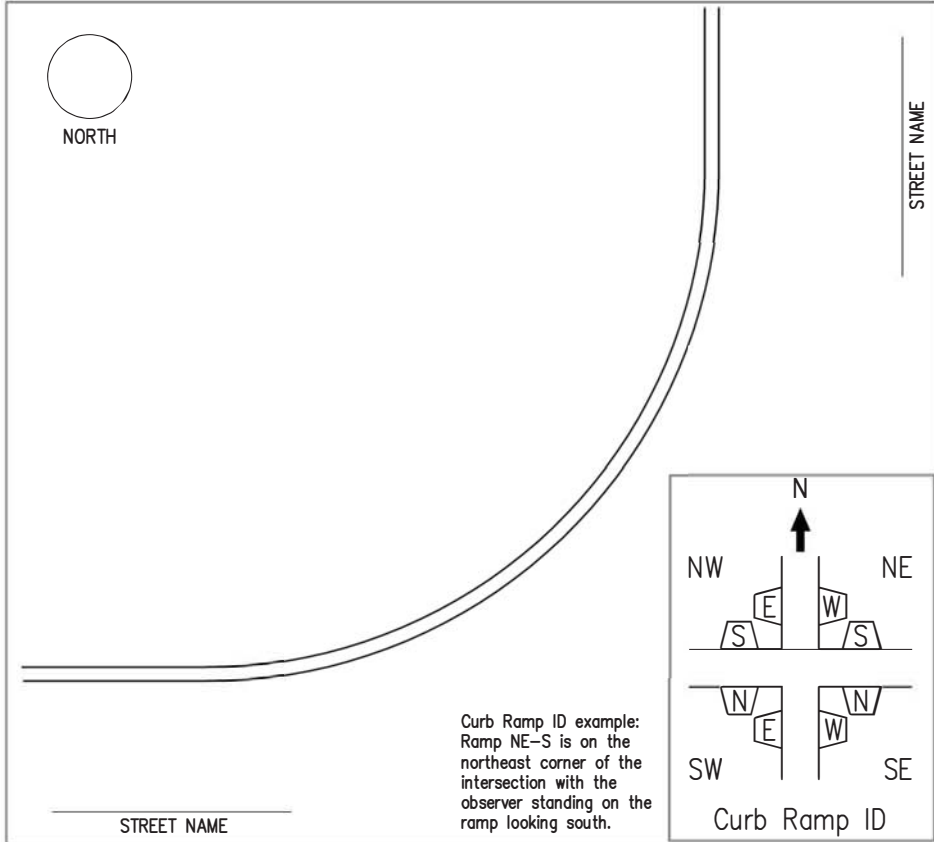
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ADA Curb Ramp Documentation  
Type: Blank Curb Ramp

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
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 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
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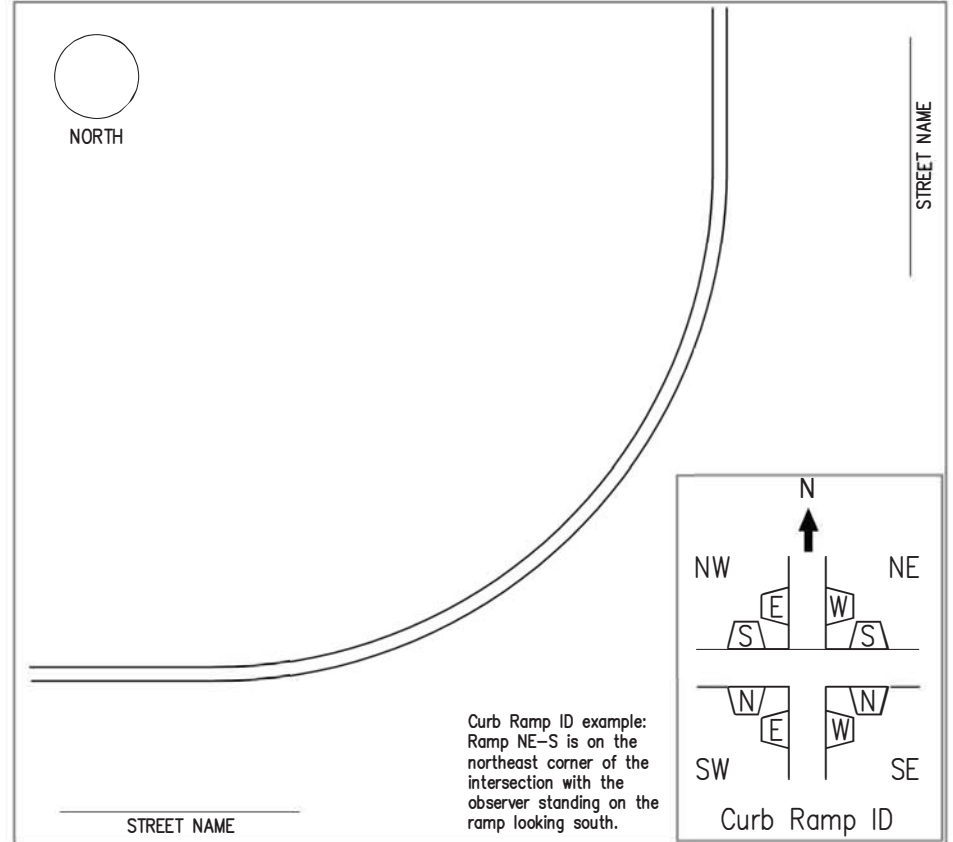
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CITY/STATE:
DATE:

\*FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT\*



ADA Curb Ramp Documentation  
Type: Blank Curb Ramp

Constructed Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
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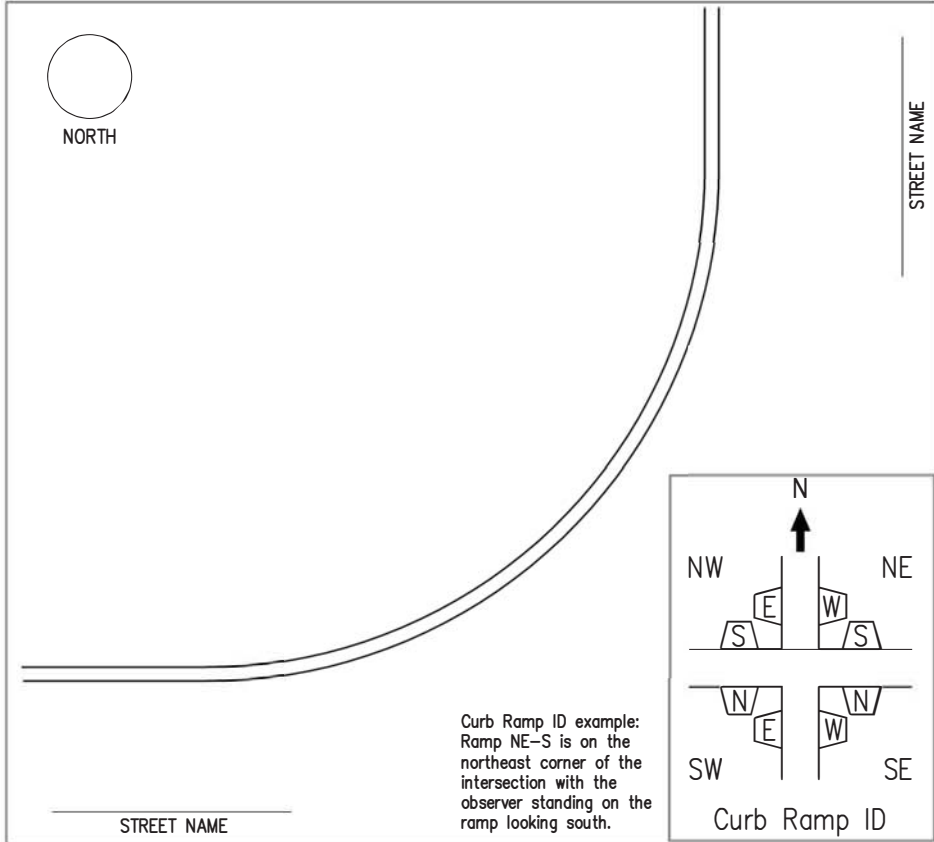
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ADA Curb Ramp Documentation  
Type: Blank Curb Ramp

Pre-Pour Inspection



INSPECTOR SIGNATURE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACTOR SIGNATURE: \_\_\_\_\_  
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LEVEL CALIBRATION  
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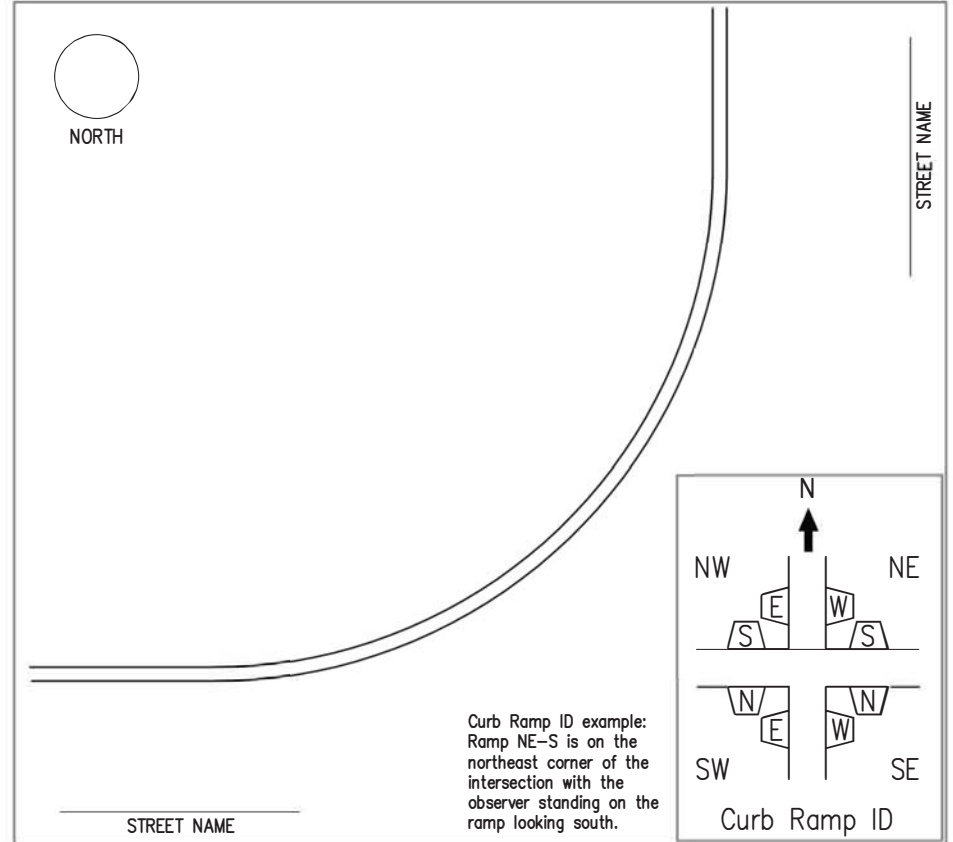
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ADA Curb Ramp Documentation  
Type: Blank Curb Ramp

Constructed Inspection



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LEVEL CALIBRATION  
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**Chief Engineer  
January 1, 2019**

## **NOTICE TO CONTRACTORS**

### **Additional Named Insured**

#### **PCN B-23-02**

In accordance with the 2019 Edition of the New Mexico Department of Transportation Standard Specifications Section 107.25.4, "Department as Additional Insured" the successful Bidder shall name the as an additional named insured on the comprehensive general liability form or commercial general liability form and return the same with the return of the Contract documents listed and in the timeframe required in the notice of preliminary Award of Contract letter.

Pursuant to Section 103.8, "Execution of Contract", failure by the successful Bidder to comply with this Notice to Contractors may constitute just cause for cancellation of the Award and the forfeiture of the Bid Guaranty

## **Notice to Contractors**

### **Cooperation with Utilities**

#### **PCN B-23-02**

For construction purposes this Notice to Contractors ("NTC") does not supersede or alter the obligations in the 2019 Edition of the New Mexico Department of Transportation ("NMDOT") Standard Specifications for Highway and Bridge Construction, ("Standard Specifications") Section 105.6, "Cooperation with Utilities". This Project's Work affects utilities. The NMDOT may or may not own the utilities that are within the Project limits. Therefore, the Contractor shall coordinate with both the NMDOT and the respective utility identified in this NTC. Failure by the Contractor to comply with this NTC and the Contract may result in delays to the Project and may result in Non-Conformances. This coordination and associated Work shall be considered incidental to the completion of the Project and no separate measurement or payment will be made.

The Contractor shall preserve line location markings or provide an offset mark before obliterating a locate mark. Restrictions exist regarding the use of emergency line locates. An emergency is defined as an excavation that must be performed due to circumstances beyond the control of the Contractor and that affects public health, safety or welfare. Emergency locate request shall not be used to circumvent poor job planning or economic consequences.

#### **NMDOT Owned Facility Infrastructure**

If a Contractor's or Subcontractor's activities at any tier, destroys, obliterates, covers or in any way alters utility markings put in place by the NMDOT, the Contractor shall ensure that those line markings are reestablished or provide offset markings before the Contractor or its Subcontractor at any tier begins Work in the affected area. The Contractor shall both photo document the utility markings in their construction area prior to disturbing those markings and photo document the remarked utility alignment or the offset markings to ensure accuracy to the original markings. Photos will clearly identify distances and/or recognizable features needed to ensure re-markings or offset markings are accurate.

If the Contractor or Subcontractor at any tier fails to accurately reestablish previously placed line markings and damage occurs to any NMDOT owned facility infrastructure the Contractor shall be responsible for all associated repair costs and no additional Contract Time will be granted for repairs. If any NMDOT owned facility is damaged, the Contractor shall bear the cost of repair to the satisfaction of the NMDOT. NMDOT incurred costs related to damage to NMDOT owned facility infrastructure may be recovered from the Contractor by Progress Payment offset or the Contractor's Project performance bond. All damaged infrastructure will be repaired as an emergency repair (within 24-hours), and shall be performed in accordance with the Standard Specifications.

### **Non-NMDOT Owned Utility Infrastructure**

Utilities shown on the Plans, which will not be relocated, shall require the Contractor to take the necessary precautions to protect the utility from damage caused by the Work. If any such utility is damaged, the Contractor shall bear the cost of repair to the satisfaction of the utility owner. The Contractor shall be responsible for all associated repair costs and no additional Contract Time will be granted for repairs.

### **Utility Relocation**

Utilities detailed below, shall require the Contractor to take the necessary precautions to protect the utility from damage caused by the Work. If any such utility is damaged, the Contractor shall bear the cost of repair to the satisfaction of the utility owner. The Contractor shall be responsible for all associated repair costs and no additional Contract Time will be granted for repairs.

All timeframes listed below are reflected in Days. Per Standard Specification Section 108.3 "Schedule" the Contractor shall include the timeframes listed below as an activity in the CPM Baseline Schedule or Bar Graph Baseline Schedule, as called for in the Contract, and all schedule updates so that the NMDOT can readily identify the Work and measure the progress of the same.

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#### **Grant County:**

No Apparent Conflict

#### **P.N.M. Power:**

No Apparent Conflict

#### **New Mexico Gas Company:**

No Apparent Conflict

#### **El Paso Natural Gas:**

No Apparent Conflict

#### **Quest Telephone:**

No Apparent Conflict

#### **Town of Hurley Sewer:**

No Apparent Conflict

#### **Grant County Gravity Sewer:**

No Apparent Conflict

#### **N Hurley Water Association:**

No Apparent Conflict

## NOTICE TO CONTRACTORS

### Monthly Asphalt Binder Price Adjustment Procedures

#### PCN B-23-02

Adjustments will be made to the Bid Item Unit Price for asphalt binder if the asphalt binder price placed on the Project increases or decreases based on the New Mexico Asphalt Rack-Price Index ("price index") per ton of asphalt binder. Historical price index data and the basis for the method of calculation for the price index is available at the hyperlink below:

[http://dot.state.nm.us/content/dam/nmdot/Plans\\_Specs\\_Estimates/NMDOT\\_Aspphalt\\_Index.pdf](http://dot.state.nm.us/content/dam/nmdot/Plans_Specs_Estimates/NMDOT_Aspphalt_Index.pdf)

The increase or decrease is based on the price index corresponding to the month the asphalt binder was actually placed on this Project.

Bid Items subject to adjustment are: 301-A – Full Depth Reclamation (FDR) Foamed Asphalt Stabilized Base, 301-B – Cold Central Plant Recycling (CCPR) Foamed Asphalt Stabilized Base, 403 - Open Graded Friction Course Complete, Warm Mix Open-Graded Friction Course Complete and Rubberized Open- Graded Friction Course Complete, 423 Hot Mix Asphalt (HMA) (Major Paving) and 424 Warm Mix Asphalt (WMA) (Major Paving).

The Contractor shall submit applicable mix designs, including percentage of asphalt binder, for inclusion in the price adjustment for the Pay Items listed above in the Contract.

Monthly Adjustment:

The Progress Payment shall reflect the monetary monthly adjustment to the Contract for asphalt binder as determined by equation (1) or (2), as appropriate.

The variables applicable to the equations below are:

A – Monetary monthly adjustment to the Contract for asphalt binder.

B – Price per ton of asphalt binder corresponding to the month the binder was actually placed on the Project based on the price index.

C – Price per ton of asphalt binder at time of Bid Opening based on price index.

D – Tons of asphalt binder placed on the Project corresponding to the subject month.

## Monthly Asphalt Binder Price Adjustment Procedures

PCN B-23-02

Page 2

For increasing prices (The monthly adjustment shall apply on those Contracts whose monthly fluctuations have a (B / C) ratio greater than 1.1). Use Equation (1).

Equation (1):  $A = (B - (1.1 * C)) * D$

For decreasing prices (The monthly adjustment shall apply on those Contracts whose monthly fluctuations have a (B / C) ratio less than 0.9). Use Equation (2).



## NOTICE TO CONTRACTORS

### Non-Mandatory Pre-Bid Conference

PCN: D19114 – BID No. B-23-02

Prior to submitting a Bid, prospective Bidders may attend a Non-Mandatory Pre-Bid Conference. The Non-Mandatory Pre-Bid Conference will be held on **Tuesday May 9, 2023, beginning promptly at 2:00 p.m. Mountain Time**, the start of the Non-Mandatory Pre-Bid Conference will be announced. Attendance at the Non-Mandatory Pre-Bid Conference will be recorded via sign-in sheet.

The Non-Mandatory Pre-Bid Conference will be held at:

**Grant County Administration Office, 1400 Highway 180 East, Silver City, New Mexico 88062, Room: Grant County Planning Office, followed by a site visit.**

Project related questions raised before or after the Non-Mandatory Pre-Bid Conference shall be directed to the Chief Engineer pursuant to the 2019 Edition of the Standard Specifications for Highway and Bridge Construction Section 102.7.1 (1), "Requests for Contract Interpretation".

Chief Engineer  
January 1, 2019

## NOTICE TO CONTRACTORS

### Ramp-Up Time

#### PCN B-23-02

Ramp-up time for this Project is 30 Working Days.

Contract Work shall begin no later than the latest start date in the Notice to Proceed plus the ramp-up time.

At the end of ramp-up time, Contract Time shall automatically commence.

If the Contractor elects to commence Work before the end of the ramp-up time, the Contractor shall provide the Project Manager 48 hour written notice of the date elected to commence Project Work.

The Contractor shall not impact traffic within the Project's limits during ramp-up time.

No Progress Payments shall be made to the Contractor during ramp-up time unless for stockpile Bid Items designated in the Notice to Contractors for Stockpile.

Chief Engineer

## NOTICE TO CONTRACTORS

### Contract Time

PCN B-23-02

Contract time for this Project is 80 Weather Working Days.

Contract Work shall begin no later than the end of Ramp-Up Time. The project must be substantially complete within the time frame stated above.

**Chief Engineer  
January 1, 2019**

## **NOTICE TO CONTRACTORS**

### **Schedule Format**

#### **PCN B-23-02**

In lieu of a critical path method Baseline Schedule format the schedule format for this Project shall be a bar graph Baseline Schedule.

The Baseline Schedule shall conform to the 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction, Section 108.3.2.2 – “Bar Graph Baseline Schedule”.

## NOTICE TO CONTRACTORS

### Stockpile

#### CN B-23-02

In accordance with the 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction, Section 109.9, "Stockpile", the following Bid Items are eligible for stockpile payment for this Project:

<u>Bid Item</u>	<u>Description</u>
540060	Reinforcing Bars Grade 60
-570-	Pipe Culvert Bid Items (Metal and Concrete Culverts Only)
606001	Single Face W-Beam Guardrail
606052	End Treatment TL-2 End Terminal
701000	Panel Signs
701100	Steel Post and Base Post for Aluminum Panel Signs

## NOTICE TO CONTRACTORS

### Approved Products List

Products used on New Mexico Department of Transportation ("NMDOT") Projects must be approved by the NMDOT's product evaluation program and listed on the NMDOT's approved products list ("APL").

The Bidder's Bid Item Unit Price for the Project shall be deemed to rely on the use of the products listed on the APL. The Contractor shall comply with all APL procedures required by the hyperlink below:

<http://dot.state.nm.us/content/nmdot/en/APL.html>

As used in this Notice to Contractors, "product" means any manufactured item, Material, traffic operational device or other feature used in the maintenance or construction of a NMDOT Project.

Approval to use a non-APL product may be granted by the Project Manager on a Project specific basis with written concurrence from the Product Evaluation Engineer. Project specific approvals are for said Project and does not constitute placement of said product on the NMDOT APL. When requesting to use a non-APL product on a Project, the Contractor shall submit a written request to include a reasonable justification as to why the manufacturer could not acquire product approval through the conventional NMDOT product evaluation process. For products currently not on the APL and prior to a project specific approval being granted, the Project Manager shall ensure that the Contractor and/or manufacturer has submitted an application to be evaluated consistent with the processes described in the above hyperlink.

If a non-APL product is used by the Contractor without written approval of the Project Manager, the Contractor shall remove any non-APL product. Removal and replacement will be made at the sole expense of the Contractor if a non-APL Product is used. Any disruption to the Project schedule related to the Contractor's use of a non-APL Product is solely the Contractor's responsibility and no additional Contract Time will be granted.

## NOTICE TO CONTRACTORS

### Electronic Data Files

The New Mexico Department of Transportation ("NMDOT") will only provide electronic data files in the format and software version in which the files were produced and subject to the conditions set out in this Notice to Contractors ("NTC").

Providing electronic data files under this NTC does not alter the Bidder's obligations found in the NMDOT's 2019 Edition of the Standard Specifications for Highway and Bridge Construction ("Standard Specifications"), Section 102.7 - "Examination of Contract, Site of Work and Requests for Contract Interpretation".

The NMDOT will make available the following electronic data files for this Project:

A) Survey Data, in accordance with the Standard Specifications Section 801.1.2 - "Department-Supplied Documents and Services":

1. Existing Computer Aided Design Drafting ("CADD") survey files; and,
2. Existing Digital Terrain Model ("DTM") files.

B) Design Files, subject to the terms and conditions below:

1. Centerline Alignment Files ("CAF"), including horizontal and vertical alignment files for all alignments referenced in the plans.

The electronic data provided in sub-section "B" is for information purposes only. The data is furnished in an "as is" condition without any warranty as to fitness for a particular use beyond information purposes. The Contractor accepts all risks associated with the use of the data provided in sub-section "B" as modifications may have been made to the official hard copy Contract which do not appear in the electronic data files. The Contractor is solely responsible for confirming, conforming and correlating the accuracy and completeness of the electronic data files to the official Contract.

This NTC does not alter the definition of the Contract nor modify the order of importance of the documents as specified in the Standard Specifications, Section 105.4 - "Coordination of Contract Documents".

The electronic data referenced in sub-sections "A" and "B" will be available to the requestor on discs and will be available at the Plans Specifications & Estimate Bureau, located at 1120 Cerrillos Road, Santa Fe, NM 87504, Room 223.

## NOTICE TO CONTRACTORS

### Gross Receipts Tax

The New Mexico Procurement Code, NMSA 1978, § 13-1-108 (1984) requires the New Mexico Department of Transportation ("NMDOT") to exclude the applicable state gross receipts tax, or applicable local option tax, from Bids received for this Project. The NMDOT will pay the applicable tax including any increase in the applicable tax effective after the Contract is executed by the NMDOT. The applicable gross receipts tax or applicable local option tax will be shown as a separate amount on each Progress Payment.



## NOTICE TO CONTRACTORS

### New Mexico Employees Health Coverage

If the Bidder has, or grows to, six (6) or more employees who Work, or who are expected to Work, an average of at least 20 hours per week over a six (6) month period during the term of this Contract, the Bidder certifies by the submission of its Bid and if Awarded the Contract agrees to have in place, and agrees to maintain for the term of the Contract, health insurance for those employees and to offer that health insurance to those employees if the expected annual value in the aggregate of any and all Contracts between the Bidder and the New Mexico Department of Transportation ("NMDOT") exceeds \$250,000.00.

The Bidder agrees to maintain a record of the number of employees who have:

- A. Accepted health insurance;
- B. Declined health insurance due to other health insurance coverage already in place; or
- C. Declined health insurance for other reasons.

These records are subject to review and audit by a representative of the NMDOT.

The Bidder agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://www.insurenewmexico.state.nm.us/>.

For all Contracts exceeding \$250,000, the Bidder Awarded the Contract will be required to provide a letter stating that they currently offer health insurance to its New Mexico employees.

## NOTICE TO CONTRACTORS

### Office of Inspector General

The New Mexico Department of Transportation ("NMDOT") Office of Inspector General ("OIG") has the authority to carry out all duties required to collect information, conduct audits, special studies and investigations. The duties of the NMDOT's OIG also arise from the responsibility all state Departments of Transportation have for ensuring that all Projects are carried out in accordance with federal or state requirements.

The NMDOT's OIG shall be provided access to all documents associated with the Project per the 2019 Edition of the NMDOT's Standard Specifications for Highway and Bridge Construction, Section 107.28 - "Contractor Records".

### To Report Fraud, Waste & Abuse

**1-800-671-STOP  
(1-800-671-7867)**

The NMDOT OIG has established the above toll free number for reports of fraud, waste, abuse or similar illegal or unethical activity affecting the cost, completion or correct and safe construction of a Project. All information will be treated confidentially and caller anonymity will be respected.

#### **The New Mexico Fraud Against Taxpayers Act:**

The New Mexico Fraud Against Taxpayers Act, NMSA 1978, §§ 44-9-1 to -14 (2007, as amended through 2015) provides civil penalties for submitting a claim to a state agency based on false, fraudulent or misleading information. The Act also includes a financial incentive for parties with knowledge of such a claim to come forward.

### To Report Bid Rigging Activities

**1-800-424-9071**

The U.S. Department of Transportation, Office of Inspector General has established the above toll free number for reports of Bid rigging, Bidder collusion, or other similar illegal or unethical activity affecting the cost, completion or correct and safe construction of a Project. All information will be treated confidentially and caller anonymity will be respected.

## NOTICE TO CONTRACTORS

### Patents On Milling Equipment and Milling Operations

Milling equipment and processes intended for use by the Bidder to perform any milling Work required under this Contract may be subject to United States patents. It is the responsibility of the Bidder to investigate the applicability of such patents to the milling Work, and pay royalties and other lawfully imposed charges by the patent holders. Royalties and other lawfully imposed charges are incidental and shall be factored into the Project Bid Item Unit Price for milling.

Chief Engineer  
January 1, 2019

## NOTICE TO CONTRACTORS

### Professional Services

The following has been added to the 2019 Edition of the New Mexico Department of Transportation's Standard Specifications for Highway and Bridge Construction Section 101.4 "Terms and Definitions".

A Professional Service provider is considered a Subcontractor when Work is performed within the Project limits and shall be prequalified in accordance with 18.27.5 NMAC (12/07/2000, as amended through 01/01/2015).

Traffic  
January 1, 2019

## NOTICE TO CONTRACTORS

### Quality Standards for Traffic Control Devices

The Contractor shall comply with quality standards for traffic control devices in the Intra-Departmental Design Directive ("IDD") 2009-05 and incorporated herein by reference. The IDD adopts quality standards in accordance with 23 C.F.R. § 630 (2007) Subpart K-Temporary Traffic Control Devices.

## NOTICE TO CONTRACTORS

### Return of Lobbying Disclosure

#### Pre-Award

This Project is Federal-aid funded. Per 49 C.F.R. § 20.105 and 31 U.S.C. 1352 the Bidder is prohibited from using Federal-aid funds for certain lobbying activities. In addition to this prohibition, the Bidder is required to certify that no Federal-aid funds have been or will be used for such lobbying activities. The Bidder makes this certification through the submission of its Bid with its digital id. The terms and conditions of the certification appear in the Notice to Contractors ("NTC") titled "Federal Requirements" in the section called "Required Contract Provisions Federal-aid Construction Contracts and Supplements (FHWA-1273)" in subsection "XI Certification Regarding Use of Contract Funds for Lobbying".

In addition to the certification above, if any funds other than Federal-aid funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Project the attached form titled "Disclosure of Lobbying Activities" ("Disclosure") shall be submitted. After receipt of the notice of preliminary award of contract letter the successful Bidder shall complete and return the Disclosure with the documents in the notice of preliminary award of contract letter.

**Failure by the successful Bidder to comply with this Notice to Contractors may constitute just cause for cancellation of the Award and the forfeiture of the Bid Guaranty.**

#### Post-Award

At the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any Disclosure previously submitted the Contractor shall immediately submit an updated Disclosure to the Project Manager.

In addition, for subcontracts at any tier over \$100,000.00, the Contractor as a recipient of Federal-aid funds is required to:

1. Add the NTC titled "Federal Requirements" in all subcontracts at any tier. The inclusion of the NTC ensures that the terms and conditions of the certification are incorporated into the Subcontract at any tier;
2. If any funds other than Federal-aid funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Project require its Subcontractors at any tier to complete and return the Disclosure with its permission to subcontract request form A-1086; and
3. Require its Subcontractors at any tier to submit an updated Disclosure to the Contractor at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any Disclosure previously submitted by the Subcontractor. The Contractor shall immediately submit the same to the Project Manager.

Per 31 U.S.C.A. § 1352 (d)(1)(A)(C)(2) exclusions exist regarding the requirements of this lobbying certification and completion of Disclosure. Some of the applicable exclusions are:

1. Payment of a reasonable compensation made to employed officers or employees of a person requesting or receiving Federal-aid funds.
2. A request of or receipt of a Contract that does not exceed \$100,000.00.

# DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: _____	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known: _____	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Entity</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
<i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i>		
<b>11. Amount of Payment</b> (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>13. Type of Payment</b> (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
<b>12. Form of Payment</b> (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:</b>    <i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i>		
<b>15. Continuation Sheet(s) SF-LLLA attached:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>16.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.



16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## NOTICE TO CONTRACTORS

### Temporary Access Control Breaks

The New Mexico Department of Transportation ("NMDOT") cannot guarantee a temporary access control break for any Project.

Due to operational safety NMDOT and the Federal Highway Administration ("FHWA") will not allow any temporary access control break within a two (2) mile (mi) radius of an existing access control break.

Bidders shall Bid the Work using established Interchanges and routes for all haul related activities.

If a temporary access control break is approved the Contractor shall return the reduced costs for all items effected by the temporary access control break to the NMDOT.

Any and all costs associated with a temporary access control break, shall be considered Incidental to the construction of the Project.

#### Process to Request a Temporary Access Control Break

Temporary access control break requests shall be submitted to the Project Manager ("PM") a minimum of ten (10) Days prior to the Pre-Construction Conference, in accordance with Standard Specification Section 108.2 - "Notice to Proceed and Pre-Construction Conference", item numbers four (4) and fifteen (15).

The Contractor shall fill out Form C-196 attached and provide the form and associated pertinent documentation.

The NMDOT review and action for the temporary access control break request requires approximately 30 Days. Re-submittals of temporary access control break requests start the review process and timeline again. No additional Contract Time or compensation shall be provided for the temporary access control break process.

If, by the date of the Pre-Construction Conference the temporary access control break request is not approved, the Contractor shall continue with the Work utilizing the as Bid, established Interchanges and routes.

## Temporary Access Control Breaks

Page 2 of 2

### Conditions

The Contractor is hereby advised that the temporary access control break if approved can be revoked, without re-instatement, if the Contractor fails to comply with the terms and conditions of the approval.

If a temporary access control break request is approved the following standard conditions shall apply.

1. Each access break point must be approved individually and must be approved for each applicable Project.
2. No more than two (2) temporary access control breaks will be allowed on any one (1) Project.
3. In no case will Equipment be allowed to cross an active lane of traffic. Only right in right out access maneuver shall be allowed with NMDOT approved traffic safety mitigations for the temporary access control break.
4. The temporary access control break NMDOT approved traffic safety mitigations shall be removed and placed outside of clear zone during non-working hours per Project Manager's approval.
5. All Work required to construct and to restore the temporary access control break to original condition shall be the responsibility of the Contractor unless otherwise approved by the NMDOT. No additional time or compensation shall be provided by NMDOT for this Work.
6. No loaded scrapers will be allowed on the roadway facilities.
7. The Contractor is not allowed to haul in the direction of opposing traffic.
8. A traffic control plan signed and sealed by a New Mexico Licensed professional engineer shall be provided for each access break requested. Attached is an example schematic plan that shall be similarly designed according to field conditions. Geometrics, traffic volumes, truck traffic percentage, and any other influencing factors shall be considered in the design of the plans to assure safety and mobility in the roadway facilities. Traffic control shall be in accordance with the current version of the Manual of Uniform Traffic Control Devices ("MUTCD"). Minor modifications may be necessary to fit field conditions and must be approved by the Project Manager.

Additional conditions may be provided upon approval of the temporary access control break as noted on Form C-196.

# TEMPORARY ACCESS CONTROL PERMIT REQUEST

I/we request approval of a temporary Right of Way (ROW) access control break in connection with our Project. A vicinity map is attached identifying the location of the access break and all roads, interchanges medians, crossovers, major drainages, fences, pipelines, power lines and any previously approved access breaks that may be affected by this temporary access break. Also attached is a traffic control plan designed and stamped by a New Mexico registered Professional Engineer, identifying all traffic control devices, spacing, distances, vehicle paths and flagmen etc. that relate to the traffic control operations.

Contractor may attach additional pages as necessary to fully address each question below:

1. Control Number, Route and Location of Proposed Access Break (station or milepost): \_\_\_\_\_
2. Traffic Control Locations (station or milepost): \_\_\_\_\_
3. Purpose of Break: \_\_\_\_\_
4. Type of Vehicles Using Break: \_\_\_\_\_
5. Route AADT: \_\_\_\_\_
6. Contractor's Proposed AADT Utilizing Break: \_\_\_\_\_
7. Proposed Days and Time of Operation: \_\_\_\_\_
8. Proposed Duration of Access Break: \_\_\_\_\_
9. Work Required to Construct and to Restore Temporary Access Break to Original Condition: \_\_\_\_\_
10. Other Available Alternatives: \_\_\_\_\_
11. Additional conditions set by the Department or detailed by other agencies (i.e. FHWA, BLM etc.): \_\_\_\_\_

I/we certify that I/we will comply with the traffic control plan submitted, as may be modified by the Department, with the standard conditions of approval, the terms and conditions set forth in the NTC "Temporary Access Control Break" and any additional conditions set forth with the approval of the Temporary Access Control Break detailed by the Department.

I we understand that this approval can be revoked at any time by the Project Manager , without re-instatement if we fail to fully comply with the terms and conditions of this approval.

---

Printed Name of Requestor, Printed Title of Official for Requestor, Signature and Date

**Recommended**

---

Printed Name of Project Manager, Signature and Date

---

Printed Name of District Engineer, Signature and Date

**Concurred**

---

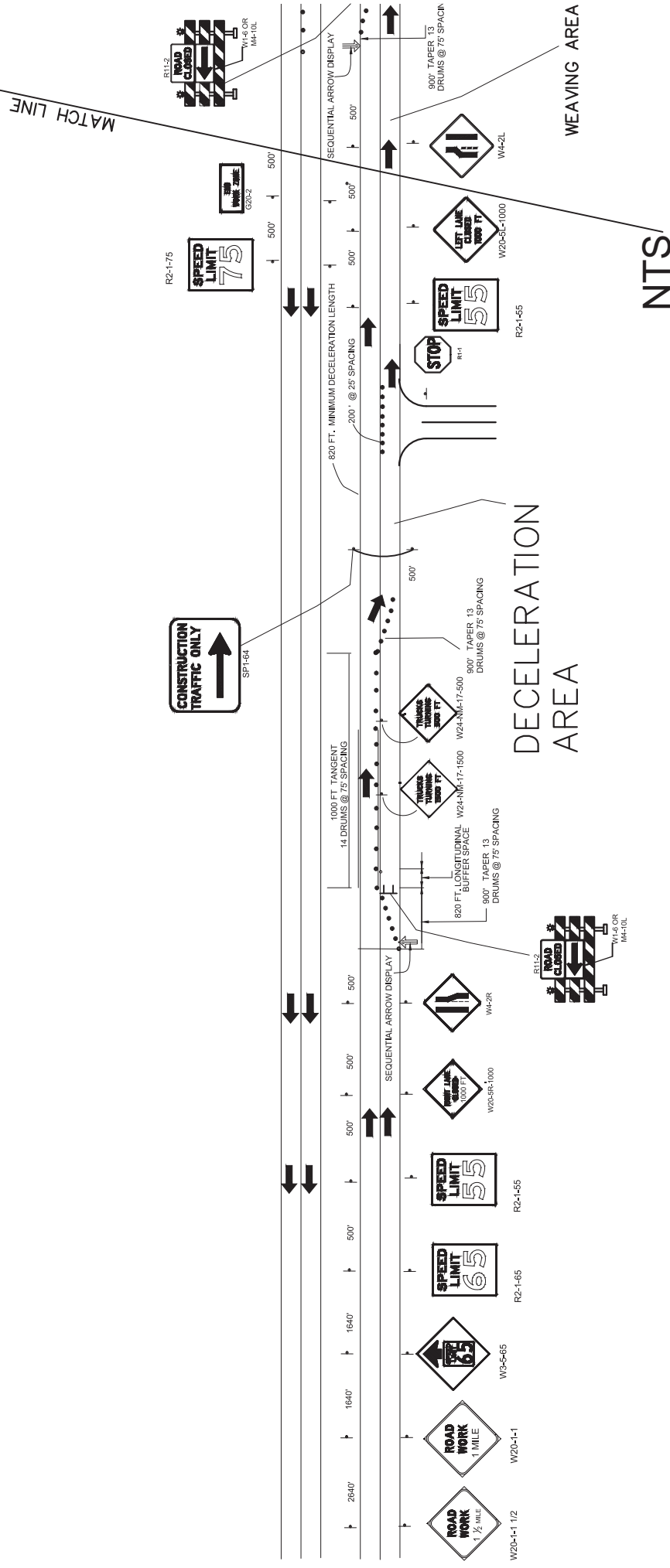
Printed Name of State Construction Engineer, Signature and Date

**Approved**

---

Printed Name of Federal Highway Administration Representative, Signature and Date

- THIS IS AN EXAMPLE SCHEMATIC DRAWING.  
 - CONTRACTOR TO PROVIDE A DESIGN APPROPRIATE TO FIELD CONDITIONS

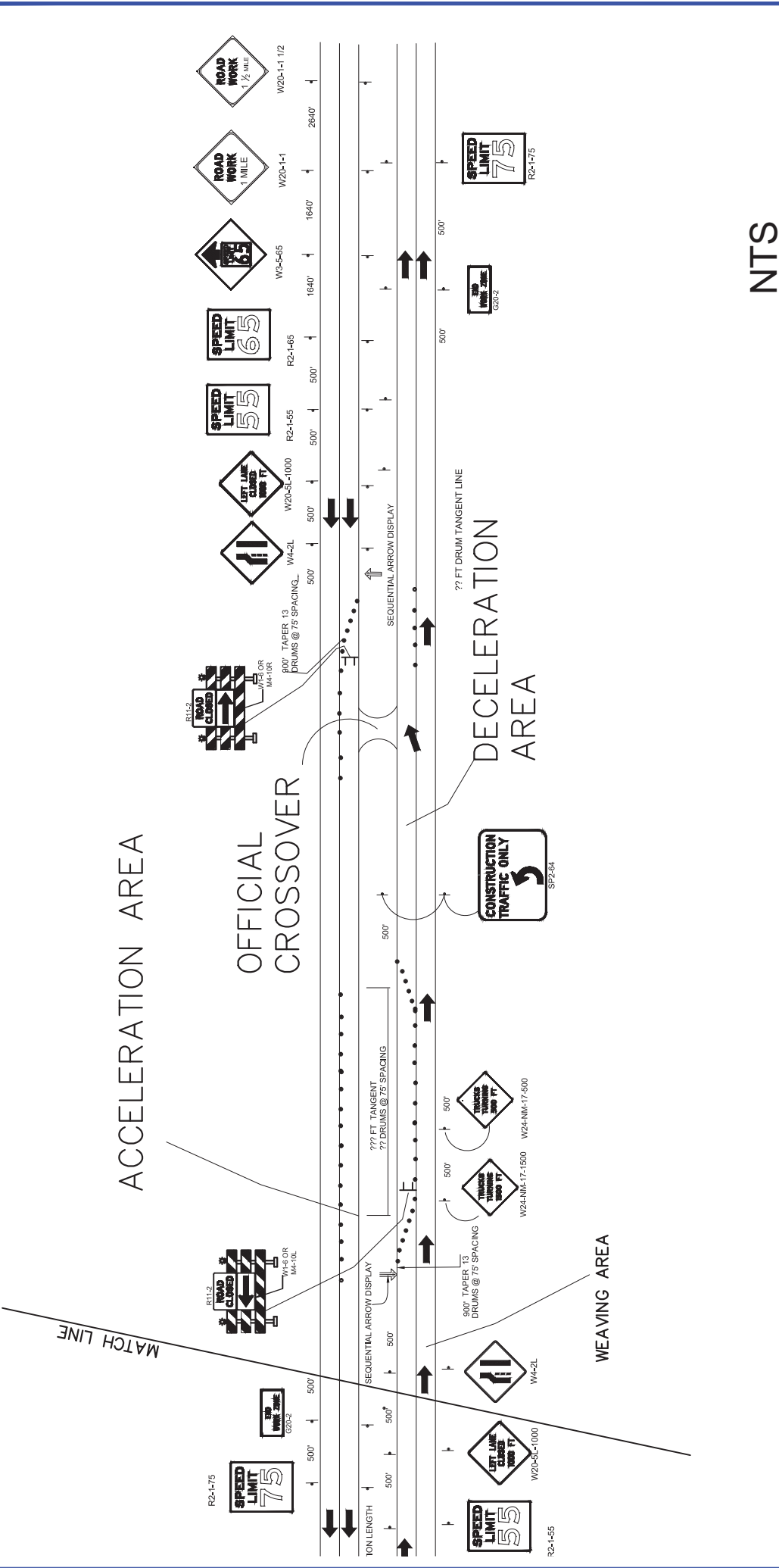


NO.	DESCRIPTION	DATE	BY
4			
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REVISIONS (OR CHANGE NOTICES)

NEW MEXICO DEPARTMENT OF TRANSPORTATION

EXAMPLE INTERSTATE ACCESS HAUL ROAD SIGNING



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NO.	DESCRIPTION	DATE	BY
1	REVISIONS (OR CHANGE NOTICES)		
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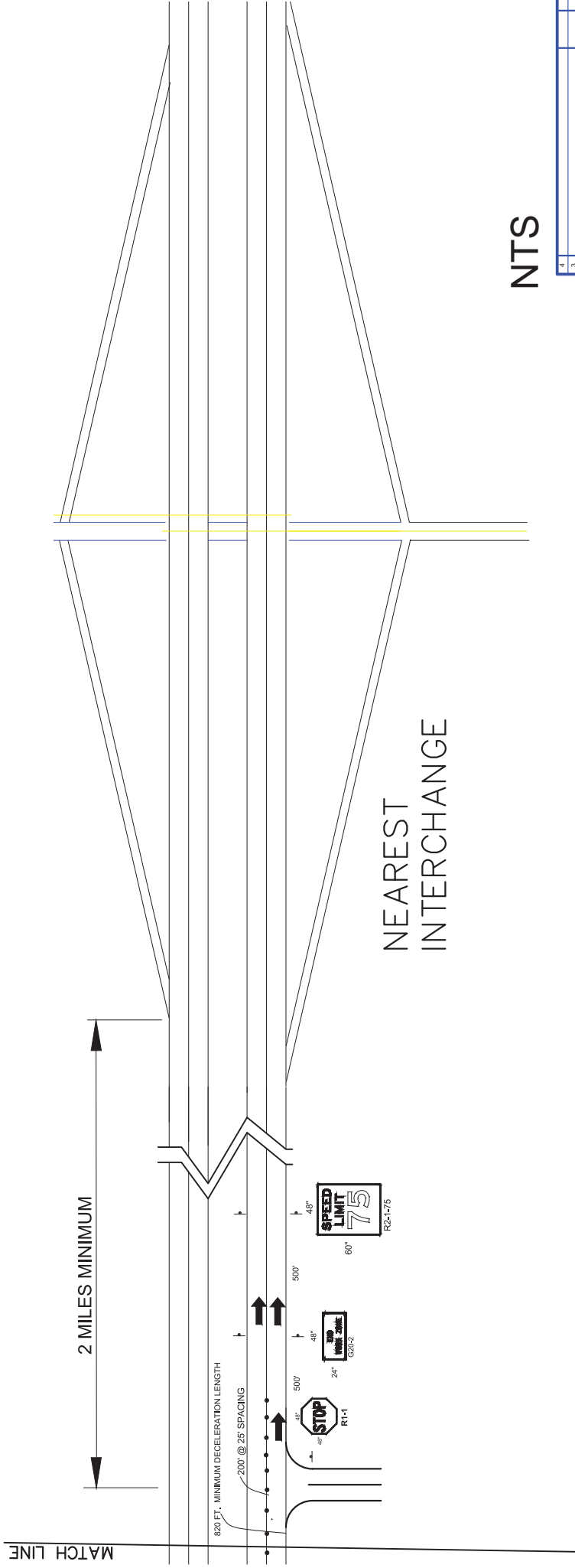
NEW MEXICO DEPARTMENT OF TRANSPORTATION

EXAMPLE INTERSTATE ACCESS  
HAUL ROAD SIGNING

- THIS IS AN EXAMPLE SCHEMATIC DRAWING.  
- CONTRACTOR TO PROVIDE A DESIGN APPROPRIATE TO FIELD CONDITIONS



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- CONTRACTOR TO PROVIDE A DESIGN APPROPRIATE TO FIELD CONDITIONS



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REVISIONS (OR CHANGE NOTICES)		
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NEW MEXICO DEPARTMENT  
OF TRANSPORTATION

EXAMPLE INTERSTATE ACCESS  
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# NOTICE TO CONTRACTORS

## License from Construction Industries Division (CID)

For federally funded Projects, the Bidder is not required to have a license from the CID for the Project's Work in order to submit a Bid. However, upon becoming the apparent successful Bidder, the Bidder must obtain a valid license with the proper classification for the Project's Work within 30 Days of the date on the notice of preliminary Award letter.

## **SECTION 100**

These General Conditions have been prepared for use by T/LPAs in the administration of Federal-aid Projects. The purpose of these General Conditions is to define each contracting party's duties and privileges, and the rules by which they are to meet obligations and perform the Work they agreed upon. Nothing in these General Conditions should be taken to contradict any mandatory federal, State or local laws and regulations. Nor should these General Conditions be interpreted as altering or superseding any such mandatory federal, State or local laws and regulations. T/LPAs should consult their own legal counsel for advice regarding the use of these General Conditions.

## **SECTION 101: ABBREVIATIONS, SYMBOLS, TERMS, AND DEFINITIONS**

### **101.1 ACTIVE VOICE, IMPERATIVE MOOD, REFERENCES, USE OF LANGUAGE**

These General Conditions were developed with an emphasis on the active voice. In a sentence written in the active voice, someone acts on something. For example: "The Engineer will take a sample." A similar sentence in the passive voice "A sample will be taken" would be unclear about who was responsible for taking the sample.

This edition of the Standard Specifications also makes use of the imperative mood. The imperative mood is used when the party issuing an instruction and the party receiving it are already understood. In these Standard Specifications, the T/LPA is stating its requirements or directions for Work to the Contractor; such statements have the same force as if they contained the word "shall." In an imperative sentence such as, "Pour the concrete," the T/LPA is indicating that it requires the Contractor to pour the concrete. Before an Award of a Contract, imperative statements are directed to the Bidder. After a Contract has been Awarded, imperatives are directed to the Contractor. The Standard Specifications are divided into various parts in this order: divisions, sections and subsections.

The T/LPA will identify parties other than the Bidder or Contractor to whom it gives a responsibility in these Standard Specifications. In phrasings where the responsible party has already been clearly identified or in factual statements when it is not important to do so, the T/LPA may use the passive voice.

The word "shall" is used in a mandatory or imperative sense and signifies that the T/LPA is imposing a duty on a person or body that is the subject in the sentence. The word "may" is used to signify the conferring of a discretionary power, privilege, or right. However, use of the term "may not" signifies that a right, privilege, or power is intended to be denied.

The titles or headings of the sections and subsections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

The Contractor, having an obligation to comply with, observe, and comply with all federal and State law and regulations, any reference to any federal or State law or regulation shall constitute a reference to any applicable amendment or successor law or regulation.

## 101.2 ABBREVIATIONS

When the following abbreviations are used in the Plans, the Specifications, other Contract documents, and T/LPA correspondence, their meaning is as follows:

<b>Table 101.2:1 Acronyms and Abbreviations</b>	
<b>Acronym or short form</b>	<b>Full name or meaning</b>
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AI	Aggregate Index
AMRL	AASHTO Material Reference Laboratory
ASTM	American Society for Testing and Materials
AWG	American Wire Gauge
AWPA	American Wood Preservers' Association
AWWA	American Water Works Association
CBC	concrete box Culvert
CCD	closed circuit detection
CD	compact disc
CFR	Code of Federal Regulations
CMP	corrugated metal pipe
CN	control number
CPM	Critical Path method
CTR	certified test report
CWB	concrete wall barrier
DBE	disadvantaged business enterprise
EA	Entrance Angle
ESAL	equivalent single axle loading
FHWA	Federal Highway Administration
GRT	gross receipt tax
HDPE	high density polyethylene
HFE	high-float emulsion
HID	high-intensity discharge
HMA	hot-mix asphalt
HMWM	high molecular weight methacrylate
IES	Illuminating Engineering Society
IMC	intermediate metallic conduit
ITE	Institute of Transportation Engineers
JMF	Job Mix Formula
LCD	liquid crystal display
LL	liquid limit
SDS	Safety Data Sheet
MTR	mill test report
MUTCD	Manual on Uniform Traffic Control Devices
MFBM	Thousand Board Feet

<b>Table 101.2:1</b>	
<b>Acronyms and Abbreviations</b>	
<b>Acronym or short form</b>	<b>Full name or meaning</b>
NCHRP	National Cooperative Highway Research Program
NEC®	National Electrical Code®
NEMA	National Electrical Manufacturers Association
NMAC	New Mexico Administrative Code
NMDA	New Mexico Department of Agriculture
NMED	New Mexico Environment Department
NMSA	New Mexico Statutes Annotated
NMSSPWC	New Mexico Standard Specifications for Public Works Construction
NPDES	National Pollutant Discharge Elimination System
NTSC	National Transmission Standards Committee
OA	Observation Angle
OGFC	open-graded friction course
OSHA	Occupational Safety and Health Administration
PCC	portland cement concrete
PCCP	portland cement concrete pavement
PCI	Prestressed Concrete Institute
PCT	process control technician
PE-P	penetrating emulsified prime
PI	plasticity index
PTL	private testing Laboratory
PVC	polyvinyl chloride
QA	Quality Assurance
QC	Quality Control
QCT	Quality Control technician
QLA	Quality Level Assurance
RAP	reclaimed asphalt pavement
ROW	Right of Way
SSPC	Society of Protective Coating (formerly Steel Structures Painting Council)
SWPPP	storm water pollution prevention plan
TERO	Tribal Employment Rights Organization
TTCP	Technician Training and Certification Program
TV	target value
UBC™	Uniform Building Code™
UL	Underwriters Laboratories
USEPA	United States Environmental Protection Agency
UV	Ultraviolet
VMA	voids in mineral aggregate
VTM	voids in total mix
WMA	warm mix asphalt

### 101.3 SYMBOLS

Within the Specifications and Contract, reference to the English system of measurement

symbols is a reference to the U.S. Customary (Inch-pound) system.

Some of the symbols for units of measurement used in the Specifications and in the Bid Schedule are defined as shown in Table 101.3:1, "Measurement Symbols." The symbols for other units of measurement used in the Specifications are as defined in the various Specifications and tests referenced in the Specifications.

**Table 101.3:1  
Measurement Symbols**

<b>Physical Characteristic</b>	<b>Unit name</b>	<b>Symbol</b>
Length	Microinch	μin
	mil (0.001 inch)	Mil
	Inch	In
	Foot	Ft
	Yard	Yd
	Mile	Mi
Area	square inch	in <sup>2</sup>
	square foot	ft <sup>2</sup>
	square yard	yd <sup>2</sup>
	square mile	mi <sup>2</sup>
	Acre	Acre
Volume	Pint	Pt
	Quart	Qt
	Gallon	Gal
	cubic inch	in <sup>3</sup>
	cubic foot	ft <sup>3</sup>
	cubic yard	yd <sup>3</sup>
Mass (weight)	Ounce	Oz
	Pound	Lb
	ton, short (2,000 lb)	Ton
Temperature	degree Fahrenheit	°F
Time	Millisecond	Ms
	Second	S
	Minute	Min
	Hour	H
Speed	miles per hour	Mph
Pressure	pound-force per square inch	Psi

**Table 101.3:1  
Measurement Symbols**

<b>Physical Characteristic</b>	<b>Unit name</b>	<b>Symbol</b>	
	Watt	W	
	Kilowatt	kW	
	Milliampere	mA	
	Ampere	A	
	Volt	V	
Power, energy and electricity	Volt-ampere	VA	
	Ohm	Ω	
	Hertz	Hz	
	Joule	J	
	Lumen	Lm	
	Footcandle	Fc	
	Horsepower	Hp	
	Force	pound-force	Lbf
		1,000 pounds-force	Kip
	Torque	pound-force foot	lbf•ft
Viscosity, dynamic	Centipoises	cP	
	Poise	P	
Viscosity, kinematic	Centistokes	cSt	
Flow	gallons per minute	Gpm	
Concentration	parts per million	Ppm	
Inductance	Henries	H	
Frequency, concrete consolidation	vibrations per minute	Vpm	
Sound	Decibel, A-Scale	dbA	

### 101.3.1 Engineer's Estimate Symbols

The measurement symbols shown on the Engineer's Estimate may differ from those found in the rest of Contract documents. Table 101.3.1:1, "Symbols for Engineer's Estimate," lists and defines the symbols found in both the Engineer's Estimate and Contract documents.

**Table 101.3.1:1**  
**Symbols for Engineer's Estimate**

<b>Symbol</b>	<b>Unit of measure or meaning</b>
LS	Lump Sum
EACH	Each
ALOW	Allowance
L.F.	Linear Foot
MILE	Mile
S.F.	Square Foot
S.Y.	Square Yard
SYIN	Square Yard Inch
ACRE	Acr
C.Y.	Cubic Yard
LB	Pound
TON	Ton

#### **101.4 TERMS AND DEFINITIONS**

Unless the context otherwise requires, if the following capitalized terms are used in the Contract documents and T/LPA correspondence, the intent and meaning shall be interpreted as follows:

**Acceptance.** (Also called **Accept, Accepted and Acceptable**) 1) The determination by the **T/LPA** that **Materials** and **Work** are in compliance with the **Contract**. 2) The process by which the **T/LPA** determines whether or not the quality of produced **Material** or **Work** is **Acceptable** pursuant to the **Contract**, including sampling, testing, certifications and assessment of test results. **Acceptance** shall not be construed as a warranty by the **T/LPA** that the **Contractor's** methods will succeed or will be the most efficient or economical method of accomplishing the **Work**, nor shall the term be construed that the actual **Materials** used in construction will perform as represented in test results supplied to the **T/LPA** by the **Contractor**.

**Addendum.** A change in the **Contract** issued after the **Advertisement** and before the **Bid Opening**.

**Advertisement.** A public announcement, as required by law, inviting **Bids** for **Work** to be performed or **Materials** to be provided. Also called **Invitation for Bids**.

**Apparent Low Bidder.** The **Bidder** who submits a **Total Bid Amount** that is numerically lower than the **Total Bid Amount** submitted by other **Bidders**, but who's **Bid** may later be subject to rejection, recalculation or other modification that may change the order of **Bidders**.



**Award.** The T/LPA's selection of a **Bidder's Bid** subject to the **Contractor's** and T/LPA's execution of the **Contract**.

**Base Course.** The layer or layers of specified **Material** placed on a **Subbase** or a **Subgrade** normally used to support a **Surface Course**.

**Basis of Payment.** The terms under which **Work** is paid, as a designated **Pay Item** in accordance with the quantity measured and the **Pay Unit**. Basis of Payment includes the performance of all **Work** and furnishing of all labor, **Equipment, Materials** and **Incidentals** described in the text of a specific item included in that **Contract**.

**Bid.** The offer of a **Bidder** for performing the **Work** at the prices quoted.

**Bidder.** An individual, partnership, firm, corporation, joint venture, or their authorized representative submitting a **Bid**.

**Bid Form.** The approved form on which the T/LPA requires **Bidders** to prepare and submit **Bids**.

**Bid Guaranty.** The security provided with a **Bid** to guarantee that the **Bidder** will enter into the **Contract** if the T/LPA **Accepts** its **Bid**.

**Bid Item (Contract Item, Pay Item).** A specifically described unit of **Work** for which a **Bidder** provides a **Bid Item Unit Price** and **Bid Item Price**. The **Bid Items** become **Contract Items** when the **Contract** is fully executed. The **Contract Items** become **Pay Items** when calculating **Progress Payments**.

**Bid Item Price.** The extended price established by the **Contractor** for each individual **Bid Item** on the **Bid Schedule** which is the product of the **Bid Item** quantity and the **Bid Item Unit Price**.

**Bid Item Unit Price.** The price established by the **Contractor** for each unit of an individual **Bid Item** on the **Bid Schedule**. A **Bid Item Unit Price** reflects a **Bidder's** actual and direct costs for the item plus a reasonable proportionate share of the **Bidder's** anticipated profit, overhead costs, and other indirect costs.

**Bid Opening.** A public reading of the properly submitted **Bids**, on a date established by the **Advertisement**.

**Bid Schedule.** Listing or table of **Bid Items** containing the estimated quantities for which **Bid Item Unit Prices** are invited.

**Borrow Pit.** A **Contractor** selected source outside the **Roadway Prism** from where suitable **Material** is obtained.

**Breakaway.** The ability of a system to yield at a predetermined impact force.

**Bridge.** A **Structure** having a length — as measured along the center of the **Roadway** — of more than 20 ft between undercopings of abutments or extreme ends of openings for multiple boxes or extreme ends of openings for Culverts placed in series with a spacing between Culverts not exceeding  $\frac{1}{2}$  the diameter, and carrying a pathway or **Roadway** over a depression or obstacle. It includes all appurtenances necessary to its proper use. The length of a **Bridge Structure** is the distance along the line of survey stationing back-to-back of backwalls of abutments, if present, or end-to-end of the **Bridge** floor, and in no case less than the total clear opening of the **Structure**. The **Bridge Roadway** width is that clear unobstructed width of **Bridge** deck available for vehicle use measured normal to the centerline of the **Bridge**.

**Business Hours.** **Business Hours** are the hours during the Day as established by the governing body of the **T/LPA** in which business is commonly conducted.

**Calendar Day.** Each and every **Day** shown on the calendar, beginning and ending at midnight. Also referred to as "**Day.**"

**Certificate of Compliance.** A certification, including a signature by a person having legal authority to act for the manufacturer, stating that the product, assembly, or **Material** to be incorporated into the **Project** was fabricated in accordance with and meets the applicable terms of the **Contract**.

**Change Order.** A **Change Order** is the only method authorized for changing the **Contract**. A written order, with or without the consent of the **Contractor**, implementing the **Contract** changes. A **Change Order** may consist of a **Supplemental Agreement** or **Field Sheet**.

**Chief Engineer.** The **Engineer** in charge of the design of **Projects**, acting either directly or through his duly authorized representatives, for the **T/LPA**.

**Chief Procurement Officer.** The person designated by the **T/LPA** who is responsible for the control of procurement of items of tangible personal property, services or construction. "**Chief Procurement Officer**" includes the **State** purchasing agent.

**Chill Factor.** The ambient temperature (in degrees Fahrenheit) minus wind velocity (in miles per hour).

**Claim.** A timely **Contractor** request or demand for a **Contract** adjustment, equitable adjustment, additional time or compensation and other contractual damages, **Delay** damages, an extension of **Contract Time**, certified pass-through **Subcontractor Claims**, or for any other remedy arising from a dispute, disagreement, or controversy concerning respective rights and obligations under the **Contract**.

**Commercial Material Source.** A **Material** source that has been utilized by a private producer in a commercial operation from which **Material** has been sold within the last 24 months before the date of the letting.

**Completion Dates. Contracts** may have the following **Completion Dates** as defined herein:

**Substantial Completion Date;**  
**Physical Completion Date;** or  
**Mandatory Completion Date.**

**Construction Maintenance Easement (CME).** A real property interest in land acquired by the **T/LPA** in conjunction with a **Highway, Street, or Road Project** to provide permanent access to private property to perform specific construction and maintenance functions.

**Construction Liaison Engineer (CLE).** An engineer employed by the **NMDOT** assigned to oversee each **T/LPA** administered **Project** to ensure compliance with Federal requirements throughout design and construction. The **CLE** will perform **Project** inspections on any/all **Project** files and will provide at a minimum a final inspection report on all **Projects**.

**Construction Zone.** The area within the **Right of Way** from the first traffic control sign announcing the **Road Work** to the last sign announcing the end of **Road Work** within which the **Contractor** shall perform construction activities.

**Contract.** The entire and integrated written agreement between the **T/LPA** and the **Contractor** setting forth the obligations of the parties, including, but not limited to, the performance of the **Work** and the **Basis of Payment**.

The **Contract** includes the **Advertisement, Required Documents for Bid Submittal, Standard Specifications, Supplemental Specifications, Special Provisions, Addenda, Notice To Contractors,** general and detailed **Plans, Standard Drawings,** and **Notice to Proceed** — also any **Change Orders** and agreements that are required to complete the construction of the **Work** in an **Acceptable** manner, including authorized extensions thereof, all of which constitute one (1) instrument.

**Contract Bonds.** The approved form of security executed by the **Contractor** and the **Contractor's Surety** or sureties. The performance bond guarantees complete execution of the **Contract** and all **Change Orders** pertaining thereto, and the payment bond guarantees payment of all legal debts pertaining to the construction of the **Project**.

**Contractor.** The individual, partnership, firm, corporation, or joint venture contracting with the **T/LPA** for performance of the **Work**.

**Contract Time.** The time specified in the **Advertisement** for completion of the **Contract**. This time may be defined as a specified fixed date(s), **Mandatory Completion Date**, a given number of **Working Days**, or a given number of **Calendar Days** or a combination of the

above. The **Contract Time** may be amended by a **Supplemental Agreement** to include authorized time extensions as the performance of the **Contract** requires.

**County.** The **County** in which the **Work** herein specified is to be done.

**Cultural Resource.** Any prehistoric or historic period artifact, site, building, **Structure**, material remains, or traditional use area resulting from, or associated with, human cultural activity. Historically important **Cultural Resources** are those eligible for inclusion on the National Register of Historic Places or placed on the New Mexico register of cultural properties either permanently or temporarily per NMSA 1978, Section 18-6-3 and the National Historic Preservation Act Section 106.

**Cultural Resource Professional.** An individual that is permitted to meet the requirements of the Cultural Properties Act, NMSA 1978, 18-6-1 through -17 and issued by the Cultural Properties Review committee with the concurrence of the **State** Archaeologist and the **State** historic preservation officer or appropriate tribal preservation officer, or federal land managing agency when applicable.

**Culvert.** Any **Structure** not classified as **Bridge** or casing that provides an opening under a **Roadway**.

**Critical Path.** The longest continuous sequence of activities through the **Project** schedule that establishes the minimum overall **Project** duration to **Substantial Completion**.

**Critical Path Method Schedule.** A network based method to represent the **Contractor's** plan for constructing the **Project**. The **Critical Path Method Schedule** consists of two primary components 1) Activities that represent the entire **Project** scope of **Work** and 2) logic relationships that connect the activities to one another to determine the sequence of **Work**.

**Day. Calendar Day.**

**Delay.** Any event, action, force or factor that negatively impacts the **Critical Path** on the **Project**, whether it be excusable, inexcusable, nonexcusable, concurrent, compensable or noncompensable.

**Deleterious Material.** Unacceptable **Material** detrimental to the final product.

**Detour.** A temporary route for traffic (vehicular or otherwise) around a closed portion of a **Project**.

**Debarment.** Any final order of the secretary of the New Mexico General Services Department - **State** Purchasing Division, that denies a **Contractor** the right to **Bid** or offer to enter into a **Contract**, other than a contract for **Professional Services**, with the **State** purchasing agent or any company (entity) or individual that has been declared ineligible to receive Federal **Contracts** or certain subcontracts and from certain types of Federal financial and

nonfinancial assistance and benefits that is listed in the System for Award Management (SAM) electronic roster.

**District.** The six **Highway** construction **Districts** established by the **NMDOT** for the purpose of executing the **NMDOT's** construction, maintenance, and administrative activities.

**District Engineer.** The **Engineer** in charge of a **NMDOT District**.

**Embankment.** The portion of a **Roadway** that is below the **Subbase**, **Base Course**, and **Surface Courses** and that is built up in layers consisting principally of soil and broken rock or a combination thereof.

**Engineer.** Whenever the word "**Engineer**" is used in these General Conditions is shall be understood as referring to the licensed professional **Engineer** in the **State** of New Mexico designated by the T/LPA to be in charge for the T/LPA, acting personally or through any assistants duly authorized by the **Engineer**.

**Entrance Angle (EA).** The angle between the reference axis and the axis of incident light (Counter-clockwise rotation of the reference axis relative to the axis of incident light is considered positive.)

**Environmental Professional.** An individual qualified to perform **Hazardous Material** investigations. This individual must possess the qualifications described in 40 C.F.R. Section 312 Subpart C, the USEPA's Standards and Practices for All Appropriate Inquiries.

**Environmental Bureau Manager.** The individual in charge of the Environmental Bureau of the **NMDOT**.

**Environmental Geology Bureau Manager.** The individual in charge of the Environmental Geology Bureau of the **NMDOT**.

**Environmental Resource.** The physical and biological components of the human and natural environment.

**Environmental Specialist.** An individual with at least four (4) years of full-time paid experience in environmental investigations, including analyzing and preparing documentation needed to meet the FHWA approval requirements for the National Environmental Policy Act and related legislation.

**Equipment.** All machinery, tools, and **Equipment**, together with the necessary supplies for upkeep and maintenance, necessary for the construction and completion of the **Contract**.

**Extra Work.** **Work** not provided for in the **Contract** but found by the **Project Manager** to be essential to the satisfactory completion of the **Contract** within its intended scope.

**Fabricator.** A **Supplier** that fabricates or supplies **Structural Steel** or other structural items.

**Field Sheet.** A type of **Change Order** that does not require a **Contractor's** signature.

**Final Acceptance:** The **T/LPA's** payment of the balance due on the final payment voucher.

**Free Float:** The amount of time identified in a specific activity that can be delayed without causing a delay to successor activities.

**Total Float or Float:** The amount of time that an activity can be **Delayed** without causing a **Delay** to the **Critical Path** or negatively impacting the **Project Completion Date**.

**Force Account.** The **Basis Of Payment** for the directed performance of **Work**, with payment based on the actual cost of labor, **Equipment**, and **Materials**, and including various constant additives.

**Fractured Face.** At least one-half of the projected particle area exhibits a rough, angular, or broken texture with well-defined edges.

**General Office.** The **T/LPA's** main place of business unless otherwise designated by the **T/LPA**.

**Hazardous Materials.** Any substance, product, waste, or other **Material** of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to all applicable laws all as amended, or any other federal, **State**, or local statute law, ordinance, resolution, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or **Material**.

**Highway, Street, or Road.** A general term denoting a public way for purposes of vehicular or pedestrian travel.

**Holiday.** Any day recognized as a paid legal **Holiday** for the employees of the **T/LPA**.

**Independent Assurance.** A construction management tool in which a third party, not directly responsible for process control or **Acceptance**, provides an independent assessment of the **Work, Materials**, or the reliability of test results obtained from process control and **Acceptance** testing.

**Incentive/Disincentive Provision.** Predetermined adjustments to the **Contract** price.

**Incidental.** Occurring or likely to occur at the same time or as a result of other items of **Work** as specified in the **Contract** for which no separate or additional payment will be made. Unless otherwise indicated in the **Contract**, **Incidental** costs shall be included in the **Contractor's**

**Bid Item Unit Price** for **Bid Item** 621000 Mobilization.

**Indian Tribe.** Any **Indian Tribe**, band, nation, or other organized group or community that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**Inspector.** Individual assigned to make detailed inspections of **Contractor's Work**.

**Job Mix Formula (JMF).** The combined aggregate gradation and the percentage of each **Material** component in the mix.

**Laboratory.** A testing **Laboratory** of the **T/LPA**, **Contractor** or any other testing **Laboratory** that is AMRL Certified.

**Landscape Architect.** The individual designated to in charge of Landscape Architecture for the **T/LPA**.

**Lighting and Signal Engineer.** The **Engineer** in charge of the **T/LPA's** signal and lighting design.

**Local Public Agency (LPA).** A municipality, **City**, **County**, village, special authority or any other instrumentality of a local government sponsoring a federally funded transportation **Project** and determined to be qualified to assume the administrative responsibilities for such **Project** by the **NMDOT**.

**Luminaire (Luminaries).** A lighting device designed to illuminate the surface of a specific area from a mounting on a **Standard**, including the housing, optical control, lamps, and necessary ballasts.

**Lump Sum.** The price **Bid** by a **Contractor** as a single amount for a complete **Contract Item** as defined by the specifications, or price proposed by a **Contractor** as a single amount for the performance of **Extra Work**.

**Major Contract Item.** Any item, excluding mobilization, having a **Bid Item Price** of ten percent (10.0%) or more of the **Total Bid Amount** for the **Contract**, minus the amount **Bid** for mobilization.

**Mandatory Completion Date.** The date on which the **Project** shall be completed. This may be either **Substantial Completion** or **Physical Completion** as specified in the **Contract**. If neither is specified, it shall mean "**Substantial Completion**."

**Materials.** Any substances specified for use in the performance of the **Work**.

**Median.** That portion of a **Highway**, **Street** or **Road** separating the **Traveled Way** for traffic in

opposing directions.

**Method of Measurement.** The method in which a **Pay Item** is measured to conform with the **Pay Unit**.

**NMDOT.** The New Mexico Department of Transportation as constituted under the laws of the **State** for the administration of transportation **Work**. Per the Stewardship and Oversight Agreement between FHWA New Mexico Division and **NMDOT**, the **NMDOT** is responsible and accountable for T/LPA compliance with all applicable Federal laws and regulations.

**Nominal Maximum Sieve.** One (1) sieve size larger than the first sieve that retains ten percent (10%) or more of a given **Material**.

**Non-Conformance. Contractor's** failure to comply with the **Contract. Non-Conformances** are subject to a withholding of 25% of the **Progress Payment. Non-Conformance** withholdings will be paid at the subsequent **Progress Payment** following resolution of all **Non-Conformances**.

**Notice of Preliminary Award of Contract.** The **T/LPA's** written notification issuing preliminary **Award** that is provided before the **Contractor** and the **T/LPA** execute the **Contract**.

**Notice to Proceed.** Written notice to the **Contractor** to proceed with the **Contract Work** including the beginning date of **Contract Time**.

**Notice to Contractors.** An addition to the **Contract** made prior to Advertisement.

**Observation Angle.** The angle between the axis of incident light and the observation axis.

**Partial Suspension.** The suspension of **Work** on some, but not all **Contract Items**.

**Pavement Structure.** The combination of **Subbase, Base Course, and Surface Course** placed on a **Subgrade** to support and distribute the traffic load to the **Roadbed**.

**Pay Adjustment.** An adjustment to a payment for a specific portion of the **Work** based on the quality of the **Work** performed by the **Contractor** and **Accepted** by the **T/LPA**. Other **T/LPA** documents may refer to this term as disincentives, incentives, pay reductions, price adjustments, and/or price reductions.

**Pay Unit.** The unit of measurement for **Acceptable Work**.

**Petrographer.** Individual with credentials in the study of petrography.

**Physical Completion.** All the **Work** is physically completed on the **Project** and is **Accepted** by the **District Coordinator**. All documentation required by the **Contract** and by law shall be



furnished by this date.

**Pit Agreement.** An agreement between the **Contractor** and property owner to provide **Material**.

**Plans.** The Professional **Engineer** stamped and approved **Contract** drawings showing profiles, typical cross sections, that shows the location, character, dimensions, and general or specific details of the **Work** to be done or exact reproductions of the same.

**Post Construction Plans.** Final drawings reflecting **Work** and quantities performed under the **Contract**.

**Pre-Bid Due Diligence.** The **Bidder's** exercise of due diligence before submittal of a **Bid** which includes the careful, independent examination of the site of the proposed **Work**, including **Materials** pits and haul **Roads**, the **Bid Package**, all **Contract** documents including **Standard Specifications**, **Special Provisions**, **Supplemental Specifications**, and standard drawings and b which are representative of the condition at the precise location where each boring was made but conditions may vary between boring locations.

**Pre-Cast Inspector.** The **T/LPA's** authorized representative as indicated in the **Contract**.

**Pre-Construction Conference.** A meeting between the **T/LPA** and the **Contractor** prior to any **Work** taking place to review and discuss **Contract** requirements.

**Pre-Deck Conference.** A meeting between the **T/LPA** and the **Contractor** prior to the commencement of deck placement operations to review, discuss and coordinate the **Work** associated with the deck placement.

**Pre-Drilled Shaft Conference.** A meeting between the **T/LPA** and the **Contractor** prior to the commencement of drilling operation to review, discuss and coordinate the **Work**.

**Pre-Fabrication Conference.** A meeting between the **T/LPA** and the **Contractor** prior to any fabrication **Work** taking place.

**Pre-Pave Conference.** A meeting between the **T/LPA** and the **Contractor** prior to the commencement of paving operations to review, discuss and coordinate the **Work** associated with paving operations.

**Pre-Pile Driving Conference.** A meeting between the **T/LPA** and the **Contractor** prior to the commencement of pile driving operations to review, discuss and coordinate the **Work**.

**Pre-Seeding Conference.** A meeting between the **T/LPA** and the **Contractor** prior to the commencement of seeding operations to review, discuss and coordinate the **Work**.

**Professional Service.** Is a service provider that may or may not be a **Subcontractor**, who provides a specialized service requiring professional licensure by the **State** of New Mexico, e.g. Professional **Engineers**, Professional Surveyors and Attorneys. The **Professional Service** distinction in this **Contract** is separate from the professional service definition in the Department of Workforce Solutions regulations.

**Profile Grade.** The location of the **Profile Grade** will be designated by the **T/LPA** and shown on the **Plans**. The profile grade line is usually the centerline and elevation to which the **Roadway** will be built. The **Profile Grade** may be used to designate the gradient and elevation of other construction features such as tops of curb, channels, **Sidewalks**, etc.

**Progress Payment.** A monthly payment, including zero dollar (\$0.00), provided by the **T/LPA** to the **Contractor** for **Work**, subject to adjustment by the **T/LPA**.

**Project.** The specific section of property on which **Work** is to be performed as specified in the **Contract**.

**Project Manager.** Wherever the term “Project Manager” is used it shall refer to the person, or his designee, assigned by the T/LPA to facilitate the construction **Contract** for the T/LPA.

**Project Limits.** The beginning of the **Project** (BOP) to the end of the **Project** (EOP) as designated in the **Contract**.

**Punch List.** A list, prepared by the **Project Manager**, of corrective **Work** items not conforming with the **Contract** and to be completed by the **Contractor**. The final **Punch List** is provided after **Substantial Completion** but before **Contractor’s** request for final inspection. The **Punch List** is limited to items of the **Work** that are necessary to correct minor imperfections, deficiencies and deviations from the requirements of the **Contract** but which have no material or adverse effect on the full operability of the **Project** for its intended purpose and may be safely and effectively used by the public without **Delay**, disruption, or impediments.

**Quality Assurance (QA).** The **T/LPA’s** sampling, testing, inspection, and other activities to determine payment and make **Acceptance** decisions. Includes **Quality Control**, **Acceptance** by the agency, and use of qualified **Laboratories** by both parties.

**Quality Control (QC).** The **Contractor’s** actions and considerations necessary to assess production and construction processes so as to control the level of quality being produced in the end product. **Quality Control** includes sampling and testing by the **Contractor** to monitor and adjust its process. **Quality Control** does not include **Acceptance** sampling and testing by the **T/LPA**.

**Quality Level Analysis (QLA).** Is equivalent to **QC/QA**.

**Required Documents for Bid Submittal.** Those documents specified for Bid Submittal including,

but not limited to, **Advertisement, Bid Form, Bid Schedule, Bid Guaranty**, Bidder's List of Quoters, Non-Debarment Certification, Pay Equity Acknowledgment, Disadvantaged Business Enterprise Goal Form A-585, Subcontractor's Fair Practices Act Compliance.

**Resource Loading.** The **Contractor's** assigning of resources necessary to develop an **Acceptable Critical Path Method Schedule** for the **Project**. **Resource Loading** shall include personnel, production rates, **Contract** dollars earned, **Materials**, facilities and **Equipment** associated with each activity within the CPM.

**Lowest Responsible Bidder.** The **T/LPA** determined **Bidder** who submits the lowest adjusted and **Responsive Bid**. The **Bidder** shall also be responsible and when required furnish information and data to prove that its financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, construction or items of tangible personal property as described in the **Advertisement**.

**Responsive Bid.** A **Bid** which conforms in all material respects to the requirements set forth in the **Advertisement** and the **Contract**. Material respects of a **Bid** include but are not limited to price, quality, quantity or delivery requirements.

**Right of Way (ROW).** A general term denoting land or property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

**Roadbed.** The graded portion of the **Highway, Street or Road**, with top and side slopes prepared as a foundation for the **Subgrade, Pavement Structure**, and **Shoulders**.

**Roadway.** A general term denoting the **Traveled Way** and the **Shoulders**.

**Roadway Prism.** The **Roadway** construction limits within the outside limits of the side slopes.

**Shop drawings.** **Contractor, Supplier or Fabricator**-furnished drawings or sets of drawings typically required for **T/LPA** review and approval of **Work** components. **Shop Drawings** shall include detailed information to compare to the **Contract** for approval prior to fabrication.

**Shoulder.** The portion of the **Roadway** contiguous with the **Traveled Way** for accommodation of stopped vehicles, for emergency use, and for lateral support of **Base** and **Surface Courses**.

**Sidewalk.** That portion of the **Roadway** primarily constructed for use by pedestrians.

**Signal Assembly.** A housing containing the required illuminated **Traffic Signal** indications (vehicular and pedestrian) mounted on a **Standard**.

**Special Provisions.** Additions and revisions to the **Standard** and **Supplemental Specifications**

covering conditions applicable to an individual **Project**.

**Specifications.** A general term applied to all written provisions and requirements pertaining to performance of the **Work**.

**Specific Intensity.** Candlepower of the returned light at the chosen **Observation** and **Entrance Angles** for each lumen per square meter, foot-candle of illumination at the reflector on a plane perpendicular to the incident light.

**Standard.** In traffic lighting, a pole-type **Structure** that supports and positions signal and lighting devices, including arms, mounting hardware, and lowering and **Breakaway** devices as required by the **Contract**.

**Standard Drawings.** Detailed drawings for specific items of **Work** approved for repetitive use.

**Standard Specifications.** The **NMDOT's** book of **Specifications** approved for use in the construction of Public Works Projects.

**State.** The State of New Mexico acting through its authorized representatives.

**State Geotechnical Engineer.** The **Engineer** in charge of the **NMDOT's** Geotechnical Engineering/Exploration Section of the **State** Materials Bureau.

**State Pavement Engineer.** The **Engineer** in charge of the **NMDOT's** Pavement Management and Design Bureau.

**Structures.** Buildings, **Bridges**, **Culverts**, catch basins, drop inlets, retaining walls, cribbing, manholes, end-walls, sewers, service pipes, under drains, foundation drains, and other such features that may be encountered in the **Work**.

**Structural Steel.** Steel shapes, plates, H-piling, sheet piling, and any other items identified in the **Contract**.

**Subbase.** The layer or layers of specified **Material** thickness placed on a **Subgrade** to support **Surface Courses**.

**Subcontractor.** An individual, partnership, firm, corporation, or joint venture, at any tier, other than a **Trucker**, who is performing **Work** on the **Project**. A **Subcontractor** has no privity of **Contract** with the **T/LPA** and has no direct or indirect cause of action against the **T/LPA** for any **Claim** or cause of action, including nonpayment by the **Contractor**, arising out of the **Project**.

**Subgrade.** The portion of the **Roadbed** prepared as a foundation for the **Pavement Structure**.

**Substantial Completion.** The **Day** following the last charged **Day** and when all the following items are met:

1. All **Critical Path** activities on the **Project** have been completed and deemed **Acceptable**;
2. The **Project** is complete such that it can be safely and effectively used by the public;
3. The **Contractor** has requested a determination of **Substantial Completion** from the – **District Coordinator**; and
4. The **District Coordinator** has made a determination that the **Project** is **Substantially Complete**.

For safe and effective use by the public, it is the point at which all the following **Work** is complete (or as otherwise defined in the **Contract**):

- **Bridge deck**;
- **Pavement Structure**;
- **Shoulder**;
- Permanent signing;
- A minimum of one (1) application of striping;
- Traffic barrier;
- Signalization and Lighting; and
- Safety appurtenances.

**Substructure.** The **Bridge** below the bearings of simple and continuous spans, skewbacks of arches, and tops of footings of rigid frames, together with the backwalls, wingwalls, and wing protection railings.

**Superintendent.** The **Contractor's** agent authorized in writing to be in responsible charge of the **Project**.

**Superstructure.** The entire **Bridge** except the **Substructure**.

**Supplemental Agreement.** A type of **Change Order** that may require **Contractor** signature.

**Supplemental Specifications.** Approved additions and revisions to the **Standard Specifications**.

**Supplier.** Any individual, partnership, firm, corporation, or joint venture that manufactures, fabricates or supplies **Materials** to be incorporated into a construction **Project** but who performs no actual **Work** on the **Project** site.

**Surety.** The corporation, partnership, or individual, other than the **Contractor**, executing a bond furnished by the **Contractor**.

**Surface Course.** Layer or layers of a **Pavement Structure** designed to accommodate the traffic load, the top layer of which resists skidding, traffic abrasion, and the disintegrating effects

of climate.

**Surfacing Pit.** A source from which suitable **Material** for the production of **Surface Course** aggregate is obtained.

**Temporary Construction Permit (TCP).** A temporary interest in land acquired in conjunction with a **Project** to provide for the temporary use of private property for the duration of the **Project** to perform construction activities as designated in the **Contract**.

**Technical Irregularity.** A minor informality or irregularity that is not a material defect of a **Bid**, that is a matter of form that can be waived without prejudicing other **Bidders**, or result in a change to the order of **Bidders**.

**Termini.** A general term used to describe the **Project Limits**, and including the beginning and end of the **Project**, its **Right of Way**, pit sites, haul **Roads**, and temporary and permanent construction or maintenance easements.

**Tribal/Local Public Agency (T/LPA).** A Federally recognized **Indian Tribe**, a municipality, **City**, **County**, village, or other special authority sponsoring a federally funded transportation **Project** and determined to be qualified to assume the administrative responsibilities for such **Project** by the **NMDOT**.

**T/LPA District Coordinator.** **NMDOT** person assigned to coordinate and work directly with the **T/LPA** and the **NMDOT** Bureaus, Divisions, and Offices during construction.

**T/LPA Region Coordinator.** **NMDOT** person assigned to coordinate and work directly with the **T/LPA** and the **NMDOT** Bureaus, Divisions, and Offices during design.

**Total Bid Amount.** The sum of all the **Bid Item Prices** on the **Bid Form**. The **Total Bid Amount** represents the total cost of performing all the **Work** described in the **Contract** based upon estimated quantities.

**Total Original Contract Amount.** The total amount **Bid** as compensation for the **Contract**.

**Town, City, County or District.** Subdivisions of the **State** used to designate or identify the location of the proposed **Work**.

**Traffic Lanes.** See **Traveled Way**.

**Traffic Services Engineer.** The **T/LPA's** representative for traffic engineering.

**Traffic Signal.** The complete installation of a traffic control system at an intersection, including the illuminated signal indications, supports, electrical controls, and distribution system.

**Traveled Way.** The portion of the **Right of Way** designated for the movement of vehicles, exclusive of **Shoulders** and Auxiliary Lanes.

**Trucker** (Also called Trucking, Trucking Deliveries, Deliveries and Hauling). A **Trucker** is an individual, partnership, firm, corporation, or joint venture that transports or delivers **Materials** to and from the **Project** and does not perform **Work** on the **Project** site. A **Trucker** transports, but does not place, **Materials** (i.e. pit **Materials**, plant **Materials**, fabricated **Materials**, demolished and milled **Materials**, trash and waste **Materials**).

**Unbalanced Bid.** A **Bid** containing **Bid Item Unit Prices** that are unbalanced, to the potential detriment of the **T/LPA**. There are two types of **Unbalanced Bids**; (1) mathematically unbalanced and, (2) materially unbalanced. The mathematically **Unbalanced Bid** is a **Bid** containing **Lump Sum** or unit **Pay Items** which do not reflect reasonable actual costs plus a reasonable proportionate share of the **Bidder's** anticipated profit, overhead costs and other indirect costs but not necessarily to the detriment of the **T/LPA**. These costs should be related to the performance of the items in question. The materially **Unbalanced Bid** is a mathematically **Unbalanced Bid** which the **T/LPA** determines leaves reasonable doubt that **Award** will result in the lowest ultimate cost to the **T/LPA** or that **Award** is in the public interest.

**Value Engineering Cost Proposal.** A **Contractor**-provided form that details an alternative to the **Work** methods or **Materials** specified in the **Contract** that establishes a better or approved-equal product or result without affecting the functional purpose of the **Work** being revised, and that produce a net savings to the **T/LPA**.

**Work.** The providing of all documentation, supervision, labor, **Materials**, **Equipment**, transportation, and other **Incidentals** necessary for the successful completion of the **Project**, the successful completion of **Pay Items**, and the carrying out of the duties and obligations imposed by the **Contract**.

**Working Day.** Every **Day** except Saturdays, Sundays, and **Holidays**. Based on a review of weather conditions and the actual **Work** performed by the **Contractor**, the **Project Manager** will determine (between the end of the **Day** and noon of the next **Day**) if the **T/LPA** will charge a **Working Day**. If the **Contractor Works** for six (6) or more hours on a Saturday, Sunday, or **Holiday**, a **Working Day** will be charged.

**Working Drawings.** **Contractor**-furnished documents including, but not necessarily limited to:

1. Stress sheets;
2. Shop Drawings;
3. Bending diagrams for reinforcing steel;
4. Plans for erection, false **Work**, frames **Work**, cofferdams, and other items; and
5. Such other similar data required for the successful completion of the **Work**.

## **SECTION 102: BIDDING REQUIREMENTS AND CONDITIONS**

### **102.1 RESERVED**

### **102.2 PREQUALIFICATION**

Prequalification of Bidders is a condition for submitting a Bid as authorized by the New Mexico Procurement Code, NMSA 1978, § 13-1-82 and 13-1-134 (1984, amended 2011).

Bidders shall be prequalified in accordance with 18.27.5 NMAC.

### **102.3 SUSPENSION AND DEBARMENT**

The T/LPA may suspend, debar, reject a Bid as non-responsive, prohibit from the performance of Work, or terminate a Contract with any Bidder, Contractor, Subcontractor, at any tier, Suppliers, individual officers, directors in accordance with NMSA 1978, § 13-1-177 to 13-1-180 (1984, as amended 2011) and 1.4.7 NMAC or local ordinance. If an Indian Tribe or a LPA exempted from the Procurement Code pursuant to Section 13-1-98.K NMSA 1978 are authorized to do so under applicable law, the entity may suspend, debar, reject a Bid as non-responsive, prohibit from the performance of Work, or terminate a Contract with any Bidder, Contractor, Subcontractor, at any tier, Suppliers, individual officers, directors.

### **102.4 REQUIRED DOCUMENTS FOR BID SUBMITTAL**

The T/LPA will make available to prospective Bidders the Required Documents for Bid Submittal. The Project's Required Documents for Bid Submittal are those specified in the Contract's Index of Required Documents for Bid Submittal.

### **102.5 REJECTION OF BIDS**

#### **102.5.1 Mandatory Rejection of Bids**

The T/LPA reserves the right to reject any or all Bids, to waive technicalities, or to advertise for new Bids if, in the judgment of the T/LPA, the best interests of the public and the T/LPA would be promoted thereby. The T/LPA will reject Bid(s) for the following reasons:

1. A Bidder is not Prequalified;
2. A Bidder is determined to be a non-Responsible Bidder;
3. A Bidder fails to comply with any requirement in the Contract documents;
4. A Bidder omits any portion of the Required Documents for Bid Submittal when submitting its Bid;
5. A Bidder adds provisions reserving its right to Accept or reject an Award, or reserving its right to refuse to enter into a Contract after an Award;
6. A Bidder defaults under a previous Contract, including Contracts with other public entities;



7. The Bidder or its principals, individual officers or corporate directors are presently suspended, debarred, declared ineligible, or voluntarily excluded from bidding;
8. The T/LPA issued a notice of proposed Suspension or Debarment to the Bidder and the Bidder failed to timely respond to the notice of proposed Suspension or Debarment;
9. A Bidder submits more than one (1) Bid for the same Project control number;
10. A Bid Item Unit Price results in an Unbalanced Bid. The T/LPA may require the Apparent Low Bidder to detail and justify in writing how its prices were determined;
11. A Bidder contacts or communicates with any member of the T/LPA's governing body or any T/LPA personnel responsible for Bid review or the Award of the Contract in relation to the Bid review or Award process before the T/LPA's execution of the Contract, except for a response to an inquiry from the T/LPA's Chief Procurement Officer; or
12. A Bidder is subject of a judgment or verdict imposing a civil or criminal penalty under either the Federal False Claims Act or the New Mexico Fraud against Taxpayers Act.

### **102.5.2 Discretionary Rejection of Bids**

The T/LPA may reject Bid(s) for the following reasons:

1. A Technical Irregularity exists;
2. A Bid Item Unit Price or Total Bid Amount differs significantly from the Engineer's Estimate or from other Bids;
3. A Bidder is responsible for uncompleted Work that might reasonably be expected to hinder or prevent the prompt completion of additional Work;
4. A Bidder fails to timely pay, satisfactorily settle, or provide security for the payment of Claims for labor, Equipment, Materials, supplies, or services legally due on previous or ongoing Contracts;
5. A Bidder performs previous Work unsatisfactorily, or fails to comply with Section 108.4, "Unsatisfactory Progress of Work;"
6. The T/LPA issues a notice of proposed Suspension or Debarment to the Bidder;
7. Evidence exists of collusion among Bidders or prospective Bidders; If the T/LPA becomes aware of an error in the quantity of a Bid Item shown in the Bid Schedule, Plans, or other Contract documents which may call into question the T/LPA's ability to determine which Bid will result in the lowest ultimate cost to the T/LPA;
8. To redesign the Project or change the Contract;
9. A potential benefit to the public or the T/LPA exists if the Contract is re-advertised; or when it is in the best interests of the public or the T/LPA.

### **102.6 INTERPRETATION OF QUANTITIES**

The quantities appearing in the Contract are approximate only and are prepared for the comparison of Bids. Payment to the Contractor shall be made only for the actual quantities of Work performed and Accepted, or Materials furnished, or as otherwise specified (e.g., Computed Quantities) in the Contract.

## **102.7 EXAMINATION OF CONTRACT, SITE OF WORK, AND REQUESTS FOR CONTRACT INTERPRETATION**

1. The submission of a Bid shall be considered conclusive evidence that the Bidder has exercised Pre-Bid Due Diligence and Accepts the conditions to be encountered in performing the Work and Accepts the provisions and requirements of the Contract.
2. When available, subsurface investigation records related to the Project will be provided by the T/LPA with the Bid package. When a log of test borings is included in the subsurface investigation record, the data shown in the individual log of each test boring apply only to that particular boring and are not intended to be conclusive as to the character of any Material between or around test borings. If Bidders use this information in preparing a Bid, it is used at its own risk, and Bidders are responsible for all conclusions, deductions, and inferences drawn from such information. If the Bidder requires additional information other than what the T/LPA furnished the Bidder may, at its own expense, and with T/LPA approval perform its own site investigation. The T/LPA providing subsurface investigation information does not relieve the Bidder from considering geotechnical data from previous Projects performed by the Bidder in the vicinity of the Project, and determining how subsurface conditions may affect the means, methods and cost of the Work. "The Bidder shall carefully study and compare all Contract documents and shall immediately report to the Chief Procurement Officer any error, inconsistency or omissions that may be discovered."

### **102.7.1 Requests for Contract Interpretation**

1. Requests for Contract interpretation shall be in writing, addressed to the Chief Procurement Officer and must be received by the Chief Procurement Officer at least 72 hours before the Bid Opening time in the Advertisement in order to receive a written response to the request. Questions received after the designated period may not be considered. The T/LPA will not be bound by any statement or representation concerning the Work unless it is included in the Contract. The Bidder shall only rely on written responses from the Chief Procurement Officer and oral responses, explanations, interpretations, or instructions given before the Bid Opening by the T/LPA, its employees or agents, are not binding. Any response made by the T/LPA will be provided in writing to all Bidders by Addendum. It is the responsibility of each Bidder to obtain a copy of any Addendum issued by the T/LPA by monitoring the T/LPA's website. Written responses from the Chief Procurement Officer will be posted on the T/LPA's website. Written responses will be provided, whenever practicable, no later than twenty-four (24) hours prior to Bid Opening.
2. The Bidder shall take no advantage of any error or omission in the Contract. In the event the Bidder discovers an error or omission, the Bidder shall notify the Chief Procurement Officer in writing. The Bidder also agrees that it will make no Claim because of misinterpretation or misunderstanding of the Contract or because of lack of information; and,

3. If a written response by the T/LPA to a request for Contract interpretation is not provided, the Bidder shall Bid the Contract according to the Contract documents.

#### **102.8 PREPARATION OF BID**

1. Submit the Bid as provided in the Advertisement;
2. Specify a Bid Item Unit Price for each Bid Item, except when a Bid Item Unit Price is established by the T/LPA;
3. Show the amounts for the respective Bid Item Unit Prices to a maximum of three (3) decimal places. Round additional decimal places in excess of three (3);
4. Exclude the applicable State GRT, local option tax, Indian business tax, TERO tax, and other tax imposed by a tribal government. The T/LPA will pay the applicable tax or increase in the applicable tax effective after the Contract is executed by the T/LPA;

If no Bid Item appears on the Bid Schedule for any Work or Materials required or specified by the Contract, such Work and Materials shall be Incidental to the Contract and the cost of such Work shall be included in any Bid Item(s) related to or associated with such Work. For the convenience of the Contractor, some Contract documents may specify Work which is incidental; identification of such incidental items of Work is not all-inclusive.

#### **102.9 INNOVATIVE INCENTIVE/DISINCENTIVE PROVISIONS**

The T/LPA reserves the right and may include innovative Incentive/Disincentive Provisions in the Contract.

#### **102.10 RESERVED**

#### **102.11 BID GUARANTY**

A Bidder shall submit with the Bid, a Bid Guaranty in the amount of five percent (5%) of the Total Bid Amount. The requirement of the Bid Guaranty is to ensure that the Bidder will promptly execute the Contract in accordance with the Advertisement and in the manner and form required by the Contract Documents and that the Bidder will furnish good and sufficient Contract Bonds and required insurance. The Bid Guaranty shall be in the form in the Required Documents for Bid Submittal. The Bid Guaranty will remain in force up to 30 Days after Bid Opening, or until Award of Contract as it may be extended by the T/LPA, notice of which extension(s) to the surety is hereby waived.

#### **102.12 RESERVED**

#### **102.13 RESERVED**

#### **102.14 WITHDRAWAL OF BIDS**

### **102.14.1 Bidder**

A Bidder may withdraw its Bid before Bid Opening. A Bid containing a mistake discovered before Bid Opening may be modified or withdrawn by a Bidder prior to the time set for Bid Opening by delivering written or telegraphic notice to the location designated in the Invitation for Bids as the place where Bids are to be received.

Once a Bid Opening has commenced at the date, time and place designated in the Advertisement Bids may not be withdrawn and no modifications in Bid prices or other provisions of Bids shall be permitted. After Bid Opening, a Low Bidder alleging a material mistake of fact which makes his Bid nonresponsive may be permitted to withdraw its Bid if:

1. the mistake is clearly evident on the face of the Bid document; or
2. the Bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

### **102.14.2 Procurement Officer**

Any decision by a procurement officer to permit or deny the withdrawal of a Bid on the basis of a mistake contained therein shall be supported by a determination setting forth the grounds for the decision.

### **102.15 RESERVED**

### **102.16 RESERVED**

## **SECTION 103: AWARD AND EXECUTION OF CONTRACT**

### **103.1 CONSIDERATION OF BIDS**

The Chief Procurement Officer shall review, evaluate Bids and make recommendations for rejection or issuance of the Notice of Preliminary Award. The Chief Procurement Officer will review the Bid Item Unit Pricing to determine if the Bid Item Unit Pricing is responsive, unbalanced either materially or mathematically, or any other abnormalities exist. The T/LPA reserves the right to request justification from the Bidder for any aspect relating to its Bid and the Bidder shall respond to the request. The results of the completed analysis will be available to the public after the T/LPA issues the Notice of Preliminary Award of Contract letter.

If two (2) Contractors submit identical lowest Total Bid Amounts, the T/LPA shall Award by lottery to one of the identical Low Bidders or reject all Bids and resolicit Bids. An Invitation for Bids may be canceled or any or all Bids may be rejected in whole or in part when it is in the best interest of the T/LPA. A determination containing the reasons for cancellation shall be made part of the procurement file. If no Bids are received or if all Bids received are rejected, then new invitations for Bids shall be requested. Any or all Bids may be rejected when it is in the best interest of T/LPA at any time prior to execution of the Contract. A determination containing the reasons for cancellation shall be made part of the procurement file. If all Bids are rejected the T/LPA may issue a new Advertisement.

### **103.2 NOTICE OF PRELIMINARY AWARD OF CONTRACT**

Except as described in Section 103.3, "Bidding Dispute Resolution Procedures," the T/LPA will issue the Notice of Preliminary Award of the Contract within 30 Days after Bid Opening to the Lowest Responsible Bidder. Bidders may agree to a later Notice of Preliminary Award time if requested to do so by the T/LPA, failure to agree to a later Notice of Preliminary Award time as requested by the T/LPA will be deemed the Bidder's withdrawal of its Bid. The Notice of Preliminary Award letter, if it is mailed within 30 Days of the Bid Opening, shall bind the Lowest Responsible Bidder to Accept the Contract or to reject the Contract and forfeit the Bid Guaranty it has provided.

### **103.3 BIDDING DISPUTE RESOLUTION PROCEDURES**

#### **103.3.1 Right to Protest**

Any bidder who is aggrieved in connection or Award of a contract may protest to the Chief Procurement Officer. The protest shall be submitted in writing within fifteen Calendar Days after knowledge of the facts or occurrences giving rise to the protest. Upon the filing of a timely protest, the Chief Purchasing Officer shall give notice of the protest to the Bidder if Award has been made or, if no Award has been made, to all Bidders who appear to have a substantial and reasonable prospect of receiving an Award if the protest is denied.

### **103.3.2 Authority to Resolve Protests**

The Chief Procurement Officer shall have the authority to resolve protests. the authority to take any action reasonably necessary to resolve a protest of an aggrieved bidder. The Chief Procurement Officer shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Bidder. This authority shall be exercised in accordance with regulations promulgated by the T/LPA but shall not include the authority to Award money damages or attorneys' fees.

### **103.3.3 Protest Determination**

The Chief Procurement Officer shall promptly issue a determination relating to the protest. The determination shall:

1. state the reasons for the action taken; and
2. inform the protestant of the right to judicial review of the determination pursuant to Section 156 [13-1-183 NMSA 1978] of the Procurement Code.

A copy of the determination shall immediately be mailed to the protestant and other Bidders involved in the procurement.

### **103.4 CANCELLATION OF AWARD**

The T/LPA may reject all Bids, rescind the Notice of Preliminary Award of Contract, and cancel the Award of any Contract at any time prior to the execution of the Contract by all parties without incurring liability where such cancellation is deemed by the T/LPA to be in the best interests of the T/LPA. No Bidder has a contractual, equitable, implied, or any other right to the Contract until executed by both parties.

### **103.5 RESERVED**

### **103.6 CONTRACTOR EXECUTED CONTRACT**

The T/LPA will provide the Contract to be executed by the Contractor and returned to the T/LPA. The Contractor shall return the signed Contract with Contract Bonds and other documents required by the Notice of Preliminary Award letter within the 15 Days from the date of the letter. The Contract Bonds shall become binding upon Contract execution.

The value of each bond shall equal the Total Original Contract Amount.

All Contract Bonds shall be procured from Sureties with an A.M. Best Company financial strength rating level of A- or better, Class VII or better, unless otherwise approved in writing by the T/LPA. In no event shall the T/LPA approve the use of a Surety with an A.M. Best Company financial strength rating level of B or worse.

### **103.7 FAILURE TO EXECUTE CONTRACT**

Failure by the Lowest Responsible Bidder to return the signed Contract, Contract Bonds and other documents required by the Notice of Preliminary Award letter within 15 Days of receiving the letter shall constitute just cause for rescinding the Notice of Preliminary Award of Contract and the forfeiture of the Bid Guaranty which shall become the property of the T/LPA, not as a penalty but as liquidation of reasonable damages sustained. The Bid Guaranty remains in effect until the T/LPA has fully executed the Contract. The T/LPA may then issue the Notice of Preliminary Award of the Contract to the next Lowest Responsible Bidder or take other actions as the T/LPA may decide.

### **103.8 EXECUTION OF CONTRACT**

If the T/LPA fails to execute the Contract within 30 Days of receiving the signed Contract, Contract Bonds, and other documents required by the Notice of Preliminary Award Letter from the successful Bidder, the Bidder may withdraw its Bid without penalty. No Contract shall be effective until it has been fully executed by the T/LPA and the Contractor. In no event shall the Contractor commence Work until after execution of the Contract by all parties.

## **SECTION 104: SCOPE OF WORK**

### **104.1 INTENT OF THE CONTRACT**

The intent of the Contract is to provide for the construction and completion of the Work to the satisfaction of the T/LPA. The Contractor shall furnish experienced supervision and labor and all Materials, Equipment, tools, transportation and supplies required to complete the Work in accordance with the Plans, Specifications and terms of the Contract.

Unless otherwise specified in the Contract, the Contractor is vested with the discretion and is wholly and solely responsible for selecting and managing the means and methods for performing the Work.

#### **104.1.1 Contract Modifications**

No modifications, limitations, waivers or discharge of the Contract or any of its terms shall bind the T/LPA unless made in a written Change Order signed by the Project Manager. A course of performance or course of dealing on this Contract or any other contract between the T/LPA and a Contractor shall not constitute a modification or waiver of the Contract and shall not give rise to any Claim including any cause of action based upon promissory estoppel, estoppel, waiver, or detrimental reliance.

### **104.2 EXTRA WORK**

The T/LPA reserves the right to modify the Contract at any time. Such revisions shall neither invalidate the Contract nor release the Surety. The Contractor agrees to complete the Contract as revised. The Contractor shall perform Work at the T/LPA's written direction defining the scope of the Work and in accordance with the Specifications.

The Contractor shall provide to the Project Manager its proposal associated with the Work before starting the Work. The submission of the proposal shall not be considered Accepted by the T/LPA until the Acceptance of the cost proposal is in writing from the T/LPA. If the proposal is Accepted by the T/LPA, then the T/LPA will issue a Change Order and allow the Contractor three (3) Days to review and sign the Change Order. If, after the expiration of three (3) Days, the Contractor has failed to sign the Change Order the T/LPA may process the Change Order unilaterally.

#### **104.2.1 Significant Changes in the Character of the Work**

The Project Manager reserves the right to make, in writing, at any time during the Work, modifications in quantity and alterations to the Work as are necessary to satisfactorily complete the Project. "Significant change" applies only to modifications or alterations that:

1. Materially changes, in kind or nature, the character of the Work including the Critical Path from that which was previously involved or included in the original proposed



construction. When the character of the Work is materially changed in kind or nature then the Project Manager and the Contractor shall agree upon the adjustment prior to the Contractor's performance of the Work. If an agreement is reached, the Project Manager will make an adjustment to the Contract which excludes anticipated profit. If an agreement is not reached, the Project Manager will direct the Contractor to perform the Work. The Project Manager and the Contractor will track the costs in accordance with 109.6, "Force Account."

2. A Major Item of Work, as defined elsewhere in the Contract, has increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. The Project Manager and the Contractor may negotiate adjustments to the Contract when it is discovered that a Major Contract Item of Work, as defined elsewhere in the Contract, has increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original Contract Item quantity. In the case of a decrease below 75 percent, the allowance will apply to the actual amount of work performed. For quantities below 75 percent, before an adjustment is made, the Contractor shall provide documents, including invoices, to the Project Manager justifying the requested adjustment price. If the final quantities are reestablished to be within the thresholds of 75% to 125% of the original item quantity then the original Bid Item Price applies.
3. Affects Work performed under a Subcontract, as solely determined by the Project Manager. The Project Manager will make adjustments if the Contractor demonstrates that the change adversely affects the Subcontractor's Work.

The T/LPA shall not consider customary increases or decreases in quantities necessary to complete the Work changed by the Contractor's schedule of operations, the Contractor's planning of the Work, or unscheduled mobilizations.

#### **104.2.2 Differing Site Conditions**

The Contractor shall carefully study and compare the foundation reports and geotechnical reports and Contract documents and shall immediately report to the Project Manager any error, inconsistency, or omission that it discovers. If the Contractor does not understand information in the foundation report and geotechnical report, it shall immediately seek clarification from the Project Manager. The Contractor and the Project Manager shall provide, immediately upon discovery written notice of the following conditions encountered on the Project during the progress of the Work:

1. Present but not visible physical conditions differing materially from those shown in the Contract; or,
2. Unknown conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the Work.

The Project Manager will decide, within a, two (2) Working Days, after written notification, whether the conditions materially differ and cause an increase or decrease in the cost or time required to perform the Work.

The Project Manager will notify the Contractor of this decision and the Contractor shall not proceed with Extra Work until the Project Manager provides direction.

The Project Manager will adjust the Contract for differing site conditions in accordance with Section 109.5, "Payment for Extra Work," and will include the costs of Delays but exclude anticipated profit in accordance with Section 109.11, "Compensation for Claims." Conditioned upon obtaining District Engineer approval with concurrence from the CLE, the T/LPA may grant time extensions only to the extent that the activities on the Critical Path of the Baseline Schedule in effect at the time of the Delay are impacted. No Contract adjustment which results in a benefit to the Contractor will be allowed if a differing site condition could have been discovered or anticipated by the Contractor through the exercise of Pre-Bid Due Diligence.

#### **104.2.3 T/LPA Ordered Work**

The T/LPA shall pay for T/LPA ordered Work in accordance with Section 109.5, "Payment for Extra Work."

Conditioned upon obtaining District Engineer prior approval and concurrence from the CLE, the T/LPA may grant time extensions only to the extent that the activities on the Critical Path of the Baseline Schedule in effect at the time of the Delay are impacted.

#### **104.3 RESERVED**

#### **104.4 RESERVED**

#### **104.5 MAINTENANCE OF TRAFFIC**

The Contractor shall furnish traffic control devices, take protective and safety measures, and complete the Work. If the Contractor fails to do so, the Project Manager will notify the Contractor in writing of the deficiency and the Contractor shall take corrective action within the time frame specified by the Project Manager. Failure by the Contractor to take the corrective action as directed by the Project Manager shall result in the T/LPA assessing to the Contractor the incurred costs for the corrections plus an additional 10% for administrative costs.

The Contractor shall not endanger the traveling public when moving Equipment on or across the ROW and Roadway. The Contractor's Equipment shall enter and leave the ROW and Roadway in the direction of the Traveled Way, except with the written approval of the Project Manager.

The Project Manager may direct the Contractor to maintain the pavement surface. The T/LPA will pay for this Work in accordance with Section 109.5, "Payment for Extra Work."

The T/LPA is responsible for snow removal on sections of Roadway open to the traveling public unless some other agency has responsibility for its removal. The Project Manager will coordinate snow removal with the Contractor and the maintenance patrol.

The Contractor shall furnish warning devices, take protective and safety measures, and complete Shoulder Work, drainage Structures, or other features of the Work. If the Contractor fails to do so, the Project Manager will notify the Contractor in writing of the deficiency and the Contractor shall take corrective action within the time frame specified by the Project Manager.

The Contractor shall provide reasonable vehicular and pedestrian ingress and egress to adjoining properties during the duration of the Contract. The Contractor shall advise and schedule access modifications with local business owners and residences and the Project Manager at least 24 hours in advance.

The Contractor shall not open partially completed sections of the Traveled Way unless directed or approved by the Project Manager. If the Traveled Way is opened at the Contractor's request, the Contractor remains liable for costs associated with the opening until Final Acceptance of the Project. The Project Manager will provide written instructions approving any sections which are to be opened. Such an opening shall not constitute a full or partial Acceptance of the Work or a waiver of any Contract provisions.

#### **104.6 RIGHTS IN AND USE OF MATERIALS FOUND ON THE WORK**

The Contractor may use Materials found in the excavation for completing Pay Items other than the Work in Standard Specification Section 203. Payment will be made for both the excavation of such Materials at the corresponding Contract Unit Price and for the Pay Item for which the excavated Material is used.

If the excavated Material would have been used to construct Embankments or Bridge approaches or for other purposes, any of which would have been required to complete the Contract, the Contractor shall replace the excavated Material with Acceptable Material at no additional cost to the T/LPA. The T/LPA will not charge the Contractor for the use of the excavated Material. The Contractor shall obtain written authorization from the Project Manager before excavating Material that is within the Right of Way but outside the grading limits, as shown by the slope and grade lines. Prior to granting approval, the Project Manager will verify that the requirements of Section 107, "Legal Relations, Environmental Requirements, and Responsibility to the Public," have been met. If not previously cleared environmentally, meeting these requirements will be the responsibility of the Contractor.

Unless otherwise provided, the Contractor may temporarily use the Material from existing Structures in the erection of a new Structure but shall not, without the approval of the Project Manager, cut or otherwise damage such Materials.

#### **104.7 FINAL CLEANUP**

Pits located on State or federal land are governed by the appropriate requirements of their agency. The requirements of this Section do not apply to a commercial source.

Before Final Acceptance all areas occupied by the Contractor or in connection with the Work shall be cleaned of all Deleterious Material, rubbish, excess Materials, temporary Structures and Equipment, and all parts of the Work shall be left in a condition Acceptable to the Project Manager or otherwise required by the Contract. To avoid the requirement of removal of Equipment from private property before Final Acceptance, the Contractor shall make appropriate arrangements with private property owners and provide documentation of the arrangement to the Project Manager.

The Contractor shall not allow Borrow Pits and Surfacing Pits to change the general pattern of existing drainage. Unless Borrow Pits or Surfacing Pits are suitable to develop as ponds or lakes and the property owner has notified the T/LPA in writing that such development is planned, the Contractor shall where practicable leave all pits well drained.

The Contractor shall, when excavation is complete, contour grade pits, except quarry pits, to blend with the natural topography of the surrounding area or in accordance with the Contract or agreements with the property owners.

#### **104.8 VALUE ENGINEERING COST PROPOSAL (VECP)**

The T/LPA under no circumstances will reimburse the Contractor for the costs of developing the VECP that is rejected or is not Accepted by the T/LPA. The Contractor shall submit its VECP on the T/LPA provided form only. Exempted from Value Engineering Cost Proposals are mix designs and traffic control. Any decision about whether to Accept a VECP shall be in the sole discretion of the T/LPA. A VECP shall not be considered Accepted until the T/LPA approves a Change Order implementing the VECP. VECPs are reviewed on a case by case basis and apply only to the ongoing Contracts referenced in the VECP proposal and become the property of the T/LPA upon approval of the Change Order. VECPs shall contain no restrictions imposed by the Contractor on their use or disclosure. The T/LPA has the right to use, duplicate and disclose in whole or in part any data necessary for the utilization of the VECP. The T/LPA retains the right to utilize any Accepted proposal or part thereof on other Projects without obligation or compensation to the Contractor.

The Contractor's share of the VECP is fifty percent (50%) of the net savings. In no event shall the Contractor be entitled to an extension of Contract Time for the T/LPA's consideration a VECP, the refusal to Accept or approve such a proposal, or any other matter connected with a VECP.

The T/LPA will rely exclusively upon the accuracy of the engineering data upon which the VECP is based and will not be required to perform additional investigations, crosschecks, or site examinations. The T/LPA's Acceptance or adoption of a VECP shall not be construed to alleviate or reduce the Contractor's full and absolute liability if the implementation of the proposal fails to satisfactorily perform.

## **SECTION 105: CONTROL OF WORK**

### **105.1 RESPONSIBILITY AND AUTHORITY OF THE T/LPA**

#### **105.1.1 T/LPA Authority**

The T/LPA has the authority to:

1. Administer the Contract;
2. Alter the Contract;
3. Enforce and terminate the Contract as expressly provided in other Sections of the Standard Specifications;
4. Wholly or Partially Suspend the Work for cause; and
5. Take actions as determined to be in the public's best interest.

If the Work is suspended by the Project Manager in writing for an unreasonable time (not originally anticipated, customary, or inherent to the construction industry), the Contractor may submit to the Project Manager a Notice of Intent to Claim in accordance with Section 105.19, "Notice of Intent to Claim," which must be accompanied by a proposed revised schedule pursuant to Section 108.3, "Schedule."

#### **105.1.2 Contractor Convenience**

The Contractor shall be wholly responsible and liable for any costs or time associated with any requests made for the Contractor's convenience and approved by the T/LPA.

### **105.2 PLANS, WORKING DRAWINGS**

The Plans may be supplemented by Working Drawings as are necessary for the Work. The Contractor shall have the sole responsibility for verifying pertinent dimensions in the field before submitting such Working Drawings to the Project Manager. Working Drawings shall be submitted by the Contractor and Accepted by the Project Manager before beginning Work covered by the drawings. The Project Manager will review the Working Drawings although the Project Manager's review does not relieve the Contractor of the responsibility for the satisfactory completion of the Work or compliance with the Contract. The Contractor shall not alter or amend such drawings without the prior written approval of the Project Manager. The furnishing of all Working Drawings is Incidental.

The Contractor's Baseline Schedule of Work shall show the submittal of any Working Drawing as a milestone thirty (30) Days before the commencement of Work covered by the drawings. Unless otherwise indicated in the Contract, or approved by the Project Manager in writing, the Project Manager will have no longer than thirty (30) Days for Acceptance of the Working Drawings. If the Working Drawings are not Acceptable, the Working Drawings shall be resubmitted by the Contractor and the timeframe for Acceptance starts over. All time required for review of Working

Drawings and other Contractor submittals shall be Incidental and shall not be the basis for any Claim for Contract Time extension or additional compensation.

### **105.2.1 Submittals**

Anything that requires approval is considered a submittal by the T/LPA. Any submittal required, other than the Critical Path Method or Bar Graph Schedules, shall be submitted to the T/LPA thirty (30) Days before the Work related to the submittal is performed. The Project Manager will have no longer than thirty (30) Days for Acceptance of the submittal, unless otherwise specified in the Contract.

### **105.3 COMPLIANCE WITH PLANS AND SPECIFICATIONS**

The Contractor shall perform the Work and provide the Materials in substantial compliance with the lines, grades, cross sections, dimensions, and Material requirements as specified by the Contract. The T/LPA's failure to discover or reject Work or Materials not in substantial compliance with the Contract during the Work shall not be considered an Acceptance of the Work or Materials, or a waiver of defects. The T/LPA's failure to properly perform inspections or tests shall not relieve the Contractor from its obligation to perform the Work and provide Materials in substantial compliance with the Contract and shall not be considered the T/LPA's Acceptance of the Work or Materials.

If the Project Manager determines that Work or Materials are unacceptable, the Contractor shall remove, replace and correct the Work or Materials at no additional cost to the T/LPA. The Project Manager's determination that the Work or Materials are unacceptable shall not form the basis of a Claim for additional Contract Time or additional compensation.

If Work does not comply or substantially comply with the Contract, the T/LPA may determine the Work is nonetheless Acceptable. Such a determination is subject to the approval of the District Coordinator. If Accepted the Project Manager will, by Change Order, provide an adjustment for Work or Materials.

### **105.4 COORDINATION OF CONTRACT DOCUMENTS**

In case of a discrepancy, the Contract documents will govern in the following order of importance:

1. Addenda;
2. Required Documents for Bid Submittal;
3. Notices to Contractors;
4. Advertisement;
5. Special Provisions;
6. Plans;
7. Supplemental Specifications;
8. Standard Specifications; and,

## 9. Standard Drawings.

Dimensions given on the Plans or that can be calculated govern over scaled dimensions.

If a Contract discrepancy is discovered after the Award of the Project, the Contractor shall, upon discovery, promptly notify in writing the Project Manager. The Contractor shall take no advantage of any discrepancy or errors or omissions in the Contract. The Project Manager will resolve the discrepancy in writing before the Contractor proceeds further with performance of the affected Work.

### **105.5 CONTRACTOR RESPONSIBILITIES**

The Contractor shall monitor the Work at all times, select and manage the means and methods for performing the Work.

#### **105.5.1 Duties of Superintendent**

The Contractor shall have on the Project at all times during the course of the Work, a competent and qualified Superintendent who:

1. Reads and understands the Contract documents; and
2. Possesses substantial experience in the type of Work being performed.

The Contractor and its Superintendent shall communicate with the Project Manager as the T/LPA's contact for all matters relating to the Project and promptly submit all documentation or notice required by the Contract to the Project Manager.

### **105.6 COOPERATION WITH UTILITIES**

The Contractor shall comply with the Notice to Contractors regarding Cooperation with Utilities for relocations, adjustments, and installations of utilities. The Contractor's responsibility is to adequately coordinate, notify, or comply with the Contract and failure to do so shall not form the basis for an extension of Contract Time or additional compensation.

The Contractor shall copy the Project Manager on all communications with utilities. For telephonic communications a summary of the communication shall be provided to the Project Manager monthly.

The Contractor shall be responsible for complying with the New Mexico Excavation Law, NMSA 1978, Section 62-14-1 through -10 which provides the procedures and requirements related to the performance of Project excavation Work.

Failure by the utility owner to relocate, adjust, or install the utility in accordance with the Contract may result in the Project Manager issuing written direction to the Contractor directing that the Contractor shall relocate, adjust, or install the utility per Section 104.2, "Extra Work."



The Contractor shall terminate operations in the immediate area of a utility conflict not identified in the Contract and encountered during the Work. The Contractor shall immediately provide written notice to the Project Manager of the conflict. The Contractor shall continue Work in other areas. The Project Manager shall provide written notification to the Contractor when Work may commence in the area of terminated operations. The Contractor shall make requests for additional Contract Time or compensation per Section 104.2.2, "Differing Site Condition." Where utility conflicts not identified in the Contract are present, the Contractor shall provide the Project Manager, on a weekly basis, evidence of adequate coordination and cooperation with utilities. Neither additional Contract Time nor compensation will be provided where the Contractor fails to provide the Project Manager, on a weekly basis, evidence including a telephonic log of communications concerning the Contractor's continued cooperation and coordination activities with utilities.

## **105.7 COOPERATION BETWEEN CONTRACTORS**

The T/LPA reserves the right at any time to Contract for and have performed other Work on or near the Project.

When separate Contracts are let within the limits of any one Project, each Contractor shall conduct the Work without interfering or hindering the progress or completion of the Work being performed by other Contractors. Contractors working on the same Project shall cooperate with each other as directed.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with the Contract and shall protect and hold harmless the T/LPA for all damages or Claims as per Section 107.19, "Responsibility for Third Party Claims and Duty to Defend."

If the Contractor and one (1) or more other Contractors are unable to agree upon the sequence of Work or other matters, the Contractor(s) shall request that the Project Manager provide a written decision on the issue. The Project Manager will allow a reasonable time for all parties to respond and, after reviewing the information received, will issue a decision binding on all parties within seven (7) Days of receiving such information.

## **105.8 AUTHORITY AND DUTIES OF THE PROJECT MANAGER**

### **105.8.1 Project Manager Authority**

The Project Manager is a designee of the T/LPA and has the following responsibilities:

1. Interpretation and administration of the Contract;
2. Immediate charge of the details of the Project;
3. Authority to reject Work and Material;

4. Authority to wholly or Partially Suspend the Work for reasons beyond the control of the Contractor or not connected to the construction of the Project when the Project Manager deems such a suspension to be in the best interests of the public and the T/LPA; and,
5. Authority to concur with the Contractor's request to Partially Suspend or wholly suspend the Work.

At no cost to the T/LPA, the Project Manager may also wholly or Partially Suspend the Work for cause, including but not limited to, the Contractor's failure to:

- a. Correct unsafe conditions;
- b. Comply with any term or condition of the Contract;
- c. Observe and comply with any Federal or State law or regulation;
- d. Carry out directions of the Project Manager;
- e. Manage its personnel and Subcontractor and its personnel; or,
- f. Perform satisfactory Work.

### **105.8.2 Contractor Inquiries to Project Manager**

The Contractor shall submit all correspondence to the Project Manager. The Contractor shall submit in writing a request for information for any Project issues, including but not limited to discrepancies in the Contract, to the Project Manager who will resolve the issues.

The determination of the Project Manager will be in writing and delivered to the Contractor's Superintendent as soon as reasonably practicable.

## **105.9 DUTIES OF THE INSPECTOR**

### **105.9.1 Inspector Authority**

The T/LPA authorizes its Inspectors to:

1. Inspect the Work;
2. Inspect the preparation, fabrication or manufacture of Materials; and,
3. Notify the Contractor of non-conforming Work, reject non-conforming Materials, and suspend portions of the Work for safety reasons only.

The Contractor shall refer questions at issue to the Project Manager for a decision.

### **105.9.2 Inspector Authority Limitations**

The T/LPA does not authorize its Inspectors to:

1. Alter or waive any provision of the Contract;
2. Issue instructions contrary to the Contract; or
3. Provide direction, superintendence or guidance to the Contractor, Subcontractors or Suppliers;

Any action or inaction of the Inspector does not waive the T/LPA's right to pursue any and all legal remedies for defective Work or Work performed by the Contractor in an unworkmanlike manner.

#### **105.10 INSPECTION OF WORK**

The Contractor shall provide the Project Manager with 48 hour notice for inspection of the Work. Failure by the Contractor to provide the proper notice may result in the T/LPA directing the Work performed without inspection to be removed at no cost to the T/LPA.

The Contractor shall provide the T/LPA or its representative access to the Work and provide all information, Equipment, and assistance requested or required to make a complete and detailed inspection of the Work. All Materials and each part or detail of the Work shall be subject to inspection by the T/LPA.

The Project Manager may direct the Contractor to remove or uncover portions of the finished Work, at any time before Final Acceptance of the Work. The Contractor shall restore the portions of the Work to the standard required by the Contract after the Project Manager's examination. If the examined Work is Acceptable, the T/LPA will pay for the removal and restoration as Extra Work under Section 104, "Scope of Work," and Section 109.5, "Payment for Extra Work." However, if the examined Work is unacceptable, the Contractor shall remove and restore the Work at no additional cost to the T/LPA.

Action or inaction by a T/LPA Inspector shall not relieve the Contractor from any responsibility under the Contract for Acceptable Work in conformity with the Contract. The failure to properly perform inspections, tests or approvals by the T/LPA shall not relieve the Contractor from its obligation to perform the Work in strict conformance with the Contract.

#### **105.11 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK**

Work that does not conform to the requirements of the Contract shall be unacceptable, unless it is determined by the Project Manager to be Acceptable under the provisions of Section 105.3, "Compliance with Plans and Specifications."

Should any defective Work or Material be discovered, before Final Acceptance, the T/LPA will issue a Non-Conformance in accordance with Section 109.8.2, "Non-Conformance."

Prior to T/LPA Acceptance, the Contractor shall replace or repair Materials damaged in transit or during handling at no additional cost to the T/LPA.

The Contractor shall remove unacceptable Work resulting from causes existing before the Final Acceptance of the Work and replace in an Acceptable manner at no additional cost to the T/LPA. The Project Manager will set the time limit for the replacement Work.

The T/LPA shall not pay for the following under the provisions of the Contract:

1. Work performed contrary to the Project Manager's direction or as provided in the Contract;
2. Work performed beyond the lines and grades on the Plans; or,
3. Work performed without authority.

Upon failure of the Contractor to comply with the removal and replacement of unacceptable or unauthorized Work within the time specified by the Project Manager, the Project Manager shall have authority to cause unacceptable Work to be removed and replaced. The Project Manager will then deduct from the monies due or that become due to the Contractor the cost of removing or replacing the unacceptable or unauthorized Work.

## **105.12 LOAD RESTRICTIONS**

The Contractor shall observe legal load restrictions when hauling Equipment or Material on public Roads outside of the Project or on Roadways within the Project. The Project Manager may approve exceptions, in writing, provided the Contractor has obtained the proper oversize and overweight permits. The Contractor is liable for damage that may result from moving Equipment, even with the issuance of a special permit.

The Contractor shall not use Equipment or haul loads that will cause damage to Structures, Roadway, or any other construction, regardless of legal load allowances.

If the Project Manager determines that anticipated hauling operations may cause damage to existing Roadways or Structures, the Project Manager will issue a written notice to the Contractor. Within seventy two (72) hours of the notice, the Project Manager will elect one (1) or more of the following solutions:

1. Change the haul route; or
2. Reduce the allowable load limit.

If the Project Manager determines that hauling operations are causing damage to existing Roadways or Structures, the Project Manager will issue a written notice to stop operations causing the damage. Within seventy two (72) hours of the notice, the Project Manager will issue written direction to the Contractor to repair the damage or the Project Manager will elect one(1) or more of the following solutions:

1. Change the haul route;
2. Reduce the allowable load limit;
3. Allow the operations to continue with the requirement that the Contractor repair all damaged areas at ½ Unit Bid prices. In the absence of a Unit Bid price, the current published average unit Bid prices shall be used.

### **105.12.1 Corrective Actions and Methods of Payment**

#### **105.12.1.1 Change in Haul Route**

If the Project Manager changes the haul route, the T/LPA will modify the Contractor's payment per the following equation:

$$P = R \times t \times (d_1 - d_0) \quad (1)$$

Where,

$P$  is the payment modification (in dollars)

$R$  is the rate (in dollars per ton mile determined in accordance with Section 109, "Measurement and Payment.")

$t$  is the weight of Material hauled from the new stockpile area (in tons)

$d_0$  is the original haul distance measured from the Roadway access point to the original stockpile area

$d_1$  is the new haul distance measured from the Roadway access point to the new stockpile area

### 105.12.1.2 Change in Allowable Load Limit

If the Project Manager reduces the allowable load limit, the T/LPA will pay the Contractor in accordance with the following equation:

$$P = \frac{QF \times R \times d \times (LA - LR)}{LA} \quad (2)$$

Where,

$P$  is the additional payment (in dollars)

$R$  is the rate (in dollars per ton mile determined in accordance with Section 109, "Measurement and Payment.")

$QF$  is the total quantity of Material hauled at the reduced load limit (in tons)

$LA$  is the allowable load limit (in tons)

$LR$  is the reduced load limit (in tons)

$d$  is the haul distance (in miles)

If the Project Manager allows operations to continue or because of damage to an existing Roadways or Structures, the T/LPA will pay the Contractor for the Material used to make the repairs at the ½ of the Bid Item Unit Price, or in accordance with Section 109, "Measurement and Payment." If an item is not part of the Contract, the T/LPA will negotiate a new unit price. If a Structure or existing Roadway must be repaired, the T/LPA may pay the Contractor for hauling repair Materials using a rate requested and justified by the Contractor and approved by the Project Manager.

### 105.13 RESERVED

### 105.14 RESERVED

### 105.15 MAINTENANCE DURING CONSTRUCTION

The Contractor shall maintain the Work during construction and until the T/LPA Accepts the Work, except as otherwise provided in Section 104.5, "Maintenance of Traffic," and Section 105.18, "Acceptance." This maintenance shall consist of continuous, daily Work with adequate Equipment and forces so that the Roadway and Structures are kept in satisfactory condition. The Contractor shall be responsible for maintaining the Project free and clear of Deleterious Materials including debris, weather related remnants, snow, loose Materials and trash. The T/LPA will be responsible for snow removal operations on travel lanes open and utilized by the public unless some other entity is responsible for its removal.

The Contractor shall maintain the previous course and Subgrade when the Plans require the Contractor to place traffic on the unfinished Roadway.

All maintenance Work during construction and before the Project is Accepted shall be Incidental. The T/LPA shall not pay the Contractor an additional amount for this Work except in accordance with Section 104.5, "Maintenance of Traffic," and Section 105.18, "Acceptance."

#### **105.16 FAILURE TO MAINTAIN ROADWAY OR STRUCTURE**

If the Contractor fails to maintain the Project in accordance with Section 105.15, "Maintenance During Construction," the Project Manager shall notify the Contractor in writing of the failure. If the Contractor does not take corrective action in timeframe specified by the Project Manager, the Project Manager may issue a written notice per 109.8.2 "Non-Conformance" or notice of the Contractor's apparent default per Section 108.9, "Default of Contract."

If the Contractor does not begin maintenance after notice from the Project Manager, the Project Manager may begin maintenance of the Project. For corrective actions implemented by the Project Manger the Contractor shall reimburse the T/LPA for T/LPA incurred costs of such maintenance plus an additional ten percent (10%) for administrative costs.

#### **105.17 RESERVED**

#### **105.18 ACCEPTANCE**

##### **105.18.1 Partial Acceptance**

The Contractor may request in writing that the Project Manager inspect a portion of the Project (e.g., a Structure, a section of Road, etc.) at any time during the Work. If the Project Manager finds that portion to be in accordance with the Contract, subject to the concurrence of the District Coordinator, the Project Manager may Accept that portion as complete, and, without waiving the provisions in Section 105.3, "Compliance with Plans and Specifications," Section 107.26, "No Waiver of Legal Rights," and Section 109.10, "Project Closure," the Contractor may be relieved of further responsibility for that portion unless the T/LPA discovers latent defects before Final Acceptance of the Work. Such partial Acceptance does not void or alter the Contract.

The T/LPA will Accept permanent traffic safety and control devices installed in accordance with the Contract (with all ancillary components) and being used by the public upon installation but before completion of the remaining Work.

Permanently installed items Accepted on this basis are limited to the following:

1. Guardrail;
2. Impact attenuators;
3. Traffic Signals;
4. Signs;
5. Lighting;
6. Raised pavement markers;
7. CWB;
8. Concrete Bridge parapet;
9. Bridge railing;
10. Post and cable barrier ;
11. Guardrail anchorages;
12. Permanent pavement markings; and
13. Fence.

All required performance tests and guarantees shall remain applicable.

The Contractor shall repair or replace any damage, theft, or vandalism to these items after Acceptance in accordance with Section 104.2, "Extra Work." The Contractor shall repair or replace items damaged due to the Contractor's negligence or as a result of the Contractor's failure to protect the Work per Section 107.20, "Contractor's Responsibility to Protect the Work," at no additional cost to the T/LPA.

The Contractor shall erect these items in a logical construction sequence. The T/LPA shall not Accept prematurely constructed items until they may be used for their intended purposes.

#### **105.18.2 Final Acceptance**

The T/LPA will make the Final Acceptance in accordance with 109.10.8 "Physical Completion, Final Payment and Final Acceptance."

#### **105.19 NOTICE OF INTENT TO CLAIM**

Notice of intent to Claim shall be given in order that the T/LPA can assess the situation, make an initial determination as to the causes of the intent to Claim, institute appropriate changes or procedures to resolve the matter, document issues related to the intent to Claim, track costs and possible Delay, and facilitate resolution of the intent to Claim. The failure of the Contractor to provide a timely and complete Notice of Intent to Claim form, a contemporaneous statement of estimated damages or Delay, and to comply with the other requirements of this Section shall constitute a waiver or abandonment of the Claim.

The Contractor's submission of the Notice of Intent to Claim form and the Project Manager's actions related to the Notice of Intent to Claim shall not be construed to prove or validate the Claim or be construed as an admission of liability.

1. Unless otherwise specified by the Contract, the Contractor shall only make Claims in accordance with the exclusive administrative remedy and procedures set forth in this Section and Section 105.20, "Administrative Remedy."
2. The Contractor shall submit to the Project Manager its notice of intent to Claim on the T/LPA's current Notice of Intent to Claim form. The Notice of Intent to Claim form and documents or information submitted with the same shall constitute the Contractor's intent to make a Claim. The notice of intent to Claim shall provide a contemporaneous statement of estimated damages or Delay before beginning the Work on which the Claim is based, but, in no event shall notice be given later than seven (7) Days of the Contractor discovering the condition or issue giving rise to the Claim, or within seven (7) Days of receipt of a notice of a differing site condition from the Project Manager. A notice of intent to Claim shall include, when relevant to the intended Claim (e.g., when the Contractor intends to seek a Contract adjustment for time, Delay damages, or reduction in Liquidated Damages, etc.), a revised schedule that identifies the impacts pursuant to Section 108.3.2, "Schedule Format;" failure to include a revised schedule shall render the notice of intent to Claim incomplete. This Section and the deadlines stated herein do not modify any of the deadlines for submitting revised schedules as provided in Section 108.3, "Schedule."
3. If the Contractor submits a timely Notice of Intent to Claim Form the Project Manager may, without admitting liability for the Claim, direct the Contractor to keep a complete and accurate account, in detail, of the cost of doing the Work on a Force Account basis per Section 109.6, "Force Account." Failure to maintain records on a Force Account basis when so directed by the Project Manager shall waive any associated Claim by the Contractor.
4. The Contractor shall provide the Project Manager proper facilities to keep account of the actual cost associated with the notice of intent to Claim; the Contractor waives the right to assert a Claim if the Project Manager is not afforded proper facilities to keep account of actual cost. The Project Manager may, in the Project Manager's discretion, in writing, waive this requirement to keep account of actual cost upon a showing of adequate justification by the Contractor.
5. If the Project Manager finds that the notice of intent to Claim is justified the Project Manager will process a Supplemental Agreement to resolve the notice of intent to Claim.
6. If the notice of intent to Claim is unresolved then the Contractor shall comply with Section 105.20, "Administrative Remedy."

## **105.20 ADMINISTRATIVE REMEDY**

This Section governs the administrative remedy procedure to resolve all Claims, unless otherwise specified in the Contract. The administrative remedy procedure is the sole Contractual



procedure to resolve Claims. No Claim shall be accorded any level of review unless the procedure below is followed sequentially. The sequential steps of the process are as follows:

- Step I. Notice of Intent to Claim;
- Step II. Submittal of the Claim to the Project Manager;
- Step III. T/LPA's review, which may include referral to Claims Board for an informal hearing, and T/LPA's decision;
- Step IV. Service of Request for Arbitration or Service of Summons and Complaint in State District Court.

The Contractor shall not proceed to the subsequent step without a written determination from the preceding step.

The complete terms of a resolved Claim, regardless of the level of the administrative remedy, shall be documented and memorialized via a Change Order executed by the Contractor and the T/LPA. The executed Change Order shall represent a final agreement to the total additional compensation and time due for any and all Work and items pertaining to the Work associated with the Change Order. Unless otherwise provided in the terms of the Change Order, the executed Change Order shall operate as an accord and satisfaction of the Claim and shall operate as a bar to any further Claim by the Contractor. Each party shall bear its own attorneys' fees, costs, and expert fees.

Step I. Notice of Intent to Claim, See Section 105.19, "Notice of Intent to Claim."

The T/LPA shall dismiss a Contractor's Claim for failure to comply with the time limitations, requirements and procedures set forth in this Section and Section 105.19, "Notice of Intent to Claim."

### **105.20.1 Submittal of the Claim to the Project Manager**

Step II. Submittal of the Claim to the Project Manager

The Contractor shall submit its Claim on the T/LPA's Claim Form. The Project Manager retains the right to request additional information and documents from the Contractor to support the Claim. The Contractor shall provide the requested additional information and documents.

1. A Claim shall be rejected and it shall constitute a waiver or abandonment of the Claim and a failure to exhaust its administrative remedy for the Contractor's failure to comply with the following conditions:
  - a. The Claim shall be in writing;
  - b. The Claim shall be submitted on the T/LPA's Claim Form;
  - c. The Claim shall be submitted within 30 Days of the date that the Work associated with the Claim has been completed;
  - d. The Claim shall be submitted only once;
  - e. The Claim shall include all required supporting documentation and information; and

- f. A Contractor's, Subcontractor's or Supplier pass-through Claim shall be certified by the Contractor as the Contractor's Claim on the T/LPA's current approved forms.
2. The Contractor has the burden of fully justifying and documenting the Claim and shall provide to the Project Manager the following supporting documentation and information in support of the Claim. The following supporting documentation shall also be updated from those documents submitted with the Notice of Intent to Claim:
  - a. Description of the issue upon which the Claim is based;
  - b. Location where the issue arose;
  - c. The dates impacted including the time and date the issue arose;
  - d. Clear explanation of why the issue requires additional compensation or time or a change to the Contract, including references to the relevant portions of the Contract;
  - e. Copies of all written communications including correspondence and emails related to the issue;
  - f. A detailed compilation of the amount of additional compensation sought and a breakdown of the amount sought as follows: documented additional job site labor expenses; documented additional cost of Materials and supplies; a list of additional Equipment costs claimed, including each piece of Equipment and the Blue Book rental rate claimed for each; any other additional direct costs or damages and the documents in support thereof;
  - g. Where a Claim seeks additional time, time and compensation for Delay, adjustment of Contract Time, or the reduction or elimination of liquidated damages, previously submitted Baseline Schedule and revised schedules that comply with the requirements of Section 108.3, "Schedule;"
  - h. Invoices identifying the labor, Materials, and Equipment used or proposed to be used;
  - i. Project Cost Reports. If the amount claimed by the Contractor exceeds \$100,000.00, Project cost reports for the time periods relevant to the Contract and the performance of the Work;
  - j. Bid Documents. If the amount claimed by the Contractor exceeds \$100,000.00, or if required by the Contract the Contractor shall make the Contractor's documents available for inspection by the Project Manager at the Contractor's project office. This includes information and calculations used to prepare and determine its Bid for the Contract prior to submission of the Bid. The required Bid preparation documents, as maintained by the Contractor, to be produced shall include: clear itemization of the costs for each Pay Item broken down into components sufficient to allow a detailed cost estimate; the costs allocated to each component broken down into the Contractor's usual estimate categories such as direct labor, Equipment, Materials, and Subcontractor cost; indirect costs, including the indirect cost allocations made to each Bid Item; quantity takeoffs; the construction and progress schedule and any conceptual schedules upon which the Bid was based; rates of production and progress; marked up Plans, sheets and Working Drawings ; calculations, copies and quotes from Subcontractors and Suppliers; memoranda, narratives, and all other information used by the Contractor to arrive at all of the prices contained in the Bid. The Project Manager may waive this requirement;
  - k. Total amount of the Claim in terms of time and compensation; and

- I. Certification of Claim. The Contractor shall submit a Certification of Claim form with the Claim.

### **105.20.2 T/LPA Review**

#### Step III: T/LPA Review and Decision

The T/LPA has 30 Days from the date the Claim is received by the Project Manager, or additional time if agreed upon by both parties in writing, to review and render a decision. If the T/LPA does not make a written decision within the 30 Days, or the agreed upon additional time, the Claim is deemed denied by the T/LPA. The parties may engage in informal mediation to resolve the Claim prior to the expiration of the time in which the T/LPA may render a decision.

Once a Claim is submitted to the Project Manager, nothing in this Section shall be construed as permitting the Contractor to revive, modify, supplement, enlarge, or amend the Claim or the basis of entitlement other than providing additional documents and information in support of the Claim. All further proceedings shall be limited solely to the bases of entitlement and the amount of any compensation or time stated for any and all issues Claimed in the Contractor's written Claim submitted.

Additional Information. The T/LPA retains the right to request additional information from the Contractor to support the Claim, regardless of the Project Manager's previous waiver.

### **105.20.3 Arbitration**

#### Step IV: Service of Request for Arbitration or Service of Summons and Complaint in State District Court

1. The Contractor and T/LPA may agree to arbitrate the Claim instead of proceeding to litigation in State District Court. Arbitration may only be had at the mutual agreement of the Contractor and the T/LPA. Arbitration shall be conducted in accordance with the New Mexico Uniform Arbitration Act (NMSA 1978, § 44-7A-1, et seq.) and this Section.
2. Service of the request to arbitrate the Claim by the Contractor shall only be made in the request for reconsideration. The T/LPA will issue a decision denying or agreeing to the request for arbitration in writing within ten (10) Days of the receipt of the request to arbitrate. If the T/LPA does not respond to the request to arbitrate then the request is deemed denied.
3. By the parties agreeing to arbitration, the Contractor waives the right to redress through litigation filed in State District Court. The Contractor's proceeding with arbitration shall operate as a waiver by the Contractor of recovery under any written decision issued by the T/LPA.
4. If the Contractor and T/LPA agree to arbitrate the Claim the arbitration panel shall consist of three (3) members.

5. Within 15 Days of the agreement to arbitrate the Claim, the Contractor shall submit the name of a panelist. The Contractor's panelist shall:
  - a. Not be an employee of the Contractor;
  - b. Have 15 years' experience in Highway construction management, methods, techniques, or law; or have an active professional license with the State of New Mexico as an Engineer, Surveyor or Attorney with ten (10) years' experience in Highway construction management, methods, techniques, or law;
  - c. Be either a resident of the State of New Mexico or identify New Mexico as the panelist's principal place of business; and,
  - d. Agree to serve on the panel;
6. Within 15 Days of receiving notice of the Contractor's panelist, the T/LPA shall submit the name of a panelist. The T/LPA's panelist shall:
  - a. Not be an employee of the T/LPA, but may include individuals contracted to provide services to the T/LPA;
  - b. Have 15 years' experience in Highway construction management, methods, techniques, or law; or have an active professional license with the State of New Mexico as an Engineer, Surveyor or Attorney with ten (10) years' experience in Highway construction management, methods, techniques, or law;
  - c. Be either a resident of the State of New Mexico or identify New Mexico as the panelist's principal place of business; and,
  - d. Agree to serve on the panel;
7. Within 30 Days after the T/LPA's panel appointment, the two (2) panelists will choose a third panelist. The third panelist shall:
  - a. Be a professional arbitrator who is a member or diplomat of a nationally recognized professional arbitration organization, such as the National Academy of Arbitrators or the American Arbitration Association; or is a retired federal or New Mexico District or appellate judge; or be a former employee of FHWA;
  - b. Not be an employee or a contractor of either the T/LPA or the Contractor; and
  - c. Agree to serve on the panel;
8. If the two (2) panelists are unable to agree, a District judge from the Judicial District where the Project is located shall choose the third panelist from a list of four (4) prospective panelists who meet the requirements of the preceding paragraph, two (2) each provided by the T/LPA and the Contractor. Application to the court for this appointment shall be made by either or both parties within 15 Days of the impasse; the parties may agree in writing to extend this deadline.
9. The panel shall hold the arbitration hearing in the County where the Project is located, unless otherwise approved by the T/LPA, no later than 90 Days after the panel is selected. If the panel fails to meet this deadline or if the parties agree to extend the deadline, the panel retains jurisdiction to hear and resolve the issues in dispute.
10. Each party will pay the expenses and fees of its chosen panelist and attorney. Both parties will share equally the expenses and fees of the third panelist. If both parties agree, they will share court reporter costs. If not, the party requesting the transcription will pay the full cost.

11. The proceedings and the decision of the panel will be in accordance with the New Mexico Uniform Arbitration Act, NMSA 1978, § 44-7A-1 et seq. The decision is final and binding and may be vacated, confirmed, or appealed only in accordance with the New Mexico Uniform Arbitration Act (NMSA 1978, § 44-7A-1 et seq.).

#### **105.20.4 Litigation**

If the Contractor does not Accept the T/LPA's decision the Contractor shall issue its notice of Public Works Mediation within three (3) Days of the T/LPA's decision. The Contractor shall provide no less than seven (7) Days' notice of the convening of a mediation session. The Public Works Mediation shall be conducted in accordance with of the New Mexico Public Works Mediation Act (NMSA 1978, § 13-4C-1, et seq.). The Contractor shall exhaust the mandatory mediation procedures of the New Mexico Public Works Mediation Act before seeking judicial relief in State District Court. Failure to timely notice and convene a mediation session and to timely file and serve a summons and complaint shall operate as a waiver and abandonment of Contractor's Claim, shall act as an Acceptance of the T/LPA's decision, and shall bar the Contractor from proceeding to litigate the Claim. The T/LPA may process a unilateral Change Order implementing the T/LPA's decision based on the Contractor's abandonment or waiver of its Claim.

## **SECTION 106: CONTROL OF MATERIALS**

### **106.1 CONTRACTOR-FURNISHED AGGREGATE AND BORROW SOURCES**

Exploration and development of Material sources by the Contractor including related GRT and Tribal Taxes shall be Incidental.

The Contractor shall notify the Project Manager in writing of the Materials source prior to delivery of aggregate or borrow Materials to the Project. The Contractor shall provide Acceptable Materials and shall provide the following documentation to the Project Manager:

1. Location of source;
2. Copies of lease agreements, purchase orders, or Pit Agreements the Contractor has made with the pit owner or Supplier.
3. Evidence of environmental acceptability, which includes the completed environmental and Cultural Resource requirements of Section 107.14.1, "Environmental and Cultural Resource Studies and Approvals." Such evidence shall, where appropriate include the completed and T/LPA Accepted recommendations for environmental and Cultural Resource management. Plans for restoration, including contouring and re-vegetation if necessary; and,
4. Testing results from a NMDOT Approved Testing Laboratory. [http://dot.state.nm.us/content/dam/nmdot/Construction/Approved\\_Private\\_Testing\\_Laboratories.pdf](http://dot.state.nm.us/content/dam/nmdot/Construction/Approved_Private_Testing_Laboratories.pdf)

Upon request in writing from the Contractor, the Project Manager may approve Materials at the source prior to delivery. The Project Manager may reject sources, or specific areas within sources, due to failure to provide Acceptable Materials or due to environmental, social, or cultural concerns. If the Project Manager determines that the sources of previously Acceptable Materials do not produce Acceptable Materials, the Contractor shall provide Acceptable Materials from other sources, or make changes to the existing source to provide Acceptable Materials. No additional compensation or time shall be provided to the Contractor for unacceptable Materials or for developing alternate source locations.

The Project Manager will notify the Contractor in writing within ten (10) Days if its Material source is Acceptable.

### **106.2 SUPPLIER PLANT INSPECTION**

The T/LPA may inspect Materials at the Supplier's plant. In this event, the Contractor shall:

1. Cooperate and ensure the cooperation of its Materials Supplier;
2. Guarantee unrestricted entry (at reasonable times) to areas where the relevant Material is being manufactured or produced;
3. Arrange for the necessary facilities to be adequately inspected for the production or fabrication of the Material; and,
4. Ensure adequate safety measures are implemented for the inspection.

The T/LPA may retest Materials, before or during use in the Work, and reject Materials that, when retested, do not meet the requirements of the Contract, even if the Materials were tested and Accepted at the plant.

### **106.3 SAMPLES, TESTS, AND CITED SPECIFICATIONS**

The T/LPA will perform tests in accordance with standards, methods, or Specifications, of the Project's Contract. Unless otherwise specified in the Contract, the T/LPA will take samples and perform tests at its own expense. Unless otherwise specified in the Contract, the T/LPA will provide test results to the Contractor.

### **106.4 CERTIFICATES OF COMPLIANCE**

The Contractor shall submit a Certificate of Compliance to the Project Manager before installing or incorporating Material in the Work using the NMDOT's current approved Certificate of Compliance form. Any additional documentation required to verify the information required by the Certificate of Compliance form shall be submitted contemporaneously with the completed Certificate of Compliance form.

The Contractor may provide Material purchased in bulk or left over from previous Projects by submitting Certificates of Compliance forms for those Materials.

Unless otherwise stated in the Contract, Materials not permanently incorporated into the Work will not require a Certificate of Compliance form.

Unless requested in writing by the Project Manager, electric items meeting UL approval and underground utility Materials meeting ASTM or AWWA Specifications that are so certified or stamped will not require a Certificate of Compliance form.

### **106.5 FOREIGN MATERIALS**

Unless otherwise specified in the Contract, the Contractor shall deliver Materials manufactured outside the United States to approved locations within the State, where they shall remain until sampling and testing are complete. The Contractor shall arrange for testing that the T/LPA is not able to perform, at no additional cost to the T/LPA, and shall test foreign Materials within the State in the presence of the T/LPA.

The Contractor shall provide a Certificate of Compliance for each lot of foreign Material in accordance with Section 106.4, "Certificates of Compliance;" and, if required, provide with the Certificate of Compliance, certified MTRs for each lot, and clearly identify to which lot they apply.

For structural Material, the T/LPA will only Accept Material from foreign and domestic manufacturers that have established adequate in-plant Quality Control to the satisfaction of the

Project Manager. The T/LPA will not Accept structural Materials that do not have Certificates of Compliance and MTRs.

The Project Manager may inspect the plant or require the Contractor to submit detailed written proof of adequate Quality Control.

#### **106.6 STORAGE OF MATERIALS**

The Contractor shall request from the Project Manager written approval to store Equipment or Materials within the ROW for the adequate execution of the Work. The Contractor shall store Equipment and Materials to preserve quality and fitness, to protect against vandalism or theft, and to facilitate inspection. The Contractor shall be responsible for the replacement or repair of Materials affected by inadequate protection.

#### **106.7 HANDLING AND TRANSPORTING MATERIALS**

The Contractor shall handle Materials in a manner that preserves the Acceptability for the Work. The Contractor shall ensure the transportation of Materials is in accordance with State and federal regulations, and prevent leakage of, scattering of, or damage to Materials. Materials damaged or lost in transportation shall be deemed unacceptable and are not subject to payment by the T/LPA.

#### **106.8 T/LPA-PROVIDED MATERIALS**

Material provided by the T/LPA will be made available to the Contractor as specified in the Contract. The Contractor will be held responsible for all T/LPA supplied Material when it takes physical possession of the Materials and until such time that the Materials are incorporated into the Work and Accepted.

#### **106.9 MATERIALS DESIGNATED BY TRADE NAME**

The Contract may require Materials or Equipment by trade or manufacturers' names. The T/LPA will not Accept the substitution of Materials or Equipment when the Contract requires Materials or Equipment of specific trade or manufacturers' names.

#### **106.10 EQUIPMENT AND MATERIAL GUARANTEES AND WARRANTIES**

Obtain and assign to the T/LPA manufacturer and producer guarantees or warranties for Materials and Equipment. Warrant, for six (6) months after Material or Equipment is installed and operational, that mechanical and electrical Equipment without a manufacturer or producer guarantee are free from defects or imperfections in workmanship and Materials. Repair malfunctions or defects that develop during the six-month period.

Supply manuals for Equipment incorporated in the Work providing the following



information:

1. Operational procedures;
2. Complete nomenclature;
3. Wiring diagrams;
4. Schematics showing test voltage and procedural methods;
5. Functional description of circuits;
6. Parts lists;
7. Cross-references to standard part numbers;
8. Names and addresses of sources for testing procedures where appropriate
9. Flow diagrams; and
10. Other relevant data.

#### **106.11 SAFETY DATA SHEETS (SDS)**

The Contractor shall submit to the Project Manager the most current SDSs for all Materials that require SDSs upon delivery of the Materials to the Project. The SDS shall conform to current Federal requirements in 29 C.F.R. § 1910.1200 (g).

#### **106.12 BUY AMERICA REQUIREMENTS**

The Contractor shall provide Materials in accordance with the Buy America Requirements in 23 C.F.R. § 635.410 on federal-aid Projects.

The Contractor shall bear the burden of proof and the cost to show the origin and place of manufacture of iron and steel products and Materials.

## **SECTION 107: LEGAL RELATIONS, ENVIRONMENTAL REQUIREMENTS, AND RESPONSIBILITY TO THE PUBLIC**

### **107.1 LAWS TO BE OBSERVED**

Before the start of Work, the Contractor shall be fully informed and make the necessary contacts with local governments and State agencies concerning obligations related to all applicable federal and State laws, all local laws, ordinances and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority. The Contractor, Subcontractors, and Suppliers shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and protect and indemnify the T/LPA and its officers, employees and agents against all Claims or liability arising from or based on the violation of such laws, ordinances, regulations, orders, or decrees, by the Contractor, its officers, employees or agents, Subcontractors or Suppliers.

### **107.2 PERMITS, LICENSES, AND TAXES**

The Contractor shall procure all permits and licenses; pay charges, fees, royalties, and appropriate taxes; and give notices necessary and incidental to the lawful performance of the Contract.

Prior to beginning Work the Contractor shall furnish to the T/LPA a written list of all permits required for the proper completion of the Contract. The list shall clearly identify the type of permit or permits that must be obtained before Work can be started. Copies of fully executed permits shall be furnished to the T/LPA upon request.

#### **107.2.1 Compliance with Payment of Taxes**

The Contractor shall pay all lawful taxes imposed by the State of New Mexico or other political entities.

The successful Bidder, after receiving the Notice of Preliminary Award of Contract, shall provide to the T/LPA both the Bidder's Taxation and Revenue Department tax identification number and the Bidder's Motor Transportation Division account number. If either of these numbers is unavailable, the Contractor shall submit a letter of explanation. A Notice to Proceed will not be issued until the Contractor submits both numbers or a satisfactory letter of explanation.

#### **107.2.2 Gross Receipts, Indian Business Activity, and Tribal Employment Rights Organization Taxes**

##### **107.2.2.1 New Mexico Gross Receipts Tax**

The T/LPA will pay the Contractor for applicable New Mexico GRT and local option tax (including tax increases or decreases effective after the Contract date), and the Contractor shall

pay applicable taxes to New Mexico Taxation and Revenue Department. The Contractor shall show the GRT and local option tax as a separate amount added to each request for payment.

The T/LPA shall be promptly reimbursed or repaid for any tax, including GRT, that is refunded to the Contractor, including any refund received by the Contractor after final payment, to the extent such tax was paid by the T/LPA to the Contractor. The Contractor shall keep and maintain all documents, applications for tax refund, and forms filed with, submitted to, received from, or required by the New Mexico Taxation and Revenue Department which relate to the payment or refunding of any tax paid pursuant to this Section for five (5) years following final payment. All of the above material shall be made available to the T/LPA, the NMDOT or FHWA for review, audit, inspection, and copying and shall be produced, upon request, at the address directed by the T/LPA.

#### **107.2.2.2 Tribal Taxes**

All Bids submitted shall exclude any tribal business tax, TERO tax, and other tax imposed by a tribal government. The T/LPA will either pay the tax or may challenge the tribal government's authority to impose the tax. If the T/LPA challenges the tribal government's authority to impose the tax, the T/LPA will reimburse the Contractor for such tax only if a court of competent jurisdiction rules the tribe has authority to impose the tax. The T/LPA will be subrogated to the rights of the Contractor to Claim a refund of, or to contest, any such tax imposed on the Work to the extent any alleged obligation of the Contractor or the T/LPA to pay such tax arises under this Section or through the Contractor's performance of this Contract.

The T/LPA will reimburse the Contractor for payment of any Tribal Tax directly related to the performance of the Work within the Project imposed by a tribe upon tribal verification that the tax was paid by the Contractor.

#### **107.3 RESERVED**

#### **107.4 RESERVED**

#### **107.5 PATENTED DEVICES, MATERIALS, AND PROCESSES**

The Contractor's Bid Item Unit Price shall include the cost of all royalties and costs from patents, trademarks and copyrights needed to complete the Work.

If the Contractor employs any design, device, Material, or process covered by letters of patent, copyright or trademark, the Contractor shall secure approval for its use from the patentee or owner. The Contractor and the Surety shall indemnify and save harmless the T/LPA from all Claims (including costs, expenses, and damages the T/LPA may be obligated to pay) for infringement by reason of its use. The Contractor and Surety shall also indemnify and save harmless any affected third party and any political subdivision from all Claims for infringement by reason of its use.

## **107.6 RESTORATION OF SURFACES OPENED BY UTILITY PROVIDERS**

The T/LPA reserves the right to allow utility service providers with valid utility permit or an easement to enter the Project and perform utility Work.

When directed by the T/LPA the Contractor shall make all necessary repairs. If directed by the T/LPA, the repairs will be subject to the same requirements as the original Work performed. The T/LPA will pay for such repairs in accordance with Section 109.5, "Payment for Extra Work."

The T/LPA will address time extension requests due to Work by utility service providers in accordance with Section 108.6, "Determination and Extension of Contract Time."

## **107.7 FEDERAL AID PROVISIONS**

When the FHWA or other federal agency will be reimbursing the costs for all or any portion of the cost of a Project, the Contractor shall observe and be subject to federal law applicable to such reimbursement. In such situations, federal requirements supersede conflicting provisions of State and local laws, rules, or regulations. The Work shall be subject to inspection and oversight by the appropriate federal agency. Such inspection or oversight shall not make the U.S. Government a party to this Contract, nor shall the U.S. Government interfere with the rights of the Contract parties.

## **107.8 SANITARY, HEALTH, AND SAFETY PROVISIONS**

The Contractor shall provide and maintain sanitary accommodations for use by Contractor and T/LPA employees, in accordance with State and local boards of health, or other legal entity with jurisdiction.

The Contractor shall admit to the Project credentialed Inspectors from OSHA or other agencies responsible for health and safety administration.

### **107.8.1 State and Federal Land Managing Agencies**

While working within or adjacent to State or federal lands and forests, the Contractor shall comply with all regulations of the State or federal authority having jurisdiction governing the protection of these areas, and observe all sanitary laws and regulations. The Contractor shall keep the areas in an orderly condition, dispose of all refuse, and obtain permits for the construction and maintenance of all construction camps, stores, warehouses, residences, latrines, cesspools, septic tanks, and other Structures in accordance with applicable federal or State regulations.

## **107.9 PUBLIC CONVENIENCE AND SAFETY**

The Contractor shall provide for the convenience and safety of the general public, for reasonable access by local residents and businesses, and for the protection of persons and property, in accordance with Section 104.5, "Maintenance of Traffic."

## **107.10 RAILROADS**

If the Project affects railroad lines, the Contractor shall observe the requirements of the following Sections and the insurance requirements in accordance with Section 107.25, "Insurance Requirements."

For the purpose of this Section, the term "agreement" means the contract between the Contractor and railroad that defines the rights and responsibilities of both the Contractor and railroad for the Project. The term "immediate construction site" shall mean the area of the Project defined as having impacts on the railroad in the agreement.

### **107.10.1 Reserved**

### **107.10.2 Notice to the Railroad**

Unless otherwise stated in the Contract, the Contractor shall not begin Work in railroad-owned Right of Way before entering into an agreement with the railroad."

### **107.10.3 Cooperation with Owner of Railroad Right of Way**

The T/LPA is not liable for any additional costs or expenses of the Project resulting from the railroad's reallocation of its labor forces assigned to complete railroad Work in the event of an emergency when the owner of the railroad ROW believes such reallocation is necessary to provide for the immediate restoration of the railroad operations or to protect persons or property on or near any other property owned by the railroad.

### **107.10.4 Reserved**

### **107.10.5 Reserved**

### **107.10.6 Reserved**

### **107.10.7 Reserved**

## **107.11 ENVIRONMENTAL AND CULTURAL RESOURCES APPROVAL, HAZARDOUS MATERIALS**

The T/LPA will obtain the environmental and Cultural Resource approvals for the Project before construction. The T/LPA will describe in the Contract any environmental and Cultural Resource requirements developed to protect resources.

The T/LPA will describe in the Contract any Hazardous Materials identified and the Contractor shall observe the requirements of Sections 107.1, 107.2, 107.8 and the applicable paragraphs of 107.14.

#### **107.12 ENVIRONMENTAL, CULTURAL RESOURCE AND HAZARDOUS MATERIALS DISCOVERIES**

The Contractor shall terminate operations and provide written notification per Section 104.2.2, "Differing Site Conditions," when it discovers environmental, Cultural Resources or Hazardous Materials not identified in the Contract. The T/LPA will coordinate with appropriate regulatory authorities during this time, the Contractor shall continue Work in other unaffected areas. The Project Manager shall provide written notification to the Contractor when Work may commence in the area of terminated operations.

#### **107.13 CONTRACTOR'S RESPONSIBILITY FOR DAMAGE TO ENVIRONMENTAL AND CULTURAL RESOURCES**

The Contractor shall restore or mitigate all damage to environmental or Cultural Resources caused by the Contractor's failure to abide by requirements included in the Contract as well as those areas covered under Section 107.14, "Contractor's Responsibility for Environmental and Cultural Resource Protection," at no additional cost to the T/LPA. The T/LPA, in coordination with regulatory authorities, will determine the extent of restoration or mitigation. The Contractor shall pay any fine imposed on the T/LPA by a regulatory agency for a regulatory violation caused by the Contractor. The Project Manager may suspend the Work in areas where environmental or Cultural Resource violations occur.

#### **107.14 CONTRACTOR'S RESPONSIBILITY FOR ENVIRONMENTAL AND CULTURAL RESOURCE PROTECTION**

##### **107.14.1 Environmental and Cultural Resource Studies and Approvals**

The Contractor shall obtain new certifications for any Contractor located activity outside the Project Limits or for expansions or additions to existing previously certified areas. If the Contractor purchases Material from a Material source established for another Project by another Contractor working under Contract to the T/LPA, and if the Material source must be expanded beyond the area where environmental and Cultural Resource approvals have previously been obtained pursuant to Section 107.14.1, "Environmental and Cultural Resource Studies and Approvals," then the requirements for environmental acceptability shall apply to the additional area and requirements of Section 107.14.1, "Environmental and Cultural Resource Studies and Approvals," must be completed by the Contractor.

Before beginning soil-disturbing activities (in accordance with Section 106.1, "Contractor-Furnished Aggregate and Borrow Sources"), the Contractor shall notify the Project Manager in

writing of the proposed studies to be performed. After the Project Manager's concurrence with the Contractor's studies the Contractor shall employ an Environmental Specialist and a Cultural Resource Professional to conduct the approved studies. The Contractor shall ensure that the studies meet the standards of the NMDOT, the State historic preservation officer, and any State, tribal, or federal land-managing agency or entity with jurisdiction. The Contractor shall ensure that the resource studies are in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.), the National Historic Preservation Act (16 U.S.C. § 470 et seq.), and the New Mexico Cultural Properties Act (NMSA 1978, § 18-6-1 to 18-6-17), or any other successor statutes. The studies may extend, but are not limited to, the following locations:

1. Camp sites;
2. Plant sites;
3. Crusher sites;
4. Stockpile sites;
5. Equipment yards;
6. Borrow Pits;
7. Surfacing Pits; and,
8. Water sources.

The Contractor shall obtain the environmental and Cultural Resource approvals regardless of land ownership. For the environmental approval, the Contractor shall use the NMDOT -furnished checklist Categorical Exclusion form (or equivalent form furnished by the NMDOT), which shall be signed by the Contractor and the Environmental Specialist.

For Cultural Resource reports, use the standard site investigation forms approved by the New Mexico Historic Preservation Division and the New Mexico Cultural Properties Review Committee.

The Contractor may use previously-completed environmental and Cultural Resource studies, provided all other requirements of this Section are met.

The Contractor shall submit the documentation prepared for the environmental and Cultural Resource approvals to the Project Manager. Contractor located activities on State land, or privately owned land, may take 45 Days or more for approval after the Contractor delivers the resource studies to the Project Manager. Contractor located activities on federal land have no defined period for approval. The T/LPA will not approve requests for additional Contract Time or compensation related to Contractor Located Activities.

The Contractor shall comply with all conditions and commitments for protection of resources contained in resource agency requirements and in the environmental and Cultural Resource approvals. The environmental approval is the FHWA-approved checklist categorical exclusion, or its equivalent. The Cultural Resource approval is the concurrence letter signed by the State historic preservation officer, or its equivalent.

The Contractor shall repair at the Contractor's expense all damage to environmental or Cultural Resources caused by the Contractor's failure to meet the requirements for environmental

acceptability or abide by T/LPA directives issued to protect resources identified during the environmental and Cultural Resource evaluation. The nature and extent of such repairs shall be determined after consultations between the Contractor, T/LPA and NMDOT representatives, and the regulatory authorities with management jurisdiction over the subject resources.

#### **107.14.1.1 Commercial Material Sources**

Environmental acceptability requirements do not apply to Commercial Material Sources. Upon request of the Project Manager, the Contractor shall submit copies of its Commercial Sources Air Quality Permit, Groundwater Permits, and Business License.

#### **107.14.2 Parking and Cleaning of Equipment**

For Projects that have received environmental and Cultural Resource approvals through programmatic categorical exclusions (e.g., pavement preservation and rehabilitation, guardrail replacements, Bridge deck replacements, signalization upgrades, etc.), environmental and Cultural Resource studies will not have been completed outside the existing paved areas by the T/LPA. These Projects will be noted as such in the Contract. For these Projects, the Contractor shall take special care when parking and cleaning Equipment, as outlined in the following requirement.

The intent of the following requirement is to ensure the protection of sensitive environmental and Cultural Resources that may be present within the Right of Way and to encourage the Contractor to avoid damaging these resources when parking and cleaning Equipment. The Contractor shall ensure that parking and cleaning of Equipment within the Right of Way does not damage environmental and Cultural Resources, in one (1) or a combination of the following manners:

1. Park and clean Equipment in previously disturbed areas only;
2. Identify all parking and cleaning locations in previously undisturbed areas, prior to construction, and complete the environmental and Cultural Resource approvals as described in Section 107.14.1, "Environmental and Cultural Resource Studies and Approvals;" or
3. Park and clean Equipment in previously undisturbed areas without completing the environmental and Cultural Resource approvals as described in Section 107.14.1, "Environmental and Cultural Resource Studies and Approvals," and assume all risk and liability for any damage to environmental or Cultural Resources resulting from these actions.

#### **107.14.3 Clean Water Act**

The Contractor shall comply with the New Mexico Water Quality Act (NMSA 1978, § 74-6-1 et seq.) and applicable permits and regulations in accordance with the federal Clean Water Act (33 USC § 1251 et seq.).



The T/LPA will apply for and obtain permits and certifications required for construction involving “waters of the United States” as defined by the U.S. Army Corps of Engineers. The Contractor shall comply with the terms of the permit obtained and shall be fully liable for consequences resulting from its failure to comply. The T/LPA will provide a copy of the permits and certifications in the Contract.

#### **107.14.4 Minimization of Soil Disturbance**

The Contractor shall minimize damage to or removal of vegetation and trees, except as approved in Section 104.6, “Rights in and Use of Materials Found on the Work.” The Contractor shall not clear, grub, disturb, or excavate land beyond what is authorized by the Contract. The Contractor shall remediate or replace vegetation due to an unauthorized clearing or damage, at no additional cost to the T/LPA.

#### **107.14.5 Air Quality Requirements and Dust Abatement**

The Contractor shall perform dust abatement on the Project and as directed by the Project Manager. The Contractor shall ensure any operations which produce particulate matter comply with State and federal air quality regulations, as administered by the Air Pollution Control Bureau of the NMED, applicable local air quality regulations, and the federal Clean Air Act (42 USC § 7401 et seq.).

#### **107.14.6 Noise Abatement**

The Contractor shall not operate Equipment that emits noise above 70 dbA, measured at a distance of 50 ft, in urban or populated rural areas during the hours specified in the Contract, and shall comply with County or municipal ordinances if they are more stringent than the requirements in the Contract.

#### **107.14.7 Disposal of Materials**

Unless otherwise specified in the Contract, the Contractor shall be solely responsible for disposal of Materials. In the disposal of Material the Contractor shall comply with all federal, State and local regulations. The Contractor shall not dispose of Material within the Project Limits without written approval from the Project Manager.

#### **107.14.8 Disposal of Other Materials and Debris**

The Contractor shall move items designated for removal without salvage, unsuitable construction Materials, and debris from clearing and grubbing to an environmentally suitable disposal site secured and coordinated with the appropriate regulatory agencies. The Contractor shall not place any items in wetland areas or areas that may impact endangered species or Cultural Resources. The Contractor shall obtain an environmental and Cultural Resource

approval in accordance with Section 107.14.1, “Environmental and Cultural Resource Studies and Approvals.”

#### **107.14.9 Prime Coat, Tack Coat, and Soil Sterilants**

The Contractor shall not contaminate soils outside the Roadway Prism when applying prime coat, tack coat and soil sterilants. The Contractor shall not contaminate arroyos, irrigation supplies (acequias and ditches), wetlands, water impoundments, and live streams.

#### **107.14.10 Noxious Weed Prevention**

To avoid the spread of noxious weeds, all prime and Subcontractor construction Equipment (including but not limited to trucks, excavators, bulldozers, loaders, scrapers, backhoes, trailers, tractors, hydro-seeders, drill-seeders, straw-blasters, compost-spreaders, bobcats, and disks) shall be pressure-washed to remove all visible mud, soil, and debris prior to entering the Project Limits.

### **107.15 HAZARDOUS MATERIALS**

The T/LPA will describe in the Contract, all known Hazardous Materials within the Project Limits.

#### **107.15.1 Hazardous Material Discoveries**

During construction, should Material be encountered which is or the Contractor believes to be hazardous or contaminated, the Contractor shall immediately: terminate operations in the immediate area, notify the Project Manager in writing per Section 104.2.2, “Differing Site Conditions,” and the appropriate regulatory authority, and continue Work in other areas. The Project Manager, District Coordinator, Environmental Geology Bureau Manager, and environmental regulatory authorities shall investigate to determine the nature and extent of the Hazardous Material or contamination within the Right of Way. If the Contractor is not qualified, as determined by experience and/or licensure, to undertake a clean-up action, the Contractor shall retain the services of a qualified firm. Any adjustments shall be made in accordance with Section 109.5, “Payment for Extra Work.”

Should the Contractor fail to notify the Project Manager of Hazardous Material discoveries and/or fail to respond in accordance with all applicable environmental regulations or any part of these Specifications, the Contractor shall pay, at no cost to the T/LPA, any fine or penalty imposed for regulatory violations.

### **107.16 PREVENTION OF FOREST AND GRASS FIRES**

The Contractor shall prevent forest and grass fires. The Contractor shall notify appropriate officials at the earliest possible moment of the location and extent of any fire. The Contractor shall

comply with fire regulations applicable to the area of Work, and furnish and maintain firefighting Equipment and tools required in the Contract. The Contractor shall suspend fire-hazardous operations when necessary at the direction of the Project Manager.

If performing Work within or adjacent to State or National Forests, the Contractor shall comply with all regulations of the USDA Forest Service, State Forestry Division, New Mexico Department of Energy, Minerals and Natural Resources, or other authority having jurisdiction, governing the protection of forests and the performance of Work within forests. The Contractor shall keep the areas in an orderly condition, dispose of all refuse, and obtain permits for the construction of field offices and other Structures in accordance with the requirements of the Forest Supervisor.

The Contractor shall take all reasonable precautions to prevent and suppress forest fires and shall require employees and Subcontractors to take all reasonable measures within their power to prevent and suppress forest fires. The Contractor shall make every possible effort to notify a Forest official at the earliest possible moment of the location and extent of a fire.

#### **107.17 USE OF EXPLOSIVES**

The Contractor shall exercise extreme care when use of explosives is necessary for the prosecution of the Work. The Contractor shall be responsible for all damage resulting from the use of explosives. The Contractor shall not endanger life or property, including new Work. The Contractor shall use, handle, load, transport, and store explosives and blasting agents in accordance with applicable laws and ordinances, as well as title 29 CFR Part 1926 Safety and Health Regulations for Construction (OSHA) and 30 CFR Part 15.32 whichever is more restrictive. The Contractor shall clearly mark explosives and store them securely. If no local laws or ordinances apply, the Contractor shall store explosives not closer than 600 feet from Roads, buildings, camping areas, or places of human occupancy. Unless otherwise required by an agreement between the Contractor and public utility or owner of railroad ROW, the Contractor shall provide five (5) Days' notice to any public utility and owner of railroad ROW having Structures or facilities near the Project, of the intention to use explosives, so that they may take steps to protect their property before detonation.

#### **107.18 PROTECTION AND RESTORATION OF PUBLIC AND PRIVATE PROPERTY**

The Contractor shall preserve public and private property including land, governmental survey monuments, and property markers from disturbance or damage until the Project Manager has witnessed or otherwise referenced their location, and directed their removal.

The Contractor shall restore public or private property damaged and pay fines directly or indirectly caused by the Contractor through any act, omission, neglect, or misconduct in the execution of the Work, or by defective Work or Materials, or by non-prosecution of the Work. The Contractor shall return such property to a condition equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as directed by the Project Manager. The Contractor shall maintain responsibility for damage until the Work is completed and

Accepted. The contractor shall provide the T/LPA with the information to update the control sheet records once a reference mark has been reestablished by the Contractor.

#### **107.18.1 Public and Private Reference Marks**

Unless otherwise specified in the Plans, the Contractor shall not disturb or damage any public or private reference marks. If the Contractor directly or indirectly by any act, omission, neglect, or misconduct in the execution of the Work disturbs or damages public or private reference marks the Contractor shall be solely responsible for any restoration of the reference marks in accordance with Section 801, "Construction Staking by the Contractor." If the restoration of the public or private reference mark is done improperly then the Contractor shall be solely responsible for a fine of \$2,000.00 per improper reference mark. Delays, costs or impacts associated with the improper restoration of a reference mark shall be the sole responsibility of the Contractor.

#### **107.19 RESPONSIBILITY FOR THIRD PARTY CLAIMS AND DUTY TO DEFEND**

The Contractor shall indemnify and hold harmless the T/LPA and its officers, employees and agents from and against any and all Claims and suits, liability, damages, losses or expenses, including attorney fees and costs, to the extent that they arise out of or are in any way connected with any act or omission of the Contractor, or its officers, employees or agents. The Contractor agrees, at its own expense, and upon written request by the T/LPA, to defend any suit, action or demand brought against the T/LPA on any Claim or demand covered herein.

The Contractor shall establish a local contact number (with area code) for filing Claims, and clearly post the number. In addition, post the name of the Contractor and telephone number at each approach and departure to the Project. The Contractor shall ensure that construction vehicles (Contractor, Subcontractor, and privately owned) working on the Project have clean, unobstructed license plates, and shall mark vehicles legibly with the appropriate company name.

The Contractor shall assign an individual by the date of the preconstruction conference, readily available during normal working hours, to respond to Claims from the public for losses alleged to have occurred within the Project, whether arising from Contractor or Subcontractor action or inaction. The Contractor shall provide claimants with a written outline of the Contractor's Claims procedure, along with a written copy of the Contractor's name, address, and telephone number together with the name and title of the individual assigned to handle Claims from the public and provide a copy of the same to the Project Manager. The Contractor shall maintain a status report of Claims filed, including the name, address, and telephone number of the claimant, the nature of the Claim, pertinent findings regarding the Claim, and a statement regarding the resolution of the Claim. The Contractor shall provide the status report to the Project Manager upon request.

#### **107.20 CONTRACTOR'S RESPONSIBILITY TO PROTECT THE WORK**

Until Final Acceptance of the Project by the Project Manager, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof, by the action of the elements or from other causes, whether arising from the execution or from the non-execution of the Work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to portions of the Work occasioned by the above causes before Final Acceptance and shall bear the expense thereof except as provided in Sections 104.5, "Maintenance of Traffic," and Section 105.18.1, "Partial Acceptance."

Should the Contractor be Delayed in the prosecution or completion of the Work by Contractors on contiguous Projects, Acts of God such as fire, flood, earthquake, tornado, or other cataclysmic phenomena of nature, epidemic, quarantine restriction, strike, freight embargo, acts of public enemy, acts of governmental authorities or railroads other than the T/LPA, or documented national unavailability of construction Material, for which the Contractor is in no way responsible, then the Contractor may be entitled to an extension of Contract Time per Section 108.6, "Determination and Extension of Contract Time," but is not entitled to additional compensation or damages for such Delay. For physical damage to the Work resulting from the above unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, the Contractor may be paid pursuant to Section 109, "Measurement and Payment." The Contractor shall not be entitled to non-allowable damages per Section 109.11, "Compensation for Claims."

In case of suspension of Work per Section 105.8.1, "Project Manager Authority," the Contractor shall be responsible, subject to the provisions of Section 104.5, "Maintenance of Traffic," for the Project and shall take such precautions as may be necessary to prevent damage to the Project.

#### **107.21 CONTRACTOR'S RESPONSIBILITY FOR UTILITY PROPERTY AND SERVICES**

The Contractor shall not begin Work in areas close to railroad, telecommunication, or utility company Right of Way or facilities, or other property where damage from the Work might result in expense, loss, or inconvenience to the owner, until arrangements are made with the Project Manager and the owner of the property for the protection of such property or facilities.

The Contractor shall promptly notify the Project Manager and affected utility or railroad owners of any interruption to services resulting from exposure, lack of support, or breakage. The Contractor shall provide continuous repair Work to restore water service if interrupted. The Contractor shall not perform Work near fire hydrants until provision for service has been approved by the local fire authority.

#### **107.22 FURNISHING RIGHT OF WAY**

The T/LPA will secure necessary Right of Way before construction, except as noted in the Contract.

## **107.23 PERSONAL LIABILITY OF PUBLIC OFFICIALS**

T/LPA employees shall bear no personal liability in carrying out the provisions of the Contract or in exercising powers or authority granted to them by the Contract, it being understood that in such matters they act solely as agents and representatives of the T/LPA.

## **107.24 NO THIRD-PARTY LIABILITY**

The T/LPA and the Contractor specifically agree that the provisions of this Contract do not make anyone, including any Subcontractor or Materials Supplier, a third-party beneficiary or authorize anyone not a party to this Contract to maintain an action for damages under this Contract.

## **107.25 INSURANCE REQUIREMENTS**

The Contractor shall procure and maintain at no cost to the T/LPA insurance as detailed below, using an insurance company authorized to do business in New Mexico. Insurance shall cover operations under the Contract, whether performed by the Contractor, the Contractor's agents or employees, or Subcontractors. Contractor shall keep insurance in full force and effect for the entire period of the Work, up to and including Final Acceptance, and the removal of Equipment and employees, agents and Subcontractors. All insurance required in this Section shall be procured from insurance or indemnity companies with an A.M. Best Company financial strength rating level of A- or better, Class VII or better, unless otherwise approved in writing by the T/LPA. In no event shall the T/LPA approve the use of an insurance or indemnity company with an A.M. Best Company financial strength rating level of B or worse.

### **107.25.1 Liability Insurance**

1. The Contractor shall obtain General Liability (Bodily Injury Liability and Property Damage Liability) insurance coverage applicable in full to the subject Project in the following minimum amounts:
  - a. Personal and Bodily Injury Liability: \$1,000,000.00 each person; \$2,000,000.00 each occurrence (annual aggregate); and,
  - b. Property Damage Liability: \$2,000,000.00 each occurrence; (annual aggregate);
2. The insurance coverage shall be documented on a Comprehensive General Liability form or Commercial General Liability form, which must include the following:
  - a. Coverage for liability arising out of the operation of independent Contractors;
  - b. Completed Operations Coverage; and,
  - c. Attachment of the Broad Form Comprehensive General Liability Endorsement;
3. If the Work includes the use of explosives, the Contractor's insurance must include coverage for injury to or destruction of property arising out of blasting or explosion;
4. If the Contract includes Work next to an existing building or Structure, the Contractor's insurance shall include coverage for injury to or destruction of property arising from the collapse of or structural injury to buildings or Structures due to the following:

- a. Excavation, including borrowing, filling, or backfilling in connection therewith;
  - b. Tunneling and cofferdam or caisson Work; and,
  - c. Moving, shoring, underpinning, razing, or demolition of buildings or Structures, or removal or rebuilding of structural supports thereof; and,
5. Coverage must include injury to or destruction of property arising out of damage to wires, conduits, pipes, mains, sewers or other similar property or any apparatus in connection therewith below the surface of the ground, if such injury or destruction is caused by or occurs during the use of mechanical Equipment for the purpose of excavating, digging, or drilling.

#### **107.25.2 Automobile Liability Insurance**

The Contractor shall provide or ensure that all vehicles used in performance of the Contract have liability insurance. The Contractor is not responsible for liability insurance for the T/LPA or its agents. The Contractor shall provide limits of liability for automobile liability insurance in the following amounts:

1. Personal and Bodily Injury Liability: \$1,000,000.00 each person; \$2,000,000.00 each occurrence; (annual aggregate); and,
2. Property Damage Liability: \$2,000,000.00 each occurrence; (annual aggregate).

#### **107.25.3 Worker's Compensation Insurance**

The Contractor shall carry worker's compensation insurance and otherwise fully comply with the New Mexico Worker's Compensation Act (NMSA 1978, § 52-1-1 et seq.) and the New Mexico Occupational Disease Disablement Law (NMSA 1978, § 52-3-1 et seq.).

#### **107.25.4 T/LPA as Additional Insured**

The Contractor shall name the T/LPA and any third party so designated in the Contract as an additional named insured on the comprehensive general liability form or commercial general liability form furnished by the Contractor in accordance with Section 107.25.1, "Liability Insurance." The certificate of insurance shall state that the coverage provided under the policy is primary over any other valid and collectible insurance. The additional insured endorsement shall conform to the most current version of the Insurance Services Office's CG 2010 or equivalent, Additional Insured Endorsement Form. The Contractor shall provide to the T/LPA a copy of the Contractor's standard commercial general liability policy showing the Additional Insured Endorsement before the T/LPA issues a Notice to Proceed.

#### **107.25.5 Certificate of Insurance**

The Contractor shall provide evidence of insurance coverage conforming to these Specifications with a certificate of insurance executed on the form provided by the NMDOT to be made part of the Contract. The certificate shall indicate compliance with these Specifications and shall certify that the coverage shall not be changed, canceled, or allowed to lapse without giving

the T/LPA 30 Days written notice. The Contractor shall provide a certificate of insurance to the T/LPA on renewal of a policy or policies as necessary during the term of the Contract. The T/LPA shall not issue a Notice to Proceed until the Contractor meets these requirements.

#### **107.25.6 Umbrella Coverage**

The insurance limits cited in this Section are minimum limits. The T/LPA does not intend that these Specifications define what constitutes adequate insurance coverage for the individual Contractor. The T/LPA will recognize excess coverage (Umbrella) as meeting the insurance requirements of Section 107.25.1, "Liability Insurance," if the limits of the Umbrella coverage meet the individual requirements of this Section.

#### **107.25.7 Optimal Insurance**

If required by the Contract, Contractor shall procure and maintain form and types of bailee theft insurance such as, but not limited to, builder's risk insurance, Contractor's Equipment insurance, and rigger's liability property insurance. If so required, the Contractor shall provide bailee theft insurance in an amount necessary to protect the T/LPA against Claims, losses, and expenses arising from the damage, disappearance, or destruction of property of others in the care, custody, or control of the Contractor, including property of others being worked upon by the Contractor, its agents, employees or Subcontractors.

#### **107.25.8 Railroad Insurance**

If the Work affects railroad property, in addition to the above requirements, unless otherwise specified in the Contract the Contractor shall obtain at its own cost a railroad protective liability policy in the name of the owner of the railroad Right of Way or railroad facilities involved. In addition, on those rails used by the National Railroad Passenger Corporation (NRPC), the Contractor shall obtain a railroad protective liability policy in the name of the NRPC.

Railroad liability insurance shall be in compliance with 23 CFR 646A. These limits of liability apply to the coverage as set forth in AASHTO's Railroad Protective Liability Endorsement form, subject to the terms, conditions, and exclusions found in the form. The policy must afford coverage as provided in the standard Railroad Protective Liability Endorsement.

#### **107.26 NO WAIVER OF LEGAL RIGHTS**

Upon completion of the Work the T/LPA will pay the final payment voucher. Payment of the final payment voucher shall not preclude the T/LPA from correcting any measurement, estimate, or certificate made before or after completion of the Contract, nor from recovering from the Contractor or surety or both, overpayments sustained because the Contractor failed to fulfill the obligations under the Contract. A waiver on the part of the T/LPA of any breach of any part of the Contract shall not be held to be a waiver of any other subsequent breach.



The lack of discovery or rejection of a defect shall not preclude, nor obligate the T/LPA to Accept the defect.

The Contractor, without prejudice to the terms of the Contract, shall be liable to the T/LPA for latent defects, fraud, or such gross mistakes as may amount to fraud, and for warranty and guaranty.

#### **107.27 CONTRACTOR'S RESPONSIBILITY TO THE TRAVELING PUBLIC**

The Contractor shall minimize hazards to the traveling public in the Construction Zone from the commencement of the Work until Final Acceptance. Minimizing hazards shall include:

1. Keep Equipment, Materials, and workers out of the travel lanes;
2. Remove hazardous construction debris deposited within the Project Limits;
3. Inspect and repair the travel lanes (Necessary repairs of damage not caused by the Contractor will be paid for in accordance with Section 109.5, "Payment for Extra Work."); and,
4. Remove obstacles deposited by the public as they transit the Project.

The Contractor shall immediately correct hazards reported by Project inspections, T/LPA employees, or the public. The Contractor shall maintain and publicly post a 24-hour contact number to initiate action quickly.

#### **107.28 CONTRACTOR RECORDS**

The Contractor, Subcontractors and all Suppliers shall keep and maintain all documents in a useable format, including communications, books, papers, records, files, accounts, tax records, cost records, reports, schedules, Bid documents with backup data, including electronic data, and all other material relating to the Contract, Project, Contract compliance, or any Claim for five (5) years following Physical Completion of the Work. Unless otherwise specified in the contract all of the above material shall be made available to the T/LPA and the NMDOT for review, audit, inspection and copying and shall be produced, upon request by an authorized representative of either party at a location designated by the requesting party. The Contractor shall insert the above requirement in each subcontract and shall also include in all subcontracts a clause requiring Subcontractors to include the above requirement in any lower-tier subcontract. The Contractor's failure to maintain and timely provide all requested documents to the T/LPA or the NMDOT waives any Claim the basis of which could have, either in whole or in part, been documented or rebutted by such documents.

Resource Loading documents, financial statements provided by the Contractor, and Escrowed Bid Documents which have been visibly marked by the Contractor as "Confidential Trade Secrets" shall be deemed confidential as trade secrets and not subject to inspection pursuant to the Inspection of Public Records Act, NMSA 1978, § 14-2-4. However, if a request is received for disclosure of data, for which the Contractor has marked as a Confidential Trade Secret, the T/LPA shall examine the requested data and make a written determination that

specifies which portions of the proposal should be disclosed. If it is determined that a Contractor's requested confidential data should be disclosed, the Contractor will receive reasonable notice in order to afford the Contractor the opportunity to take legal action to prevent the disclosure. Unless the Contractor takes legal action to prevent the disclosure, the data will be so disclosed. Such documents may be disclosed to the T/LPA and the NMDOT, including any Inspector, Project Superintendent, Project Manager, Claim consultant, investigator, or testifying or consulting expert, if necessary to perform their duties, or as otherwise required by law.

#### **107.29 ASSIGNING OF CONTRACT**

The Contractor may not assign the Contract or assign or delegate any contractual obligation or duty without the prior written consent of the T/LPA, the NMDOT, and the Surety. Contractor may not make any assignment, in connection with the Contract, including assignment of any payment due Contractor or any Claim, for the benefit of any creditor.

#### **107.30 SEVERABILITY AND CONTRACT INTERPRETATION**

If any provision of this Contract is held to be invalid or unenforceable, the remaining provisions, or the application of such provision to either party, shall remain in full force and effect and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Contract did not contain that term.

If any provision of the Contract is found to be superseded by any applicable State or federal law or regulation or court order, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law or ruling, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law.

The Contractor agrees that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Contract.

#### **107.31 CHOICE OF LAW**

This Contract is governed by and construed in accordance with the laws of the State of New Mexico.

## **SECTION 108: PROSECUTION AND PROGRESS**

### **108.1 SUBCONTRACTING**

Any individual, partnership, firm, corporation, or joint venture performing Work on the Project that is not an employee of the Contractor is a Subcontractor unless otherwise stated in the Contract.

A Supplier or Fabricator is not a Subcontractor unless Work is being performed within the Project Limits.

The Contractor shall perform with its own organization at least 40.0% of the Work based on the Total Bid Amount. The phrase, "its own organization" includes only workers employed and paid directly, inclusive of employees who are employed by a lease agreement Acceptable to the T/LPA and Equipment owned or rented or without operators and does not include employees or Equipment of the Subcontractor, assignee or agent of the Subcontractor. The Contractor is solely responsible and liable for the performance of all Work or any act by its Subcontractors, Truckers, and Suppliers on the Project. Liability of the Contractor and the Contractor's Surety under the Contract and the Contract Bonds shall not be waived or diminished by subcontracting or any other assignment of interest.

The Contractor shall submit to the Project Manager a request to Subcontract on the current NMDOT approved form. The form must be concurred to by the T/LPA and the NMDOT before the subcontracted Work begins. Unless otherwise approved by the Project Manager, the request to Subcontract shall be submitted no later than two (2) Working Days before the Subcontract Work is scheduled to begin. The Contractor shall not circumvent this requirement by placing a Subcontractor's employees on its payroll. If the Contractor does not perform at least 40.0% of the Work with its own organization requests for Subcontractor approval will be rejected. The T/LPA will treat a person or group generally operating as an independent contractor, as independent contractors for the purposes of this Section. An independent contractor is a person who is paid for Work by the Contractor who is not the Contractor's employee and is not performing Work within the Project Limits such as the Contractor's attorney or accountant.

The Contractor is responsible for ensuring that its Subcontractors are prequalified by the NMDOT and are also duly licensed for the Work to be performed on the Project, are registered with all of the State agencies as is required to do business in New Mexico and to perform Work on Public Works Projects including the New Mexico Taxation and Revenue Department and the New Mexico Department of Workforce Solutions or successor agencies, and are in compliance with all applicable State and federal laws and regulations including the New Mexico Public Works Minimum Wage Act. The Contractor shall comply with the New Mexico Subcontractor Fair Practices Act to the extent it is applicable to the Project. The Contractor shall update its list of Subcontractors and Suppliers submitted at the Pre-Construction Conference as the Work progresses.

A Trucker is not a Subcontractor unless the Contractor is using the Trucker to meet the DBE goal associated with the Project. A Trucker is an individual, partnership, firm, corporation, or joint venture that transports Materials to and from the Project and does not perform Work within the Project Limits. Transportation of Materials within the Project Limits is Work performed by the Contractor or a Subcontractor. Transportation of Materials on or off the Project site does not require a Subcontract.

The Contractor shall not construe the T/LPA's concurrence as an endorsement of the subcontract, the Subcontractor, or the Subcontractor's ability to complete the Work in a satisfactory manner. Subcontracting creates no Contract between the T/LPA and the Subcontractor. The Subcontractor gains no rights, and the T/LPA Accepts no responsibilities by reason of the Subcontractor's contract with the Contractor.

### **108.1.1 Prompt Payment**

The Contractor shall promptly pay its Subcontractors and Suppliers for satisfactory performance of their contracts no later than seven (7) Days after receipt of Progress Payment for the Subcontractor's Work or Supplier's Materials by the T/LPA.

For purpose of this Section, a Subcontractor's and Supplier's portion of the Work is satisfactorily completed when the T/LPA processes a Progress Payment per Section 109.8, "Progress Payments." In no event shall the Contractor and its Subcontractors fail to promptly pay their Subcontractors and Suppliers the amounts due for undisputed Accepted Work within seven (7) Days of the Contractor receiving a Progress Payment from the T/LPA. The payment by the T/LPA to the Contractor is not a condition precedent for payment by the Contractor to any Subcontractor or Supplier. A zero dollar (\$0.00) Progress Payment by the T/LPA does not relieve the Contractor from paying the Subcontractor or Supplier for Accepted Work.

The Contractor's failure to make timely or prompt Subcontractor or Supplier payment may result in the T/LPA rejecting the Contractor's future Bids in accordance with Section 102.5, "Rejection of Bids." The Contractor's repeated failure to make timely Subcontractor payment may also lead to Suspension or Debarment in accordance with Section 102.3, "Suspension and Debarment."

## **108.2 NOTICE TO PROCEED AND PRE-CONSTRUCTION CONFERENCE**

### **108.2.1 Notice to Proceed**

The T/LPA may issue the Notice to Proceed within 30 Days after the T/LPA's Contract execution, unless otherwise agreed to by the parties. The Notice to Proceed will identify the timeframe the Contractor shall begin Work and when Contract Time shall begin. The Contractor's shall not commence Work without a Notice to Proceed.

### **108.2.2 Pre-Construction Conference**

After the issuance of the Notice to Proceed, the Project Manager will provide written notice to the Contractor of the date, time and location of the Pre-Construction Conference. The Pre-Construction Conference will occur during the timeframe in the Notice to Proceed. If the Contract has ramp up time, the Pre-Construction Conference shall occur before the ramp up time commences.

The Contractor shall ensure the Project Superintendent or the individual who executed the Contract attends the Pre-Construction Conference. The Contractor's shall not commence Work without a Pre-Construction Conference and the items above are Accepted by the T/LPA. Commencing Work without a Pre-Construction Conference may result in a Non-Conformance. Contract Time shall commence as indicated in the Notice to Proceed and no additional Contract Time will be granted.

The Contractor shall provide the following at a minimum of ten (10) Days before Pre-Construction Conference. The Pre-Construction Conference will not be held until the required items are provided to the T/LPA:

1. Letters of assignment (official capacity) for Project;
  - a. Project Superintendent;
  - b. Company and Project Safety Officer;
  - c. Traffic Control Supervisor (include current certifications and copy of wallet card)
2. A list with samples of authorized signatures and assignments for Supplemental Agreements (Change Orders), Progress Payments, payrolls and related items ;
3. Baseline Schedule;
4. Additions, revisions deletions to the Traffic Control Plan;
  - a. Proposed changes to the Project;
  - b. Potential problems with the construction of the Project;
5. List of Subcontractors and Material Suppliers;
6. Lump Sum breakdowns;
7. Weighmasters / Deputy Weighmaster certifications (must be maintained throughout the duration of the Project);
8. Progress Payment cutoff date;
9. Company EEO policy statement;
10. Recruitments letters (attachments E-K of the EEO package);
11. Superintendent's indoctrination letter (attachment D of EEO package);
12. If applicable the on-the-job training letter (Attachment R of the EEO package);
  - a. The trainee classification letter must include the number of trainees to be trained, the training program to be used, the classification of each trainee and the approximate start date;
13. The completed Civil Rights / EEO Pre-Construction Report. Complete and sign the portions that are applicable;
14. Pre-Construction safety questionnaire;
15. VECP form; and
16. Other items and any other documents required by the Contract or as directed in the Project

Manager's notice of Pre Construction.

### **108.3 SCHEDULE**

#### **108.3.1 Baseline Schedule**

The Project shall utilize a CPM format as the Baseline Schedule unless otherwise specified in the Contract.

The Project Manager will notify the Contractor in writing within ten (10) Days of the submittal of a Baseline Schedule if the schedule is "Accepted," "Accepted as noted," or is "rejected." For Baseline Schedules that are "rejected," the Project Manager shall communicate, in writing, to the Contractor all portions of the schedule that are not in compliance with the Contract requirements. The Contractor shall, within seven (7) Days of receipt of the reasons for rejection of the schedule, provide a new Baseline Schedule and all additional information necessary for the Project Manager to "Accept" the Baseline Schedule. The Project Manager will notify the Contractor in writing within seven (7) Days of the submittal of the corrected Baseline Schedule if the schedule is "Accepted," "Accepted as noted," or is "rejected." The Contractor's failure to provide a timely and Acceptable new Baseline Schedule in response to a rejected schedule waives any Claim the basis of which would have been documented by an Acceptable Baseline Schedule.

Unless otherwise specified in the Contract, the Contractor is wholly and solely responsible for construction means, methods or techniques, therefore the Project Manager's review of the Baseline Schedule will be for compliance with the Specifications and Contract requirements. Acceptance by the Project Manager shall not relieve the Contractor of any of its responsibilities for the accuracy or feasibility of the schedule. Any Baseline Schedule which exceeds the as let Contract Time may be "Accepted as noted" and does not revise the Contract Documents, including Contract Time, unless accompanied by a related Change Order. The T/LPA's Acceptance of a Baseline Schedule that exceeds as let Contract Time shall not operate as a waiver of the T/LPA's right to assess liquidated damages. A Baseline Schedule that reflects a Completion Date before the expiration of Contract Time does not revise the as let Contract Time and will be considered float for the exclusive use and benefit of the T/LPA. The Contractor shall not commence Work until the Project Manager Accepts a Baseline Schedule.

The T/LPA will use the Baseline Schedule to measure Project performance and for evaluation of changes to the Contract. Failure by the Contractor to include any element of Work required for performance of the Contract shall not excuse the Contractor from completing all Work within the required time.

##### **108.3.1.1 CPM Baseline Schedule**

Unless otherwise specified in the Contract the Contractor shall provide a CPM Baseline Schedule which clearly describes the following:

1. Created in the most current version of the scheduling software identified in the Contract;

2. Identifies the Project's Critical Path;
3. Includes all activities required to complete the Work, including but not limited to, engineering, surveying, permitting, submittals, approvals, procurement, fabrication, deliveries, crushing, utility Work and third party Work;
4. Includes milestones, interim Completion Dates, Substantial Completion Date, Physical Completion Date, and other key dates specified in the Contract;
5. Describe activities such that the Work is readily and identifiable. The activities shall provide the station or location of the Work;
6. Identifies the scheduled early and late start and finish dates for each activity;
7. Limits activity relationships to finish to start, start to finish, and finish to finish relationships. Use of leads and lags must be explained in the narrative;
8. Use only contractual date constraints, unless otherwise approved by the Project Manager;
9. Defines the Work calendar for each activity;
10. Narrative at a minimum including the plan for sequencing the Project;
11. Defines the duration of each activity;
12. Total Float and Free Float for each activity;
13. Workdays each week;
14. Contractor designated Holidays;
15. Number of shifts and Work hours per Day;
16. Anticipated weather events, based on historical data from the last seven (7) years;
17. Resource Loading that shows production rates; and
18. Cost loading that shall include the projected Project completion, measured in dollars and time, on a monthly basis or at each Progress Payment cut-off date.

### **108.3.2 Schedule Format**

#### **108.3.2.1 CPM Schedule Format**

The Project shall utilize a CPM format as the Baseline Schedule unless otherwise specified in the Contract.

The Contractor shall prepare and submit one (1) electronic copy and two (2) time-scaled color prints of the CPM Baseline Schedule, updated monthly schedule, and revised schedules using a Project scheduling software as directed by the T/LPA that includes the following features:

1. Ability to display the schedule as a Gantt chart;
2. Ability to clearly display the Critical Path of scheduled activities apart from the non-critical scheduled activities;
3. Ability to calculate and display Total Float and Free Float for each activity;
4. Ability to clearly display the early start, late start, early finish and late finish dates for each activity; and,
5. Ability to easily store and transfer the schedule as a file (or files) from one computer to another.

#### **108.3.2.2 Bar Graph Baseline Schedule**

If required by the Contract the Contractor shall submit the Baseline Schedule in bar graph form. The Baseline Schedule shall list Contract features or Work activities in sufficient detail to show a reasonable and workable plan to complete the Project within the Contract Time. The Contractor shall show the following on the bar graph Baseline Schedule:

1. Each Work activity as a bar;
2. Each activity's planned start and Completion Dates;
3. Each activity's estimated cost and percent of Total Bid Amount;
4. The overall Project cost;
5. The planned Project Completion Date;
6. The monthly projected percent complete in time and dollars;
7. A plot of the monthly projected percent complete (in dollars) superimposed on the bar chart; and,
8. Any approved Project suspensions and time extensions.

### **108.3.3 Monthly and Revised Schedules**

For this Section "schedule" refers to CPM or Bar Graph as required by the Contract. The T/LPA considers an updated monthly schedule as an update to the Accepted Baseline Schedule when no changes in activities have occurred except for the progression of planned Work. The T/LPA considers a revised schedule as a schedule that modifies the Accepted Baseline Schedule. If Accepted the revised schedule becomes the current Baseline Schedule.

Each activity in a monthly or revised schedule shall contain the same information required for the Baseline Schedule. Any updated or revised schedule that exceeds the as let Contract Time may be Accepted as Noted and does not revise the Contract Documents, including Contract Time, unless accompanied by a related Change Order. The T/LPA's Acceptance of an updated or revised schedule does not operate as a waiver of the T/LPA's right to assess liquidated damages.

The contractor shall submit an updated or revised schedule in accordance with 108.3.3.1, "Monthly Schedule Update." If the contractor fails to submit an Acceptable schedule, The T/LPA may take action in accordance with Section 109.8.2, "Non-Conformance." The Contractor's repeated failure to provide Acceptable monthly or revised schedules may lead to Suspension or Debarment in accordance with Section 102.3, "Suspension and Debarment." Failure to timely provide a monthly or revised schedule waives any Claim the basis of which would have been documented by an Acceptable monthly or revised schedule.

Float generated on Critical Path activities due to the acceleration of the Contractor's performance, at the written direction of the Project Manager, shall be for the exclusive use of the T/LPA; and, Float generated on Critical Path activities due to modification, reduction or elimination of items shall be for the exclusive use of the T/LPA. The float generated by a VECP may be split equally for the mutual use of the T/LPA and the Contractor.

Conditioned upon obtaining District Engineer prior approval with concurrence by the CLE, the



T/LPA may grant time extensions only to the extent that the activities on the Critical Path of the CPM Baseline Schedule in effect at the time of the Delay are impacted.

#### **108.3.3.1 Monthly Schedule Update**

The Contractor shall submit an updated schedule monthly by the Progress Payment cut-off date.

#### **108.3.3.2 Contractor's Independent Duty to Provide Schedule Revisions**

If it becomes apparent, or should have become apparent to the Contractor that the Contractor cannot complete the Work within the Contract Time, the Contractor shall provide a revised schedule and recovery plan to the Project Manager within five (5) Days. When the Critical Path changes, and when applicable, the Contractor shall provide a revised schedule and recovery plan to the Project Manager within five (5) Days.

If the Work falls behind schedule, the Contractor shall take such steps as may be necessary to mitigate damages and improve its progress including development of a recovery plan. For an excusable Delay, noncompensable Delay, concurrent Delay, as those terms are identified in Section 109.11, "Compensation for Claims," the Contractor shall take all reasonable steps to minimize the impact of the Delay once a Delay causing event is identified. Failure to do so may result in the rejection of all or part of the Delay Claim.

If the Delay cannot be mitigated, the Contractor shall promptly submit either a written request for an extension of the Contract Time pursuant to Section 105.19, "Notice of Intent to Claim," and Section 105.20, "Administrative Remedy," or request approval of a late completion schedule and shall be liable for liquidated damages.

For an inexcusable Delay or a nonexcusable Delay, as those terms are identified in Section 109.11, "Compensation for Claims," the Contractor shall consider as a minimum the following potential schedule mitigation techniques: increase the number of shifts, begin overtime operations, work extra Days including weekends and Holidays, or supplement its construction plant and submit, as provided in this Section, a revised schedule with a proposed recovery plan, as may be deemed necessary to demonstrate the manner in which the agreed rate of progress shall be regained, all at no cost to the T/LPA.

The revised schedule shall show Contract Time, Project Completion Date and all additional information necessary for the Project Manager to "Accept" the revised schedule. The Contractor's failure to provide a timely and Acceptable revised schedule waives any Claim the basis of which would have been documented by an Acceptable revised schedule. The Project Manager will provide the Contractor with a decision in writing within five (5) Days of receiving the revised schedule. The revised schedule shall become the current Accepted Baseline Schedule.

#### **108.3.3.3 Schedule Revisions at Request of T/LPA**

If it becomes apparent to the T/LPA that the Contractor cannot meet the schedule, the Project Manager may request a schedule revision and recovery plan from the Contractor. The Contractor shall, within five (5) Days of receipt of the request, provide a revised schedule. The Project Manager will provide the Contractor with a decision in writing within five (5) Days of receiving the revised schedule. The revised schedule shall become the current Accepted Baseline Schedule. The Contractor's failure to provide a timely and Acceptable response waives any Claim the basis of which would have been documented by an Acceptable revised schedule.

#### **108.3.3.4 Schedule Update and Revision Information**

The Contractor's updated monthly and revised schedules shall conform to the requirements of Section 108.3.1, "Baseline Schedule," and shall show:

1. Actual start and finish dates of each activity;
2. Remaining duration of activities started but not yet completed;
3. Delays and changes resulting from the addition, deletion or revisions to activities due to the issuance of a Change Order, change to an activity duration, changes to relationship between activities or changes to the planned sequence of Work or the method and manner of its performance; and
4. Narrative report describing:
  - a. Processes during the month;
  - b. Shifts in the critical activities from the previous update;
  - c. Sources of Delay;
  - d. Weather Days;
  - e. Traffic switches;
  - f. Allocations of crews;
  - g. Work completed the previous month;
  - h. Potential problem areas;
  - i. Work planned for the next update period; and
  - j. Changes made to the schedule.
  - k. The Superintendent shall sign the narrative and provide certification statement stating that the progress shown on the schedule update accurately represents Work completed through the date indicated:

#### **108.4 UNSATISFACTORY PROGRESS OF WORK**

The Project Manager will issue a notice of unsatisfactory performance to the Contractor. The notice shall be sent by certified mail and identify the unsatisfactory performance

The progress of the Work is deemed unsatisfactory when:

1. The dollars earned by the Contractor on the Project are 15% less than the estimated dollars earned, as shown on the current Accepted baseline progress schedule;
2. When the start of an activity on the Critical Path, as shown on the current Accepted progress schedule, has exceeded its late start date by seven (7) Days;

3. When an activity on the Critical Path, as shown on the current Accepted progress schedule, has exceeded its original duration by ten (10) or more Days; or,
4. When the Project Manager determines that the progress of Work is unsatisfactory.

When the progress of the Work is deemed unsatisfactory the Project Manager and the Contractor shall meet to address the schedule within five (5) Days. The Contractor shall provide a revised schedule with a narrative addressing Project progress compliance or anticipated liquidated damages. The T/LPA's approval of a late completion schedule will not operate as a waiver of the T/LPA's right to assess liquidated damages. Failure by the contractor to address the unsatisfactory progress within five (5) Days after the meeting, will result in the Project Manager issuing a Notice of Apparent Default to the Contractor per Section 108.9, "Default of Contract."

## **108.5 CHARACTER OF WORKERS, METHODS, AND EQUIPMENT**

### **108.5.1 Character of Workers**

The Contractor shall provide the resources necessary to complete the Work as specified. The Contractor shall ensure workers have the experience and skills to perform assigned Work.

The Contractor shall remove employee(s) who perform the Work in an unskilled manner, is in eligible to perform the Work, or who is intemperate or disorderly. The Contractor shall allow these employees to return to the Project only with the Project Manager's written permission. If the Contractor or its employee(s) fail to comply with these requirements the Project Manager may suspend the Work at no cost to The T/LPA.

### **108.5.2 Methods and Equipment**

The Contractor shall use methods and Equipment capable of performing the Work specified in the Contract. The Contractor shall ensure that the Equipment does not damage the Roadway, adjacent property or other Highways, Streets, or Roads.

The Contractor shall request permission of the Project Manager in writing to use methods or Equipment other than those specified in the Contract. The Contractor shall describe the proposed methods and Equipment to be used and the reasons for the change. The Contractor shall perform Work in accordance with the original Basis of Payment and Contract Time. The Contractor shall discontinue use of alternate methods or Equipment when Work does not meet Contract requirements. The Contractor shall remove and replace unacceptable Work or repair deficient Work at no cost to The T/LPA.

## **108.6 DETERMINATION AND EXTENSION OF CONTRACT TIME**

The T/LPA will provide the Contract Time in the Advertisement, in Working Days, Days, or Mandatory Completion Date.

For Working Day Projects, the Project Manager will provide the Contractor with a weekly statement showing the Contract Time, the number of Working Days used, the accumulated Working Days charged, and the number of Working Days remaining to complete the Work. The Contractor shall have three (3) Days after receipt of the weekly statement to object in writing to the weekly statement, setting forth the specific dates and justifications for the objection. If the Project Manager finds that the Contractor's objection is valid, or if there is an error, then the Project Manager will issue corrected weekly statement(s). If the Project Manager determines that the objection is not valid the Project Manager will notify the Contractor in writing. If the Contractor continues to object to the weekly statement then the Contractor may file a Notice of Intent to Claim. If the Contractor fails to timely object, the weekly statement is deemed Accepted by the Contractor.

The Contractor is not entitled to a Partial Suspension, at its own request, when any of the conditions below apply:

1. Projects with a Bar Graph Schedule
2. Projects with a Mandatory Completion Date;
3. Projects that are Calendar Day;
4. When performing Work on the Critical Path;
5. When the Contractor has not provided proper justification and the Project Manager has not approved the request;
6. The Work obstructs the Traveled Way; or
7. For issues for which the Contractor is responsible.

Partial Suspension shall be lifted if the Contractor works on Critical Path activities and the Project Manager shall commence the Contract Time count.

If completion of the Contract requires Extra Work that impacts the Critical Path, the Contractor shall provide the T/LPA an updated progress schedule and narrative requesting additional Contract Time associated with the Extra Work. Upon submission of adequate justification by the Contractor the District Engineer for the NMDOT District where the Project is located will determine if any adjustment in Contract Time is warranted with concurrence by the CLE.

Any request for additional Contract Time shall be made in writing to the Project Manager. If the Project Manager rejects a time extension request, the Contractor may proceed pursuant to Section 105.19, "Notice of Intent to Claim."

## **108.7 Reserved**

## **108.8 LIQUIDATED DAMAGES**

The T/LPA is entitled to assess liquidated damages for failure of the Contractor to complete the Work within the Contract Time. A daily charge will be made against the Contractor not as a penalty, but as liquidated damages, for each Day for any Work that remains uncompleted after the lapse of Contract Time.

In suits involving the assessment or recovery of liquidated damages, the reasonableness of daily charges will be presumed and the amount assessed will be in addition to every other remedy enforceable at law, in equity, by statute, or under the Contract.

The T/LPA does not waive its rights to assess liquidated damages under the Contract by allowing the Contractor to finish the Work after the expiration of Contract Time.

The Contractor shall complete the Work within the Contract Time. The T/LPA's Contract administrative costs, including engineering, inspection, and supervision, will be increased as the time to complete the Work increases.

The Contractor agrees that the following schedule of liquidated damages, unless otherwise specified in the Contract, represents an amount sufficient to cover estimated average daily costs incurred by the T/LPA if the Contractor does not complete the Project within the Contract Time and does not operate as a penalty to the Contractor:

<b>Schedule of Liquidated Damages</b>	
<b>Total Original Contract Amount (\$)</b>	<b>Charge (\$) per Day</b>
≤100,000	500
>100,000–500,00	1,000
>500,000–1,000,000	1,500
>1,000,000–2,000,000	2,000
>2,000,000–4,000,000	2,500
>4,000,000–7,000,000	3,000
>7,000,000–10,000,000	4,000
>10,000,000	5,000

The T/LPA will deduct liquidated damages from the next Progress Payment due to the Contractor after Contract Time expires and will continue to assess liquidated damages each Progress Payment until the determination of Substantial Completion. If the T/LPA directs Extra Work after Substantial Completion, the T/LPA will rescind the determination of Substantial Completion and then assess Contract Time in accordance with Section 104.2, "Extra Work." If the amount of liquidated damages exceeds the monies due to the Contractor for that Progress Payment then the T/LPA will seek reimbursement for any liquidated damages exceeding the dollar amount withheld from the Contractor.

If the Contractor has been granted Substantial Completion, but has not satisfied the requirements of Section 109.10, "Project Closure," the T/LPA reserves the right to continue to assess liquidated damages until Physical Completion. Upon the completion of steps I through VII of Project Closure the District Coordinator shall provide a written determination of Physical

Completion to the Contractor which stops further assessment of liquidated damages.

## **108.9 DEFAULT OF CONTRACT**

The T/LPA may declare the Contractor in default of the Contract if the Contractor:

1. Fails to perform the Work with sufficient resources (supervision, workers, Equipment, or Materials) to assure the completion of the Work;
2. Performs the Work unsuitably, or neglects or refuses to remove Materials or to correct rejected Work;
3. Fails to begin the Work within the time specified in the Notice to Proceed;
4. Discontinues the Work;
5. Fails to resume discontinued Work after the T/LPA issues a request to resume Work;
6. Becomes insolvent or is declared bankrupt, or files for reorganization under the bankruptcy code, or commits any act of bankruptcy or insolvency, either voluntarily or involuntarily;
7. Allows a final judgment, in a suit filed in connection with this Contract, to stand unsatisfied for 30 Days;
8. Makes an assignment, in connection with the Contract, for the benefit of its creditors;
9. Fails to carry on the Work in an Acceptable manner in accordance with the Contract;
10. Fails to comply with Contract requirements or willfully violates any term or condition of the Contract;
11. Fails to perform the Work or maintain the Project in compliance with Federal and New Mexico Occupational Health and Safety laws and regulations;
12. Fails to observe or comply with Federal and New Mexico laws and regulations, local laws and ordinances,
13. Is debarred or suspended in accordance with the Section 102.3, "Suspension and Debarment," or is suspended or debarred by any federal agency;
14. Communicates that the Contractor may not perform under the Contract;
15. Fails to promptly pay a Subcontractor or Supplier for undisputed Accepted Work in accordance with Section 108.1, "Subcontracting;" or

The complete default process is sequential and consists of the following steps:

1. Notice of Apparent Default;
2. Declaration of Default and Demand for Surety to Complete the Work; and,
3. T/LPA Completion of the Work;

### **108.9.1 Notice of Apparent Default**

The Project Manager will provide written notice to the Contractor and the Contractor's Surety specifying the condition(s) in Section 108.9, "Default of Contract," that the Contractor violated and the corrective measures to be taken by the Contractor. If the Contractor or Surety does not proceed with the corrective measures within ten (10) Days of the date written notice, the T/LPA, has full power and authority, without violating the Contract, to declare the Contractor in default.

### **108.9.2 Declaration of Default and Demand for Surety to Complete the Work**

The written declaration of default is separate from the notice of apparent default and will be addressed to both the Contractor and the Surety. The declaration of default is issued after time for the Contract to take corrective measures expires in Section 108.9.1, "Notice of Apparent Default." The declaration of default removes the corrective measures from the Contractor, and will demand compliance by the Surety of the terms, conditions, and obligations contained in the Performance Bond.

If the T/LPA determines that the Contractor is in default the Surety shall complete the Work at its own expense pursuant to the Contract and receive the balance of any funds owed to the Contractor.

### **108.9.3 T/LPA Completion of the Work**

If the Surety fails to complete the Work, the T/LPA will complete the Work. The T/LPA will deduct costs and charges that the T/LPA incurs as a result of the default and the cost of completing the Work from Contract funds due to or which may become due to the defaulting Contractor or Surety. If the total costs for completing the Work exceeds the amount that would have been payable under the Contract, the defaulting Contractor and the Surety shall be jointly and severally liable for the excess costs.

If a default of the Contractor is later determined to be without cause, the default of the Contractor will revert to a Section 108.10, "Termination of Contract; No Fault of Contractor," and the Contractor is not entitled to recover damages other than those allowed by that Section.

### **108.10 TERMINATION OF CONTRACT; NO FAULT OF CONTRACTOR**

The T/LPA may terminate, by written notice and order, all or part of the Contract, after determining the following:

1. That the Contractor is prevented from proceeding with or completing the Work as originally contracted for reasons beyond the control of the Contractor; or
2. That termination would be in the public interest.

Reasons for termination may include, but are not limited to, the following:

1. Executive orders of the President of the United States;
2. Executive orders of the Governor of the State of New Mexico;;
3. An emergency that creates a serious shortage of Materials, as deemed by the T/LPA
4. Orders from duly constituted authorities relating to energy conservation;
5. Restraining orders or injunctions obtained by third party citizen actions resulting from national or local environmental protection laws or where the issuance of the order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor; or,
6. To correct any material errors or omissions or to correct any discrepancy or contradictions within the Contract discovered after execution of the Contract by both parties, the failure

of which to correct is likely to lead to Contractor Delay, a Claim for additional time, or a Claim for compensation which may exceed the costs recoverable under this Section.

### **108.10.1 Submittals and Procedures**

When the T/LPA issues a notice and order for a Contract termination effective on a certain date the T/LPA will pay:

1. For the actual number of units or items of Work completed at the Bid Item Unit Price;
2. For items of Work started but not completed as negotiated and mutually agreed. Negotiated amount shall not exceed the Bid Item Unit Price;
3. For invoices to restock or for invoices for Material on hand for Work not yet started. Invoices shall be provided by the Contractor documenting both costs and T/LPA will make a determination on how to proceed, including delivery of the Material if needed. For the purposes of this Section, Materials on hand are Materials that are ordered and have been manufactured before the date notice and order of termination is issued.

After the Contractor receives the termination notice and order from the T/LPA, and no agreement or only a partial agreement is reached about the termination costs, then Contractor shall submit any Claim for damages or costs within 30 Days of the date of the notice and order of termination or shall waive such Claim. The Contractor shall submit the Claim in accordance with Sections 105.19, "Notice of Intent to Claim," and 105.20, "Administrative Remedy." The Claim shall be limited to the following cost items:

1. Actual and direct Bidding and Project investigative costs which are separate and excluded from home office overhead costs;
2. Actual and direct mobilization costs, mobilization paid by the T/LPA exceeding actual and direct mobilization costs may be subject to reimbursement by the Contractor;
3. If Work is stopped in advance of the termination date, idle Equipment time using standby-time rental rates at 50% of the Blue Book Equipment rental rate, without the operating cost;
4. If Work is stopped in advance of the termination date, idle labor costs;
5. Unpaid Supplier costs;
6. Accounting charges involved in Claim preparation;
7. Written and executed agreements for private land usage; and
8. An additional ten percent (10%) of the total of the above items 2, 3, 4, and 5 to cover home office overhead and salaried labor expenses.

The Contractor shall provide those records required by Section 105.20.1, "Submittal of the Claim to the Project Manager," to the T/LPA to determine the validity and amount of each Claim item. The Contractor shall not be entitled to recover anticipated loss of profits or any category of damages excluded pursuant to Section 109.11, "Compensation for Claims."

Full or partial Contract termination does not relieve the Contractor of its contractual responsibilities for the completed Work, nor will it relieve the Surety of its obligation for Claims arising out of the completed Work.



## SECTION 109: MEASUREMENT AND PAYMENT

### 109.1 MEASUREMENT OF QUANTITY

The T/LPA will measure Pay Items in accordance with the Pay Unit listed in the Contract.

#### 109.1.1 Pay Unit Terminology

Otherwise, the following terminology controls:

1. The distance between stations is 100 feet, measured longitudinally;
2. Longitudinal measurements are along and parallel to surfaces, not horizontal. For Pay Items measured by the square yard, the T/LPA will make no deduction for fixtures in the Work with areas less than one (1) square yard;
  - a. Transverse measurements for areas of Base Course and pavements are the neat line dimensions shown on the Plans based on the average width of the installed Material along the centerline of the Roadway;
  - b. Structures are measured according to the neat lines shown on the Plans or as provided by the T/LPA;
  - c. For Pay Items measured by the foot, measurements are parallel to the base or foundation;
3. The volume of excavation is calculated by using the average end area method at 25 foot intervals or other Project Manager approved methods;
4. A ton equals 2,000 lb; a "sack" equals 94 lb of cement;
5. Timber and lumber (permanently incorporated in the Project) is measured by the foot, and measured on nominal widths and thickness and the length of each piece. The T/LPA will Accept lumber and timber conforming to the American Lumber Standards for rough and dressed sizes, as specified in the Contract;
6. Standard manufactured items, identified by unit weight or section dimensions, are measured using nominal weights or dimensions. The T/LPA will Accept manufacturing tolerances established by the industries involved, unless otherwise stated in the Contract.
7. Asphalt Materials are measured by the ton or as designated in the Contract. The weight is based on net certified scale weights or weights calculated from certified volumes. The certified weights or volumes are subject to inspection and adjustment at the point of delivery.
8. Materials that are measured by weight shall be measured and proportioned by weight using certified and accurate scales that are within tolerances established by State law;
  - a. The Contractor shall provide scales or use commercial scales;
  - b. Scales shall be certified and sealed at least once every 12 months or each time the scales are relocated, or as directed by the Project Manager;
  - c. Weighmasters (including Deputy Weighmasters), provided by the Contractor and certified by the NMDA, shall operate the scales. The certified weighmasters shall perform their duties in accordance with the regulations of the New Mexico T/LPA of Agriculture statutes and regulations concerning the same. The cost of the certified

- weighmasters, weighmasters' scales, scale tickets, scale house, and verification of the scale's accuracy is Incidental to the weighed Material;
- d. Empty vehicles used to haul Material paid by weight shall be weighed at least twice daily, at a minimum once prior to initial Material delivery and once prior to final Material delivery. The Contractor shall ensure vehicles bear legible identification marks. On a daily basis the Contractor shall provide the Project Manager with a written list of delivery vehicles showing identification marks, number of axles, the distance between extreme axles and daily tare weights. The Contractor shall update this information before delivery of the Material and when the Contractor changes vehicles, combination vehicles, or axle length relationships;
  - e. The T/LPA may convert weight to volume, or volume to weight, for payment purposes. The Project Manager will determine the factor(s) for conversion using an Acceptable method;
  - f. The operator of each weighed vehicle shall obtain a scale ticket (certificate of correct weight) from the weighmaster and deliver the ticket to the Project Manager or designee at the point of delivery. The following information shall be included on the scale ticket:
    - i. Project number;
    - ii. Date;
    - iii. Ticket number;
    - iv. Truck / Trailer unit number;
    - v. Gross weight;
    - vi. Tare weight;
    - vii. Net weight;
    - viii. Material type;
    - ix. Certified weighmaster's name;
    - x. Signature of weighmaster; and
    - xi. Whether the driver was on or off the scale during weighing.

## **109.2 APPROVED EQUIPMENT RENTAL RATES**

For machinery or Equipment owned or leased directly by the Contractor or its Subcontractor at any tier, the Contractor will be paid Equipment rental rates as designated in the Contract. The T/LPA will not compensate the Contractor or its Subcontractors at any tier for owned or leased small tools. Small tools are defined as any tool which would be valued less than \$2000.00 if purchased new.

The Blue Book rates shall be used for the actual time the Equipment is in operation calculated by using the Federal Highway Administration rate. The FHWA rate is equal to the monthly rate divided by 176 (hours/month) plus the hourly operating cost. The FHWA rate must also be adjusted for age and geographic region. Therefore, the "FHWA" rate in the Blue Book represents monthly rate/176 x age adjustments x regional adjustments plus hourly operating cost. The T/LPA may add a maximum of 10% only to the Equipment rental rates. The T/LPA will apply Equipment rental rates pursuant to the Blue Book and in accordance with the following criteria:

1. The manufacturer's identification plates on the Equipment will be used to identify the Equipment and its capacities. If the Equipment does not have these plates, the Contractor shall provide written statements certifying the Equipment identification and capacity as shown on the Contractor's Equipment inventory. The Contractor shall submit the type, capacity, and horsepower of each piece of Equipment, to correlate with the Blue Book schedule. The Blue Book reflects the maximum rates for Equipment of modern design and in good-working condition;
2. The Blue Book lists common pieces of Equipment. If the Blue Book does not list a piece of Equipment the use of the Blue Book rental rate for a comparable piece of Equipment shall be used as approved by the Project Manager. If no comparable piece of Equipment is identified in the Blue Book the Project Manager may negotiate a rental rate with the Contractor at a fair market rental rate;
3. If a piece of Equipment, not available on the Project, requires hauling onto the Project, the Contractor shall include the actual transportation cost (in and out). The T/LPA will pay the transportation cost for each piece of Equipment once. Under unusual circumstances the Contractor may provide to the T/LPA written justification for additional transportation costs;
4. The Contractor shall only be paid the operating rate for those hours the Equipment is actually in use. A standby rate for Equipment required to be at the Work site but not operating may be paid by the T/LPA if agreed to in writing in advance by the Project Manager in which case the T/LPA will pay for standby Equipment using standby-time rental rates at 50% of the Blue Book Equipment rental rate, without the operating cost.
5. The regional difference percentage, as described in the Blue Book does not apply. However, the factors in the Rate Adjustment Tables of the Blue Book do apply;
6. Overtime, as described in Blue Book does not apply. The T/LPA will pay for Equipment used on Extra Work at the regular hourly rate in accordance with the rate provided in the Blue Book.

### **109.3 SCOPE OF PAYMENT**

The Contractor shall receive and accept compensation in accordance with the Bid for performing the Work in an Acceptable manner. The compensation associated with the Bid shall include the risks, losses, damages and expenses that, when considering the nature of the Work and having exercised Pre-Bid Due Diligence, should have been reasonably expected by the Contractor in prosecuting the Work.

The Contractor shall receive and accept compensation provided for in the Contract as full payment for furnishing all Materials and for performing all Work under the Contract in a complete and Acceptable manner subject to the provisions of Section 107.26, "No Waiver of Legal Rights." The Contractor's Bid Item Unit Price is presumed to be based on its exercise of Pre-Bid Due Diligence and considers all risk, loss, damage, or expense of whatever character arising out of the nature of the Work.

The T/LPA will pay for the approved actual quantities of Material incorporated into the Work unless otherwise provided in the Contract.

The T/LPA will only pay for Pay Items listed in the Contract in accordance with the "Basis of Payment" provisions. Items not included in the "Basis of Payment" provisions shall be considered Incidental, unless otherwise indicated in the Contract. The T/LPA will not pay separately for Work Incidental to the completion of a Pay Item, or pay for the Incidental Work under another Pay Item; except as provided in Section 104.6, "Rights in and Use of Materials Found on the Work."

Payment for any Pay Item shall be full compensation for all Work necessary to complete the Pay Item.

When a Contract Item Specification references another Specification(s) to complete the Work, Pay Items referenced in that Specification, the Pay Items referenced will not be measured or paid for separately. *For example, if the Specification for Contract Item "A" refers to Specification "B" the Pay Items in Specification "B" will not be paid for, unless specifically stated in the Contract. The Payment for Contract Item "A" will be full compensation for Work as described in the Specification for Contract Item "A".*

The Contractor shall not receive payment for corrective Work. Corrective work is Work required by the T/LPA to make previously unacceptable Work Acceptable.

The T/LPA may Accept portions of the Work at an adjusted price in accordance with the relevant Pay Adjustment provisions in the Contract. The adjusted price only applies to the specific Accepted portion of Work.

#### **109.4 COMPENSATION FOR OVERRUN / UNDERRUN QUANTITIES**

When the Project Manager determines the Work is Acceptable, the T/LPA will pay the Contractor in accordance with Basis of Payment section or Change Order. If the Accepted quantities of Work vary from the quantities in the Contract, the Contractor shall accept, as payment in full, payment based on the Bid Item Unit Price for the Accepted quantity.

#### **109.5 PAYMENT FOR EXTRA WORK**

The T/LPA will pay the Contractor for Extra Work resulting from significant changes in the character of the Work, differing site conditions or T/LPA ordered Work based on the following order of priority for payment:

1. Bid Item Unit Prices;
2. Negotiated unit prices;
3. Negotiated Lump Sum; or
4. Force Account.

For Items of Work performed by the Contractor, the negotiated unit price or negotiated Lump Sum price shall include all costs associated with the Work. If Subcontractors perform Work as Extra Work under items 2, 3 or 4, the T/LPA may only compensate the Contractor up to an

additional ten percent (10%) of the total actual cost of the subcontracted Work less than or equal to \$10,000.00 for indirect and administrative costs. If the total cost of the subcontracted Work is greater than \$10,000.00 then the T/LPA shall only compensate the Contractor \$1,000.00 plus 5% of the excess over \$10,000.00.

## **109.6 FORCE ACCOUNT**

When the order of priority for payment is exhausted and Extra Work must be paid by Force Account, the T/LPA will pay the Contractor in accordance with the following Sections.

If the total cost of the subcontracted Work by Force Account is less than or equal to \$10,000.00, then the T/LPA shall only compensate the Contractor an additional ten percent (10%) of the total cost of the subcontracted Work for indirect and administrative costs. If the total cost of the subcontracted Work is greater than \$10,000.00 then the T/LPA shall only compensate the Contractor \$1,000.00 plus 5% of the excess over \$10,000.00.

### **109.6.1 Labor**

The T/LPA will pay the wage rate for Force Account Work actually paid by the Contractor during the pay period ending before the Force Account Work commences. Such payment shall include Work by supervisors in direct charge of the Force Account Work. If there is no wage rate for a labor classification needed to perform the type of Work required, the T/LPA and Contractor will negotiate and document a new wage rate before beginning the Force Account Work.

Labor shall also include, and the T/LPA will reimburse for, the following actual reasonable costs paid to (or on behalf of) workers:

1. Subsistence and travel allowances that do not exceed the New Mexico Per Diem and Mileage Act or other T/LPA approved per diem rates;
2. Health and welfare benefits;
3. Retirement fund benefits;
4. Vacation benefits; and
5. Other benefits required by collective bargaining agreements or other employment Contract, applicable to the class of labor.

The T/LPA will pay an amount equal to 30 percent of the sum of the direct labor costs and fringe benefits. This payment is in compensation in the following increments: field office overhead (10 percent), home office overhead (10 percent), and profit (10 percent).

### **109.6.2 Bond, Insurance, and Tax**

The T/LPA will pay the Contractor either:

Option 1

The actual cost of the following, plus six percent (6%):

1. Property damage, liability, and worker's compensation insurance premiums;
2. Unemployment insurance premiums or contributions;
3. Applicable payroll taxes (not including gross receipts taxes); and
4. Social Security taxes.

To recover actual costs, the Contractor shall provide actual invoice costs of the rate(s) it has paid for bonds, insurance, and taxes.

#### Option 2

In lieu of supplying the above evidence and recovering actual costs:

1. The Contractor shall receive payment at a rate representing 30% of the labor costs for labor burden; and
2. The Contractor shall also receive payment for the additional costs to Contract Bonds supported by invoice(s).

#### **109.6.3 Materials**

The T/LPA will pay the Contractor the actual cost of Materials Accepted by the Project Manager and incorporated into the Force Account Work, including transportation charges paid by the Contractor (exclusive of Equipment rentals), plus 15% of the Material cost.

#### **109.6.4 Equipment**

For special Equipment (other than small tools as defined by the Blue Book), including fuel and lubricants and transportation costs, the T/LPA will pay rental rates as determined in accordance with Section 109.2, "Approved Equipment Rental Rates," unless otherwise agreed in writing.

#### **109.6.5 Miscellaneous**

The T/LPA will not pay for other costs not specifically addressed in Section 109.6, "Force Account."

#### **109.6.6 Documentation**

The Project Manager will use forms approved by the NMDOT to track Force Account costs. The Contractor shall compare and reconcile records with the Project Manager daily, or as otherwise directed by the Project Manager, to determine the amount of Force Account Work completed by the Contractor.

#### **109.6.7 Statements**

The T/LPA will not pay for Force Account Work until the T/LPA verifies that the Force Account Labor, Material and Equipment forms are supported by the documents below. Contractor furnishes the Project Manager with itemized statements of the cost of the Force Account Work detailed as follows:

1. Name, classification, date, daily hours, total hours, rate, and extension for each laborer and foreman;
2. Attachments verifying Equipment brand, year of manufacture, operating Specifications, dates of use, daily hours, total hours, current Blue Book rental rate, and rate of applicable attachment for each piece of Equipment;
3. Quantities of Materials and prices; and,
4. Transportation of Materials.

Statements shall be supported by receipted invoices for all Materials used and for transportation charges. For in-stock Materials or Materials furnished by the Contractor, the Contractor shall provide an affidavit certifying that such Materials were taken from the Contractor's stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the Contractor. This requirement does not waive the Contractor's responsibility to provide Certificates of Compliance per 106.4, "Certificates of Compliance."

The total payment made as provided above shall constitute full compensation for Force Account Work authorized in writing by the T/LPA.

### **109.7 ELIMINATED ITEMS**

Should Pay Items contained in the Contract become unnecessary for the reasonable completion of the Work, the Project Manager may direct the Contractor, in writing, to eliminate Pay Items from the Contract. This written notification will not invalidate the Contract. The T/LPA will reimburse the Contractor for actual Work completed before the written notification at Bid Item Unit Price.

The total cost of return freight, handling and restocking for Materials associated with that eliminated Work will then be increased by 15%. If Materials cannot be returned, the T/LPA will pay for said Materials at Contractor's actual cost and take ownership.

### **109.8 PROGRESS PAYMENTS**

The Contractor shall not construe any Progress Payment to be an Acceptance of any defective Work or improper Material.

The Acceptance of Work for the purposes of Progress Payments does not constitute Final Acceptance of the Work.

The T/LPA will make Progress Payments once each month. The Project Manager will prepare and post Progress Payments based on estimates of the value of the Work performed and

Materials complete-in-place, and in accordance with Section 109.9, "Stockpile," and minus price reductions within five (5) Days of the estimate cut-off date.

The T/LPA will include monies associated with an Accepted and fully executed change Order when the Work is Accepted with the next Progress Payment.

The Project Manager shall process a Progress Payment on a monthly basis regardless of the dollar amount, including zero dollar (\$0.00), owed the Contractor.

The T/LPA has the authority to withhold Progress Payments in part or in their entirety as part of a suspension.

### **109.8.1 Reserved**

### **109.8.2 Non-Conformance**

If the Contractor fails to comply with all material terms and conditions of the Contract the T/LPA may withhold an additional 25% as a Non-Conformance from each Progress Payment and subsequent Progress Payments. Release of Non-Conformance withholdings shall be processed at the next scheduled Progress Payment after the resolution of the Non-Conformance.

Nothing in this Section prevents the T/LPA from withholding application and certification for payment because of the following: unsatisfactory job progress, defective construction not remedied, disputed Work, third party Claims filed or reasonable evidence that a Claim will be filed, failure of the Contractor to make timely or prompt payments for labor, Equipment, and Materials, damage to the T/LPA, reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract,.

The Contractor is not entitled to late payment charges, including late payment charges pursuant to NMSA 1978, § 13-1-158, associated with any payment retained under this Section.

#### **109.8.2.1 Automatic Non-Conformance**

These items do not follow the Potential Non-Conformance process below. The failure to comply will automatically result in the issuance of a Non-Conformance and withholding of an additional 25% as a Non-Conformance from each Progress Payment. The following items shall be provided in the timeframes in their respective Section:

1. The Certificate of Compliance per Section 106.4, "Certificates of Compliance" for Materials that are required to be Buy America compliant per Section 106.12, "Buy America Requirements;"
2. Schedule submittals within the timeframes in Section 108.3, "Schedule;"
3. Prime Contractor's certified payrolls complete submittal within the timeframe in the "Federal Requirements" Notice to Contractors; and,
4. The Contractor's prompt payment to its Subcontractor for undisputed Accepted Work.



### **109.8.2.2 Potential Non-Conformance**

For all other terms of the Contract, that the Contractor fails to comply with the T/LPA will issue a Notice of Potential Non-Conformance. The Notice of Potential Non-Conformance will be issued on a form similar to that used by the NMDOT and the Contractor shall have five (5) Days after the Progress Payment cutoff date to resolve the issues listed on the form.

If the Contractor resolves all issues on the Notice of Potential Non-Conformance within five Days after the Progress Payment cutoff date then no action to withhold the 25% Non-Conformance amount is taken by the T/LPA. If the Contractor does not resolve each issue on the Notice of Potential Non-Conformance within five Days after the Progress Payment cutoff date then the T/LPA will withhold an additional 25% as a Non-Conformance from each Progress Payment and subsequent Progress Payments until the Contractor fully complies with the Contract.

For Safety Items the T/LPA will include a timeframe to resolve the issue in the Notice of Potential Non-Conformance that may be other than five (5) Days after the Progress Payment cutoff date. If the Contractor fails resolve the safety issue in the Notice of Potential Non-Conformance in timeframe then the T/LPA will withhold an additional 25% as a Non-Conformance from each Progress Payment and subsequent Progress Payments until the Contractor fully complies with the Contract.

### **109.9 STOCKPILE**

Only items identified in the Notice to Contractors titled "Stockpile" are eligible for Stockpile payment.

#### **109.9.1 Stockpile Payment**

After measurement, partial (stockpile) payments to the Contractor may be made for Items on hand not to exceed 50% of the Bid Item Price under the following conditions:

1. The Items will be incorporated in the Work;
2. The Items are delivered to the Project or to a storage place approved by the Project Manager;
3. The delivered Items meet the requirements of the Contract, including Certificates of Compliance per Section 106.4, "Certificates of Compliance;" and,
4. The Contractor submits paid invoices, certified by the Supplier or Fabricator, to the Project Manager.

### **109.10 PROJECT CLOSURE**

- Step I. Contractor Notice of Projected Substantial Completion Date
- Step II. Completion Conference

- Step III. Termination of Contract Time
- Step IV. Project Inspection and Development of Punch List
- Step V. Notice of Punch List Completion and Request of Final Inspection
- Step VI. Final Inspection
- Step VII. Contractor Submittal of Final Documentation
- Step VIII. Physical Completion and Final Payment

#### **109.10.1 Contractor Notice of Projected Substantial Completion Date**

The Contractor shall provide written notification to the District Coordinator of the projected Substantial Completion Date. This notice shall be provided a minimum of 30 Days prior to the projected date unless otherwise approved by the Project Manager.

#### **109.10.2 Completion Conference**

Prior to the projected Substantial Completion Date, the District Coordinator and the Project Manager shall conduct a completion conference with the Contractor to review the Project and determine conformance with the Contract. The T/LPA and Contractor will address all outstanding Work needed for Substantial Completion. The T/LPA and Contractor will agree on the schedule for completion of all Work necessary for Project closure pursuant to Section 109.10, "Project Closure."

Within five (5) Days of the completion conference or as directed by the Project Manager the Contractor shall submit for approval by the Project Manager the Contractor's proposed updated schedule for Project closure.

#### **109.10.3 Termination of Contract Time and Determination of Substantial Completion**

After steps I and II of Project Closure are complete and the Contractor has determined it is ready to request Substantial Completion, the Contractor shall provide to the T/LPA a written request to determine Substantial Completion. Within two (2) Days of receipt of the request for Substantial Completion the T/LPA, upon obtaining NMDOT concurrence, will issue a determination of Substantial Completion, Contract Time or, if applicable, Liquidated Damages assessments will cease upon Substantial Completion.

##### **109.10.3.1 Rescinding Substantial Completion**

The T/LPA may rescind Substantial Completion by written notice when any of the conditions for Substantial Completion in the definition of Substantial Completion are no longer met. Substantial Completion may also be rescinded by the T/LPA when T/LPA Ordered Work per Section 104.2.3, "T/LPA Ordered Work," is required.

#### **109.10.4 Project Inspection and Development of Punch List**

The Project Manager shall inspect the Project to verify that all Work is complete or develop Punch List items upon the determination of Substantial Completion. The Project Manager shall provide the Contractor written notice that all Work is complete or shall provide a Punch List. Contract Time shall resume if the Contractor fails to provide Acceptable Work associated with the Punch List within the agreed upon schedule that shall not exceed thirty (30) Days and resumed Contract Time shall continue until all Punch List Work is Accepted.

#### **109.10.5 Notice of Punch List Completion and Request of Final Inspection**

The Contractor shall provide written notification to the Project Manager that the Punch List is complete and request final inspection.

#### **109.10.6 Final Inspection**

The final inspection by the Project Manager, District Coordinator and the CLE will be scheduled and conducted within fourteen (14) Days of the Contractor written request for final inspection. If the inspection reveals unacceptable or unsatisfactory Work, the Project Manager shall give the Contractor written instructions for correction and set the time limit for the Contractor to comply with these instructions. Upon the Contractor's correction of the Work, written notification shall be provided to the Project Manager, the Project Manager shall make an additional inspection and notify the Contractor within fourteen (14) Days of the findings.

If the Project Manager, District Coordinator and the CLE are satisfied that the Work is complete and Acceptable, that inspection shall constitute the final inspection. The Project Manager shall provide written notification of the final inspection Acceptance to the Contractor within four (4) Days.

The T/LPA will Accept the Project as soon as practicable after completion and inspection of the Work. Acceptance is final and conclusive, except for the following situations:

1. Latent defects;
2. Fraud;
3. Gross mistakes that amount to fraud; or
4. The T/LPA's warranty or guaranty rights.

#### **109.10.7 Contractor Submittal of Final Documentation**

The Contractor shall submit a schedule for submittal of the following documents required by the Contract including the Final Payment Voucher, Certificate of Payment of Claims, Summary to Contractor, Pit Release Letter, additional named insured Insurance Bonding Release, Affidavit of Wages Paid and Surety Release within five (5) Days of the date of the written notice of final inspection Acceptance. For the Pit Release Acceptance by the Project Manager of a letter of intent from the landowner for future use may exempt haul Roads or other areas from their vegetation requirements.

The Contractor shall furnish a completed Certificate of Payment of Claims form from persons or firms, including the Contractor, who have filed Claims for additional compensation, for labor performed, or for Material, supplies, or services furnished to the Contractor or its Subcontractors.

The T/LPA shall withhold final payment and no late payment interest shall be due for the withheld payments until the Contractor furnishes all documents required by the Contract.

#### **109.10.8 Physical Completion, Final Payment and Final Acceptance**

Upon the completion of steps I through VII of Project Closure the T/LPA, upon obtaining NMDOT concurrence, shall provide a written determination of Physical Completion to the Contractor. The T/LPA shall not release retained amounts until Physical Completion and when the Contractor fully complies with all Contract requirements.

Until Physical Completion of the Project, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof, by the action of the elements or from other causes, whether arising from the execution or from the non-execution of the Work.

The T/LPA shall prepare an estimate summary to contractor which is used for the proposed final payment voucher. The proposed final payment voucher shall correct all prior Progress Payments. The T/LPA shall withhold from the proposed final payment voucher liquidated damages and overpayments. The Contractor shall sign, approve and return the T/LPA's duly certified final payment voucher. Upon receipt of a signed and approved final payment voucher the T/LPA shall Accept the Work and pay the balance due on the final payment voucher. The T/LPA paying the balance due on the final payment voucher constitutes Final Acceptance.

If the Contractor disputes the final payment voucher, then the Contractor shall submit the Notice of Intent to Claim form within seven (7) Days of receipt of the final payment voucher. The Contractor shall not change or modify the final payment voucher. If a clerical error on the final voucher is discovered the Contractor shall notify the Project Manager in writing before the 7 day expiration. If the Project Manger agrees that there is clerical error, the Project Manager will correct the error and reissue the final payment voucher. If the Project Manager does not agree the Project Manager shall notify the Contractor in writing and the Contractor shall have 7 Days of receipt to sign the final payment voucher or submit a Notice of Intent to Claim. If the Contractor submits a Notice of Intent to Claim form or the timeframe to submit the Notice of Intent to Claim form expires, the T/LPA shall Accept the undisputed Work, pay the undisputed balance unilaterally due on the final payment voucher. A Claim is forever barred if the Claim is not timely and properly submitted pursuant to Section 105.19, "Notice of Intent to Claim," within seven (7) Days of receipt of the T/LPA's proposed final payment voucher. The T/LPA paying the balance due on the final payment voucher constitutes Final Acceptance.

Upon Final Acceptance the T/LPA will complete its administrative process to close the Project.

### **109.10.9 T/LPA Requests for Reimbursement or Refund**

The Contractor shall reimburse or refund the T/LPA for any overpayment in response to a request for refund of overpayment within 30 Days of the T/LPA's request. Failure by the Contractor to comply may subject the Contractor to default and to rejection of the Contractor's Bids in accordance with Section 102.5, "Rejection of Bids," until such time that Contractor complies with this Section.

### **109.11 COMPENSATION FOR CLAIMS**

The Contractor is not entitled to late payment charges, including late payment charges pursuant to NMSA 1978, § 13-1-158, associated with any Claim or disputed construction services and Materials. The T/LPA will pay the Contractor late payment charges as authorized by NMSA 1978, § 13-1-158 for construction services and Materials not the subject of a disputed Claim. The T/LPA will pay the Contractor late payment charges on undisputed, qualified, Delayed Progress Payments for certified, approved and Accepted Work in accordance with Section 109.8, "Progress Payments," that are not the subject of a disputed Claim.

The Contractor is barred from seeking a Claim, a remedy, compensation, time, cause of action, or any damages except as provided by Section 105.19, "Notice of Intent to Claim," and Section 105.20, "Administrative Remedy," and this Section.

The Contractor shall not be entitled to any consequential, indirect, punitive, exemplary, special, or Incidental damages. When the T/LPA determines entitlement the Contractor shall only receive additional compensation and time as specifically provided by the following Sections of these Specifications: Section 104.2.1, "Significant Changes in the Character of the Work;" Section 104.2.2, "Differing Site Conditions;" Section 104.2, "Extra Work;" Section 107.10.3, "Cooperation with Owner of Railroad Right of Way;" Section 107.20, "Contractor's Responsibility to Protect the Work;" Section 108.6, "Determination and Extension of Contract Time;" Section 108.10, "Termination of Contract; No Fault of Contractor;" Section 109, "Measurement and Payment;" and this Section.

Except as otherwise agreed to by the Contractor and the T/LPA in a written Change Order, all Claims and causes of action arising out of the performance and administration of the Contract shall be governed by this Section including: Claims for Delay, Claims for additional compensation and time, Contract adjustment, Claims seeking extension of Contract Time, Claims seeking Delay damages, pass-through Subcontractor Claims, causes of action for breach of Contract, promissory estoppel, equitable estoppel, waiver, detrimental reliance, bad faith breach of contract, breach of the covenant of good faith and fair dealing, or any other cause of action arising out of the performance of the Work or the Contract. The compensation, time and damages provided for in this Section are exclusive, complete, and apply regardless of whether such Claims are to be resolved pursuant to the procedures set forth in Section 105.20, "Administrative Remedy," or any other legal or administrative procedure, whether or not authorized herein, including arbitration, mediation, or appeal.

### **109.11.1 Non Critical Disruption**

Non-critical Disruption is a disruption or interference with Contractor's performance, regardless of cause, that does not negatively impact the Critical Path of the Project and therefore does not meet the definition of a Delay and for which the Contractor will not be entitled to receive Delay compensation per Section 109.11.2.2 nor time.

### **109.11.2 Delay**

"Delay," in this Section, does not include time extensions granted by the T/LPA by Change Order in accordance with Section 108.6, "Determination and Extension of Contract Time," that do not result in any additional compensation.

The Contractor's entitlement to compensation and time for a Delay is defined, limited to, and provided as follows:

1. Excusable Delay: A Delay which is beyond the Contractor's control that negatively impacts the Critical Path of the Project and is not caused, by the Contractor's fault or negligence and for which compensation and/or a time extension may be granted, based upon the following:
  - a. Excusable Compensable Delay: An excusable Delay that negatively impacts the Critical Path of the Project resulting from the neglect or default of the T/LPA or from a differing site conditions per the Section for differing site conditions. For such Delays, upon obtaining the approval of the District Engineer with concurrence from the CLE, the T/LPA may grant additional time and compensation. Examples of an excusable compensable Delay may include but are not limited to Delays attributable to design errors or a differing site condition not readily discovered through Pre-Bid Due Diligence, failure by the T/LPA to acquire Right of Way, and T/LPA-initiated design changes;
  - b. Excusable Noncompensable Delay: An unforeseen and unanticipated excusable Delay not caused by the fault of either the Contractor or the T/LPA that negatively impacts the Critical Path of the Project. For such Delays, the Contractor may receive an extension of time but not additional compensation. Examples of a noncompensable Delay may include but are not limited to those events described in Section 107.20, "Contractor's Responsibility to Protect the Work."
2. Inexcusable Delay or nonexcusable Delay: A Delay for which the Contractor is not entitled to compensation and/or time that was caused by: factors within the Contractor's control; the fault or responsibility of the Contractor; factors that could or should have reasonably been foreseen by the Contractor; Delays caused by an event that the Contractor could have foreseen and prevented but failed to do so; or failure to reasonably mitigate additional Delay after an excusable Delay has been identified. Examples of inexcusable or nonexcusable Delays may include but are not limited to those attributable to reasonably expected seasonal inclement weather events based on historical data, reasonable time periods necessary for reviews of Shop Drawings by the

T/LPA, inefficient operation by the Contractor or Subcontractor, inefficient or ineffective construction management by the Contractor or Subcontractor, failure to assign sufficient resources to the Project by the Contractor or its Subcontractor, failure by the Contractor to properly perform Pre-Bid Due Diligence, or failure by the Contractor, Subcontractor or Supplier to procure Materials in a timely manner.

3. Concurrent Critical Delay: Concurrent Delay only occurs when the Project has two separate Critical Paths that have two separate Delays which start and end on the same date, Delaying the Project for the same amount of time. For Delays that start on the same date but are resolved at different dates the Contractor is not entitled to any time or additional compensation for the duration when a nonexcusable or inexcusable Delay occurs on either of the Critical Paths. When an excusable compensable Delay and excusable noncompensable Delay are concurrent as defined above the Contractor shall only be entitled to Contract Time and not any additional compensation.

#### **109.11.2.1 Additional Time for Delay**

The T/LPA may only add Contract Time for an excusable compensable Delay or an excusable noncompensable Delay using the Accepted updated monthly or revised schedules current and in effect at the time the Delay occurred. Additional Contract Time must be approved by the District Engineer with concurrence by the CLE.

#### **109.11.2.2 Compensation for Delay**

The T/LPA may only compensate the Contractor for an excusable, compensable Delay as provided in this Section and in the following order of priority and no other methods of calculating compensation will be Accepted. In order to receive compensation for a excusable compensable Delay the Contractor shall document and provide costs resulting from the excusable compensable Delay using actual cost records, shall measure and provide expenses using generally accepted accounting principles, and shall comply with Section 108.3.2, "Schedule Format," and if an agreement about the extension of Contract Time cannot be reached then the Contractor shall comply with Section 108.6, "Determination and Extension of Contract Time."

1. The T/LPA reserves the right to use innovative Bidding approaches, as specified in the Contract, including requiring Bidders to Bid a daily overhead rate (cost / Working Day) as a Bid Item Unit Price. For example the Contract may require that the Contractor escrow its Bid documents, and the escrow Bid Documents may be considered in resolving Claims.
2. The compensation which the Contractor may recover for a Delay Claim is limited to:
  - a. Non-salaried labor expenses;
  - b. Material costs;
  - c. Equipment costs pursuant to Section 109.2, "Approved Equipment Rental Rates;"
  - d. Costs of extended job site overhead, including bonds; or,
  - e. An additional ten percent (10%) of the total of items 1, 2, 3, and 4 to cover home office overhead, salaried labor expenses, and profit.

3. If the source of the loss of productivity can be attributed to an excusable compensable Delay and cannot be isolated and priced separately, the method by which the T/LPA shall calculate the extent of an excusable compensable Delay caused by a production rate inefficiency shall be made in the following order of priority:
  - a. Measured Mile analysis by which the T/LPA shall compare actual efficiency (production rates) in an impacted area to actual efficiency in a comparable non-impacted area; or
  - b. Comparison of actual productivity to production rates in the Contractor's Baseline Schedule and timely submitted Acceptable updated monthly or revised schedules or in the escrow Bid Documents.

### **109.11.2.3 Non-Recoverable Damages**

In no event shall the Contractor submit or be entitled to payment based on any of the following including but not limited to Eichleay formula, the Total Cost Method, original Contract period formula, fixed overhead formula, burden fluctuation method, and comparative absorption rates.

Regardless of the basis or cause of the Claim, the Contractor shall not recover and is not entitled to recover the following categories of damage:

1. Any compensation except as provided by Section 109.11.2.2, "Compensation for Delay;"
2. Loss of anticipated profit, incentives or bonuses;
3. Labor inefficiencies at the fault of the Contractor;
4. Home office overhead regardless of whether it is characterized as absorbed, unabsorbed, or extended exceeding that provided in Section 109.11.2.2, "Compensation for Delay;"
5. Any damages, costs or expenses that are indirect, special, Incidental or consequential, including, but not limited to, lost or impaired bonding capacity, loss of Bidding and contracting opportunities, loss of credit standing, cost of financing, interest paid, lost Material discounts, economic loss, loss of reputation, loss of other Work, loss of use, loss of business opportunity, loss of product or output, income, loss of profit or revenue, cost of capital, financing, and for loss of management or employee productivity or of the services of such persons, , and business devastation, bankruptcy, or insolvency. The T/LPA waives any entitlement to consequential damages from the Contractor but not general damages including but not limited to liquidated damages as provided in the Contract;
6. Acceleration costs and expenses. The Contractor shall only be entitled to acceleration costs and expenses if the T/LPA has expressly and specifically directed the Contractor in writing to accelerate the Work at the T/LPA's expense, the Contractor completes the Work within the time directed by the T/LPA, the Contractor actually incurs acceleration costs and expenses, and the Contractor provides verifiable documentation to support the acceleration costs and expenses;
7. Late payment charges, including late payment charges pursuant to NMSA 1978, § 13-1-158, associated with any Claim, or disputed construction services or Materials. The Contractor is also not entitled to late payment charges on any judgment or Award made to the Contractor. This provision does not affect the T/LPA's payment of late payment



charges on undisputed, qualified, Delayed Progress Payments for certified, approved and Accepted Work in accordance with Section 109.11, "Compensation for Claims," that are not the subject of a disputed Claim;

8. Prejudgment or post-judgment interest related to or arising from any disputed Claim or on any Award made to the Contractor; or,
9. Attorneys' fees and costs, Claim preparation expenses, and litigation or other costs related to or arising from any disputed Claim, or prosecution thereof.

# **SPECIAL PROVISIONS**

## **PROJECT SPECIFIC SPECIAL PROVISIONS**

**SECT 301-A** (8-13-20) FULL DEPTH RECLAMATION

**SECT 416** (1-21-21) MINOR PAVING

## **STANDARD SPECIAL PROVISIONS**

**SECT 423** (5-28-19) HOT MIX ASPHALT (HMA) (MAJOR PAVING)

**SECT 511** (5-9-19) CONCRETE STRUCTURES

**SECT 512** (4-15-19) SUPERSTRUCTURE CONCRETE

**SECT 514** (12-20-19) CONCRETE BARRIER RAILING FOR BRIDGES

**SECT 537** (12-20-19) POLYESTER EPOXY CONCRETE OVERLAY

**SECT 543** (12-20-19) METAL RAILING

**SECT 560** (5-9-19) ELASTOMERIC BEARING PADS

**SECT 602** (12-20-19) SLOPE AND EROSION PROTECTION STRUCTURES

**SECT 606** (1-1-19) METAL BARRIER, CABLE BARRIER AND CONCRETE WALL BARRIER

**SECT 632** (1-1-19) REVEGETATION

**SECT 701** (3-26-19) TRAFFIC SIGNS AND SIGN STRUCTURES

**SECT 704** (12-23-19) PAVEMENT MARKINGS

**SECT 704-A** (12-23-19) TEMPORARY MARKING TAPE

**SECT 704-B** (12-23-19) RETROREFLECTIVE PREFORMED PLASTIC MARKINGS

**SECT 704-C** (12-23-19) HOT THERMOPLASTIC MARKINGS

**SECT 704-D** (12-23-19) PREFORMED THERMOPLASTIC MARKINGS

**SECT 706** (3-7-19) SIGNAL AND LIGHTING SERVICE SYSTEMS

**SECT 713** (5-24-19) DETECTORS

**SECT 716** (5-1-19) LUMINAIRES

**SECT 902** (2-11-19) QUALITY CONTROL

**SECT 904** (1-1-19) QUALITY LEVEL ANALYSIS (QLA)

**SECT 906** MINIMUM TESTING REQUIREMENTS (MTR'S)

**SPECIAL PROVISIONS**  
**MODIFYING**  
**SECTION 423: HOT MIX ASPHALT (HMA) (MAJOR PAVING)**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete **Section 423.2.7: Reclaimed Asphalt Pavement (RAP)** in its entirety and replace with the following:

Unless otherwise specified in the Contract, the Contractor may use RAP removed under the Contract consisting of salvaged, milled, pulverized, broken, or crushed asphalt pavement. The Contractor may use RAP produced from outside sources provided the following is met: after the Contractor obtains sufficient quantities of RAP aggregate samples in accordance with AASHTO T 308; the Department will Accept RAP for which the coarse aggregate has a percent wear of 40.0 or less, at 500 revolutions, when tested in accordance with AASHTO T 96. The Contractor shall provide plus No. 4 RAP Material with a minimum of 75% Fractured Faces content (one (1) face). The Department will make no additional payment for the asphalt binder in the RAP or asphalt binder due to asphalt binder grade adjustment.

In the event the Contractor elects to use up to 15% RAP (by weight) or is specified as a maximum of 15% RAP by the Contract (by weight) in the production of HMA mixtures, the Contractor shall use the PG grade asphalt binder specified in the Contract.

For quantities greater than 15% and up to 25% RAP, the Contractor shall:

1. Either lower the asphalt binder's high and low temperature grades by one (1) grade (e.g. lower a PG 76-22 to a PG 70-28); or
2. Extract, recover, and combine the RAP's asphalt binder with a virgin asphalt binder per AASHTO M 323, Appendix A, ensuring the resultant binder meets the entire AASHTO M 320 (excluding direct tension) required Project PG asphalt binder properties indicated on the approved mix design.

For quantities greater than 25% and up to 35% RAP, the Contractor shall:

1. Extract, recover, and combine the RAP's asphalt binder with a virgin asphalt binder per AASHTO M 323, Appendix A; and
2. Ensure the resultant binder meets the entire AASHTO M 320 (excluding direct tension) required Project PG asphalt binder properties indicated on the approved mix design.

The Department will not allow the Contractor to use more than 35% RAP in the production of HMA mixtures.

For Projects of entirely new construction, the Contractor shall:

1. Limit the RAP to 15% in the top mat or extract, recover and combine the RAP's asphalt binder with a virgin asphalt binder per AASHTO M323, Appendix A; and
2. Ensure the resultant binder meets the entire AASHTO M320 (excluding direct tension) required Project PG asphalt binder properties indicated on the approved mix design.

If Plus Grades of PG asphalt binder is specified on the project, for quantities greater than 15% RAP, the Contractor shall extract, recover, and combine the RAP's asphalt binder with a virgin asphalt binder per AASHTO M 323, Appendix A. The Contractor shall ensure the resultant binder meets the entire AASHTO M 320 required Project PG asphalt binder properties indicated on the approved mix design including the additional Plus Grade requirements for Elastic Recovery and Solubility.

The Contractor shall:

1. Process RAP so that 100% passes a 1-1/2-inch sieve;
2. Maintain adequate stockpile management (i.e. sufficient quantities and shaping of the stockpiles);
3. Address in the Quality Control Plan how RAP will be controlled, such as which screen will be used to split into two (2) stockpiles, or by what method the RAP will be controlled to keep the resultant mix within Acceptable limits;
4. Account for the weight of the binder in the RAP when batching aggregates;
5. Provide RAP that is free of Deleterious Materials; and
6. Perform process control testing in accordance with Section 902, "Quality Control" requirements as RAP is produced and prepared for inclusion in the HMA.

If problems with HMA consistency or compliance with Project Specifications occur, additional efforts taken to achieve Acceptable levels of consistency and compliance with Contract Specifications, at the Contractor's discretion (at no additional cost to the Department), include, but are not limited to:

1. Reduce the top size of the RAP from 1-1/2 inch to one (1) inch;
2. Fractionate the aggregates on a second screen, such as the 3/8 inch or 1/4 inch Screen so that the RAP is maintained in three (3) stockpiles, one being RAP larger than 1-1/2 inch to two (2) inches, Coarse RAP and the third being Fine RAP;
3. Ensure that the RAP used in the HMA mix design is representative of the RAP available on the Project;
4. Cover the RAP pile(s) so that ambient moisture is not absorbed; and
5. Process and maintain the stockpiles so that the RAP Material is equally and uniformly distributed throughout the entire stockpile(s) and is withdrawn such that uniform, non-segregated RAP is delivered to the hoppers.

May 9, 2019

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 511: CONCRETE STRUCTURES**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Add the following to **Section 511.1 Description**:

Reference Section 512 for additional information related to Superstructure Concrete.

Delete the following Pay Item from **Section 511.5: Basis of Payment**:

<b>Pay Item</b>	<b>Pay Unit</b>
Substructure Concrete, Class ____	Cubic Yard

Add the following to **Section 511.5.1 Work Included in Payment**:

8. All provisions of Specification Sections 509, 510, 511, and 512. In the event of a conflict, the more stringent shall apply.

April 15, 2019

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 512: SUPERSTRUCTURE CONCRETE**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete the Pay Items from **Section 512.5: Basis of Payment** and replace with the following;

The Department will pay for Superstructure Concrete and High Performance Concrete (HPD) in accordance with Section 511.5: Basis of Payment:

<b>Pay Item</b>	<b>Pay Unit</b>
Structural Concrete, Class AA	Cubic Yard
Structural Concrete Class HPD	Cubic Yard

December 20, 2019

**SPECIAL PROVISIONS**  
**MODIFYING**  
**SECTION 514: CONCRETE BARRIER RAILINGS FOR BRIDGES**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Add the following to Section 514.5.1: **Work Included in Payment:**

5. Two (2) Bridge number plates for every Bridge.

December 20, 2019

**SPECIAL PROVISIONS**  
**MODIFYING**  
**SECTION 537: POLYESTER/EPOXY CONCRETE OVERLAY**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Add the following to Section 537.5.1: **Work Included in Payment:**

4. Tining and/or grooving.



December 20, 2019

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 543: METAL RAILING**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Add the following to Section 543.5.1: **Work Included in Payment:**

4. Two (2) Bridge number plates for every Bridge.

May 9, 2019

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 560: ELASTOMERIC BEARING PADS**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete **Section 560.5: Basis of Payment** and replace with the following:

<b>Pay Item</b>	<b>Pay Unit</b>
Elastomeric Bearing Pads	Each

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 602: SLOPE AND EROSION PROTECTION STRUCTURES**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

**602.2.1 Classifications**

Delete **Table 602.2.1:1** and replace with the following:

**Table 602.2.1:1  
Riprap Classifications and Gabion Requirements**

Class	Description	Stone Volume (cubic feet)		Minimum Dimension <sup>a</sup> (inches)	Nominal D50 (feet)	Minimum Blanket Thickness (feet)
		Minimum	Maximum			
A	Wire enclosed riprap	1/6	2/3	4	0.75	--
B <sup>b</sup>	Non-enclosed riprap	1	2	6	1.25	2.0
C <sup>b</sup>	Non-enclosed riprap	2	4	9	1.5	2.25
D	Derrick stone	See Table 602.2.1:2				3.0
E	Grouted riprap	1/3	1	3	1.0	1.5
F	Grouted riprap	1	2	6	1.25	2.0
G	Rock plating	--	--	4-8 <sup>c</sup>	--	1.0
N/A	Wrapped rockfacing	--	--	1	--	--
N/A	Gabions	--	--	4-8 <sup>c</sup>	--	--

<sup>a</sup> Minimum size in the least dimension.

<sup>b</sup> Class B and C stone – at least two (2) Fractured Faces.

<sup>c</sup> 70% to 80% of the stone: at least four (4) inches but not more than eight (8) inches in the smallest dimension;  
30% to 20% of the stone: no larger than four (4) inches in any direction.

January 1, 2019

**SPECIAL PROVISIONS  
MODIFYING**

**SECTION 606: METAL BARRIER, CABLE BARRIER AND CONCRETE WALL BARRIER**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete 9. from **Section 606.5.1: Work Included in Payment** and replace with the following:

9. Hot/Warm Mix Asphalt Material, placement and compaction;

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 632: REVEGETATION**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete the first paragraph of **Section 632.3.3: Pre-Seeding Conference** and replace with the following:

A mandatory pre-seeding conference called by the Project Manager shall be held on the Project before revegetation Work begins. Attending shall be the NMDOT Project Manager or representative, the NMDOT Landscape Architect or Revegetation Specialist, the General Contractor, and the Revegetation Contractor.

**632.3.4 Seeding Classes**

Delete **Table 632.3.4:1** and replace with the following:

**Table 632.3.4:1  
Operations Sequence for Classes of Seeding**

Operation	Class		
	A	MOD A	C
Disk seed bed to four (4)"	X	X	—
Apply fertilizer by broadcast, then disk to four (4)"	X	X	—
Apply one (1) inch compost mulch, disk to four (4)"	X	X	—
Drill seed	X	—	—
Straw crimp; apply tackifier, dye	X	—	—
Track slopes with ridges horizontal and parallel to bottom of slope	—	—	X
Hand rake or chain harrow surface horizontally	—	X	X
Hydro apply seed, fertilizer, dye, tackifier	—	X	X
Scarify seeded areas horizontally to slope	—	—	X
Hydro mulch; apply tackifier, dye	—	X	X
Rock Mulch	—	—	X

Note: No seeding shall be applied on frozen ground

Key: X = required;  
— = not required

The Department defines the seeding classes as follows:

1. Class A = seeding with a drill seeder (slopes up to 3:1 or flatter)
2. Class C = seeding with hydro seeder (slopes steeper than 3:1 to a maximum of 2:1).

Delete **Section 632.3.18: Class C Slopes with over 50' of Slope Length** in its entirety and replace with the following:

Class C slopes in excess of 50' of slope length (measured along the slope face from toe to crest) shall have the following treatment.

The Contractor shall use Class G riprap for the lower portion of the slope from the toe upwards to the point where there will not be more than 50' of slope length covered with one (1) inch and no greater than 1 ½ inches in size rock mulch described in Section 632.2.5, "Rock Mulch for Class C Seeding," and Table 632.3.4:1, "Operations Sequence for Classes of Seeding." The Contractor shall place the riprap over the hydro-seeded and mulched surface in a way that does not damage the applied mulch treatment, shall be installed from the toe of the slope upwards and shall be one layer of Class G riprap in thickness.

March 26, 2019

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 701: TRAFFIC SIGNS AND SIGN STRUCTURES**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete the first paragraph of **Section 701.2.4.6: Inspection** and replace with the following:

Prior to fabrication, the Contractor shall provide the Project Manager all signing information, including text, for review and approval. The Department will inspect Material and finished signs before and after installation at the Project site.

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 704: PAVEMENT MARKINGS**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete the first paragraph of **Section 704.3.5: Rates and Tolerances for Painted Markings** and replace with the following:

The Contractor shall apply paint at a rate of 22 to 25 wet mills, (25.15 gal per mile of paint for a solid four (4) inch line and 6.31 gal per mile for a broken four (4) inch line) for permanent markings. The Contractor shall apply other permanent striping widths at appropriate multiples of these gal per mile rates, achieving 22 to 25 wet mills for solid and broken stripes.

Add the following to **Section 704.3.6: Dimension Tolerances**:

The Contractor shall contrast striping and symbols on concrete pavement with a black outline a minimum of two (2) inches in all directions.

Delete the second paragraph of **Section 704.4: Method of Measurement** and replace with the following:

The Department will measure permanent and Temporary Retroreflectorized Painted Markings for four (4) inch, six (6) inch, eight (8) inch, 12 inch, and 24 inch widths using multiples of the applicable standard four (4) inch or six (6) inch width to calculate a total length. Legends, symbols and specialty markings will be paid by each.

Delete the Pay Items from **Section 704.5: Basis of Payment** and replace with the following:

<b>Pay Item</b>	<b>Unit</b>
Retroreflectorized Painted Markings ____inch	Foot
Temporary Retroreflectorized Painted Markings	Foot
Retroreflectorized Painted Arrow, Type ____	Each
Retroreflectorized Painted Word (____)	Each
Retroreflectorized Painted Symbol, Type ____	Each
Retroreflectorized Painted Railroad Crossing	Each



**SPECIAL PROVISIONS  
MODIFYING  
SECTION 704-A: TEMPORARY MARKING TAPE**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete **Section 704-A.4 Method of Measurement** and replace with the following:

The Department will measure temporary Removable and Non-Removable Marking Tape by four (4) inch, six (6) inch, eight (8) inch, 12 inch, and 24 inch widths using inch widths to calculate a total length. Temporary words or symbols will be paid by each.

Delete **Section 704-A.5: Basis of Payment** in its entirety and replace with the following:

<b>Pay Item</b>	<b>Unit</b>
Removable Marking Tape _____inch	Linear Foot
Temporary Word or Symbol	Each

**Section 704-A.5.1 Work Included in Payment**

The following Work and items will be considered as included in the payment for the main items and will not be measured or paid for separately:

1. Repair or replacement of damaged striping due to Contractor's negligence or operations;
2. Furnishing, mixing, and applying adhesive or primers;
3. Standard surface preparation;
4. Mobile traffic control operations for traffic marking operations;
5. Removal of Removable Marking Tape and/or Temporary Word(s) or Symbol (s);
6. Repair or replacement of damaged Removable Marking Tape and Temporary Word(s) or Symbols(s).

December 23, 2019

**SPECIAL PROVISIONS  
MODIFYING**

**SECTION 704-B: RETROREFLECTIVE PREFORMED PLASTIC MARKINGS (TAPE)**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Add the following to **Section 704-B.3.1: Placing Retroreflective Preformed Plastic Markings (Tape)**:

The Contractor shall contrast striping and symbols on concrete pavement with a black outline a minimum of two (2) inches in all directions.

December 23, 2019

**SPECIAL PROVISIONS**  
**MODIFYING**  
**SECTION 704-C: HOT THERMOPLASTIC MARKINGS**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Add the following to **Section 704-C.3: Construction Requirements**:

The Contractor shall contrast striping and symbols on concrete pavement with a black outline a minimum of two (2) inches in all directions.

December 23, 2019

**SPECIAL PROVISIONS**  
**MODIFYING**  
**SECTION 704-D: PREFORMED THERMOPLASTIC PAVEMENT MARKINGS**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Add the following to **Section 704-D.3.1: Application**:

The Contractor shall contrast striping and symbols on concrete pavement with a black outline a minimum of two (2) inches in all directions.

March 7, 2019

**SPECIAL PROVISIONS**  
**MODIFYING**  
**SECTION 706: SIGNAL AND LIGHTING SERVICE SYSTEMS**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

The following is added to the paragraph below the Pay Items from **Section 706.5: Basis of Payment**:

For the purpose of bidding, the Department will enter into the Bid Schedule a fixed amount for Power Service Installation.

## SPECIAL PROVISIONS MODIFYING SECTION 713: DETECTORS

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete **Sections 713.2.2: Radar Presence Detector (RPD) and 713.2.2.1 thru 713.2.2.11** and replace with the following, respectively:

### **713.2.2 Radar Presence Detector (RPD)**

The Contractor shall provide a Radar Presence Detector (RPD) sensor devices which utilizes Frequency Modulated Continuous Wave (FMCW) radar to provide accurate vehicle detection at the stop bar. The RPD shall have the following features:

1. Detect the real-time presence of both moving and stopped vehicles within a 90° field of view extending from 6 feet to 140 feet from the sensor unit;
2. Automatic or manually configurable to provide detection in 16 zones and ten (10) lanes including curved lanes and lanes separated by islands or medians;
3. Provide detector outputs on 16 channels user-mappable to zones with both AND/OR logic and extend and delay functionality;
4. Capable of mitigating detections from wrong way or cross traffic;
5. Requires no cleaning or adjustment necessary to maintain performance; and
6. Housed in a watertight, corrosion-resistant enclosure compliant with the NEMA 250 Type 4X standard.

The RPD shall have the following operational requirements:

1. Radar Operating Frequency of 24.00 – 24.25 GHz (K-Band);
2. Low voltage operation at 10 - 28 VDC;
3. Low power consumption at less than 10 W;
4. Maintain accurate performance in all weather conditions including rain, freezing rain, snow, wind, dust, fog, and changes in temperature and light, including direct light on sensor at dawn and dusk.
5. Ambient operating temperature range of -40°F to 165°F; and
6. Operational in humidity up to 95% (non-condensing).

### **713.2.2.1 Radar Advance Detector**

The Contractor shall provide Radar Advance Detector (RAD) sensor devices which utilize FMCW radar to provide accurate continuous tracking of vehicles approaching the intersection. The RAD shall have the following:

1. Detect and simultaneously track range and speed of 25 independent vehicles in an area extending from 50 feet to 600 feet from the sensor unit;
2. Dynamically tracks ETA-to-stop-bar as each vehicle changes speed;

3. Automatic or manually configurable to provide detection zones in 5-foot increments;
4. Provide eight (8) channel outputs with four alerts per channel (32 alerts) and four zones per alert (128 zones);
5. Support logic filters for zone output, combinational logic on zone outputs for alert output, and channel output from multiple alerts;
6. Support latched channel output controlled by alerts and timer;
7. Support delay and extend settings used for channel outputs;
8. Support user-configurable high-speed and low-speed detection filters in 1-MPH increments for each zone;
9. Support user-configurable ETA-to-stop-bar filters in 0.1-second increments for each zone;
10. Requires no cleaning or adjustment necessary to maintain performance; and
11. Housed in a watertight, corrosion-resistant enclosure compliant with the NEMA 250 Type 4X standard.

The RPD shall have the following operational requirements:

1. Radar Operating Frequency of 10.50–10.55 GHz (X-band);
2. Low voltage operation at 10 - 28 VDC;
3. Low power consumption at less than 10 W;
4. Maintain accurate performance in all weather conditions including rain, freezing rain, snow, wind, dust, fog, and changes in temperature and light, including direct light on sensor at dawn and dusk.
5. Ambient operating temperature range of -40°F to 165°F; and
6. Operational in humidity up to 95% (non-condensing).

#### **713.2.2.2 Radar Detection Cabinet Interface Unit**

The Contractor shall provide a Radar Detection Cabinet Interface Unit (RDCIU) which provides power, connectivity, and surge protection to the sensors (RPD's and RAD's); communicates the detector outputs to the traffic signal controller; and shall have the following features:

1. Compliant with applicable NEMA TS2-2003 standards;
2. Shelf-mounted or 19 inch rack-mounted as directed by the Department's Signal Lab;
3. Six (6) terminal block connectors for connecting to the sensors;
4. One (1) SDLC port for connecting to the traffic signal controller;
5. Communication ports (RJ-11, DB-9, mini-USB, and T-bus) for connecting to a computer to configure the sensors;
6. An Ethernet communication port to connect to the Cabinet Interface Unit via an IP network; and
7. Separate power switches to turn on/off each sensor.

The RDCIU shall have the following operational requirements:

1. Operate on power supply voltage of 100 - 240 VDC;
2. Output voltage to sensors of 24 VDC;
3. Power consumption at 120 W maximum;
4. Transient surge suppression conforming to IEC/EN 61000-4-5 level 3 on the AC power input; and
5. Transient surge suppression conforming to IEC/EN 61000-4-5 level 4 on the sensor ports.

#### **713.2.2.3 Radar Detector Cable**

The Contractor shall provide Radar Detector Cable as recommended by the manufacturer consisting of multi-conductor cable in a single jacket to provide the necessary conductors for power and communication between the sensor units and the cabinet interface unit. Conductor size shall be selected per the manufacturer's recommendation, taking into account the length of cable and the operational voltage of the sensor unit.

#### **713.2.2.4 Mounting Hardware**

The Contractor shall provide mounting brackets to securely attach the sensors to the traffic signal poles or mast arms with 3/4 inch steel banding. Brackets shall have two (2) hinged joints allowing two (2) axes of rotation for horizontal and vertical positioning. Mounting plate shall be directly compatible with the sensor mounting. Brackets shall be powder-coated aluminum with stainless steel hardware.

#### **713.2.2.5 Warranty, Maintenance and Support**

1. The Contractor shall obtain and assign to the Department all manufacturers guarantees or warranties which are normally provided as customary trade practice for items and Materials incorporated into the Work. In the absence of a manufacturer's guarantee, the Contractor shall warrant that mechanical and electrical Equipment and Material incorporated into the Work are free from any defects or imperfections in workmanship and Material for a period of one (1) year after partial Acceptance of the Project. The Contractor shall be responsible for repairing any malfunction or defect in any such Equipment or Material, which develops during the one (1) year period.
2. The Contractor shall supply two (2) sets of installation guides and user manuals for the Equipment incorporated in the Project, one (1) of which shall be submitted to the Project Manager with submittal of manufacturers shop drawings.
3. During the warranty period, technical support by toll-free telephone shall be provided by the manufacturer 24 hours per Day, 365 Days per year, and request for support by telephone shall be answered by manufacturer personnel within one hour.

Add the following to Section 713.3: **Construction Requirements:**

#### **713.3.8 Radar Presence Detector**

The Contractor shall install the Radar Presence Detector per the manufacturer's recommendations.

##### **713.3.8.1 Mounting and Positioning**

The Contractor shall mount each RPD and RAD sensor at the locations as shown on the Contract and as directed by the manufacturer's representative such that the sensor has an unobstructed view of the approach lanes.

The Contractor shall mount each RPD sensor at a height of 20 feet  $\pm$ 5 feet.

The Contractor shall mount each RAD sensor at a typical height of 25 feet or within the range of 17 feet to 40 feet.



The Contractor shall aim, tilt, and align each sensor per the manufacturer's recommendations and as directed by the manufacturer's representative.

#### **713.3.8.2 Cabling and Connections**

The Contractor shall route cabling from the RPD and RAD sensors into the signal pole or mast arm to the pole base and then via conduit to the controller cabinet. Radar Detector Cable shall be continuous from the sensor to the Cabinet Interface Unit with no splices.

The Contractor shall leave sufficient slack in the Radar Detector Cable at the sensor to allow aligning the sensor without causing cable strain and to provide a drip loop that drains rain water away from the connector.

The Contractor shall apply silicone dielectric compound to the sensor unit connector before attaching the Radar Detector Cable.

The Contractor shall provide an SDLC cable as recommended by the manufacturer to connect the RDCIU to the Controller. In the case of multiple RDCIU's, provide SDLC wye cables or a SDLC Hub unit to connect the multiple SDLC devices to the controller.

Add the following Pay Items to **Section 713.5: Basis of Payment**:

<b>Pay Item</b>	<b>Unit</b>
Radar Advance Detector	Each
Radar Detector Cable	Foot
Radar Detection Cabinet Interface Unit	Each

Delete **Section 713.5.1 Work Included in Payment** and replace with the following:

The following Work and items shall be considered as included in the payment for Radar Presence Detector or Radar Advance Detector and will not be measured or paid for separately:

1. RPD or RAD sensor unit;
2. Mounting bracket, steel banding and hardware; and
3. Silicone dielectric compound.

The following Work and items shall be considered as included in the payment for Radar Detection Cabinet Interface Unit and will not be measured or paid for separately:

1. AC power cord;
2. Rack or shelf mounting hardware;
3. SDLC Cable(s), SDLC wye cable(s); and
4. Multiport SDLC hub unit.

## SPECIAL PROVISIONS MODIFYING SECTION 716: LUMINAIRES

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete the second and fourth paragraph of **Section 716.2.1.5.3: Photometric Requirements** and replace with the following, respectively:

The Contractor shall provide a nominal corrected color temperature (CCT) range of 2,700K to 4,500K in accordance with NEMA C78.377. The color rendering index (CRI) shall be 70 or greater.

The Contractor shall provide Luminaire with a minimum efficacy of 100 lumens per watt. The Luminaire shall provide a rated life of 70,000 hours when operated at 77°F (25°C) for 12 hours per Day. The Luminaire shall deliver a minimum of 70% of initial delivered lumens after 70,000 hours of operation. The Contractor shall provide a TM-21 calculation and lumen depreciation factor calculated at 25°C at 70,000 hours upon request.

Delete the fourth to the last paragraph and the third to the last paragraph of **Section 716.2.3: LED High Mast Luminaire** and replace with the following, respectively:

The Contractor shall provide High Mast Luminaire with a minimum efficacy of 100 lumens per watt.

The Contractor shall provide a nominal corrected color temperature (CCT) range of 2,700K to 4,500K in accordance with NEMA C78.377. The color rendering index (CRI) shall be 70 or greater.

Delete the fourth to the paragraph and the third to the last paragraph of **Section 716.2.4: Area Luminaire and Ornamental Luminaires** and replace with the following, respectively:

The Contractor shall provide Area and Ornamental Luminaire with a minimum efficacy of 100 lumens per watt.

The Contractor shall provide a nominal corrected color temperature (CCT) range of 2,700K to 4,500K in accordance with NEMA C78.377. The color rendering index (CRI) shall be 70 or greater.

Delete the second to the last paragraph of **Requirements Section 716.2.5: Underpass Luminaire** and replace with the following:

The Contractor shall provide a nominal corrected color temperature (CCT) range of 2,700K to 4,500K in accordance with NEMA C78.377. The color rendering index (CRI) shall be 70 or greater.

February 11, 2019

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 902: QUALITY CONTROL**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete **Section 902.10: Basis of Payment** in its entirety.

**SPECIAL PROVISIONS**  
**MODIFYING**  
**SECTION 904: QUALITY LEVEL ANALYSIS (QLA)**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

**904.1 Description Quality Level Analysis**

Delete reference to Table 901.7:1, "Quality Level Analysis by the Standard Deviation Method Upper Quality Index QU or Lower Quality Index QL" from Equation(s) 6 and 7 and replace with the following:

Table 904.1:3 "Quality Level Analysis by the Standard Deviation Method Upper Quality Index QU or Lower Quality Index QL".

**SPECIAL PROVISIONS  
MODIFYING  
SECTION 906: MINIMUM TESTING REQUIREMENT'S (MTR'S)**

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete **Section 906: MINIMUM TESTING REQUIREMENT'S (MTR'S)** in its entirety and replace with the following:

**906.1 DESCRIPTION**

**906.1.1 General**

This work consists of Minimum Testing Requirement's (MTR's) for the T/LPA and Contractor which includes construction sampling, tests, and testing frequencies of materials incorporated into the Work for acceptance and quality control.

**906.1.2 T/LPA Minimum Testing Requirements**

<b>Table 906.1.2:1 - EARTHWORK</b>					
<b>Item</b>	<b>Test Required</b>	<b>Sampling/ Testing Location</b>	<b>Agency Testing</b>	<b>Contractor Testing</b>	<b>Independent Assurance*</b>
					<b>Project Approach</b>
Embankment, Unclassified Excavation (Section 203)	In-Place Density and Moisture	Roadway	1 per 2,000 C.Y.	N/A	1 per 50,000 C.Y. or minimum 1 per project
	Moisture/Density Tests (Proctor), Soils Classification	Stockpile / Roadway	1 per material type per 20,000 C.Y.		1 per 50,000 C.Y. or minimum 1 per project if less than 50,000 C.Y.
Borrow (Section 203.2.1.3)	AASHTO T-190 R-Value, Soils Classification	Borrow Pit	N/A	1 per 10,000 C.Y.	N/A

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:1 - EARTHWORK					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Road Bed Embankment (Section 203.3.5.1)	In-Place Density and Moisture	Roadway	1 per 2,500 S.Y.	N/A	Minimum 1 per project
	Moisture/ Density Tests (Proctor), Soils Classification		1 per material type		
Foundations / Backfill for Culverts and Minor Structures (Section 206)	In-Place Density and Moisture	Structure	See Table A	N/A	Minimum 1 per project
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		
	Gradation		1 per 500 C.Y.	1 per material type	N/A
	Electrochemical, where specified.	N/A			
Subgrade Preparation (Section 207)	In-Place Density and Moisture	Roadway	1 per 3,000 S.Y.	N/A	1 per 30,000 S.Y. or minimum 1 per project if less than 30,000 S.Y.
	Moisture/ Density Tests (Proctor), Soils Classification		1 per material type		
Linear Grading and Blading and Re-shaping (Sections 208, 209)	In-Place Density and Moisture	Roadway	1 per half mile	N/A	1 per 5 miles
	Moisture/ Density Tests (Proctor), Soils Classification		1 per material type		

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:1 - EARTHWORK					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Backfill for Major Structures (Section 210)	In-Place Density and Moisture	Structure	See Table A	N/A	1 per 5,000 C.Y.
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		Minimum 1 per project
	Gradation				
Treated Subgrade (Section 306)	In-Place Density and Moisture	Roadway	1 per 3,000 S.Y.	N/A	1 per 30,000 S.Y. or minimum 1 per project if less than 30,000 S.Y.
	Gradation				
	Moisture/ Density Tests (Proctor), Soils Classification		1 per material type		
	AASHTO T-290 Sulfate Testing	Borrow Pit	N/A	1 per 10,000 C.Y.	N/A
Backfill for Mechanical Stabilized Earth (MSE) Retaining Structures (Section 506)	In-Place Density and Moisture	Structure	See Table A	N/A	Minimum 1 per project
	Moisture/ Density Tests (Proctor)	Stockpile	1 per material type	1 per material type	
	Gradation, PI		1 per 500 C.Y.		
	Soils Classification Direct Shear, Electro Chemical		N/A		N/A
Foundations for Slope and Erosion Protection Structures (Section 602)	In-Place Density and Moisture	Structure	1 per structure	N/A	N/A
	Moisture / Density Tests (Proctor), Soils Classification	Foundation material location	1 per material type		

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:1 - EARTHWORK					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Backfill for Soil and Drainage Geotextiles (Section 604)	In-Place Density and Moisture	Roadway	1 per lift	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		
Backfill for Drains (Section 605.3.4)	In-Place Density and Moisture	Roadway	1 per 1,000 L.F.	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		
Foundations for Sidewalks, Drive Pads and Concrete Median Paving (Section 608)	In-Place Density and Moisture	Roadway	1 per 150 S.Y.	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Foundation material location	1 per material type		
Bed Course Material for Sidewalks, Drive Pads and Concrete Median Paving (Section 608)	In-Place Density and Moisture	Roadway	1 per 150 S.Y.	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		
Foundations for Curb and Gutter (Section 609)	In-Place Density and Moisture	Roadway	1 per 500 L.F. or as site locations require	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Foundation material location	1 per material type		

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.



Table 906.1.2:1 - EARTHWORK					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Bed Course Material for Curb and Gutter (Section 609)	In-Place Density and Moisture	Roadway	1 per 500 L.F. or as site locations require	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		
Foundations / Backfill for Cattle Guards (Section 610)	In-Place Density and Moisture	Structure	See Table A	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		
Bedding Material for Cattle Guards (Section 610)	In-Place Density and Moisture	Structure	1 per structure	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Stockpile	1 per material type		
Foundations / Backfill for Drop Inlets and Junction Boxes (Section 623)	In-Place Density and Moisture	Structure	See Table A	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Foundation material location	1 per material type		
Foundations / Backfill for Utilities (Section 660)	In-Place Density and Moisture	Structure	See Table A	N/A	N/A
	Moisture/ Density Tests (Proctor), Soils Classification	Foundation material location	1 per material type		

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:2 - TABLE A

**STRUCTURE DEFINITIONS, FOUNDATION AND BACKFILL REQUIREMENTS FOR ACCEPTANCE**

1. Transverse or skewed culvert or concrete box culvert (CBC), not connected to an underground drainage network, including end sections, wing walls if backfilled simultaneously, structural plate pipe, storm drains, and sewer lines (Note 1):

Foundation: One density per 100 linear feet. For pipe in a battery, up to 4 pipes may be considered as a unit for purposes of foundation density.

Backfill Density: 1 per 2 foot of fill per side\* and to top of trench per 100 linear feet (Note 2).

\* For a battery of pipes, the number of backfill densities required will be as follows:

One-Half (1/2) of the required densities for up to 4 pipes.

One-Third (1/3) of the required densities for more than 4 pipes.

2. End section or CBC wing wall if backfilled separately from culvert pipe or CBC (Note 2):

Backfill Density: 1 per 2 foot of fill per side.

3. Drop inlet (D.I.), junction box, cattle guard, light and signal base, manhole, etc.:

Foundation: 1 per structure.

Backfill Density: 1 per 2 foot of fill.

4. Underground drainage network including interruptions such as D.I., manhole, junction box, plug, service connection, slotted drain, etc., if backfilled simultaneously:

Foundation: One per 100 linear feet.

Backfill Density: 1 per 2 foot of fill per side and to top of trench per 100 linear feet (Note 2).

5. Retaining wall / MSE wall:

Foundation: One foundations density per 100 linear feet.

Backfill Density: 1 per 2 foot of fill per 100 linear feet.

6. Bridge abutment back wall, wing wall or approach slab:

Backfill Density: 1 per 6 inches of fill.

7. Pier footing:

Foundation: 1 per footing.

Backfill Density: 1 per 6 inches of fill.

8. Waterlines, electrical conduit, telephone cable or gas line, etc., within roadway prism (traveled area and shoulder) if trench width sufficient for density testing:

Foundation: One per 100 linear feet.

Backfill Density: 1 per 2 foot of fill per 100 linear feet.

9. Waterline, electrical conduit, telephone cable or gas line, ect. outside the roadway prism (traveled area and shoulders) *if trench width sufficient for density testing:*

Foundation: 1 per 300 linear feet.

Backfill Density: 1 per 2 foot of fill per 300 linear foot.

**Notes:**

1. All extensions will be considered increments and as such structure units.
2. Determination of Backfill Depths Governing Minimum Testing Criteria Requirements:
  - a. When backfill construction is performed in trench conditions, the depth of compacted backfill to be tested shall be measured from the foundation to the top of the trench.
  - b. When backfill construction is performed in non-trench conditions, the depth of compacted backfill to be tested shall be determined through the use of the appropriate NMDOT standard drawings.
  - c. When one type of material is used for multiple items, only one proctor will be required per material type.

Table 906.1.2:3 - BASE COURSE					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Base Course (Section 303)	In-Place Density and Moisture	Roadway after compaction	1 per 2,000 tons	N/A	1 per 20,000 tons with Agency or minimum 1 per project
	Moisture/Density Tests (Proctor)	Stockpile	1 per material type		
	Gradations	Processed material from windrow or stockpile	1 per project		
	FF, LL, PI		1 per 4,000 tons		
	Thickness	Roadway after compaction	1 per 1,000 tons		

Table 906.1.2:4 - AGGREGATES					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Processing, Placing and Compacting Existing Pavement (Section 302)	In-Place Density	Roadway	1 per 1,000 S.Y.	N/A	1 per 50,000 S.Y. or minimum 1 per project
	Gradation (Dry field sieve verification per TTCP)		1 per 5,000 S.Y.		
Rip Rap Material (Section 602)	LA Wear & Soundness (AASHTO T-96 AASHTO T-104)	Source	N/A	1 per year per pit	N/A

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:5 - MINOR PAVING HOT MIX ASPHALT (HMA)/Warm Mix Asphalt (WMA)					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
HMA/WMA Minor Paving (Section 416)	Asphalt Content (Strap Method)	Asphalt Plant	N/A	1 per day	N/A
	Air Voids	Roadway	3 per lot	N/A	Minimum of 1 per project over 5,000 tons
	Roadway Compaction Nuclear Densometer *		10 per lot	Contractor to provide three (3) cores for Correlation of Densometer	N/A
	Thickness		1 per lot	Obtain Cores	
Open Graded Friction Course (Section 403)	Gradation, FF	Cold Feed	1 per 3,000 tons with a minimum of 1 per day	1 per 250 tons 1st 2,000 tons then 1 per 500 tons after 2,000 tons	Minimum 1 per project
		Crushing	N/A	1 per 1,000 tons	
	Performance Graded Asphalt Binder	From storage tank or Delivery Truck	1 sample consisting of three separate 1-quart increments per Project	Samples will be obtained by contractor personnel and observed by Department personnel	N/A

Table 906.1.2:6 - Asphalt Recycling					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Hot In-Place Recycling (Remixing Method) (Section 412)	Roadway Density (Nuclear Densometer)	Roadway	1 per 3,000 S.Y.	N/A	N/A
Single-Machine Hot In-Place Surface Repaving (Section 413)	Roadway Density (Nuclear Densometer)	Roadway	1 per 3,000 S.Y.	N/A	N/A
	HMA/WMA	Windrow / Hopper	See Section 416 Minor Paving		

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:6 - Asphalt Recycling					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Pavement Surface Restoration (In- Situ) (Section 415)	Roadway Density	Roadway	1 per 3,000 S.Y.	N/A	N/A
	Bulk Specific Gravity		2 sets per day		
Performance Graded Asphalt Binder (Section 402)	If required in the Contract Documents	N/A	N/A	N/A	N/A

Table 906.1.2:7 - Asphalt Mineral Admixture Materials					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Asphalt Emulsion (Section 402)	The manufacture's certificate of compliance will suffice for testing credits	N/A	N/A	N/A	N/A
Mineral Admixtures (Section 402)	The manufacture's certificate of compliance will suffice for testing credits	N/A	N/A	N/A	N/A

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:8 - MAJOR PAVING (Sections 423/424 / 900's) HOT MIX ASPHALT (HMA), WARM MIX ASPHALT (WMA)					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
HMA/WMA Superpave (Section 423/424)	Asphalt Content, Gradation, Gmm, Gmb, Air Voids, VMA, VFA, DP	Roadway	1 per 5,000 tons. Gmm will be determined at least once per day.	1 per 2,000 tons. Gmm will be determined at least twice per day.	Minimum 1 per project
	Roadway Compaction (Cores)				
	Roadway Compaction (nuclear/non- destructive)	Cold Feed before addition of Mineral Admixtures	N/A	As needed	N/A
	FF, , SE, F&E, FAA, Moisture				
Performance Graded Asphalt Binder (Section 402)	If required in the Contract Documents	N/A	N/a	N/A	N/A
Asphalt Emulsion (Section 402)	The manufacture's certificate of compliance will suffice for testing credits	N/A	N/A	N/A	N/A
Mineral Admixtures (Section 402)	The manufacture's certificate of compliance will suffice for testing credits	N/A	N/A	N/A	N/A

Table 906.1.2:9 - Non QLA PORTLAND CEMENT CONCRETE Minor Structures, Curb & Gutter, Side Walks, etc. (509, 510, 511, 521)					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Fine Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete production	1 per week during concrete production	1 per project

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:9 - Non QLA PORTLAND CEMENT CONCRETE					
Minor Structures, Curb & Gutter, Side Walks, etc. (509, 510, 511, 521)					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Coarse Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete production	1 per week during concrete production	1 per project
	FF, F&E		N/A	Minimum 1 per project per course aggregate type	N/A
Non-Shrink Mortar Aggregate	Manufacture's certificate of compliance will suffice for testing credits	N/A	N/A	NA	N/A
Project Acceptance Test	Compressive Strength Cylinders and Plastic Properties (Slump, Unit Weight, Calculated Air Content, Temperature)	See Table B	Each mix design per day of placement.  Test the first three loads, with one randomly sampled for one set of cylinders.  Sample for testing and cylinders, one random load from each subsequent 6 load subplot.	N/A	1 per project

Table 906.1.2:10 - Non QLA PORTLAND CEMENT CONCRETE					
Major Structures, Substructures, Drilled Shafts (502, 509, 510, 511, 521)					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Fine Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete production	1 per week during concrete production	1 per project

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.



Table 906.1.2:10 - Non QLA PORTLAND CEMENT CONCRETE					
Major Structures, Substructures, Drilled Shafts (502, 509, 510, 511, 521)					
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*
					Project Approach
Coarse Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete production	1 per week during concrete production	1 per project
	F.F, F&E		N/A	Minimum 1 per project per coarse aggregate type	N/A
Non-Shrink Grout Aggregate	Manufacture's certificate of compliance will suffice for testing credits	N/A	N/A	N/A	N/A
Project Acceptance Test	Compressive Strength Cylinders, and Plastic Properties (Slump, Unit Weight, Calculated Air Content, Temperature)	See Table B	Each mix design per day of placement.  Test the first three loads, with one randomly sampled for one set of cylinders.  Sample for testing and cylinders, one random load from each subsequent 6 load subplot.	Each mix design per day of placement.  Test the first three loads and one load from each 6 load subplot for plastic properties.	1 per project

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:11 - Non QLA PORTLAND CEMENT CONCRETE PAVEMENT (509,451)						
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*	State Materials Bureau
					Project Approach	
Fine Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete placement	1 per week during concrete production	1 per project	N/A
	F.F., F&E		N/A	Minimum 1 per project per coarse aggregate type	N/A	
Coarse Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete placement	1 per week during concrete production	1 per project	N/A
	F.F., F&E		N/A	Minimum 1 per project per coarse aggregate type	N/A	
Project Acceptance Test	Compressive Strength Cylinders, and Plastic Properties (Slump, Unit Weight, Air Content, Temperature)	See Table B	Each mix design per day of placement.  Test the first three loads, with one randomly sampled for one set of cylinders.  Sample for testing and cylinders, one random load from each subsequent 6 load subplot.	Each mix design per day of placement.  Test the first three loads and one load from each 6 load subplot for plastic properties.	1 per 10,000 S.Y.	N/A
	Thickness	Roadway	1 per 300 cy	N/A	N/A	
Environmental Conditions	Evaporation Rate	Placement Site	N/A	Evaporation Potential determined at intervals not greater than 5 minutes until final curing system in place	N/A	N/A

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:12 - Non QLA Superstructure Concrete (509, 510, 512)						
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*	State Materials Bureau
					Project Approach	
Fine Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete placement	1 per week during concrete production	1 per project	N/A
	F.F., F&E		N/A	Minimum 1 per project per coarse aggregate type	N/A	
Coarse Aggregates	Gradation	Stockpile	1 per 2 weeks during concrete placement	1 per week during concrete production	1 per project	N/A
	F.F., F&E		N/A	Minimum 1 per project per coarse aggregate type	N/A	
Project Acceptance Test	Compressive Strength Cylinders, and Plastic Properties (Slump, Unit Weight, Air Content, Temperature)	See Table B	Each mix design per day of placement.  Test the first three loads, with one randomly sampled for one set of cylinders.  Sample for testing and cylinders, one random load from each subsequent 3 load subplot.	Each mix design per day of placement.  Test the first three loads and one load from each 3 load subplot for plastic properties.	1 per 300 cy	N/A
Environmental Conditions	Evaporation Rate	Placement Site	N/A	Evaporation Potential determined at intervals not greater than 5 minutes until final curing system in place	N/A	N/A

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:13 - QLA PORTLAND CEMENT CONCRETE PAVEMENT (450)						
Item	Test Required	Sampling/ Testing Location	Agency Testing	Contractor Testing	Independent Assurance*	State Materials Bureau
					Project Approach	
Fine Aggregates	Gradation	Stockpile	1 per week during concrete production	1 per day per day of production	Minimum 1 per project	Referee Testing
Coarse Aggregates	Gradation, F.F., F&E	Stockpile	1 per week during concrete production	1 per day per day of production	Minimum 1 per project	Referee Testing
Project Acceptance Test	Compressive Strength Cylinders, and Plastic Properties (Slump, Unit Weight, Calculated Air Content, Temperature)	See Table B	1 per 500 C.Y.	One set of cylinders from one of the first three trucks. 1 set per 125 C.Y. thereafter	1 per 2,500 cy	Referee Testing
			1 per 500 C.Y.	For each of the first three trucks. 1 set per 125 C.Y. from the trucks selected for compressive strength testing thereafter.		
	Thickness	Roadway	1 per 5,000 S.Y.	1 per 2,500 S.Y.	N/A	
Environmental Conditions	Evaporation Rate	Placement Site	N/A	Evaporation Potential determined at intervals not greater than 5 minutes until final curing system in place	N/A	N/A

\* Project Quantities less than the minimum Agency Testing requirement do not require IA Testing if Agency Testing is certified by the Construction Engineer of Record.

Table 906.1.2:14 - TABLE B

<u>Method of Placement</u>	<u>Sample Location</u>
Pumped	Point of discharge from pump into structure
Direct Discharge from Truck	At end of discharge chute of truck
Crane and Bucket	From discharge chute of bucket
Conveyor belt	From material on roadway after being discharged from conveyor
Slip Form (Curb and Gutter/Barrier Walls)	Point of discharge into extrusion machine
Slip Form Paver (PCCP)	From grade in front of paving machine
Drill Shafts	At end of discharge chute of truck

**Table 906.1.2:15 - Tolerances for Comparison of Independent Assurance Sample Tests to Acceptance and Process Control Tests**

<b><u>CHARACTERISTICS</u></b>	<b><u>TOLERANCES</u></b>
Moisture/Density Test (Proctor)	± 3.0 PCF*, ± 2 Units for Moisture
In Place Moisture/Density (Roadway)	± 3.0 PCF, ± 2 Units for Moisture
Plasticity Index (P.I.)	± 3 Units
*Only if proctors are run by both District and Project. If proctors are not run by both District and Project ± 5.0 PCF	
<b><u>GRADATION</u></b>	<b><u>TOLERANCES</u></b>
1 1/2" to 3/4"	± 6 Units
1/2" to No. 4	± 5 Units
No. 8 through No. 200	± 4 Units
Fractured Faces	± 5 Units
Flat & Elongated	± 5 Units
Fine Aggregate Angularity	± 3 Units
Sand Equivalent	± 4 Units
Aggregate Specific Gravity	± 0.020
<b><u>CONCRETE</u></b>	<b><u>TOLERANCES</u></b>
Slump	± 0.5 Inch
Unit Weight	± 2.0 PCF
Compressive Strength	Within-test coefficient of variation less than 5 %

**HOT MIX ASPHALT (HMA)/ WARM MIX ASPHALT (WMA)**      **TOLERANCES**

Roadway Density (Cores from project, retained by Agency and Contractor Personnel)	± 0.025 Units
Density (Nuclear)	± 4 Units
VMA	± 1.0 Units
Asphalt Content (Ignition Burn Oven)	± 0.50
Bulk Specific Gravity at Ndes	± 0.025 Units
Maximum Specific Gravity	± 0.020 Units
Air Voids	± 1.5 Units

**SPECIAL PROVISIONS  
FOR  
SECTION 301-A: FULL DEPTH RECLAMATION - FOAMED ASPHALT STABILIZED  
BASE**

All provisions of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction, 2019 Edition, shall apply in addition to the following:

**301-A.1 DESCRIPTION**

Full Depth Reclamation Foamed Asphalt Stabilized Base (FDR) is defined as those processes in which all of the asphalt pavement layers (either un-milled or the milled remaining) and some portion of the underlying unbound layers are pulverized and stabilized primarily with foamed asphalt and mineral filler and compacted in place by a self-propelled machine to the lines, grades and depths indicated in the Contract.

Corrective RAP is a Department furnished source of reclaimed asphalt pavement (RAP) which shall be used by the Contractor to supplement existing Materials when specified as Corrective RAP in the Contract. Existing RAP stockpile locations will be designated in the Contract.

**301-A.2 MATERIALS**

**301-A.2.1 Composition of Job Mix Formula (JMF)**

The Contractor shall furnish a mixture composed of RAP, reclaimed aggregate, Corrective RAP (when specified), mineral filler, or any combination of the above as indicated in the Contract, stabilized with a foamed asphalt binder to meet the gradation and mix requirements of Table 301-A.2.1:1 “Gradation Requirements” and Table 301-A.2.1:2, “Mix Requirements”.

**Table 301-A.2.1:1  
Gradation Requirements**

Sieve Size	Minimum Percent Passing
3.0 in	100

**Table 301-A.2.1:2  
Mix Requirements**

Design Parameters	Value
Marshall Compacted Specimen, AASHTO T 245 Compaction, number of blows each end of test specimen	75
Marshall Stability, AASHTO T 245, min, lbs. <sup>1</sup>	1625
<b>Indirect Tensile Strength, AASHTO T 283<sup>1,2</sup></b>	
(1) Tensile Strength DRY, min. psi	45
(2) Tensile Strength CONDITIONED, min. psi	30
<b>Foamed Asphalt Binder Expansion Characteristics @ 320, 338, &amp; 356°F<sup>3</sup></b>	
(1) Half-Life of foamed expansion, min, second. <sup>4</sup>	8
(2) Expansion Ratio, min	10



<sup>1</sup>Cure sample to constant mass at 104°F before testing.

<sup>2</sup>AASHTO T 283 Section 7 Preparation of Field-Mixed, Laboratory-Compacted Specimens shall be followed. Compact the mixture to the design air voids. In lieu of subsection 7.5 cure pucks for 72 hours in a 104°F (40°C) oven. The Contractor shall follow Section 10, Preconditioning of Test Specimens and Section 11, Testing. The air voids requirements, loose mix curing, and freeze-thaw cycles will not be required per AASHTO T 283 test procedure. Conditioned samples shall be soaked for 24 hours.

<sup>3</sup>Graph half-life to expansion ratio for the three temperatures and percentages of water (1-3%) to determine the minimum foamed asphalt characteristics. PG binders shall meet the requirements of Standard Specifications Section 402, "Asphalt Materials and Mineral Admixtures".

<sup>4</sup>Total time for foamed asphalt to settle to half of the maximum foamed volume.

The ratio of residual asphalt in the bituminous binder to dry cement (mineral filler) shall be at least 3:1. In addition, the cement (mineral filler) shall be limited to not more than 1.5 percent by dry weight of RAP Material.

### **301-A.2.2 Submittal of JMF's**

The Contractor shall submit written JMF's for approval at least 14 Days before production to the Project Manager and the State Pavement Engineer. The Contractor shall not commence FDR Work until JMF's are approved. The Contractor shall develop enough mix designs to account for variations in pavement section and Material thickness along the Project length. Samples of existing Materials shall be taken along the Project length, and at Department furnished RAP sources (when specified), at appropriate intervals sufficient enough to develop mix designs that represent the pavement section variability to the depth of reclamation as indicated in the Plans. The mix design shall be performed by an AASHTO resource certified Laboratory with the proper Equipment for determining a foamed asphalt mix design(s) and the requirements of Table 301-A.2.1:2 "Mix Requirements".

### **301-A.2.3 Determination of JMF's**

For each JMF, the Contractor shall provide samples and perform the following tests to determine the JMF's:

1. Aggregate: Provide samples representing the RAP, reclaimed aggregate, existing aggregate base, and Corrective RAP (when specified);
  - 1.1 Gradation of processed Material (AASHTO T 27 & T 11);
  - 1.2 Plasticity Index (AASHTO T 89 & T 90);
2. Foamed Asphalt Binder: Provide a minimum of five 1-gallon samples of the asphalt binder and the identity of the source of binder;
  - 2.1 Measure the expansion ratio and foam half-life of the asphalt binder at the three (3) temperatures per Table 301-A.2.1:2 "Mix Requirements";
3. Water: Water shall be clean and free from deleterious concentrations of acids, alkalis, salts, or other organic or chemical substances. Water of questionable quality shall be tested per AASHTO T 26. Designate the target moisture content to be used in the recommended mix design(s) used during production;
4. Mineral Filler: Hydraulic cement, in either dry or slurry form, may be added to the reclaimed mixture as determined by the mix design. Slurry made from hydraulic cement should contain a minimum of 30 percent dry solids content. Cement used for FDR shall comply with the latest Specifications for hydraulic cement (AASHTO M 85, AASHTO M 240). The ratio of residual asphalt in the bituminous binder to dry cement should be at least 3:1. In addition, the cement shall be limited to no more than

- 1.5 percent by dry weight of reclaimed mixture. The Contractor at the time of the mix design submittal shall inform the Department of the process to be used for incorporating cement into the reclaiming process. If required by the mix design, provide 4 lbs. of the mineral filler and provide the recommended mineral filler content and the identity of the supplier; and
5. Corrective RAP: Corrective RAP shall be free of contamination of dirt, base, concrete or other deleterious Materials such as silt and clay.
  6. FDR Mix Design:
    - 6.1 For each mix design, a minimum of 6 Marshall, per asphalt binder content, prepared specimens per AASHTO T 245, compacted to 75 blows, with a series of test specimens at a range of different asphalt contents so that the test data curves show well defined optimum values. The test specimens shall be prepared at ½ percent increments of asphalt content with at least one (1) asphalt content above optimum and at least one below optimum;
    - 6.2 AASHTO T 283 Section 7 Preparation of Field-Mixed, Laboratory-Compacted Specimens shall be followed. In lieu of Subsection 7.5 cure pucks for 72 hours in a 104°F oven. The Contractor shall follow Section 10, Preconditioning of Test Specimens and Section 11, Testing. The air voids requirements, loose mix curing, and freeze-thaw cycles will not be required per AASHTO T 283 test procedure. Conditioned samples shall be soaked for 24 hours;
    - 6.3 Percentage of foamed asphalt binder to be added based on the total mass of the mixture;
    - 6.4 Marshall Stability per AASHTO T 245 each asphalt binder/mineral filler content. Each sample shall be dried to constant mass at 104°F; and
    - 6.5 At the recommended optimum asphalt cement and mineral filler content, prepare moisture-density relation (AASHTO T 180 method D) for wet density. Establish a moisture-density relation for each mix design.

The Contractor shall replace Material sampled from the existing roadway with suitable Material as approved by the Project Manager.

The Contractor shall submit mix designs meeting Table 301-A.2.1:2, "Mix Requirements". No additional Contract Time will be granted to the Contractor for failure to provide a mix design that meets mix requirements per Table 301-A.2.1:2, "Mix Requirements".

The Contractor shall not begin production of the FDR Work until required submittals have been concurred by Department. Department concurrence of a mix design will not relieve the Contractor of full responsibility for producing an Acceptable mixture.

### **301-A.3 CONSTRUCTION REQUIREMENTS**

#### **301-A.3.1 Production Start-Up Procedures**

The Contractor shall provide seven (7) Days' notice before beginning production of FDR. The Contractor shall schedule a Pre-Construction FDR meeting as follows:

1. Pre-Construction FDR Meeting. At least two (2) weeks prior, or as directed by Project Manager, to the start of FDR operations, the Contractor shall schedule a Pre-Construction FDR meeting. The Contractor shall coordinate attendance with the Department and any applicable Subcontractors. The Contractor shall discuss and submit the following:
  - 1.1 Proposed baseline schedule of paving operations in accordance with Standard Specifications Section 108.3, "Schedule";

- 1.2 List of all Equipment (excavation-compaction Equipment, paver, haul, etc.), and personnel used in the production and construction of the Work;
- 1.3 Discuss Quality Control/Quality Assurance, and minimum frequency schedule for process control sampling and testing;
- 1.4 Discuss Sections 301-A.3, "Construction Requirements";
- 1.5 Proposed Traffic Control Plan for construction operations, and the proposed method of dealing with emergencies. Show in detail how traffic will be maintained through the Project in the event of Equipment breakdown, sudden weather changes, or other unexpected events. Include in the Plan how sufficient roadway width for safe passage of travelling public shall be maintained;
- 1.6 Proposed Plan for maintaining the required moisture content of the FDR areas; and
- 1.7 Safety Plan.

### **301-A.3.2 Test Strip Requirements**

The Contractor shall provide test strips as follows:

1. Test Strip(s). Production test strips are required on the first Day. The Contractor shall construct the test strip using construction procedures intended for the entire Project. Proposed reclaimer Equipment production rates of speed (feet/minute) are to be determined by Contractor and shall be provided to Project Manager. For each proposed production rate, a test strip is required. During production, if an alternative production rate is proposed, the Contractor shall construct a test strip. Each test strip shall be at least 150 feet in length;
2. After placement of FDR at each rate and before compaction, the Contractor shall dig three (3) test pits within each test strip to evaluate the mixing characteristics of the recycler. The Contractor shall verify per visual and physical examination at each test pit that no foamed asphalt globules, stringers or binder segregation is present within the produced mix. If any of the three (3) visual characteristics exist then the rate of speed used for the individual test strip will not be allowed for production;
3. The Contractor shall use the following procedures for the initial start-up procedures and/or when a change in construction procedures occurs or when resuming production after a termination of production due to unsatisfactory FDR Material quality;
  - 3.1 Mix Design Verification. Take one FDR sample from each test strip before compaction indicating Acceptable homogeneous mixing and evaluate according to Table 301-A.2.1:2 "Mix Requirements"; and
  - 3.2 Compaction. Take nuclear gauge density readings at a minimum of one (1) location within each test strip per Section 301-A.3, "Construction Requirements" and Table 301-A.14:1 "Contractor and NMDOT Sampling and Testing Requirements". Compact to a minimum density of 97% and correlate to the wet density according to AASHTO T180 method D. Furnish the Project Manager with the nuclear gauge readings. Take nuclear density readings behind each pass to determine the roller pattern necessary to achieve the required density. Target density for Test Strips shall be determined by moisture-density curve developed from mix design per Section 301.A.2.3, "Determination of JMF, 6. FDR Mix Design, 6.5".
4. The Contractor shall cease paving operations after construction of the test strip(s) until all test results for the FDR are evaluated and Accepted by the Department. Allow up to 3 Working Days for review and Acceptance by Department.

### **301-A.3.3 Equipment**

The Contractor shall use Equipment for FDR as follows:

1. Reclaiming Equipment:
  - 1.1 Capable of passing through existing asphalt with a minimum eight (8) foot width at depth indicated on the Contract Documents in one (1) pass;
  - 1.2 Capable of producing a homogeneous mix free of foamed asphalt globules and stringers;
  - 1.3 Capable of mixing the RAP, reclaimed aggregate, existing aggregate base, Corrective RAP, mineral filler and additives, or any combination of the above. The combined Materials shall meet the approved JMF to form a homogeneous mass that will bond together when compacted;
  - 1.4 Equipped so that binder can be added only when the machine is moving and the additive addition is proportional to the working speed;
  - 1.5 Equipped with an exterior test nozzle to verify proper foaming action and to provide a representative sample of the foamed asphalt;
  - 1.6 Equipped with a heating system capable of maintaining the foamed asphalt spray bar system at a minimum temperature of 250°F;
  - 1.7 Equipped with sufficient number of injection nozzles to promote atomization and formation of the initial foam expansion system and the ability to verify the nozzles are open and properly functioning;
  - 1.8 Equipped with an internal electric heat cleaning system for self-cleaning foaming nozzles. No diesel shall be allowed for cleaning foaming nozzles;
  - 1.9 Capable of turning off individual foamed asphalt nozzles;
  - 1.10 Equipped with individual microprocessor controlled systems controlling each independent pump system regulating the application of foamed asphalt stabilizing agent and water in accordance with each approved mix design. The independent application of foamed asphalt and water shall be proportionally regulated by the recycler per the forward speed and mass of Material being recycled;
  - 1.11 Equipped with a compressor capable of providing a minimum of 45 psi of pressure; and
  - 1.12 Use a metered spreader to uniformly apply mineral filler (cement) on the roadway Material surface. Use canvas (or similar) skirts around the spreader box to minimize dust. Cement shall be applied full width of reclaimer. Once applied to surface, minimal handling of cement shall be permitted.
2. Mobile Slurry Mixing Unit. If slurry method is chosen for delivery of mineral filler to the recycled Materials, the Contractor shall use a recycler that is fed by a separate mobile slurry mixing unit pushed ahead of the recycler. The mixing unit shall have the following minimum features:
  - 2.1 The capability of supplying the cement slurry at the required rate to comply with the specified cement application rate during continuous operation;
  - 2.2 Capable of regulating the application rate of cement slurry in accordance with the speed of advance of the recycler and volume of Material during continuous operation;
  - 2.3 Provide uniform application of cement slurry to the recycled Material to produce a homogeneous mixture;
  - 2.4 A microprocessor controlled method for monitoring cement usage during operation that can be validated by simple physical measurement for control purposes;
  - 2.5 Equipped with a screen with openings not exceeding five (5) mm and shall be capable of producing slurry of uniform consistency and constant water at the rate required for stabilization; and
  - 2.6 Capable of mechanically attaching to reclaiming Equipment.
3. Rollers. The Contractor shall use the number, weight and types of rollers as necessary to obtain the required compaction, however, at a minimum, furnish at least three (3) rollers conforming to the following:

- 3.1 Self-propelled and in good mechanical condition;
- 3.2 Capable of initial compaction using an 18-ton single drum vibratory compression-type (padfoot) roller;
- 3.3 A minimum 25-ton single drum vibratory steel roller; and
- 3.4 A minimum 12-ton pneumatic tire roller. The pneumatic roller shall be fitted with a water spray system and apply light mist to tires while rolling;
  - 3.4.1 All rollers shall be capable of reversing direction without shoving or tearing the mixture.
- 4. Grader. The Contractor shall furnish a grader with the capability to spread the pulverized Material to a uniform grade and cross section, where necessary.
- 5. Water Truck. The Contractor shall furnish at least one (1) water truck.
- 6. Corrective RAP Application. The Contractor shall place Corrective RAP with a mechanical spreader, a conventional paver or by end dump trucks and spread to a uniform thickness with a motor grader. The Contractor shall spread to a uniform thickness as indicated in the Contract, in areas determined through survey data and as directed by Project Manager.

#### **301-A.3.4 Surface Preparation**

The Contractor shall ensure that no vegetation and debris is within 12 inches of the FDR.

#### **301-A.3.5 Weather Limitations**

The Contractor shall apply FDR when the surface is dry, and the ambient air temperature is above 50°F and the surface temperature is above 45°F. The Contractor shall not begin FDR operations when fog, showers, rain, frost or temperatures below 40°F are anticipated within 24 hours.

Dry mineral filler application shall be temporarily halted when wind is in excess of 25 mph until such time that wind speed decrease below this threshold.

#### **301-A.3.6 Construction Requirements for FDR**

The Contractor shall construct the FDR section as follows:

- 1. Prior to beginning the FDR Work each week, prepare a production Plan detailing proposals for the forthcoming week's Work. At the discretion of the Project Manager, additional meetings may be required. Provide the following in the production Plan to the Department:
  - 1.1 Diagram showing the overall layout of the length and width of roadway intended for FDR during the Day, broken into the number of parallel passes required to achieve the stated width, and six (6) inch overlap dimensions at each joint between passes;
  - 1.2 The sequence and length of each pass to be stabilized before starting on the adjacent or following pass. Provide nozzle pattern setup indicating which nozzles will be on to ensure proper asphalt binder and overlap coverage for each recycler pass;
  - 1.3 An estimate of the time required for milling, mixing, and compacting the pass. Show on the diagram the expected completion time of each pass;
  - 1.4 The location where samples for determining in-situ moisture contents, and the results of the tests;
  - 1.5 The proposed water addition for each pass;
  - 1.6 If applicable, the quantity and location from where the aggregate base is imported;
  - 1.7 The amount and type of mineral filler to be applied to each pass;

- 1.8 The Contractor Sampling and Testing Requirements control testing program conforming to Table 301-A.14:1 “Contractor and NMDOT Sampling and Testing Requirements”;
- 1.9 Verified locations for using Corrective RAP and quantities to be used; and
- 1.10 Any other information that is relevant for the intended Work;
- 2. Corrective RAP. When specified, the Contractor shall spread Corrective RAP uniformly on the roadbed at the locations indicated in the Contract using Equipment as specified in Section 301-A.3.3, “Equipment”. Corrective RAP shall be placed prior to pulverization and prior to addition of the stabilizing agent. No traffic, other than the reclaiming Equipment, shall be allowed to pass over Corrective RAP until the reclaiming operation is complete;
- 3. FDR Operations. FDR stabilizing and mixing operations shall be completed in continuous segments. A continuous segment is one (1) full lane width. If one (1) recycler is used, the segment shall include full lane width to centerline by the end of the Day’s production. Segments shall be limited to 2000 lane feet when two (2) passes are required to complete one (1) full lane width. All compaction and grading shall be completed prior to advancing to the next segment and pass. Segments lengths may be increased if it is determined proper moisture is being maintained on each pass until final compaction and grading has been completed, and the surface has been sealed as specified in Section 301-A.3.9, “Curing and Maintenance”. Verify the rate or speed of the recycler daily as Accepted and determined from the test strip. Maintain this rate unless otherwise directed by the Project Manager. Properly delineate and open to traffic overnight and on all weekends and holidays. Lightly water and broom excess Material at the end of each Day’s production;
- 4. FDR Stabilizing. Stabilize the existing pavement, base and/or subgrade Material to the depths indicated in the Plans. Blend the foamed asphalt binder, base, and/or subgrade Material into a homogenous mass for the full specified depth. During foamed asphalt stabilization, insure that no foamed asphalt globules or stringers are present within the produced mix. Verify by digging test pits within the newly produced mix. Verify by visually and physically observing the distribution of the foamed asphalt.

For slurry method application, the mineral filler shall be fluidized as slurry by premixing with water and pumped to the recycler for injection through a spray-bar into the mixing process.

For mixtures with a dry mineral filler spread a uniform layer on the prepared roadway surface prior to stabilizing. A metered mechanical spreader shall be used. Spreading of dry mineral filler on the roadway ahead of the reclamation/recycling machine will not be allowed when windy conditions adversely affect the operation or create a hazard for the public or Workers and slurry method may be specified at the discretion of the Project Manager. Verify rate by using a square yard tarp to weigh and calculate amount of cement used or alternative method approved by Project Manager;

- 5. Mixing. Maintain the percentage of water established for specified asphalt foaming while providing uniform moisture content in the blended mix that is within 1 % of the limits established in the design at the time of addition of the asphalt binder. Aerating of the mixture or the addition of water may be required;  
Apply asphalt binder in one application to the depth as specified in the Plans and at the rate established in the JMF. Based on mix design, apply the foamed asphalt binder with water added by volume to achieve expansion of the asphalt binder. The half-life will determine the temperature that maximizes the foamed asphalt. The application temperature of the foamed asphalt will not be below 320° F or the temperature as determined in Laboratory analysis of the asphalt binder. Measure asphalt binder temperature with a calibrated temperature measuring device in a safe manner. Do not use tanker thermometer unless calibration has been completed and documented.

6. Grading and Compaction. Shape, grade and compact the mixture to the lines, grades and depths indicated in the Plans, cross sections and Specifications. Maintain the existing or new crown of the pavement. Monitor in-place density during the compaction process with nuclear density gauge per AASHTO T 310. Compact to a minimum density of 97% and correlate to the wet density according to AASHTO T 180 method D and Table 301-A.14:1 "Contractor and NMDOT Sampling and Testing Requirements". Obtain the in place density by measuring at the top of foamed stabilized section. Monitor the compaction process by determining the density of foamed stabilized base with a portable nuclear density gauge in accordance with AASHTO T 310. Furnish the nuclear gauge readings.

Once lines, grades and depths are met, excess Material shall be hauled back to the stockpile so as to allow for the net placement of new pavement Material as specified on the Plans or as directed by Project Manager.

7. Unstable Areas. Following the grading and compaction operations, remix and aerate any FDR areas that have excess moisture content due to FDR construction and compaction activities.

As determined by the Project Manager, where areas of FDR are unable to meet compaction due to unstable subgrade (defined as soft, gummy, pumping and/or further displacement) below the FDR Material, Unstable Subgrade Stabilization shall be utilized to correct any deficiencies prior to starting the next Day's production. Unstable Subgrade Stabilization shall be used as directed by the Project Manager. Removal and replacement of FDR Material to perform unstable subgrade stabilization shall be Incidental to the Bid Item for Unstable Subgrade Stabilization.

8. Longitudinal Joints. Plan longitudinal joints to coincide with changes in cross-slope, regardless of the overlap width. Provide a minimum longitudinal overlap of six (6) inches. No payment will be paid for overlap. Do not apply foamed asphalt on previously placed FDR when overlap occurs. Insure the overlap is compacted to achieve minimum density per the Contract. Care shall be taken to ensure longitudinal joints are not located within wheel-path.
9. Rubberized crack filler, pavement markers, loop wires, thermoplastic markers, paving fabric and other similar Materials shall be removed as observed from the roadway during the reclaiming process as approved by the Project Manager. Residual Materials that cannot be completely removed from the reclaimed mixture may be incorporated into the FDR if the Contractor can demonstrate that those added Materials shall not adversely affect density. Any such Materials retained in the mix shall be appropriately sized and blended so as to not adversely affect the appearance and strength of the FDR.

When, at the determination of the Project Manager, weather-related elements adversely affect the mineral filler Materials and placement, the Project Manager, at their discretion, has the right to delay further placement.

### **301-A.3.7 Profile and Cross Slope Requirements**

After the final rolling, the Contractor shall measure the profile and cross slope of the FDR. The Contractor shall use a 10-foot metal straightedge to measure at right angles and parallel to the centerline. As directed by the Project Manager, the Contractor shall correct surface deviations greater than ½ inch within 10 feet.

### **301-A.3.8 Acceptance**

The minimum sampling and testing requirements are established in Table 301-A.14:1 "Contractor and NMDOT Sampling and Testing". The Contractor shall meet the following requirements:



1. Density. For the purpose of Acceptance for density, the following process shall be followed:
  - 1.1 Test Strip(s): The density measurement based on the testing frequency indicated in Table 301-A.14:1, "Contractor and NMDOT Sampling and Testing" will be compared to the maximum density from the approved mix design(s) to determine Acceptability. Once the density of the lot has been determined, the Contractor will not be permitted to provide additional compaction to raise the average; and
  - 1.2 Production: The target density will be based on the prior Day's moisture-density relationship, per Table 301-A.14:1, "Contractor and NMDOT Sampling and Testing". Once the density of the lot has been determined, the Contractor will not be permitted to provide additional compaction to raise the average.
2. Payment. Payment will be made in accordance with the requirements of Table 301-A.3.8:1 "Payment Schedule for Lot Densities". For the purpose of Acceptance, each Day's production and full lane width shall be considered a lot unless the paving length is less than 2,000 feet. When the production is less than 2,000 linear feet, the production results shall be combined with the previous Day's production.

**Table 301-A.3.8:1  
Payment Schedule for Lot Densities**

% of Average Density from Prior Day's Moisture-Density Relationship	% of Payment as Applied to FDR-Foamed Asphalt SY Item
>97.0	100
≤96.0 to <97.0	95
≤95.0 to <96.0	90
<95	75

### **301-A.3.9 Curing and Maintenance**

The Contractor shall maintain the FDR layer until the asphalt concrete overlay has been placed. The Contractor shall repair any deficiencies to the completed FDR as directed by the Project Manager. The Contractor shall repair the FDR section at no cost to the Department. The Contractor shall prepare the surface for the asphalt concrete overlay in accordance with Standard Specifications Section 423.3.5, "Placement Operations".

The Contractor shall maintain the FDR section as follows:

1. Smoothness. After final compaction, treat the stabilized surface with a light application or flushing of water and roll with pneumatic-tired roller to create a close and uniform surface. The pneumatic roller should be fitted with a water spray system and apply light mist to tires while rolling;
2. Sealant. Provide a diluted (50/50) SS-1h emulsion "fog seal", in accordance with Standard Specifications Section 402.2.2, "Emulsified Asphalt". The application rate of the fog seal shall be 0.05 to 0.15 gal/sq.yd. The fog seal shall be allowed to setup properly (breaking of the emulsion). Traffic may use the stabilized surface immediately after this treatment unless otherwise indicated or instructed by Project Manager. The fog seal shall be allowed to setup properly (breaking of the emulsion). The Contractor may be required to reapply fog seal as directed by the Project Manager;
3. Prior to overlay, conduct proof roll as per Section 203-A. Upon successful completion of the proof roll, overlay of the FDR shall be permitted.
4. Overlay. Construct a HMA/WMA overlay over the FDR section within 14 Days after placement, unless otherwise specified by the Project Manager at the FDR construction meeting. If the stabilized layer loses stability, density or finish before placement of overlay, reprocess and



recompact as necessary to restore the strength of the damaged Material. Any damage to the FDR section shall be corrected at the Contractor's expense.

### 301-A.4 METHOD OF MEASUREMENT

Full Depth Reclamation - Foamed Asphalt Stabilized Base shall be measured by the square yard. This excludes longitudinal or transverse overlaps.

Asphalt Binder shall be measured by the ton.

Mineral Filler shall be measured by the ton.

Corrective RAP shall be measured by the cubic yard.

The Contractor shall provide the Project Manager with volume quantities and calculations to adjust the proposed profile grade utilizing a construction survey and personnel in accordance with Standard Specifications Section 801, "Construction Staking by the Contractor" at the FDR construction meeting in accordance with Section 301-A.3.1, "Production Start-Up Procedures".

### 301-A.5 BASIS OF PAYMENT

<b>Pay Item</b>	<b>Pay Unit</b>
Full Depth Reclamation - Foamed Asphalt Stabilized Base	Square Yard
Asphalt Binder	Ton
Mineral Filler	Ton
Corrective RAP	Cubic Yard

#### 301-A.5.1 Work Included in Payment

The Department will consider as included in FDR – Foamed Asphalt Stabilized Base and associated pay items and will not measure or pay separately for the following Work:

1. Developing and testing the mix design, including Corrective RAP testing when required;
2. Overlaps and excess Material removal and delivery;
3. Removal of Materials not used in the mix design;
4. Removal and disposal of all vegetation and debris within 12 inches of the FDR;
5. Removal of rubberized crack filler, pavement markers, loop wires, thermoplastic markers, paving fabric and other similar Materials;
6. Fog Seal;
7. Proof roll prior to overlay; and
8. Replacement Material at sample locations.

The Department will consider as included in the Corrective RAP pay item and will not measure or pay separately for the following Work:

1. Transporting and hauling RAP from the existing stockpile;
2. Placement;
3. Survey required to adjust the profile grade; and
4. Survey of existing stockpile(s), and any stockpiles generated by the Work, prior to start and completion of the Work.

### 301-A.14 Sampling and Testing Requirements

**Table 301-A.14:1  
Contractor and NMDOT Sampling and Testing Requirements**

Material or Product	Acceptance Type	Characteristic	Test Method Specifications	Sampling Frequency by Contractor and NMDOT (unless specified)	Point of Sampling	Reporting Time
Asphalt Binder (Mix Design)	Measured & Tested For Conformance	Quality	AASHTO M 320 Table 1	_ (NMDOT not required to Test)	Refinery	Before Producing
		Foaming Half-Life	Table 301-A.2:2			
		Expansion Ratio	Table 301-A.2:2			
Full Depth Reclamation – Foamed Asphalt (Mix Design)	Measured & Tested for Conformance	Gradation	AASHTO T 11, AASHTO T 27 & Table 301-A.2:1	_ (NMDOT not required to test)	-	Before Producing
		Plasticity Index	AASHTO T 89 & AASHTO T 90			
		Moisture-Density	AASHTO T180 Method D (TTCP Modified)			
		Indirect Tensile Strength	AASHTO T 283 and Table 301-A-2			
		Marshall Stability	AASHTO T 245 & Table 301-A.2:2			
Asphalt Binder (Test Strip)	Measured & Tested for Conformance	Binder Temperature	-	1 every tank load	Temperature Gauge	Upon Completing Test
Full Depth Reclamation – Foamed Asphalt (Test Strips)	Measured & Tested for Conformance	Gradation	AASHTO T 11 & T27	1 per test strip	Behind Reclaimer Before Compaction	Upon Completing Test
		Depth Check	Probing, Shovel, Other Means	1 Locations per test strip	Behind Reclaimer Before Compaction	Upon Completion of Measurement
		Moisture	AASHTO T 255	1 per test strip	Behind Reclaimer Before Compaction	Upon Completing Test

		Moisture-Density	AASHTO T 180 Method D (TTCP Modified)	1 per test strip	Behind Reclaimer Before Compaction	Upon Completing Test
		Density	AASHTO T 310	1 per test strip	In -place After Compaction	Upon Completing Test
		Asphalt Binder Content	-	Daily	Strap	End Of Day
		Marshall Stability	AASHTO T 245	1 Per Mix Design Per Day (Contractor)	Behind Reclaimer Before Compaction	80 hours
		Indirect Tensile Strength	AASHTO T 283 and Table 301-A.2.2	1 Per Day of Production (Contractor)	Behind Reclaimer Before Compaction	Upon Completion of Test
		Visual Inspection	Homogeneous Mixing <sup>1</sup>		1 per test strip	Behind Reclaimer Before Compaction
Asphalt Binder (Production)	Measured and Tested for Conformance	Binder Temperature		1 Every Load	Temperature Gauge	Upon Completing Test
Full Depth Reclamation – Foamed Asphalt (Production)	Measured and Tested for Conformance	Gradation	AASHTO T 11, T 27 & Table 301-A-1	2 per lane mile (Contractor) 1 per lane mile (NMDOT)	Behind Reclaimer Before Compaction	Upon Completing Test
		Depth Check	Probing, Shovel, Other Means	5 Locations per day	Behind Reclaimer Before Compaction	Upon Completion of Measurement
		Moisture	AASHTO T 255	2 per lane mile (Contractor) 1 per lane mile (NMDOT)	Behind Reclaimer Before Compaction	Upon Completing Test
		Asphalt Binder Content	---	Daily (Contractor)	Strap	End of Each Production Day
		Marshall Stability	AASHTO T 245	1 Per Mix Design Per	Behind Reclaimer	80 hours

				Day (Contractor)	Before Compaction	
		Moisture- Density	AASHTO T 180 Method D (TTCP Modified)	1 Per Day of Production (Contractor)	Behind Reclaimer Before Compaction	Upon Completion of Test
		Density	AASHTO T 310	1 per 500 feet per lane (NMDOT/Con tractor)	In -place After Compaction	Upon Completing Test
		Indirect Tensile Strength	AASHTO T 283 and Table 301- A.2.2	1 Per Day of Production (Contractor)	Behind Reclaimer Before Compaction	Upon Completion of Test

<sup>1</sup>When sampling for test strip mix design verification testing, visually determine if asphalt globules, stringers, and binder segregation are present. The test strip is considered Acceptable for further mix verification testing if adequate homogeneous mixing is observed.

## SPECIAL PROVISIONS MODIFYING SECTION 416: MINOR PAVING

The 2019 Edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction shall apply in addition to the following:

Delete **Section 416: MINOR PAVING** in its entirety and replace with the following:

### **416.1 DESCRIPTION**

This Work consists of constructing one (1) or more pavement courses of Hot Mix Asphalt (HMA) or Warm Mix Asphalt (WMA) on a prepared subgrade, aggregate base course or milled surface.

### **416.2 MATERIALS**

The Contractor shall use Materials for Minor Paving in accordance with Section 423.2, "Materials".

Minor Paving shall be classified as one of the following:

1. Minor Paving Type I. Consists of Minor Paving that can be placed within the Roadway Prism that is of sufficient size or area to reasonably allow the Material to be placed with Equipment in accordance with Sections 423.3.4.3, "Pavers" and 423.3.4.4, "Compaction Equipment".

Minor Paving Type I includes the following:

- 1.1 Mainline paving;
- 1.2 Auxiliary lanes;
- 1.3 Holding lanes; and
- 1.4 Shoulders.

2. Minor Paving Type II. Consists of Minor Paving placed outside the Roadway Prism or in areas within the Roadway Prism that would not allow for the Material to be placed with Equipment in accordance with Sections 423.3.4.3, "Pavers" and 423.3.4.4, "Compaction Equipment".

Examples of Minor Paving Type II include the following:

- 2.1 Driveways;
- 2.2 Turnouts;
- 2.3 Official use crossings;
- 2.4 Widening less than ten (10) feet in width;
- 2.5 Utility crossings;
- 2.6 ADA Improvements; and
- 2.7 All other items not listed in Minor Paving Type I.

### **416.3 CONSTRUCTION REQUIREMENTS**

The Contractor shall perform Minor Paving in accordance with the following 423 Sections or the correlating 424 Sections:

1. Section 423.3.1 or Section 424.3.1, "General";
2. Section 423.3.2 or Section 424.3.2, "Mix and Laydown Temperature Requirements" or "Mix Temperature Requirements", respectively;
3. Section 423.3.3 or Section 424.3.3, "Addition of Mineral Admixtures";
4. Section 423.3.4 or Section 424.3.4, "Equipment"; and
5. Section 423.3.5 or Section 424.3.5, "Placement Operations" excluding 423.3.5.7, "Test Strip & Shakedown Period".

No referee testing will be required for Minor Paving, but may be used if both parties agree in writing at the Pre-Pave Conference. If used, referee testing will be done in accordance with Section 423.3.7, "Dispute Resolution" or Section 424.3.7, "Dispute Resolution".

### **416.3.1 Sampling and Testing**

#### **416.3.1.1 Contractor Quality Control**

The Contractor shall provide quality control measures in accordance with Section 902, "Quality Control".

The Contractor shall identify the proposed lot size in the Quality Control Plan for approval by the Project Manager.

#### **416.3.1.2 Department Quality Assurance**

The Department will provide quality assurance measures in accordance with Section 905, "Quality Assurance for Minor Paving".

##### **416.3.1.2.1 Acceptance**

The Department will Accept Materials in accordance with Section 905.1.3., "Acceptance".

#### **416.3.1.3 Independent Assurance Testing**

The Department will perform Independent Assurance sampling and testing in accordance with Section 906, "Minimum Testing Requirements (MTR's)".

### **416.4 METHOD OF MEASUREMENT**

If the Department measures by the square yard, the Department will measure Minor Paving using the dimensions shown in the Contract or approved field measurements.

### **416.5 BASIS OF PAYMENT**

The Department will adjust payment for Minor Paving in accordance with Section 905, "Quality Assurance for Minor Paving".

#### **Pay Item**

Minor Paving Type I, HMA SP  
 Minor Paving Type II, HMA SP  
 Minor Paving Type I, WMA SP  
 Minor Paving Type II, WMA SP

#### **Pay Unit**

Ton or Square Yard  
 Ton or Square Yard  
 Ton or Square Yard  
 Ton or Square Yard

#### **416.5.1 Price Adjustments**

The Department will pay for Accepted quantities of Minor Paving at the Bid Item Unit Price, adjusted in accordance with Section 905.1.4, "Pay Factor Determination".

#### **416.5.2 Work Included in Payment**

The Department will consider as included in the payment for the pay item(s) listed in this section and will not measure or pay separately for the following Work:

1. Asphalt binder, anti-strip, aggregate, blending sand, mineral filler, mineral admixture, and WMA additive or process as appropriate;
2. Mixing, hauling, placement, and compaction of HMA or WMA;
3. Providing Mix Design in accordance with Section 423.2.8 or Section 424.2.8, "Mix Design";
4. Quality Control in accordance with Section 902, "Quality Control;"
5. Providing and transporting all cores; and
6. Providing storage container for samples and cores if referee testing is used.

# **SUPPLEMENTAL SPECIFICATIONS**

GRANT COUNTY TRUCK BYPASS WIDENING AND CULVERT REPLACEMENT

**BID # B-23-02**

All provisions of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction, edition of 2019 shall apply except as modified herein.

<b><u>DESCRIPTION</u></b>	<b><u>PAGE</u></b>
DELETION OF SUBSECTION 102.2 – Prequalification	2
MODIFICATION OF SUBSECTION 102.5.1 – Mandatory Rejection of Bids	2



# **MODIFYING SECTION 102 – BIDDING REQUIREMENTS AND CONDITIONS**

**Delete subsection 102.2 - PREQUALIFICATION.**

**Delete subsection 102.5.1 and substitute the following:**

## **102.5.1 Mandatory Rejection of Bids**

The T/LPA reserves the right to reject any or all Bids, to waive technicalities, or to advertise for new Bids if, in the judgment of the T/LPA, the best interests of the public and the T/LPA would be promoted thereby. The T/LPA will reject Bid(s) for the following reasons:

1. A Bidder is determined to be a non-Responsible Bidder;
2. A Bidder fails to comply with any requirement in the Contract documents;
3. A Bidder omits any portion of the Required Documents for Bid Submittal when submitting its Bid;
4. A Bidder adds provisions reserving its right to Accept or reject an Award, or reserving its right to refuse to enter into a Contract after an Award;
5. A Bidder defaults under a previous Contract, including Contracts with other public entities
6. The Bidder or its principals, individual officers or corporate directors are presently
7. suspended, debarred, declared ineligible, or voluntarily excluded from bidding;
8. 8. The T/LPA issued a notice of proposed Suspension or Debarment to the Bidder and the
9. Bidder failed to timely respond to the notice of proposed Suspension or Debarment;
10. 9. A Bidder submits more than one (1) Bid for the same Project control number;
11. 10. A Bid Item Unit Price results in an Unbalanced Bid. The T/LPA may require the Apparent
12. Low Bidder to detail and justify in writing how its prices were determined;
13. 11. A Bidder contacts or communicates with any member of the T/LPA's governing body or
14. any T/LPA personnel responsible for Bid review or the Award of the Contract in relation to
15. the Bid review or Award process before the T/LPA's execution of the Contract, except for
16. a response to an inquiry from the T/LPA's Chief Procurement Officer; or
17. 12. A Bidder is subject of a judgment or verdict imposing a civil or criminal penalty under either
18. the Federal False Claims Act or the New Mexico Fraud against Taxpayers Act.