

PROJECT MANUAL

Construction Bidding Package and Contract Documents

RFB/IFB No. 2021-0401

March 2021

Downtown Raton Infrastructure Project

Project Number: CDBG No. 19-C-NR-I-01-G-16

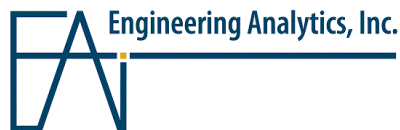
Project Location: Downtown Raton, New Mexico

Project Owner (Grantee)



City of Raton
224 Savage Avenue
P.O. Box 910
Raton, NM 87740
Telephone: (575) 445-9551

Engineer of Record



Engineering Analytics, Inc.
219 S. 2nd Street
Raton, NM 87740
Telephone: (575) 445-7192

Acknowledgements:

City of Raton Mayor, James Neil Segotta, Jr. and Commissioners
City of Raton Manager, K. Scott Berry, and Public Works Director, Jason Phillips

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ENGINEER CERTIFICATION Downtown Raton Infrastructure Project

Engineer of Record: Engineering Analytics, Inc.
Karen Stearns, P.E.
219 S. 2nd Street
Raton, New Mexico 87740
Telephone: (575) 445-7192

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



Karen M Stearns

Karen Stearns, Engineer of Record
New Mexico P.E. License No. 14085

(seal)

3.8.2021

Date

Owner Approval:

James Neil Segotta, Jr.

James Neil Segotta, Jr., Mayor
City of Raton

3/15/2021

Date

All questions about the meaning or intent of these documents shall be submitted only to the Engineer of Record, stated above, in writing. Refer to paragraph 3.2 of the Instructions to Bidders as to interpretations.

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PRE-BID INFORMATION

PRE-BID INFORMATION
Section 00010

1.0 PREQUALIFICATION FORMS

Section 00011

"Not Required"

2.0 DEBARRED OR SUSPENDED CONTRACTORS

Section 00012

2.1 A business (contractor, subcontractor or supplier) that has either been debarred or suspended pursuant to the requirements of Sections §13-1-177 through §13-1-180, and §Sections 13-4-11 through §13-4-17 NMSA 1978 as amended, shall not be permitted to do business with the Owner and shall not be considered for award of contract during the period for which it is debarred or suspended with the Owner.

3.0 FEDERAL AND STATE LAWS AND REGULATIONS

Section 00013

3.1 State administered Community Development Block Grant monies are Federal funds. Section 13-1-30B NMSA 1978 of the Procurement Code stipulates: "When a procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of the Procurement Code, compliance with federal law or regulations shall be compliance with the Procurement Code." The applicable governing federal procurement standards are defined in OMB Circular A-102, Attachment O. When federal and state procurement policies are different, the more restrictive policies apply so long as they are consistent with Circular A-102 standards.

3.2 For purposes of these Bidding Documents, the term "Grantee" means the Owner. The term "Funding Agency" means the Local Government Division, Department of Finance and Administration, Bataan Memorial Building, Suite 202, Santa Fe, New Mexico 87501, 505-827-8051.

4.0 REGISTRATION OF CONTRACTORS AND SUBCONTRACTORS

Section 00014

4.1 A contractor or subcontractor that submits a bid valued at more than \$60,000 for a public works project subject to the Public Works Minimum Wage Act shall be registered with the Labor and Industrial Division of the New Mexico Department of Workforce Solutions (NMDWS).

4.2 The contractor submitting a bid and all subcontractors must have a Dun and Bradstreet Number ([DUNS](#)) and registration with System of Awards Management ([SAM](#)).

4.3 A contractor or subcontractor that submits a bid regardless of the contract amount must be licensed and registered, and cannot be debarred. For any contracts \$60,000 and over the contractor or subcontractor must be current with annual Labor Enforcement Fund payments.

4.4 The Owner shall not accept a bid on a public works project from a Contractor that does not provide proof of required registration for itself (§13-4-13.1 NMSA 1978). Contractors, prime contractors and subcontractors shall be registered with the NMDWS.

4.5 See Bid Form and Subcontractor Listing form for Registration Numbers to be provided.

NOTICE OF INVITATION FOR BID

PRE-BID INFORMATION
Section 00021

Competitive sealed bids will be received by the Owner, for

Downtown Raton Infrastructure Project

for IFB N°. 2021-0401 Project No.: **CDBG** 19-C-NR-I-01-G-16

Project: The City of Raton plans to construct improvements to 3rd Street from Cook Avenue to Parsons Avenue, Cook Avenue from 3rd Street to 2nd Street, Park Avenue from 3rd Street to 1st Street, Clark Avenue from 3rd Street to 1st Street, and Savage Avenue from 3rd Street to 2nd Street. The Project consists of mobilization; milling concrete pavement and asphalt pavement; remove and patch deteriorating underlying pavement, as necessary; placement of pavement fabric for crack sealing; adjustment of manholes and water valves; application of tack coat; placement of asphalt overlay; removal and replacement of concrete curb and gutter, concrete sidewalk, concrete drivepad, concrete valley gutter, storm drain inlets, and accessible ramps; and placement of pavement markings. The purpose of the project is to rehabilitate existing streets, storm drain inlets, concrete sidewalk, valley gutter, and curb and gutter to improve the functionality of the area for Raton residents.

Bids will be received at 224 Savage Avenue (hand delivery) or P.O. Box 910 (mail delivery), Raton, NM 87740 until May 4, 2021, 3:00 p.m. at which time bids will be opened and publicly read aloud.

Complete sets of the bidding documents may be obtained online at www.questcdn.com by searching QuestCDN Project #: 7123529, or viewed on the City of Raton Website at <http://www.ratonnm.gov/>. Prospective bidders must attend a Pre-Bid Conference which will be held at Raton City Hall (224 Savage Ave. Raton, NM 87740) on April 22, 2021 at 11:00 a.m.

This Project is funded in whole or in part by a grant from the state of New Mexico Small Cities Community Development Block Grant Program and is subject to requirements of the United States Department of Housing and Urban Development and the funding agency.

Purchasing Agent:

Michael Anne Antonucci, City of Raton Chief Procurement Officer

Date: 4/1/2021

(FOR OWNER USE ONLY)

Newspaper: Huerfano World Journal

Publish: 4/1/2021

Newspaper: Albuquerque Journal

Publish: 4/1/2021

Newspaper: _____

Publish: _____

(Note: This Notice is issued pursuant to the requirements of §13-1-104 NMSA 1978)

INVITATION FOR BID

PRE-BID INFORMATION
Section 00022

Project: <u>Downtown Raton Infrastructure Project</u>
Project No.: <u>CDBG No. 19-C-NR-I-01-G-16</u>

INVITATION FOR BID CONSTRUCTION CONTRACT

Bid Number: 2021-0401

Engineer of Record: Engineering Analytics, Inc. Karen Stearns 219 S. 2 nd Street Raton, NM 87740 (575) 445-7192
Owner: City of Raton 224 Savage Avenue P.O. Box 910 Raton, NM 87740

Sealed bids shall be submitted to:

Office of the Purchasing Agent
224 Savage Avenue (Physical Delivery)
P.O. Box 910 (Mailed Delivery)
Raton, NM 87740

Bids will be publicly opened after the Bid Deadline: Date: <u>May 4, 2021</u> , Time: <u>3:00 p.m.</u>

IMPORTANT: Bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left-hand side of the front of the envelope.

Sealed Bids will be received until the above-specified date and local time, then publicly opened and read aloud. All hand-delivered bids must be received at the Office of the Purchasing Agent, address shown above.

This Bid is subject to the requirements of the Bidding Documents as defined in the "Instructions to Bidders," Section 00100. The Bid Form must be accompanied by a surety bond, subcontractor listing form, and documents specified in the "Instructions to Bidders."

Bidding Documents may be obtained from the bidding website, www.QuestCDN.com. Hard copy sets will not be issued. No refunds will be paid.

Proposed Bid Schedule:
Date Published: <u>April 1, 2021</u>
Prebid Meeting: <u>April 22, 2021</u>
Bid Opening: <u>May 4, 2021</u>

BIDDING DOCUMENTS MAY BE REVIEWED AT

QuestCDN.com (www.questcdn.com)
QuestCDN Project Number: 7123529
Bidding document download fee: \$15

City of Raton Website
<http://www.ratonnm.gov/>

Bids shall be presented in the form of a total Base Bid proposal under a Lump Sum Contract plus any additive or deductive alternates that are selected by the Owner. A bid must be submitted on all bid items and alternates; segregated bids will not be accepted. [Base Bid price shall not include state gross receipts or local options taxes. However,

estimated tax shall be shown on the bid. In submitting this bid, each Bidder must satisfy all terms and conditions of the Bidding Documents]

All work covered by this Invitation for Bid shall be in accordance with applicable state laws and is subject to the minimum wage rate determination issued by the office of the Labor Commissioner for this project.

Bid security in the form of a surety bond executed by a surety company authorized to do business in the state of New Mexico in the amount of **5%** of the total bid, or the equivalent in cash by means of a cashier's check or in a form satisfactory to the Owner, must accompany each bid in accordance with the Instructions to Bidders.

A 100% performance bond and a 100% payment and materials bond executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department shall be required from the successful Bidder.

A completed Subcontractor Listing Form must accompany each bid.

The Bidding Documents contain a time for completion of the work and further impose liquidated damages for failure to complete the work within that time period.

No Bidder may withdraw his bid for **0** days after the actual date of the opening thereof. The Owner intends to award this Project to the lowest responsible Bidder. The Owner reserves the right to reject any and all bids, to waive technical irregularities, and to award the contract to the Bidder whose bid it deems to be in the best interest of the Owner.

The Bidder's attention is directed to the requirements of the Contract Documents for adherence to applicable federal, state and local statutes, regulations and ordinances; including but not limited to, requirements as to conditions of employment to be observed, minimum wage rates to be paid under the Contract, Section 3, Segregated Facilities, Section 109, Executive Order 11246, and bonding and insurance requirements.

This Project is funded in whole or in part by a grant from the state of New Mexico Small Cities Community Development Block Grant Program and is subject to requirements of the United States Department of Housing and Urban Development and the funding agency.

All potential bidders must attend a Pre-bid Conference which will be held on:

Date: **April 22, 2021** Time: **11:00 A.M. M.S.T**

Location: **City of Raton, City Hall**
224 Savage Avenue, Raton, NM 87740

⌘ End of Invitation for Bid ⌘

INSTRUCTIONS TO BIDDERS

INSTRUCTIONS TO BIDDERS
Section 00100

1.0 DEFINITIONS AND TERMS

1.1 Terms used in these Bidding Documents which are defined in the Instructions to Bidders and in the Conditions of the Contract for Construction (General, Supplementary, and Other Conditions) have the meanings assigned to them in those documents.

1.1.1 *Addendum* means a written or graphic instrument issued prior to the opening of Bids which clarifies, corrects, or changes the Bidding Documents or Contract Documents. Plural: Addenda.

1.1.2 *Alternate Bid* means the amount stated in the Bid as the sum to be added from the amount of the Base Bid if the corresponding change in the project scope, materials, and/or methods of construction is awarded by the Owner.

1.1.3 *Base Bid* means the amount stated in the Bid as the sum for which the Bidder offers to perform the work, excluding alternate Bids.

1.1.4 *Bid* means the offer of the bidder submitted on the prescribed form setting forth the prices for the work to be performed in conformance with the Bidding Documents. This amount does not include gross receipts or local options taxes.

1.1.5 *Bid Lot* means a major item of work for which a separate quotation or proposal is requested.

1.1.6 *Bidder* means the one who submits a Bid directly to the Owner, as distinct from a subcontractor who submits a bid to a contractor.

1.1.7 *Bidding Documents* means the Bidding Requirements and the Contract Documents.

1.1.8 *Bid Form*. A form which shall include space in which the bid price shall be inserted and which the bidder shall sign and submit along with all other necessary submissions. A Bidder may submit a reasonable facsimile of the Bid Form. Oral, telephonic, and telegraphic bids are invalid and will not be considered.

1.1.9 *Bidding Requirements* means the Notice of Invitation for Bid, Pre-bid Information, Instructions to Bidders, Information Available for Bidders, the Bid Form, Supplements to the Bid Form, and portions of Addenda relating to any of these.

1.1.10 *Invitation for Bid (IFB)* means all documents including those attached or incorporated by reference or utilized for soliciting sealed bids.

1.1.11 *Responsible Bidder* means a Bidder who submits a Responsive Bid and who has furnished, when required, information and data to prove that his 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 described in the Invitation for Bid.

1.1.12 *Responsive Bid* means a bid that conforms in all material respects to the requirements set forth in the Invitation for Bid.

1.1.13 *Successful Bidder* means the lowest responsible Bidder to whom the Owner, on the basis of the Owner's evaluation, makes an award. A Successful Bidder does not become the contractor until an agreement with the Owner is signed.

2.0 EXAMINATION OF BIDDING DOCUMENTS AND SITE

2.1 Before submitting a Bid, each Bidder must:

2.1.1 Examine the bidding Documents thoroughly;

2.1.2 Visit the site to familiarize himself with local conditions that may in any manner affect cost, progress, or performance;

2.1.3 Familiarize himself with federal, state, and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the Work; and

2.1.4 Study and carefully correlate the Bidder's observations with the Bidding Documents.

2.2 On request, the Owner will provide each Bidder access to the site to conduct such investigations and tests as each Bidder deems necessary for submission of his Bid.

2.3 The land upon which the Work is to be performed, rights-of-way for access thereto, and other lands designated for use by the Contractor in performing the work are identified in the Bidding Documents.

2.4 The submission of a Bid will constitute an incontrovertible representation by the Bidder that he

has complied with every requirement of this Part and that the Bidding Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

3.0 BIDDING DOCUMENTS

3.1 Copies of Bidding Documents

3.1.1 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Invitation may be obtained from the Architect/Engineer (unless another issuing office is designated in the Invitation for Bid). The deposit will be refunded to Bidders who submit a bona-fide bid and return the bidding Documents in good and complete condition within 15 calendar days after opening of Bids.

3.1.2 Complete sets of Bidding Documents shall be used in preparing bids; neither the Owner nor the Architect/Engineer assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

3.1.3 The Owner and the Architect/Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

3.2 Interpretations

3.2.1 All questions about the meaning or intent of the Bidding Documents shall be submitted to the Architect/Engineer in writing. Replies will be issued by addenda mailed or delivered to all parties recorded by the Architect/Engineer as having received the Bidding Documents. Questions received less than 7 calendar days prior to the date for opening of Bids will not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

3.2.2 Bidders and Subcontractor shall promptly notify the Architect/Engineer of any ambiguity, inconsistency, or error that they may discover upon examination of the Bidding Documents or of the site and local conditions.

3.3 Substitute Material and Equipment

3.3.1 The contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration

of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the contractor if acceptable to the Architect/Engineer, application for such acceptance will not be considered by the Architect/Engineer unless submitted to the Architect/Engineer at least ten days prior to the date for opening Bids. Any allowance of substitutions will be published to all prospective Bidders via addendum. The procedure for submittal of any such application by the Contractor and consideration by the Architect/Engineer is set forth in the Contract Documents.

3.4 Addenda

3.4.1 Addenda will be mailed or delivered to all that are known by the Architect/Engineer to have received a complete set of Bidding Documents.

3.4.2 Copies of addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids, except an addendum withdrawing the request for bids or one which includes postponement of the date for receipt of bids.

4.0 BIDDING PROCEDURES

4.1 Form and Style of Bids

4.1.1 Bids shall be submitted on forms identical to the form included with the Bidding Documents.

4.1.2 All blanks on the Bid Form shall be filled in by typewriter or manually in ink.

4.1.3 Where so indicated by the makeup of the bid firm, sums shall be expressed in both words and figures, and, in case of discrepancy between the two, the amount written in words shall govern.

4.1.4 The signer of the bid must initiate any interlineations, alteration, or erasure.

4.1.5 All requested additive or deductive alternate bids shall be bid. If no change in the Base Bid is required, enter "No Change."

4.1.6 Where there are two or more major items of work (identified as "Bid Lots") for which separate quotations are requested, the Bidder may, at his

discretion, submit quotations for any or all items, unless otherwise specified. Additionally, the Bidder may submit a lump sum price for all lots for which the Bidder has submitted separate quotations.

4.1.7 Each copy of the bid shall include the complete name of the bidder and a statement that the bidder is a sole proprietor, a partnership, a corporation, or some other legal entity. Each copy shall be signed by the person or persons legally authorized to bind the bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the applicable New Mexico Certificate of Incorporation number or Certificate of Authority number. The Bid shall include the current contractor's license number and type, and the current Contractor's preference number. A bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

4.1.8 The Bid shall contain an acknowledgment of receipt of all addenda (the numbers of which shall be filled in on the Bid Form).

4.1.9 The address to which communications regarding the Bid are to be directed must be shown.

4.1.10 The project name and number, as well as the Owner's invitation to bid number, shall be clearly shown on the outside of the envelope in which the Bid is submitted.

4.2 Bid Security

4.2.1 Bid security in an amount equal to at least five percent (5%) of the amount of the Bid shall be a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, a cashier's check, or otherwise supplied in a form satisfactory to the Owner (§13-1-146 NMSA 1978) and approved in writing by the Owner in advance. All bonds shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as published in circular 570, latest edition, by the Audit Staff Bureau of Accounts, United States Treasury Department.

4.2.2 The bid security shall be in the amount of 5% of the highest Bid amount submitted, unless otherwise stipulated, pledging that the Bidder will enter into a contract with the Owner on the terms stated herein and will furnish bonds covering the faithful performance of the contract and payment of all obligations arising

thereunder. Should the Bidder refuse to enter into such contract or fail to furnish bid security, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty.

4.2.3 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until either:

A. The contract has been executed and performance and labor/material bonds have been furnished,

B. The specified time has elapsed so that Bids may be withdrawn, or

C. All Bids have been rejected.

4.2.4 When the Bidding Documents require bid security, noncompliance by the Bidder requires that the Bid be rejected (§13-1-147A NMSA 1978).

4.2.5 If a Bidder is permitted to withdraw his Bid before award, no action shall take place against the Bidder or the bid security (§13-1-147B NMSA 1978).

4.2.6 The Owner may reduce bid security requirements authorized by the Procurement Code, §§13-1-28 to 13-1-199 NMSA 1978, to encourage procurement from small businesses. Reduction, if any, and the manner thereof will be stipulated in §7.0 of this section, Other Instructions to Bidders. Reduction of the amount of bid security, if any, shall in no way reduce requirements for performance, payment, or other bonds referenced in the Bidding Documents.

4.3 Pre-bid Conference

4.3.1 The Architect/Engineer shall conduct a pre-bid conference approximately 15 calendar days prior to the bid opening date stated in the Invitation for Bid.

4.3.2 The Architect/Engineer and his consultants, as applicable, shall be represented. Prospective Bidders, prospective Subcontractors, and prospective Vendors are encouraged to attend and should be prepared to ask questions regarding substitutions and/or to request clarification of the Bidding Documents.

4.3.3 Questions and requests for clarification are to be presented in written form. Responses will be written and issued as addenda. No verbal response shall be binding.

4.4 Resident Contractor's Preference

- Not used for federally funded projects

4.5 Subcontractors

4.5.1 The bidder shall list the Subcontractors he proposes to use for all trades or items on the Subcontractor Listing Form attached to the Bidding Documents.

4.5.2 *Definitions.* As used in this subpart 4.5, subcontractor listing shall be in compliance with the Subcontractors Fair Practices Act, the pertinent provisions of which are summarized in this subpart 4.5.

A. *Contractor* means the prime contractor on a public works construction project who contracts directly with the Owner (using agency);

B. *Subcontractor* is a person or entity often skilled in a specific type of construction work that enters into a contractual agreement with the prime contractor to perform part or all of the construction work.

C. *Listing threshold* means the dollar amount, stipulated in the bidding documents, above which subcontractors must be listed;

D. *Notice* means information, advice or a written warning intended to apprise a contractor or subcontractor of some proceeding in which his interests are involved or to inform him of some fact which is his right to know. Notice may be sent to a contractor or subcontractor by certified or registered mail and shall be deemed to be completed upon date of mailing; and

E. *Using Agency* means the Owner requiring services or construction.

4.5.3 Listing of Subcontractors, Requirements. The Owner shall provide in the bidding documents prepared for that project a listing threshold which shall be \$5,000 or one-half of one percent of the architect's or engineer's estimate of the total project cost, whichever is greater. Any person submitting a bid shall in his bid set forth:

A. The name location of the place of business of each subcontractor under subcontract to the contractor who will perform work or labor or render service to the contractor in or about the construction of the public works construction project in an amount in excess of

the listing threshold; and

B. The nature of the work which will be done by each subcontractor under the Subcontractor Fair Practices Act. The contractor shall list only one subcontractor for each category as defined by the contractor in his bid.

4.5.4 Substitution of Subcontractor

A. No contractor whose bid is accepted shall substitute any person as subcontractor in place of the subcontractor listed in the original bid, except that the using agency shall consent to the substitution of another person as a subcontractor in the following circumstances: (1) when the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract, when such written contract, based upon the general terms, conditions, plans and specifications for the project involved and the terms of such subcontractor's written bid, is presented to him by the contractor; (2) when the subcontractor listed in the original bid becomes bankrupt or insolvent prior to execution of a subcontract; (3) when the using agency refuses to approve the subcontractor listed in the original bid, provided such approval has been reserved in the bidding documents; (4) when the subcontractor listed in the original bid fails or refuses to perform his subcontract; (5) when the contractor demonstrates to the using agency or its duly authorized officer that the name of the subcontractor was listed as the result of an inadvertent clerical error; (6) when a bid alternate accepted by the using agency causes the listed subcontractor's bid not to be low; (7) when the contractor can substantiate to the using agency that a listed subcontractor's bid is incomplete; (8) when the listed subcontractor fails or refuses to meet the bond requirements of the contractor; (9) when it is determined that the listed subcontractor does not have a proper license to perform the work and the contractor has submitted the name of the subcontractor along with proof that the subcontractor bid work for which he was not licensed by the construction industries division of the regulation and licensing department; or (10) when it is determined by the using agency, the prime contractor or the director of the labor and industrial division of the labor department that a listed subcontractor is not a registered subcontractor on the date bids are unconditionally accepted for consideration.

B. Prior to approval of the contractor's request for such substitution, the Owner shall give notice in

writing to the listed subcontractor of the contractor's request to substitute and of the reasons for such request. Such notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified has 5 working days within which to submit written objections to the substitution to the Owner. Failure to file such written objections shall constitute the listed subcontractor's consent to the substitution. If written objections are filed, the Owner shall give at least 5 working days' notice in writing to the listed subcontractor of a hearing by the Owner on the contractor's request for substitution.

C. No contractor whose bid is accepted shall permit any such 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 Owner.

D. No contractor whose bid is accepted, other than in the performance of change orders causing changes or deviations from the original contract, shall subcontract any portion of the work in excess of the listing threshold as to which his original bid did not designate a subcontractor unless the contractor fails to receive a bid for a category of work. Under such circumstances, the contractor may subcontract. The contract shall designate on the listing form that no bid was received.

4.5.5 Subcontractor Bond, Requirements. As to subcontractor required performance and payment bond if requested by the contractor, see §13-4-37 NMSA 1978.

4.5.6 Failure to Specify Subcontractor. If a contractor fails to specify a subcontractor in excess of the listing threshold, he represents that he is fully qualified to perform that portion himself and that he shall perform that portion himself. If after the award of the contract the contractor subcontracts any portion of the work, except as provided in the Subcontractors Fair Practices Act, the contractor shall be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided in subpart 4.5.9 of this section.

4.5.7 Inadvertent Clerical Error.

A. The contractor, as a condition to assert a claim of inadvertent clerical error in the listing of a subcontractor, shall within 2 working days after the time of the prime bid opening by the Owner give written notice to the Owner and to both the

subcontractor he claims to have listed in error and the subcontractor who had bid to the contractor prior to bid opening.

B. Any listed subcontractor who has been notified by the contractor in accordance with the provisions of this section as to an inadvertent clerical error shall be allowed 6 working days from the time of the prime bid opening within which to submit to the Owner and to the contractor written objection to the contractor's claim of inadvertent clerical error. Failure of such listed subcontractor to file such written notice within 6 working days shall be primary evidence of his agreement that an inadvertent clerical error was made.

C. The Owner shall, after a public hearing and in the absence of compelling reasons to the contrary, consent to the substitution of the intended contractor: 1) If the contractor, the subcontractor listed in error, and the intended subcontractor each submit an affidavit to the Owner, along with such additional evidence as the parties may wish to submit, that an inadvertent clerical error was in fact made, provided that the affidavits from each of the three parties are filed within eight working days from the time of the prime bid opening; or 2) If such affidavits are filed by both the contractor and the intended subcontractor within such specified time but the subcontractor whom the contractor claims to have listed in error does not submit within six working days to the Owner and to the contractor written objection to the contractor's claim of inadvertent clerical error as provided in this section.

D. If such affidavits are filed by both the contractor and the intended subcontractor but the listed subcontractor has within six working days from the time of the prime bid opening submitted to the Owner and to the contractor written objection to the contractor's claim of inadvertent clerical error, the Owner shall investigate the claims of the parties and hold a public hearing to determine the validity of such claims. Any determination made shall be based on facts contained in the affidavits submitted by all three parties and supported by testimony under oath and subject to cross-examination. The Owner may on its motion or that of any other party admit testimony of other contractors, any bid registries or depositories, or any other party in possession of facts that may have a bearing on the decision of the Owner.

4.5.8 Emergency Subcontracting. Subcontracting any portion of the work in excess of the listing threshold as to which no subcontractor was designated in the original bid shall be permitted only in the case

of public emergency or necessity and then only upon a written finding by the Owner setting forth the facts constituting the emergency or necessity.

4.5.9 Penalties.

A. A contractor who violates the provisions of the Subcontractors Fair Practices Act violates his own contract, and the Owner may exercise the option of: 1) canceling the contract; or 2) assessing the contractor a penalty in an amount of not more than ten percent of the amount of the subcontract involved but in no case less than the difference of the amount between the listed subcontractor and the subcontractor used, which penalty shall be deposited into the fund out of which the contract is awarded. In any proceeding under this subpart, the contractor shall be entitled to a hearing after notice.

B. A violation of the provisions of the Subcontractors Fair Practices Act constitutes grounds for disciplinary action against a contractor pursuant to regulations of the Construction Industries Division of the Regulation and Licensing Department.

C. A contractor who attempts to circumvent the provisions of the Subcontractors Fair Practices Act shall be subject to the penalties established pursuant to this subpart.

4.5.10 Dispute Resolution. Once the Owner has determined the existence of a valid claim under the provisions of the Subcontractors Fair Practices Act, the Owner or agent of the Owner may:

A. Hold a public hearing for the purpose of providing an informal resolution of the dispute by preparing a "front of dispute" which shall be available to all parties. The form shall state concisely, in numbered paragraphs, the matter at issue or dispute that the complainant expects to be determined. The agent or the Owner shall evaluate the issues presented by both sides of the dispute and render a decision within 10 days after the hearing, and provide the parties with a written copy of the decision by certified mail, return receipt requested; or

B. Refer the matter in dispute to be resolved through arbitration.

4.5.11 The Bidder shall not list himself as the supplier or as the Subcontractor for any trade unless he has previously performed work of this type or can prove to the Architect's/Engineer's and the Owner's satisfaction that he actually has, or will obtain, fully

adequate facilities and plans to perform the work with his own forces.

4.5.12 Failure to comply with subcontractor listing requirements or provisions of the Subcontractors Fair Practices Act shall be grounds for considering a Bid as nonresponsive.

4.5.13 Prior to the award of the Contract, the Architect/Engineer will notify the Bidder in writing if either the Owner or the Architect/Engineer, after due investigation and written findings of fact, has reasonable and substantial objection to any person or organization on such list. If the Owner or Architect/Engineer has reasonable and substantial objection to any person or organization on such list and refuses in writing to accept such person or organization, the Bidder may, at his option:

A. Withdraw his Bid, or

B. Submit an acceptable substitute Subcontractor with no increase in his bid price.

C. In the event of withdrawal under this paragraph, bid security will not be forfeited.

4.5.14 The Successful Bidder shall, within 7 calendar days of notice of the award of a contract for the Work, submit the following information to the Architect/Engineer:

A. A signed list of the proprietary names and the suppliers of principal items or systems of material and equipment proposed for the Work; and

B. A list signed by all Subcontractors proposed for the principal portions of the Work in accordance with the Subcontractors Listing Form submitted with the Bid. Refer to Section 00430 for form of Subcontractors Listing.

4.5.15 The Successful Bidder will be required to establish to the satisfaction of the Architect/Engineer and the Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

4.5.16 Persons and organizations proposed by the Bidder and to whom the Owner and the Architect/Engineer have made no reasonable objection under the provisions of subpart 4.5.15 above must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and the Architect/Engineer.

4.5.17 No Successful Bidder shall be required to employ any Subcontractor, other person, or organization against which he has reasonable objection.

4.6 Submission of Bids

4.6.1 Bids shall be submitted at the time and place indicated in the Invitation for Bid and shall be included in an opaque sealed envelope marked with the Project title and name and address of the Bidder and accompanied by the bid security, subcontractors listing, and other required documents listed in the Bidding Requirements.

4.6.2 The envelope shall be addressed to the Owner at the address shown on the cover page. The following information shall be provided on the front lower left corner of the bid envelope: invitation for bid number, date of opening, and time of opening. If the bid is sent by mail, the sealed envelope shall have the notation "**SEALED BID ENCLOSED**" on the face thereof.

4.6.3 Bids received after the date and time for receipt of Bids will be returned unopened.

4.6.4 The Bidder shall assume full responsibility for timely delivery of Bids at the office noted on the Invitation for Bid, including those Bids submitted by mail. Hand-delivered bids shall be submitted at the location stated in the Invitation for Bid, Section 00022, and will be clocked in at the time received, which must be prior to the time specified. Bids will then be held for public opening.

4.6.5 Oral, telephonic, or telegraphic bids are invalid and will not receive consideration.

4.7 Correction or Withdrawal of Bids

4.7.1 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 bid as the place where bids are to be received.

4.7.2 Bid security, if required, shall be in an amount sufficient for the Bid as modified or resubmitted in conformance with subpart 4.2 of this section.

4.7.3 Withdrawn Bids may be resubmitted up to the time and date designated for the receipt of Bids, provided they are then fully in conformance with the

Bidding Documents.

4.7.4 After bid opening, no modifications in Bid Prices or other provisions of Bids shall be permitted. A low Bidder alleging a material mistake of fact that makes his Bid nonresponsive may be permitted to withdraw his Bid if:

A. The mistake is clearly evident on the fact of the Bid Document; or

B. The Bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

C. Any decision by the Owner 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. If withdrawal is permitted, bid security will not be forfeited.

4.8 Notice of Contract Requirements Binding on Bidder

4.8.1 In submitting this bid, the Bidder represents that he has familiarized himself with the nature and extent of the following requirements of the Conditions of the Construction Contract (General, Supplementary, and Other Conditions):

A. Definitions - Sections 00700, Part 1.0 and 00810, §1.0;

B. Bribes, Gratuities, and Kickbacks - Section 00820;

C. Nonresident Contractor Requirements Regarding Gross Receipts Tax Surety Bond - Section 00820;

D. Contractor's Gross Receipts Tax Registration - Section 00820;

E. Contracts with Nonresident Persons or Partnerships or Unadmitted Foreign Corporations, Agent for Service of Process- Section 00820;

F. Assignment of Antitrust Claims - Section 00820;

G. Equal Employment Opportunity - Section 00820; and

H. Others listed within the Contract Documents.

4.9 Rejection or Cancellation of Bids

An invitation for bid 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 Owner. A determination containing the reasons therefor shall be made part of the project file (§13-1-131 NMSA 1978). Bid security for rejected Bids shall be returned to the Bidder.

4.10 Protests

4.10.1 Any Bidder, Offerer, or Contractor who is aggrieved in connection with this Bid may protest to the Owner. The protest should be made in writing within 24 hours after the facts or occurrences giving rise thereto, but in no case later than 15 calendar days after the facts or occurrences giving rise thereto (§13-1-172, NMSA 1978).

4.10.2 In the event of a timely protest under subsection 4.10.1 above (§13-1-172 NMSA 1978), the procurement officer and the Owner shall not proceed further with the procurement unless the procurement officer or the Owner makes a determination that the award of contract is necessary to protect substantial interests of the Owner (§13-1-173 NMSA 1978).

4.10.3 The procurement officer or his designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Bidder, Offerer, or contractor concerning procurement.

4.10.4 The procurement officer or his designee shall promptly issue a determination relating to the protest. The determination shall:

A. State the reasons for the action taken; and

B. Inform the protestant of the right to judicial review of the determination pursuant to §13-1-183 NMSA 1978 (§13-1-175 NMSA 1978).

C. A copy of the determination issued under §13-1-175 NMSA 1978 shall immediately be mailed to the protestant and other bidders or offerors involved in the procurement (§13-1-176 NMSA 1978).

5.0 CONSIDERATION OF BIDS

5.1 Receipt, Opening, and Recording

Bids received on time will be opened publicly and will be read aloud, and an abstract of the amounts of the Base Bids and alternates or Bid items, if any, will be

made available to the Bidders. Each Bid shall be open to public inspection (§13-1-107 NMSA 1978).

5.2 Bid Evaluation and Award. If the lowest bid, including alternates, exceeds the amount budgeted for construction, the Grantee may negotiate with the low bidder to bring the contract within the available funds, if the bid amount does not exceed 10% of available funds. Owner may reject all bids and may start the process over if necessary.

5.2.1 The Owner shall have the right to waive technical irregularities in the form of the Bid of the low Bidder which do not alter the price, quality, or quantity of the services, construction, or items of tangible personal property bid (§13-1-132 NMSA 1978).

5.2.2 It is the intent of the Owner to award a contract to the lowest responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. The unreasonable failure of a Bidder to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination that the Bidder is not a responsible Bidder (§13-1-133 NMSA 1978). See subpart 6.6 of this section as to Post-Bid Information that may be required of a contractor as to qualifications.

5.2.3 If the Base Bid is within the amount of funds available to finance the construction, contract award will be made to the responsible Bidder submitting the low Base Bid; except that, if sufficient funds are available to fund alternates, the Owner may award the contract to the responsible Bidder submitting the low combined Bid within the amount of funds available (Base Bid plus or minus alternates). If the award is based on alternates, the Owner shall accept them based on available funding.

5.2.4 Discrepancies in the Bid form between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

5.2.5 Conditional Bids or Bids with additional terms will not be accepted.

5.3 Notice of Award

The Owner shall issue a written Notice of Award after review and approval of the bid and related documents by the Owner with reasonable promptness §13-1-100

and 13-1-108 NMSA 1978).

5.4 Identical Bids

When two or more of the bids submitted are identical in price and are the low Bid, the Owner may:

A. Award pursuant to the multiple source award provisions of §§13-1-153 and 13-1-154 NMSA 1978 of the procurement code;

B. Award to a resident business if the identical low Bids are submitted by a resident business and a nonresident business;

C. Award to a resident manufacturer if the identical low Bids is submitted by a resident manufacturer and a resident business;

D. Award by lottery to one of the identical low Bidders; or

E. Reject all Bids and resolicit Bids or proposals for the required services, construction, or items of tangible personal property (§13-1-110 NMSA 1978).

F. Subsections B and C are not applicable to federally funded projects.

5.5 Cancellation of Award

When in the best interest of the public, the Owner may cancel the award of any contract at any time before the execution of said contract by all parties without any liability against the Owner.

6.0 POST-BID INFORMATION

6.1 Submittals to Architect/ Engineer

Within 7 days after Notice of Award, the following shall be submitted to the Architect/Engineer:

A. The required bonds and certificate of insurance,

B. The requirements under subpart 4.5.5 of this section, and

C. A brief resume of the Successful Bidder's superintendent.

6.2 Return of Bid Security

6.2.1 All bid security in the form of checks, except

those of the two lowest Bidders, will be returned immediately following the opening and checking of the Bids. The retained bid security of the unsuccessful of the two lowest Bidders, if in the form of a check, will be returned within 15 days following the award of contract.

6.2.2 The retained bid security of the Successful Bidder, if in the form of a check, will be returned after a satisfactory contract bond has been furnished and the Agreement has been executed. Bid securities in the form of bid bonds will be returned only upon the request of the unsuccessful Bidder, but will be released by the procurement officer after the Owner sends the Notice of Award.

6.3 Execution and Approval of Agreement

6.3.1 The agreement shall be prepared and sent to the Successful Bidder by the Owner and shall be signed by the Successful Bidder and returned, together with both the contract bonds and certificate of insurance, within 15 calendar days after the date of the Notice of Award.

6.3.2 If the Owner does not execute the agreement within 30 days following receipt from the Bidder of the signed Agreement with bonds and certificate, the Bidder shall have the right to withdraw his proposal without penalty. No contract shall be effective until it has been fully executed by all of the parties thereto.

6.4 Notice to Proceed

The Owner will issue a written Notice to Proceed to the contractor stipulating the date from which contract time will be charged and the date contract time is to expire, subject to valid modifications of the contract authorized by change order.

6.5 Failure to Execute Contract

Failure to return the signed Agreement with acceptable contract bonds and certificate of insurance within 15 calendar days after the date of the Notice of Award shall be just cause for the cancellation of the award and the forfeiture of the bid security, which shall become the property of the Owner, not as a penalty, but in liquidation of damages sustained. Award may then be made to the next lowest responsible Bidder, or the Work may be re-advertised and constructed under contract or otherwise, as the Owner may decide.

6.6 Contractor's Qualifications Statement

Bidders to whom award of a contract is under consideration shall submit, upon request, information and data to prove that their financial resources, production or service facilities, personnel, and service reputation and experience are adequate to make satisfactory delivery of the services, construction, or items of personal property described in the Bidding Documents (§13-1-82 NMSA 1978).

7.0 OTHER INSTRUCTIONS TO BIDDERS

The bid will be awarded on the lowest responsible base bid and the accepted alternates.

Bidders shall include a completed Campaign Contribution Disclosure Form in the bid.

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GEOTECHNICAL INVESTIGATION REPORT

INFORMATION AVAILABLE TO BIDDERS
Section 00220

1.0 INVESTIGATION

Refer to the report titled *Geotechnical Investigation, Downtown Roadway Improvement, Pavement Coring, Raton, NM* prepared by Engineering Analytics on January 7, 2020.

2.0 INTERPRETATION

These data are for information only and not intended as representations or warranties of continuity of conditions between borings.

The Owner and the Engineer disclaim any responsibility for accuracy, true location and extent of soils investigation that had been prepared by others. They further disclaim responsibility for interpretation of these data by bidders; as in projecting soil bearing values, soil profiles and soil stability.

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BID FORM
Lump Sum or Unit Price

BID FORMS
Section 00310

Project: Downtown Raton Infrastructure Project **IFB No.** 2021-0401

Bidder:

This Bid is submitted to:
City of Raton
224 Savage Avenue
P.O. Box 910
Raton, NM 87740
Attn: Procurement Officer

1.0 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the Owner in the form included in the Bidding Documents to perform and furnish all Work as specified or indicated in the Bidding Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

2.0 The Bidder accepts all of the terms and conditions of the Invitation for Bid and Instructions to Bidders, including without limitation those dealing with the disposition of bid security and other Bidding Documents. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. The Bidder shall sign and submit the Agreement between Owner and Contractor (hereinafter called Agreement) with the bonds and other documents required by the Bidding Requirements within 15 calendar days after the date of the Owner's Notice to Award.

3.0 In submitting this Bid, the Bidder represents, as more fully set forth in the Agreement, that:

A. The Bidder has examined copies of all the Bidding Documents and of the following Addenda (receipt of all of which is hereby acknowledged):

- No. _____ Dated _____
- No. _____ Dated _____
- No. _____ Dated _____
- No. _____ Dated _____
- No. _____ Dated _____
- No. _____ Dated _____

B. The Bidder has familiarized himself with the nature and extent of the Bidding Documents, Work, site, locality, and all local conditions, laws, and regulations that in any manner may affect cost, progress, performance, or furnishing of the Work.

C. The Bidder has carefully studied all reports and drawings of subsurface conditions which are identified in the Information Available to Bidders and accepts the determination set forth in the Information Available to Bidders of the extent of the technical data contained in such reports and drawings upon which the Bidder is entitled to rely.

D. The Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Bidding Documents.

E. The Bidder has given the Architect/Engineer written notice of all conflicts, errors, and discrepancies that he has discovered in the Bidding Documents, and the written resolution thereof by the Architect/Engineer is acceptable to the Bidder.

F. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; the Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; the Bidder has not solicited or induced any person, firm, or corporation to refrain from bidding; and the Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over the Owner.

G. The Bidder acknowledges that he has attended any mandatory pre-bid conference scheduled by the Owner and/or the Architect/Engineer pertaining to this project.

H. The Bidder agrees to show clearly on the envelope in which the Bid is submitted the Project Name and Number, as well as Invitation for Bid Number.

I. The Bidder will complete the Work for the following price(s) which do not include any gross receipts tax in the price(s):

4.0 Bids shall be presented in the form of a total Base Bid proposal under a unit price contract plus any additive or deductive alternates that are selected by the Owner. A bid must be submitted on all bid items and alternates. The Owner will not select segregated bids.

A. UNIT PRICE ITEMS (please use typewriter or print legibly)

Bid prices shall be provided for the following items. The quantities shown are estimates and are not guaranteed by the Owner or Engineer. If the required quantities of the items listed below are increased or decreased by Change Order, the adjustment unit prices set forth below shall apply to such increased or decreased quantities.

UNIT PRICE BID ITEMS					
Item No.	Description	Units	Estimated Quantity	Unit Price	Amount
1	Mobilization, Demobilization and General Requirements (All specific cash allowances are included)	LS	1	\$	\$
2A	Mill Concrete Pavement	SY-IN	8,517	\$	\$
2B	Concrete Pavement Patch	SY	10	\$	\$
3A	Mill Asphalt Pavement	SY-IN	13,896	\$	\$
3B	Asphalt Pavement Patch	SY	9.9	\$	\$
4	Crack Sealing with Pavement Fabric	SY	8,517	\$	\$
5	Manhole Cover Adjustment	EA	13	\$	\$
6	Water Valve Cover Adjustment	EA	9	\$	\$
7	Tack Coat (Asphalt Pavement)	SY	17,781	\$	\$
8	Asphalt Pavement, 2" (Over PCCP)	SY	8,517	\$	\$
9	Asphalt Pavement, 1.5" (Over Asphalt Pavement)	SY	9,264	\$	\$
10	Remove & Replace Curb and Gutter	LF	1,027	\$	\$
11	Remove & Replace Sidewalk	SY	79	\$	\$
12	Remove & Replace Storm Drain Inlet Type Single "C"	EA	5	\$	\$
13	Remove & Replace ADA Ramp	EA	11	\$	\$
14A	Pavement Markings: 4" wide parking stripes (white or blue)	LF	479	\$	\$
14B	Pavement Markings: 6" wide cross walk stripes (white)	LF	676	\$	\$
14C	Pavement Markings: 12" wide stop bars (white)	LF	53	\$	\$
14D	Pavement Markings: ADA Markings	EA	2	\$	\$
TOTAL UNIT PRICE BID ITEMS					\$

B. DEDUCTIVE ALTERNATE ITEMS (please use typewriter or print legibly)

Bid prices shall be provided for the following items. The quantities shown are estimates and are not guaranteed by the Owner or Engineer. If the required quantities of the items listed below are increased or decreased by Change Order, the adjustment unit prices set forth below shall apply to such increased or decreased quantities. In the event that the Total Construction Bid exceeds the Project Budget, the following Deductive Alternate Items may be removed from the scope of work. Deductive alternate items will be removed from the scope of work starting with lowest item number and increasing to the highest item number when determining the low bidder (i.e. Item DA1 will be deleted first, then if the Bid amount still exceeds the Budget, Item DA2 will be deleted, so on and so forth).

DEDUCTIVE ALTERNATE BID ITEMS					
Item No.	Description	Units	Estimated Quantity	Unit Price	Amount
DA1	Concrete Drivepad	SY	303	\$	\$
DA2	Concrete Valley Gutter	SY	190	\$	\$
TOTAL DEDUCTIVE ALTERNATE BID ITEMS					\$

C. TOTAL BASE BID

The Base Bid is the sum of all Unit Price Bid Items and all Deductive Alternate Bid Items. If the bid with the lowest total base bid exceeds the Project Budget, then lowest bid will be determined by removing the first Deductive Alternate Bid Item, and so on as described in Section B above.

$$\begin{array}{r}
 \$ \\
 \hline
 \text{Total Unit Price Bid Items}
 \end{array}
 +
 \begin{array}{r}
 \$ \\
 \hline
 \text{Total Deductive Alternate} \\
 \text{Bid Items}
 \end{array}
 =
 \begin{array}{r}
 \$ \\
 \hline
 \text{Total Base Bid}
 \end{array}$$

5.0 The Bidder agrees that:

A. The Work to be performed under this Contract shall be commenced not later than 10 consecutive calendar days after the date of written Notice to Proceed, and that Substantial Completion shall be achieved not later than (120) calendar days after the date of written Notice to Proceed, except as hereafter extended by valid written Change Order by the Owner.

B. Should the Contractor neglect, refuse, or otherwise fail to complete the Work within the time specified, the Contractor agrees to pay to the Owner in partial consideration for the award of this Contract the amount of Two Hundred and Fifty Dollars (\$250) per consecutive calendar day, not as a penalty, but as liquidated damages for such breach of the Contract.

C. The above prices shall include all labor, materials, removal, overhead, profit, insurance, taxes (not including gross receipts tax), etc., to cover the finished work of the several kinds called for. Changes shall be processed in accordance with the Contract Documents.

D. It is understood that the Owner reserves the right to reject any or all Bids and to waive any technical irregularities in the bidding.

8.0 If the Bidder is

A. An **INDIVIDUAL**:

By _____
(Individual's Signature)

doing business as _____

Business address: _____

Telephone: (____) _____ Fax: (____) _____

[Seal]

B. A **PARTNERSHIP**:

By _____
(Firm Name)

_____ (General Partner's Signature)

Business address: _____

6.0 The following documents are attached to and made a condition of this Bid:

- A. Bid Bond
- B. Bid Security with Agent's Affidavit
- C. Subcontractors Listing & NMDWS Registration form.
- D. Certification of Bidder Regarding Equal Employment Opportunity, Form 950.1
- E. Certification of Bidder Regarding Section 3 and Segregated Facilities
- F. Section 3 Plan
- G. Table A Proposed Subcontracts Breakdown
- H. Table B Estimated Project Workforce Breakdown
- I. Active or "in progress" status in the System of Award Management (sam.gov) for contractor and subcontractor(s)
- J. Campaign Contribution Disclosure Form
- K. Other:

7.0 The terms used in this Bid and the Bidding and Contract Documents which are defined in the Conditions of the Construction Contract (General, Supplementary, and Other Conditions), included as part of the Bidding Documents, have the meanings assigned to them in those Conditions.

Telephone: (____) _____ Fax: (____) _____

[Seal]

C. A CORPORATION:

Corporation Name: _____

State of Incorporation: _____

By: _____ Title: _____
(Name of Person Authorized to Sign)

If a New Mexico Corporation: _____
NM Certificate of Incorporation Number

If a Foreign Corporation: _____
NM Certificate of Authority Number

Attest (Secretary): _____

Business address: _____

Telephone: (____) _____ Fax: (____) _____

D. A JOINT VENTURE:

By _____
(Name)

Address: _____

Telephone: (____) _____ Fax: (____) _____

By _____
(Name)

Address: _____

Telephone: (____) _____ Fax: (____) _____

[Each Joint Venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated in the appropriate category]

BIDDER MUST FILL IN THE FOLLOWING (If none, write none)

NM License N°.	_____	Classification(s)	_____
Resident Contractor's Preference N°.	Not Applicable for this Project	Workforce Solutions Dept. Registration N°.	_____

System of Award Management Registration No. (CAGE Number or DUNS Number) _____

Federal Employer Tax ID No. _____

State of New Mexico Tax ID No. _____

BID BOND

SUPPLEMENTS TO BID FORMS
Section 00420

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____
as Principal, and _____ as Surety, are hereby held and firmly bound unto
_____ as Owner in the penal sum of
_____ for which, well and truly to be made, we hereby jointly and severally bind
ourselves, our heirs, executives, administrators, successors and assigns.

SIGNED, this _____ day of _____, 20__.

The condition of the above obligation is such that whereas the Principal has submitted to the Owner a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for Downtown Raton Infrastructure Project

NOW, THEREFORE,

- A. If said Bid shall be rejected, or in the alternate,
- B. If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract, attached hereto (properly completed in accordance with said Bid) and shall furnish a Bond (Bid Security) for the faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid.

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to signed by their proper officers, the day and year first set forth above.

Principal: _____ (L.S.)

Surety: _____

[Seal]

By: _____

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____
, Secretary of the Corporation named as Principal in this bond, that _____ who
signed the bond on behalf of the Principal was then _____ of said
corporation; that I know his/her signature, and his/her signature thereto is genuine; and that said bond was duly
signed, sealed, and attested to for and on behalf of said corporation by authority of this governing body.

[Corporate Seal]

Title: _____

BID SECURITY REVIEW FORM

SUPPLEMENTS TO BID FORMS
Section 00421

1. **Review and Approval:** This Bond has been executed by a Surety named in the current list of
"Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as
Acceptable Reinsuring Companies," as published in Circular 570 (July 1st edition) by the Audit Staff
Bureau of Accounts, United States Treasury Department.

Yes No (If No, report to Funding Agency immediately)

2. I, as Owner's Representative, have verified with (Name of Contact) _____ of the
Office of the Superintendent of Insurance, 1-855-427-5674 that the Surety Company listed on the Bid
Bond is licensed/authorized to do business in the state of New Mexico in accordance with §13-1-46 and
§13-4-18 NMSA 1978. If source of verification is other than the State Corporation Commission, Insurance
Division, identify the source document below and publication date.

_____ Dated: _____
(Name of Source Document)

_____ Date _____
(Signature of Owner's Representative)

AGENT'S AFFIDAVIT

SUPPLEMENTS TO BID FORMS
Section 00422

This Form Must Be
Used By Surety

[To be filled in by Agent]

STATE OF _____)
_____) ss.
COUNTY OF _____)

_____, being first duly sworn, deposes and says that he/she is the duly appointed agent for _____ and is licensed in the State of New Mexico.

Deponent further states that a certain bond given to indemnify the Owner in connection with the construction of _____ dated the _____ day of _____, 20____, executed by _____, Contractor, as principal, and _____, as surety, signed by this Deponent; and Deponent further states that said bond was written, signed, and delivered by him/her; that the premium on the same has been or will be collected by him/her; and that the full commission thereon has been or will be retained by him/her.

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC _____

MY COMMISSION EXPIRES: _____ [Seal]

Agent's Address:

Telephone (____) _____ Fax (____) _____

[This form must be used for all bonds required in the Bidding Documents. Power of Attorney for person signing for Surety Company must be attached to bond]

SUBCONTRACTORS LISTING, NMDWS REGISTRATION, & ASSIGNMENT OF ANTITRUST CLAIMS

SUPPLEMENTS TO BID FORMS
Section 00430

Project: Downtown Raton Infrastructure Project Project No. 19-C-NR-I-01-G-16

1.0 SUBCONTRACTORS LISTING, NMDWS REGISTRATION, & ASSIGNMENT OF ANTITRUST CLAIMS [by Contractor, Subcontractors, Sub-Subcontractors, and Suppliers]

1.1 To be fully executed and included with Bid as a condition of the Bid, including all Subcontractors providing services valued at \$5,000 or more, pursuant to §13-4-34 NMSA 1978.

1.2 To be signed after award of Contract by individual empowered to obligate Supplier, Subcontractor, or Sub-subcontractor.

1.3 See Instructions to Bidders, subsection 4.5 of section 00100, Subcontractors, for rules regarding changes in this list after bidding.

1.4 The undersigned agrees that any and all claims which the firm may have or may incur to it for overcharges resulting from antitrust violations as to goods, services, and materials purchased in

connection with the above-referenced project are hereby assigned to the Owner, but only to the extent that such overcharges are passed on to the Owner. It is agreed that the firm retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the Owner, including the right to any treble damages attributable thereto.

1.5 A contractor or subcontractor that submits a bid valued at more than \$60,000 for a public works project subject to the Public Works Minimum Wage Act shall be registered with the Labor and Industrial Division of the Workforce Solutions Department (NMDWS) (formerly the Department of Labor (DOL). The Owner shall not accept a bid on a public works project from a Contractor that does not provide proof of required registration for itself. Contractors, prime contractors and subcontractors must be registered with the NMDWS ([§13-4-13.1 NMSA 1978](#))

Company Name of Contractor/Subcontractor	Email and phone number	NMDWS Registration No	DUNS number	SAMs registration number

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
**CERTIFICATION OF BIDDER REGARDING
EQUAL EMPLOYMENT OPPORTUNITY**

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER *(Include ZIP Code)*

- | | |
|---|--|
| 1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Compliance reports were required to be filed in connection with such contract or subcontract | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Bidder has filed all compliance reports due under applicable instructions, including SF-100. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

(Name And Title Of Signer Please type)

Signature

Date

**CERTIFICATION OF BIDDER REGARDING SECTION 3
AND SEGREGATED FACILITIES**

SUPPLEMENTS TO BID FORMS
Section 00441

[SAMPLE]

Name of Prime Contractor

Project Name

Project Number

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract.
- (b) A written Section 3 plan was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$10,000).
- (c) No segregated facilities will be maintained.

Name and Title of Signer (Print or Type)

Signature

Date

CONTRACTOR - SECTION 3 PLAN FORMAT

_____ (Name of contractor) agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses with the Municipality of Raton, New Mexico.

A. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.

B. To attempt to recruit from within the municipality or county (as applicable), the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U. S. Employment Service.

C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.

D.* To insert this Section 3 Plan in all bid documents, and to require all bidders on subcontracts to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.

E.* To ensure that subcontracts which are

typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, however, feasible, when let in a Section 3 covered project area.

F. To formally contact unions, subcontractors, and trade associations to secure their cooperation for this program.

G. To ensure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.

H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.

I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.

J. To list on Table A, information related to subcontracts to be awarded.

K. To list on Table B, all projected workforce needs for all phases of this project by occupation, trade, skill level, and number of positions.

* Loans, grants, contracts, and subsidies for less than \$10,000 will be exempt.

As officers and representatives of (name of contractor) _____, we the undersigned have read and fully agree to this Affirmative Action Plan, and become party to the full implementation of this program.

Signature

Title

Date

Signature

Title

Date

**TABLE A
PROPOSED SUBCONTRACTS BREAKDOWN**

For the Period Covering _____, 20__ through _____, 20__
[Duration of the CDBG-Assisted Project]

Column 1	Column 2	Column 3	Column 4	Column 5
Type of Contract	Total Number of Contracts	Total Approximate Dollar (\$) Amount	Estimated Number of Contracts to Project Area Businesses*	Estimated Dollar (\$) Amount to Project Area Businesses*

* The Project Area is coextensive with the Municipality/County of _____'s boundaries.

Company

Project Name

Project Number

EEO Officer (Signature)

Date

**TABLE B
ESTIMATED PROJECT WORKFORCE BREAKDOWN**

Column 1	Column 2	Column 3	Column 4	Column 5
Job Category	Total Estimated Positions	Number Positions Currently Occupied by Permanent Employees	Number Positions Not Currently Occupied	Number Positions to be filled with LIPAR*
Officers/Supervisors				
Professionals				
Technicians				
Housing Sales/Rental Management				
Office Clerical				
Service Workers				
Others				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Maximum Number of Trainees				
Others				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Maximum Number of Trainees				
Others				

*Lower Income Project Area Residents. Individuals residing within the Municipality/County of _____ whose family income does not exceed 80% of the median income of the State.

Company

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 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 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 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.

“Contact” 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: _____

Signature

Date

Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (position)

AGREEMENT BETWEEN OWNER AND CONTRACTOR

AGREEMENT FORMS - LUMP SUM PRICE OR UNIT PRICE
Section 00510



Contract No. CDBG No. 19-C-NR-I-01-16

[Disclaimer: Changes and/or modifications made to this document, other than the typical construction items for which the contractor is bidding and/or will contract for, without the written consent of the Local Government Division, DFA shall render this document null and void]

This Agreement entered into this _____ day of _____, 20____, by and between the parties as follows:

THE OWNER:

City of Raton
224 Savage Avenue
Raton, NM 87740

THE CONTRACTOR:

Telephone: 575-445-9551

Telephone: _____ - _____ - _____

E-mail address:

E-mail address:

For the following Project: Downtown Raton Infrastructure Project

Project Number: CDBG No. 19-C-NR-I-01-G-16

ENGINEER OF RECORD:

Engineering Analytics, Inc.
219 S. 2nd Street
Raton, NM 87740
Telephone: 575-445-7192

E-mail address: kstearns@enganalytics.com

RECITALS

WHEREAS, the New Mexico Department of Finance Authority, through the Community Development Block Grant Program (CDBG); and

WHEREAS, the Owner, through its Mayor/Chairman, is authorized to enter into a construction contract for the Project pursuant to Sections 13-1-100 NMSA 1978; and

WHEREAS, the Owner has let this contract according to the established state and local purchasing procedures for contracts of the type and amount let; and

WHEREAS, award of the construction contract on this Project was approved by the Governing Body at its meeting of _____, 2021;

The OWNER and the CONTRACTOR agree as set forth below.

ARTICLE 1 THE CONTRACT DOCUMENTS

1.1 The Contract Documents consist of the following:

- Bid Form
- This Agreement
- Performance Bond
- Labor and Material Payment Bonds
- Agent's Affidavit
- Certificate of Insurance
- Assignment of Antitrust Claims
- Table A Subcontracts Breakdown
- Table B Estimated Project Workforce Breakdown
- Notice of Award
- Notice to Proceed
- Conditions of the Contract (General, Supplementary and Other Conditions)
- Drawings
- Specifications
- All Addenda Issued Prior to and
- All Modifications Issued after Execution of this Agreement
- Federal requirements, certifications and forms required by the CDBG program

These documents form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein. An enumeration of the Contract Documents appears in Article 7 of this Agreement.

ARTICLE 2 THE WORK

2.1 The Contractor shall perform all the Work required by the Contract for the following:

The City of Raton plans to construct improvements to 3rd Street from Cook Avenue to Parsons Avenue, Cook Avenue from 3rd Street to 2nd Street, Park Avenue from 3rd Street to 1st Street, Clark Avenue from 3rd Street to 1st Street, and Savage Avenue from 3rd Street to 2nd Street. The Project consists of mobilization; milling concrete pavement and asphalt pavement; remove and patch deteriorating underlying pavement, as necessary; placement of pavement fabric for crack sealing; adjustment of manholes and water valves; application of tack coat; placement of asphalt overlay; removal and replacement of concrete curb and gutter, concrete sidewalk, concrete drivepad, concrete valley gutter, storm drain inlets, and accessible ramps; and placement of pavement markings. The purpose of the project is to rehabilitate existing streets, storm drain inlets, concrete sidewalk, valley gutter, and curb and gutter to improve the functionality of the area for Raton residents.

ARTICLE 3 TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The Work to be performed under the contract shall commence not later than ten (10) consecutive calendar days after the date of written Notice to Proceed. Substantial Completion shall be achieved not later than one hundred twenty (120) calendar days after the date of written Notice to Proceed, except as hereafter extended by valid written Change Order by the Owner.

3.2 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 the Contract, to pay to the Owner the amount of Two hundred and fifty Dollars (\$250) per consecutive calendar day, not as a penalty, but as liquidated damages for such breach of the Contract.

ARTICLE 4 CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided

in the Contract, the Contract Sum of _____ Dollars (\$ _____).

4.2 The Contract sum is determined as follows:

Base Bid	\$	_____
Alternatives (if any)	\$	_____
NMGRT @ 8.5083 %	\$	_____
Contract Sum	\$	_____

**ARTICLE 5
PROGRESS PAYMENTS**

5.1 Based upon Applications for Payment submitted to the Architect/Engineer by the Contractor and Certificates for Payment issued by the Architect/ Engineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in the Contract for the period ending the 5th day of the month as follows:

5.2 Not later than thirty (30) working days following receipt by the Owner of an undisputed Application for Payment or as stated in Paragraph 25 of the Supplemental General Conditions, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work and one hundred percent (100%) of the portion of the Contract Sum 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; less such amounts as the Architect/ Engineer shall determine for all incomplete Work and unsettled claims as provided in the Contract Documents (Section 57-28-5 NMSA 1978). (48 CFR 52.232-27) (Title 5 Part 1315.14).

5.2.1 When making payments, an owner, contractor or subcontractor shall not retain, withhold, hold back or in any other manner not pay amounts owed for work performed. For additional information regarding retainage and the Prompt Payment Act refer to Section 57-28-5 NMSA 1978.

**ARTICLE 6
FINAL PAYMENT**

6.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor within thirty (30) calendar

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 and final monitoring and close-out by the Funding Agency. 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
GENERAL AND SPECIAL PROVISIONS**

7.1 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.

7.2 Terms used in this Agreement that are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

7.3 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.

7.4 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.

7.5 This Agreement shall not become effective until approved by the governing body; and signed by all parties required to sign this Agreement and reviewed by the Funding Agency.

7.6 The Contractor and his agents and employees are independent contractors and are not employees of the Owner. The Contractor and his agents and employees shall not accrue leave, retirement, insurance, bonding, use of Owner vehicles, or any other benefits afforded to employees of the Owner as a result of this Agreement.

7.7 The Contractor, upon final payment of the amounts due under this Agreement, releases the Owner, his officers and employees from his 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.

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

7.9 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 shown on the title page of this Agreement.

7.10 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 hereinabove provided.

7.11 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.

7.12 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.

7.13 This document shall be executed in no less than three (3) counterparts, each of which shall be deemed an original.

7.14 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.

7.15 Separability. 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.

7.16 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 construed to waive or lessen the right of either party to insist upon performance by the other party in strict 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.

7.17 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 of 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.

7.18 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.

7.19 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.

7.20 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.

7.21 Pursuant to §13-1-191 NMSA 1978, reference is hereby made to the criminal laws of New Mexico,

including §§30-14-1, 30-24-2, and 30-41-1 through 3 NMSA 1978, which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code, §§13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation.

7.22 The Contract Documents, which constitute the entire Contract between the Owner and the Contractor, are listed in Article 1 and, except for Modifications issued after execution of this Agreement, are enumerated as follows:

7.23 The following documents bound in the Project Manual:

<u>Documents</u>	<u>Pages</u>
Bid Form	4A-23
Agreement between Owner and Contractor	4A-39
Performance Bond	4A-45
Labor and Material Payment Bond	4A-49
Agent's Affidavit	4A-30/54
Certificate of Insurance	4A-55
Assignment of Antitrust Claims	4A-57
Table A Subcontracts Breakdown	4A-59
Table B Estimated Project Workforce Breakdown	4A-60
General Conditions	4A-61
Supplementary Conditions	4A-75
Additional Conditions	4A-86
Technical Specifications	TS-1 to TS-11

OWNER: City of Raton

James Neil Segotta Jr., Mayor
Mayor/Chairperson

Date: _____

Reviewed:

As to Legal Form and Sufficiency

By: _____

Title: _____

Date: _____

As to Budget Sufficiency

By: _____

Title: _____

Date: _____

APPROVED: This Agreement is entered into as of the day and year first written above.

CONTRACTOR: _____

By: _____

Title: _____

Date: _____

Federal Tax ID N°: _____

State Tax ID N°: _____

AGENCY CONCURRENCE:

By: _____

Title: _____

Date: _____

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: None See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence,

to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims

for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

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PAYMENT BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: None See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

_____ *(seal)*

Contractor's Name and Corporate Seal

_____ *(seal)*

Surety's Name and Corporate Seal

By: _____

Signature

By: _____

Signature *(attach power of attorney)*

 Print Name

 Print Name

 Title

 Title

Attest: _____

Signature

Attest: _____

Signature

 Title

 Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. **Definitions**
 - 16.1 **Claim:** A written statement by the Claimant including at a minimum:
 1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and
 - 16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
 - 16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

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RIDER TO BONDS

BONDS, CERTIFICATES AND NOTICES
Section 00621

This Form Must Be
Used By Surety

Performance Bond N°. _____ Labor & Material Payment Bond N°. _____

Obligee (Owner): _____

Surety _____

Surety's New Mexico Agent:

Name: _____

Address: _____

Telephone N°. (____) _____

The Surety and Principal stipulate as follows:

Whenever, in the judgment of the Owner, the Surety on this bond shall be insolvent, or for any cause is not a proper or sufficient Surety, the Owner may require the Contractor to furnish a new or additional bond or security within ten (10) days; and thereupon, if the Owner shall so order, security shall be furnished. If such new or additional bond or security is not furnished within said time, the Owner may, at its option, take over and Surety, either doing the Work on force account, or letting the same by contract, and shall be entitled to use any equipment, materials and supplies of the delinquent Contractor in completing said Work.

The Surety hereby stipulates and agrees that no properly authorized Change Order altering Contract Time, Contract Sum, Conditions of the Contract, or the scope of nature of the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive any notice of such change.

Signed and sealed this _____ day of _____, 20__.

(Principal) (Seal)

(Witness)

(Title)

(Witness)

(Surety) (Seal)

(Title)



AIA Document G715™ – 2017

Supplemental Attachment for ACORD Certificate of Insurance 25

PROJECT: <i>(name and address)</i>	CONTRACT INFORMATION: Contract For: Date:	CERTIFICATE INFORMATION: Producer: Insured: Date:
OWNER: <i>(name and address)</i>	ARCHITECT: <i>(name and address)</i>	CONTRACTOR: <i>(name and address)</i>

A. General Liability

	Yes	No	N/A
1. Does this policy include coverage for:			
a Damages because of bodily injury, sickness, or disease, including occupational sickness or disease, and death of any person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b Personal injury and advertising injury?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c Damages because of physical damage to or destruction of tangible property, including the loss of use of such property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d Bodily injury or property damage arising out of completed operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e The Contractor's indemnity obligations included in the Contract Documents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Does this policy contain an exclusion or restriction of coverage for:			
a Claims by one insured against another insured, where the exclusion or restrictions is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c Claims for bodily injury other than to employees of the insured?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d Claims for the Contractor's indemnity obligations included in the Contract Documents arising out of injury to employees of the insured?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e Claims for loss excluded under a prior work endorsement or other similar exclusionary language?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g Claims related to residential, multi-family, or other habitational projects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h Claims related to roofing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i Claims related to exterior insulation finish systems, synthetic stucco, or similar exterior coatings or surfaces?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j Claims related to earth subsistence or movement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k Claims related to explosion, collapse, and underground hazards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B. Other Insurance Coverage

	Yes	No	N/A
1. Indicate whether the Contractor has the following insurance coverages and, if so, indicate the coverage limits for each.			
a Professional liability insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coverage limits:			
b Pollution liability insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coverage limits:			
c Insurance for maritime liability risks associated with the operation of a vessel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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- Coverage limits:
- d Insurance for the use or operation of manned or unmanned aircraft
- Coverage limits:
- e Property insurance
- Coverage limits:
- f Railroad protective liability insurance
- Coverage limits:
- g Asbestos abatement liability insurance
- Coverage limits:
- h Insurance for physical damage to property while it is in storage and in transit to the construction site
- Coverage limits:
- i Other:

(Authorized Representative)

(Date of Issue)

ASSIGNMENT OF ANTITRUST CLAIMS

(To be executed by Suppliers, Subcontractors, and Sub-Subcontractors of Contractors)

BONDS, CERTIFICATES, AND NOTICES
Section 00660

This Form Must Be Submitted
Within 10 Days of Bid Award

Project: _____ Project Number: _____

_____ agrees that any and all claims which it may have or may have endured for overcharges resulting from antitrust violations as to goods, services, and materials purchased in connection with the above-referenced project are hereby assigned to the Owner, but only to the extent that such overcharges are passed on to the Owner.

It is agreed that the undersigned retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the Owner, including the right to any treble damages attributable thereto.

Firm: _____

By: _____

Signed by Individual Empowered to Obligate Supplier,
Subcontractor, or Sub-Subcontractor

Title: _____

Date: _____

CERTIFICATE OF OWNER'S ATTORNEY

BONDS, CERTIFICATES, AND NOTICES
Section 00670

I, the undersigned, _____, the duly authorized and acting
legal representative of the (municipality/county) of _____ City of Raton

do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligation upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Name: _____

Address: _____

Date: _____ Telephone N°. _____ - _____ - _____

TABLE A SUBCONTRACTS BREAKDOWN

For the Period Covering _____, 20__ through _____, 20__
[Duration of the CDBG-Assisted Project]

Column 1	Column 2	Column 3	Column 4	Column 5
Type of Contract	Total Number of Contracts	Total Approximate Dollar (\$) Amount	Estimated Number of Contracts to Project Area Businesses*	Estimated Dollar (\$) Amount to Project Area Businesses*

* The Project Area is coextensive with the Municipality/County of _____'s boundaries.

Company

Project Name

Project Number

EEO Officer (Signature)

Date

TABLE B
ESTIMATED PROJECT WORKFORCE BREAKDOWN

Column 1	Column 2	Column 3	Column 4	Column 5
Job Category	Total Estimated Positions	Number Positions Currently Occupied by Permanent Employees	Number Positions Not Currently Occupied	Number Positions to be filled with LIPAR*
Officers/Supervisors				
Professionals				
Technicians				
Housing Sales/Rental Management				
Office Clerical				
Service Workers				
Others				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Maximum Number of Trainees				
Others				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Maximum Number of Trainees				
Others				

*Lower Income Project Area Residents. Individuals residing within the Municipality/County of _____ whose family income does not exceed 80% of the median income of the State.

Company

GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

GENERAL CONDITIONS OF THE CONTRACT
Section 00700

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5. Materials/Services/Facilities	30. Additional/Substitute Bond
6. Contractor's Title to Materials	31. Assignments
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12. Weather Conditions	37. Use of Premises/Removal of Debris
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14. Inspection	39. Lands and Rights of Way
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16. Superintendence by Contractor	41. Conflicting Conditions
17. Changes in Work	42. Notice of Service Thereof
18. Extras	43. Required Provisions
19. Time for Completion and Liquidated Damages	44. Protection of Lives/Health
20. Correction of Work	45. Subcontracts
21. Subsurface Conditions Found Different	46. Interest of Member of or Delegate to Congress
22. Claims for Extra Cost	47. Other Prohibited Interests
23. Right of Owner to Terminate	48. Use and Occupancy Prior to Acceptance
24. Construction Schedule/Periodic Estimate	
25. Payments to Contractor	

1. Contract and Contract Documents

1.1 The project to be constructed pursuant to this contract will be financed with the assistance of the New Mexico Small Cities Community Development Block Grant Program and is subject to all applicable federal and state laws and regulations. State administered Community Development Block Grant monies are federal funds. Section §13-1-30B NMSA 1978 of the Procurement Code stipulates: "When a procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of the Procurement Code, compliance with federal law or regulations shall be compliance with the Procurement Code."

1.2 The applicable governing federal procurement standards are defined in OMB Circular A-102,

Attachment O. When federal and state procurement policies are different, the more restrictive policies apply so long as they are consistent with Circular A-102 standards.

1.3 The plans, specifications and addenda, hereinafter enumerated in Paragraph 1 of the Supplemental General Conditions shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

2. Definitions

The following terms as used in this contract are

respectively defined as follows:

2.1 *Contractor* is a person, firm or corporation with whom the contract is made by the Owner.

2.2 *Subcontractor* is a person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with, the Contractor.

2.3 *Work on (at) the project* is work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any Subcontractor.

3. Additional Instructions and Detail Drawings

3.1 The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions. The Contractor and the Architect/Engineer will prepare jointly (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Architect/ Engineer in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each such schedule to be subject to change from time to time in accordance with progress of the work.

4. Shop or Setting Drawings

4.1 The Contractor shall submit promptly to the Architect/Engineer two copies of each shop or setting drawing prepared in accordance with the schedule predetermined as aforesaid. After examination of such drawings by the Architect/Engineer and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Architect/ Engineer with two corrected copies. If requested by the Architect/Engineer the Contractor must furnish additional copies, regardless of corrections made in or approval given to such drawings by the Architect/Engineer, the Contractor will never the less be responsible for the accuracy of

such drawings and for their conformity to the Plans and Specifications, unless he notifies the Architect/Engineer in writing of any deviations at the time he furnishes such drawings.

5. Materials, Services, and Facilities

5.1 It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

5.2 Any work necessary to be performed after regular working hours, on Sundays or legal holidays, shall be performed without additional expense to the Owner.

6. Contractor's Title to Materials

6.1 No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

7. Inspection and Testing of Materials

7.1 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. The Owner will pay for all laboratory inspection service direct, and not as a part of the contract.

7.2 Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

8. "Or Equal" Clause

8.1 Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or

vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment or other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is, in the opinion of the Architect/Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Architect/Engineer's written approval.

9. Patents

9.1 The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents.

9.2 License or Royalty Fees. License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not be or through the Contractor.

9.3 If the Contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the Owner of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials, or any trademark or copyright in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after, completion of the work.

10. Surveys, Permits, and Regulations

10.1 Unless otherwise expressly provided for in the Specifications, the Owner will furnish to the

Contractor all surveys necessary for the execution of the work.

10.2 The Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of his contract.

10.3 The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

11. Contractor's Obligations

11.1 The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this contract, within the time herein specified. The Contractor will perform the Work in accordance with the provisions of this contract and said specifications and in accordance with the plans and drawings covered by this contract any and all supplemental plans and drawings, and in accordance with the directions of the Architect/Engineer as given from time to time during the progress of the work. He shall furnish, erect, maintain, and remove such construction plant and such temporary works as may be required.

11.2 The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the contract and specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Architect/Engineer and the Owner.

12. Weather Conditions

12.1 In the event of temporary suspension of work, or during inclement weather, or whenever the Architect/Engineer shall direct, the Contractor will, and will cause his subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Architect/Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

13. Protection of Work and Property-Emergency

13.1 The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this contract. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such is caused directly by errors contained in the contract or by the Owner, or his duly authorized representatives.

13.2 In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Architect/Engineer, in a diligent manner. He shall notify the Architect/Engineer immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Architect/Engineer for approval.

13.3 Where the Contractor has not taken action but has notified the Architect/Engineer of an emergency threatening injury to persons to damage to the work or any adjoining property, he shall act as instructed or authorized by the Architect/Engineer.

13.4 The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 17 of the General Conditions.

14. Inspection

14.1 The authorized representatives and agents of the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

15. Reports, Records, and Data

15.1 The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Owner may request concerning work performed or to be performed under this contract.

16. Superintendence by Contractor

16.1 At the site of the work the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Architect/Engineer and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's

payroll.

17. Changes in Work

17.1 No changes in the work covered by the approved Contract Documents shall be made without having prior written approval of the Owner and funding agency. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- A. Unit bid prices previously approved.
- B. An agreed lump sum.
- C. The actual cost of:
 1. Labor, including foremen;
 2. Materials entering permanently into the work;
 3. The ownership or rental cost of construction plant and equipment during the time of use on the extra work;
 4. Power and consumable supplies for the operation of power equipment;
 5. Insurance;
 6. Social Security and old age and unemployment contributions.

17.2 To the costs under 17.1 there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of the work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

17.3 The Contractor must submit in writing any request for any modifications to the plans and specifications. Shop drawings that are submitted to the Architect/Engineer for review do not constitute "in writing" unless it is brought to the attention of the Architect/Engineer that specific changes are being proposed. In any event, the responsibility for proposing changes to the plans and specifications by means of shop drawings resides with the Contractor and no additional costs resulting from such changes will be paid to the Contractor.

17.4 All change orders will include the total added (or deducted) cost to the Owner, including gross receipts tax. The Owner must approve any increase or decrease to the Construction Cost.

17.5 All change orders will be approved by the funding agency (Local Government Division, DFA) before taking effect. Any additional project costs (including GRT) approved by the Owner without LGD approval, shall become the sole responsibility of the

Owner.

17.6 Any party that becomes aware of an expected project cost over-run, will notify the Owner immediately. The Owner will notify the Funding Agency. If funding is not already in place to cover the entire over-run, the owner and Architect/Engineer will: 1) amend the scope of work to bring the project back within budget, 2) secure additional and timely funding to cover the entire over-run or 3) deny approval of the change order.

18. Extras

18.1 Without invalidating the contract, the Owner may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the Owner or its Architect/Engineer, acting officially for the Owner, and the price is stated in such order.

19. Time for Completion and Liquidated Damages

19.1 It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are *essential conditions* of this contract: and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed."

19.2 The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

19.3 If the said Contract shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not

as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the contract shall be in default after the time stipulated in the contract for completing the work.

19.4 The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.

19.5 It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; Provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

A. To any preference, priority or allocation order duly issued by the Government;

B. To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and

C. To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections a) and b) of this article:

19.6 Provided further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

20. Correction of Work

20.1 All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Architect/ Engineer who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet his approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Architect/Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Architect/Engineer shall be equitable.

21. Subsurface Conditions Found Different

21.1 Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the Plans or indicated in the Specifications, he shall immediately give notice to the Architect/Engineer of such conditions before they are disturbed. The Architect/Engineer will thereupon promptly investigate the conditions, and if he finds that they materially differ from those shown on the Plans or indicated in the Specifications, he will at once make such changes in the Plans and/or Specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 17 of the General Conditions.

22. Claims for Extra Cost

22.1 No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order of the Architect/Engineer approved by the Owner, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of subparagraph 17.3 of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give the Owner access to

accounts relating thereto.

23. Right of the Owner to Terminate Contract

23.1 In the event that any of the provisions of this contract are violated by the Contractor, or by any of his subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate the contract, such notices to contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the contract; Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account for the account and at the expense of the Contractor and the Contractor and his Surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefor.

24. Construction Schedule and Periodic Estimates

24.1 Immediately after execution and delivery of the contract, and before the first partial payment is made, the Contractor shall deliver to the Owner an estimated construction progress schedule in form satisfactory to the Owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the Owner (a) a detailed estimate giving a complete breakdown of the contract price and (b) periodic itemized estimates of work done for the purpose of making partial payments thereof. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

25. Payments to Contractor

25.1 Based upon Applications for Payment submitted to the Architect/Engineer by the Contractor and Certificates for Payment issued by the Architect/Engineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in the Contract for the period ending the Last day of the month as follows:

A. Not later than thirty (30) working days following receipt by the Owner of an undisputed Application for Payment or as stated in Paragraph 3 of the Supplemental General Conditions, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work and one hundred percent (100%) of the portion of the Contract Sum 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 less such amounts as the Architect/Engineer shall determine for all incomplete Work and unsettled claims as provided in the Contract Documents.

B. When making payments, an owner, contractor or subcontractor shall not retain, withhold, hold back or in any other manner not pay amounts owed for work performed. For additional information regarding retainage and the Prompt Payment Act refer to Section 57-28-5 NMSA 1978.

25.2 In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.

25.3 All material and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the contract.

25.4 Owner's Right to Withhold Certain Amounts and Make Application Thereof: The Contractor agrees that he will indemnify and save the Owner harmless from all claims growing out of the lawful demands of

subcontractors, laborers, workmen, mechanics, material men, and furnisher of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails so to do, then the Owner may, after having served written notice on the said Contractor, either pay unpaid bills, of which the Owner has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor or his Surety. In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as a payment made under the contract by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

26. Acceptance of Final Payment Constitutes Release

26.1 The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligations under this contract or the Performance and Payment Bond.

27. Payments by Contractor

27.1 Contractors and subcontractors shall make prompt payment to their subcontractors and suppliers for amounts owed for work performed on the construction project within seven days after receipt of payment from the owner, contractor or subcontractor. If the contractor or subcontractor fails to pay his subcontractor and suppliers by first-class mail or hand delivery within seven days of receipt of payment, the contractor or subcontractor shall pay interest to his subcontractors and suppliers beginning on the eighth

day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers (Section 57-28-1 et. seq. NMSA 1978).

28. Insurance

28.1 The Contractor shall not commence work under this contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until the insurance required of the subcontractor has been so obtained and approved.

28.2 Compensation Insurance. The Contractor shall procure and shall maintain during the life of this contract Workmen's Compensation Insurance as required by applicable State or territorial law for all of this employees to be engaged in work at the site of the project under this contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

28.3 Contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance. The Contractor shall procure and shall maintain during the life of this contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in the amounts specified in the Supplemental General Conditions.

28.4 Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance. The Contractor shall either 1) require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplemental General Conditions specified in subparagraph 28.3 hereof or, 2) insure the activities of

his policy, specified in subparagraph 28.3 hereof.

28.5 Scope of Insurance and Special Hazards. The insurance required under subparagraphs 28.3 and 28.4 hereof shall provide adequate protection for the Contractor and his subcontractors, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards which may be encountered in the performance of this contract as enumerated in the Supplemental General Conditions.

28.6 Builder's Risk Insurance (Fire and Extended Coverage). Until the project is completed and accepted by the Owner, the Owner, or Contractor [at the Owner's option as indicated in the Supplemental General Conditions, Form HUD-4238-N] is required to maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portion of the project for the benefit of the Owner, the Contractor, subcontractors as their interests may appear. The Contractor shall not include any costs for Builder's Risk Insurance (fire and extended coverage) premiums during construction unless the Contractor is required to provide such insurance; however, this provision shall not release the Contractor from his obligation to complete, according to plans and specifications, the project covered by the contract, and the Contractor and his Surety shall be obligated to full performance of the Contractor's undertaking. Certificates of insurance acceptable to the Owner shall be filed with the Owner within ten (10) days after receipt of the Notice of Award. These certificates shall contain a provision that coverage's afforded under the policies will not be cancelled unless a least thirty (30) days prior written notice has been given to the Owner. A copy of the Builder's All-Risk Policy, if required, shall be provided to the Owner before any portion of Work is commenced by the Contractor. The original Owner's Protective Liability Insurance Policy shall be provided to the Owner before any portion of the work is commenced by the Contractor.

28.7 Payment of Damages. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from his operation under this contract.

28.8 Proof of Carriage of Insurance. The Contractor shall furnish the Owner with certificates showing the

type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the Owner."

29. Contract Security

29.1 The Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract prices as security for the faithful performance of this contract and also a payment bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by state, territorial or local law, as security for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.

29.2 A claimant is further defined as set forth in §Sections 13-4-18 through §13-4-20 NMSA 1978. The security is bound by the provisions of §Sections 13-4-18 through §13-4-20 NMSA 1978.

30. Additional or Substitute Bond

30.1 If at any time the Owner for justifiable cause shall be or become dissatisfied with any surety or sureties, then upon the Performance or Payment Bonds, the Contractor shall within five (5) days after notice from the Owner so to do, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.

31. Assignments

31.1 The Contractor shall not assign the whole or any part of this contract or any moneys due or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or any part of any moneys due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become

due to the Contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this contract.

32. Mutual Responsibility of Contractors

32.1 If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration if such other Contractor or subcontractors will so settle. If such other Contractor or subcontractor shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.

33. Separate Contract

33.1 The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his subcontractors, shall keep informed of the progress and the detail work of other Contractors and shall notify the Architect/Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

34. Subcontracting

34.1 The Contractor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.

34.2 The Contractor shall not award any work to any subcontractor without prior written approval of the Owner, which approval will not be given until the Contractor submits to the Owner a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the Owner may require.

34.3 The Contractor shall be as fully responsible to the Owner for the acts and omissions of his

subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

34.4 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.

34.5 Nothing contained in this contract shall create any contractual relation between any subcontractor and the Owner.

35. Architect/Engineer's Authority

35.1 The Architect/Engineer shall give all orders and directions contemplated under this contract and specifications, relative to the execution of the work. The Architect/Engineer shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to said work and the construction thereof. The Architect/Engineer's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said contract or specifications, the determination or decision of the Architect/Engineer shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this contract affected in any manner or to any extent by such question.

35.2 The Architect/Engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. any differences or conflicts in regard to their work which may arise between the Contractor under this contract and other Contractors performing work for the Owner shall be adjusted and determined by the Architect/Engineer.

36. Stated Allowances

36.1 The Contractor shall include in his proposal the cash allowances stated in the Supplemental General Conditions. The Contractor shall purchase the "Allowed Materials" as directed by the Owner on the

basis of the lowest and best bid of at least three competitive bids. If the actual price for purchasing the "Allowed Materials" is more or less than the "Cash Allowance," the contract price shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance or any other incidental expenses. The cost of installation of the "Allowed Materials" shall be included in the applicable sections of the Contract Specifications covering this work.

37. Use of Premises and Removal of Debris

37.1 The Contractor expressly undertakes at his own expense:

A. to take every precaution against injuries to persons or damage to property;

B. to store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other contractors;

C. to place upon the work or any part thereof only such loads as are consistent with the safety of the portion of the work;

D. to clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;

E. before final payment to remove all surplus material, false-work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition.

F. to effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications and, except with the consent of the Architect/Engineer, not to cut or otherwise alter the work of any other Contractor.

38. Quantities of Estimate

38.1 Wherever the estimated quantities of work to be done and materials to be furnished under this contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the work contemplated by this contract, and such increase or diminution shall in no way vitiate this contract, nor shall any such increase or diminution give cause for

claims or liability for damages.

39. Lands and Rights-of-Way

39.1 Prior to the start of construction, the Owner shall obtain all lands and rights-of-way necessary for the carrying out and completions of work to be performed under this contract.

40. General Guaranty

40.1 Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the Owner, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness.

41. Conflicting Conditions

41.1 Any provisions in any of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

42. Notice and Service Thereof

42.1 Any notice to any Contractor from the Owner relative to any part of this contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at his last given address, or delivered in person to the said Contractor or his authorized representative on the work.

43. Provision Required by Law Deemed Inserted

43.1 Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such

insertion or correction.

44. Protection of Lives and Health

44.1 "The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction; as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971. Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary."

45. Subcontracts

45.1 It is the contractor's responsibility to provide the owner an updated listing of subcontractors or any further subcontracts (Table A) within 10 days of the award.

46. Interest of Member of or Delegate to Congress

46.1 No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

47. Other Prohibited Interests

47.1 No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this

contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

48. Use and Occupancy Prior to Acceptance by Owner

48.1 The Contractor agrees to the use and occupancy of a portion or unit of the project before formal acceptance by the Owner, provided the Owner:

A. Secures written consent of the Contractor except in the event, in the opinion of the Architect/Engineer, the Contractor is chargeable with unwarranted delay in final cleanup of punch list items or other contract requirements.

B. Secures endorsement from the insurance carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction, or,

C. When the project consists of more than one building, and one of the buildings is occupied, secures permanent fire and extended coverage insurance, including a permit to complete construction. Consent of the surety must also be obtained.

MODIFICATIONS TO GENERAL CONDITIONS

SUPPLEMENTARY CONDITIONS
Section 00700

The following modifications to the General Conditions of this contract shall be incorporated.

ARTICLE 7 INSPECTION/TESTING OF MATERIALS

Section 7.1 of the General Conditions shall be amended by inserting the following at the end of the paragraph:

“Contractor shall coordinate required materials testing with the Owner or Owner’s Representative. Contractor shall provide at least 48 hours’ notice prior to when testing is required.”

ARTICLE 17 CHANGES IN WORK

Article 17.4 in the General Conditions shall be amended by inserting the following at the end of the paragraph:

“, and the contract price shall be adjusted accordingly.”

ARTICLE 28 INSURANCE

Append the first sentence of Section 28.8 of the General Conditions by inserting “and Engineer” after “The Contractor shall furnish the Owner...”.

ARTICLE 40 GENERAL GUARANTY

Section 40.1 shall be amended by inserting the following before the last sentence of the paragraph:

“In the event that the Contractor should fail to make such repairs, adjustments or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred.”

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SUPPLEMENTAL GENERAL CONDITIONS

SUPPLEMENTARY CONDITIONS
Section 00820

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1. ENUMERATION OF PLANS, SPECIFICATIONS AND ADDENDA

Following are the Plans, Specifications and Addenda which form a part of this contract, as set forth in Paragraph 1 of the General Conditions, "Contract and Contract Documents":

DRAWINGS

General Construction: No. 141029 (16 sheets)

Reference Only: Raton
Downtown Waterline
Replacement

No. 141030 (11 sheets)

Reference Only: Raton
Great Blocks – 1st Street
– Phase 2

No. 140893 (28 sheets)

SPECIFICATIONS

General Construction: Page TS-1 to TS-11, inclusive

ADDENDA

No. _____ Date _____ No. _____ Date _____

2. STATED ALLOWANCES

A. Pursuant to paragraph 36 of the General Conditions, the Contractor shall include the following cash allowances in the Bid:

1. For (page ____ of Specifications) \$ _____
2. For (page ____ of Specifications) \$ _____
3. For (page ____ of Specifications) \$ _____
4. For (page ____ of Specifications) \$ _____
5. For (page ____ of Specifications) \$ _____
6. For (page ____ of Specifications) \$ _____

3. NOTICE OF EXTENDED PAYMENT PROVISION

This contract allows the Owner to make payment within 45 days after submission of an undisputed request for payment (Section 57-28-5 B (2) NMSA 1978).

4. CONTRACTOR'S AND SUBCONTRACTOR'S PUBLIC LIABILITY, VEHICLE LIABILITY, AND PROPERTY DAMAGE INSURANCE

As required under paragraph 28 of the General Conditions, the policy shall be written for not less than the following or greater if required by law:

4.1 Worker's Compensation (including accident and occupational disease coverage):

- a. State Statutory
- b. Employer's Liability \$ 100,000 each accident
\$ 500,000 disease-policy limit
\$ 100,000 disease-each employee

4.2 Comprehensive General Liability (including Premises Operations; Independent Contractor's Protective; Products and Completed Operations; Broad Form Property Damage):

- a. Bodily Injury \$ 500,000 per person
\$1,000,000 each occurrence
- b. Property Damage \$ 500,000 each occurrence
\$ 500,000 annual aggregate
- d. Property Damage Liability Insurance shall provide X, C or coverage as applicable.

4.3 Comprehensive Automobile Liability:

- a. Bodily Injury \$ 500,000 per person
\$1,000,000 each occurrence
- b. Property Damage \$ 500,000 each occurrence
\$ 500,000 annual aggregate

4.4 Umbrella Excess Liability: \$1,000,000 over primary insurance

4.5 The Contractor shall either: (1) require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage of the type and in the same amounts as specified in the preceding paragraph, or (2) insure the activities of his subcontractors in his own policy.

5. PHOTOGRAPHS OF PROJECT

As required by the Funding Agency, the Contractor will furnish photographs before construction, during construction and upon completion of the project.

6. SCHEDULE OF OCCUPATIONAL CLASSIFICATIONS AND MINIMUM HOURLY WAGE RATES.

Given on pages ____ through _____. Note: Applicable federal and state regulations require that the higher of the federal or the state wage rate for each classification must be paid. See Section 9 of the Additional Conditions.

7. BUILDER'S RISK INSURANCE

7.1 As provided in the General Conditions, Paragraph 28, the Contractor will will not maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portions of the project for the benefit of the Owner, the Contractor, and all subcontractors, as their interests may appear.

8. SPECIAL EQUAL OPPORTUNITY PROVISIONS - Executive Order 11246

A. Section 202 Equal Opportunity Clause

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.

3. The Contractor will send to each labor union

or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

interest of the United States.

B. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246).

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for Minority Female Participation: * % listed by County below 6.9%		Goals for Participation:	
Bernalillo	38.3%	Catron	46.9%
Sandoval	"	Colfax	"
De Baca	"		
Chaves	49.0%	Guadalupe	"
Dona Ana	"	Lincoln	"
Eddy	"	Los Alamos	"
Grant	"	McKinley	"
Hidalgo	"	Mora	"
Luna	"	Rio Arriba	"
Otero	"	San Juan	"
Sierra	"	San Miguel	"
Santa Fe	"		
Lea	31.0%	Socorro	"
Roosevelt	"	Taos	"
Torrance	"		
Curry	11.0%	Valencia	"
Harding	"		
Quay	"		
Union	"		

These goals are applicable to all the Contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal

Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographic area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed, giving the State, County, and Municipality, if any).

C. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:

a. *covered area* means the geographic area described in the solicitation from which this contract resulted;

b. *Director* means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. *Employer identification number* means

the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. *Minority* includes:

(1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. When the Contractor, or any Subcontractor at any tier, subcontracts a portion of the Work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals

and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working

environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provided written notification to minority and female recruitment sources and to community or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and female, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and

training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a

Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and females in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force

participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall not carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended.

D. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

E. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin, religion, or sex be

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

F. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

1. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 134, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

3. The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

4. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient,

its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

G. Section 504 Handicapped (if \$ 2,500 or over), Affirmative Action for Handicapped Workers

1. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

2. The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to this Act.

3. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to this Act.

4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

5. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contractual understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance physically and mentally handicapped individuals.

6. The Contractor will include the provisions of this part in every subcontract or purchase order of \$2,500 or more unless exempted by the rules, regulation, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor and vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

H. Age Discrimination Act of 1975

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

9. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(Applicable to Federal assisted construction contracts and related subcontracts exceeding \$100,000).

Compliance with Air and Water Acts

A. During the performance of this contract, the Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

B. In addition to the foregoing requirements, all nonexempt Contractors and Subcontractors shall furnish to the Owner, the following:

1. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the "List of Violating Facilities" issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

2. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control

Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA "List of Violating Facilities".

4. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph a through d of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

10. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION

A. Lead-Based Paint Hazards

(Applicable to contracts for construction or rehabilitation of residential structures)

The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

B. Use of Explosives

When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives. The Contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats.

The Contractor shall notify all Owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property. Any supervision or direction of use of explosives by the Architect/Engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

C. Danger Signals and Safety Devices

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

11. FLOOD DISASTER PROTECTION

This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during

the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of the Flood Disaster Protection Act of 1973.

12. ACCESS TO RECORDS AND MAINTENANCE OF RECORDS

The State grantor agency (funding agency), the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this contract will be maintained in a central location by the unit of local government and will be maintained for a period of six (6) years from the official date of close-out of the Grant.

13. CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during his/her tenure or for

one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

14. MINORITY AND FEMALE CONTRACTOR ASSOCIATIONS

Lists are available from various sources including the state Department of Transportation, the U.S. Department of Housing and Urban Development, Ft. Worth Area Office. These lists are provided solely for the benefit of the Contractor for the purpose of assisting him/her in meeting the Equal Opportunity Provisions contained in these Supplemental General Conditions. The lists do not contain a complete listing of minority and female businesses. The information may in some cases be out of date.

15. SPECIAL HAZARDS

The Contractor's and his Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

None

MODIFICATIONS TO SUPPLEMENTAL GENERAL CONDITIONS

SUPPLEMENTARY CONDITIONS
Section 00820

The following modifications to the Supplemental General Conditions of this contract shall be incorporated.

ARTICLE 4: CONTRACTOR'S AND SUBCONTRACTOR'S PUBLIC LIABILITY, VEHICLE LIABILITY, AND PROPERTY DAMAGE INSURANCE

Amend Section 4.2 by inserting the following list item and appending the existing 4.2.c by changing the list number to "d" .:

- c. Combined Single Limit \$1,000,000 annual

ADDITIONAL CONDITIONS

SUPPLEMENTARY CONDITIONS
Section 00830

TABLE OF CONTENTS

1. Construction Industries Licensing Act
2. Contract Audit
3. Assignment of Antitrust Claims
4. Bribes, Gratuities, and Kickbacks
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6. Contractor's Gross Receipts Tax Registration
7. Contracts with Nonresident Persons or Partnerships or Unadmitted Foreign Corporations, Agent for Service of Process
8. Safety Standards and Accident Prevention
9. Minimum Wage Rates
10. Project Identification Sign

1. CONSTRUCTION INDUSTRIES LICENSING ACT

1.1 This Contract is subject to the provisions of the New Mexico Construction Industries Licensing Act (§§60-13-1 to 60-13-59 NMSA 1978), the rules and regulations of the New Mexico Construction Industries Commission and the rules, regulations and codes of the various trade boards adopted pursuant to the Construction Industries Licensing Act.

2. CONTRACT AUDIT

2.1 The Owner shall be entitled to audit the books and records of a Contractor or any Subcontractor under any negotiated Contract or subcontract other than a firm fixed-price Contract to the extent that such books and records relate to the performance of such Contract or subcontract. Such books and records shall be maintained by the Contractor for a period of six years from the date of final payment under the prime Contract and by the Subcontractor for a period of six years from the date of final payment under the subcontract unless a shorter period is otherwise authorized by the Owner in writing (§13-1-161 NMSA 1978).

3. ASSIGNMENT OF ANTITRUST CLAIMS

3.1 All contractor, suppliers, subcontractors agree that any and all claims which it may have or may incur to it for overcharges resulting from antitrust violations as to goods, services and materials purchased in connection with this Project are hereby assigned to the Owner and

the funding agency, but only to the extent that such overcharges are passed on to the Owner. It is agreed that the contractor, supplier, subcontractor or sub-subcontractor retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the Owner, including the right to any treble damages attributable thereto.

4. BRIBES, GRATUITIES, AND KICKBACKS

4.1 It is illegal in this state for any public employee to solicit or accept anything of value in connection with award of this Contract and for any person to offer or pay anything of value to any such public employee (§§30-24-1 through 2 NMSA 1978).

4.2 Pursuant to §13-1-191 NMSA 1978 reference is hereby made to the criminal laws of New Mexico, including §§30-24-1 through 30-24-2, and §§30-41-1 through 30-41-3 NMSA 1978, which prohibit bribes, kickbacks, and gratuities and violation of which constitutes a felony. Further, the Procurement Code, §§13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation.

5. NON-RESIDENT CONTRACTOR'S REQUIREMENTS REGARDING GROSS RECEIPTS TAX SURETY BOND

5.1 Section 7-1-55A NMSA 1978 provides that any person (as defined in §7-1-3 NMSA 1978) engaged in the construction business who does not have his principal place of business in New Mexico and enters into a prime construction contract to be performed in this state shall, at the time such contract is entered into, furnish the Director of the Revenue Division, Taxation and Revenue Department, or his delegate with a surety bond or other acceptable security in a sum equivalent to the gross receipts tax to be paid under the contract multiplied by the applicable rate of the gross receipts tax imposed by §7-9-4 NMSA 1978 to secure payment of the tax imposed on the gross receipts from the contract, and shall obtain a certificate from the Director of the Revenue Division, Taxation and Revenue Department, or his delegate, that the requirements of this paragraph have been met.

5.2 If the total sum to be paid under the contract is changed by ten percent or more after the date the

surety bond or other acceptable security is furnished, to the Director or his delegate, such person shall increase or decrease, as the case may be, the amount of the bond or security within fourteen days after the change (§7-1-55B NMSA 1978).

5.3 In addition to the above requirements, the Contractor will be subject to all the requirements of §7-1-55 NMSA 1978.

6. CONTRACTOR'S GROSS RECEIPTS TAX REGISTRATION

6.1 §7-10-4 NMSA 1978 provides that any person (as defined in §7-10-3 NMSA 1978) performing services for the state or its political subdivisions, as those terms are used in the Gross Receipts and Compensating Tax Act (§§7-10-1 through 7-10-5 NMSA 1978) must be registered and be issued an identification number with the Revenue Division of the Taxation and Revenue Department of the state to pay the gross receipts tax.

6.2 For information in obtaining the identification number contact: Revenue Processing Division, Taxation and Revenue Department, Manuel Lujan Sr. Building, 1200 St. Francis Drive, Santa Fe, New Mexico 87505, or call (505) 827-0825.

6.3 If any person who performs services for the State or its political subdivisions is not registered to pay the gross receipts tax, the Owner shall withhold payment of the amount due until the person has presented evidence of registration with the Revenue Division to pay the gross receipts tax.

7. CONTRACTS WITH NONRESIDENT PERSONS OR PARTNERSHIPS OR UNADMITTED FOREIGN CORPORATIONS, AGENT FOR SERVICE OF PROCESS

Special attention of contractors is called to the requirements of §§ 13-4-21 through 13-4-24 NMSA 1978, whereby a public works contract with a nonresident person or partnership or foreign corporation not authorized to do business in the State shall contain a specific provision designating an agent resident within the State, and his address, upon whom process and writs in any action or proceeding against such business may be served in any action arising out of such contract.

7.1 The Contractor warrants and agrees that he, all subcontractors and any further subcontractors will comply with all applicable provisions of the New

Mexico Public Works Minimum Wage Act, §13-4-11 NMSA 1978. The attached Minimum Wage Rate Determinations are declared to be prevailing and apply to all construction. Note: Applicable federal and state regulations require that the higher of the federal or the state wage rate for each classification must be paid.

8. SAFETY STANDARDS AND ACCIDENT PREVENTION

With respect to all work performed under this contract, the Contractor shall:

A. Comply with the safety standards provisions of applicable laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970 (P.L. 91-596), and the requirements of Title 29 of the Code of Federal Regulations, 1518 as published in the "Federal Register", Volume 36, No. 75, Saturday, April 17, 1971.

B. Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.

C. Maintain at his/her office or other well-known place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site. In no case shall employees be permitted to work at a job site before the employer has made a standing arrangement for removal of injured persons to a hospital or a doctor's care.

9. MINIMUM WAGE RATES

9.1 Submission of weekly payroll records to the Owner and Department of Workforce Solutions is mandatory. Include the decision number on Contractor's and subcontractor's payrolls. The scale of wages must also be posted in a prominent location at the site.

9.2 In the event it is found by the Labor Commission, that any laborer or mechanic employed by the Contractor, subcontractor or any further subcontractors on the site of the project covered by this Contract, has been or is being paid as a result of a willful violation, a rate of wages less than the rate of wages required by


the Contract, the Owner may, by written notice to the Contractor, his subcontractor or any further subcontractors if the violation involves a Subcontractor, terminate their right to proceed with the Work or such part of the Work as to which there has been a willful failure to pay the required wages and the Owner may prosecute the work to completion by contract or otherwise, and the Contractor, subcontractor or any further subcontractor shall be liable to the Owner and the State of New Mexico for any excess cost occasioned thereby. If the Owner or State of New Mexico is unable to collect from the Subcontractor or any further Subcontractors, the Contractor will be liable for all costs.

10.1 The Contractor as an incidental cost shall provide, erect, and maintain for the duration of the construction project one identification sign at each construction site. The sign shall be painted on one side with a background color of yellow with red lettering of 3/4" thick, not smaller than 4' x 6' nor larger than 4' x 8', marine grade plywood. Each sign shall be mounted on two 4" x 4" posts, with the bottom of the sign at least four feet above grade. The sign shall be mounted level and at the location designated by the Architect/Engineer or the Owner's Project Manager. The sign shall be salvaged to the Owner at the end of the construction project.

10. PROJECT IDENTIFICATION SIGN

Sample Sign

Sign shall be yellow background with red letters

[2 1/2"]	<p>CITY OF RATON</p>  <p>[Logo - 1'-6" Dia./Sq.]</p>	<p>[2"]</p> <p>NEW MEXICO COMMUNITY DEVELOPMENT COUNCIL PROJECT MICHELLE LUJAN GRISHAM, GOVERNOR</p> <p>[3"] DOWNTOWN RATON INFRASTRUCTURE PROJECT</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>ENGINEER [1-1/2"] ENGINEERING ANALYTICS, INC [1-1/2"] 219 S. 2ND STREET [1"] RATON, NM 87740 [1"] TELEPHONE N°. 575-445-7192 [1"]</p> </td> <td style="width: 50%; vertical-align: top;"> <p>CONTRACTOR (NAME) (ADDRESS) (CITY, STATE, ZIP CODE) (TELEPHONE N°. 505-000-0000)</p> </td> </tr> <tr> <td style="vertical-align: top;"> <p>OWNER [1-1/2"] CITY OF RATON [1-1/2"] 224 SAVAGE AVENUE [1"] RATON, NM 87740 [1"] TELEPHONE N°. 575-445-9551 [1"] SCOTT BERRY, CITY MANAGER [1"]</p> </td> <td style="vertical-align: top;"> <p>FUNDING CDBG GRANT - \$725,000 DOT COOP GRANT - N/A CITY FUNDS - \$75,000 TOTAL PROJECT COST - \$825,000</p> </td> </tr> </table> <p style="text-align: center;">[1-1/2" wide red outline, with rounded corners @ interior box]</p>	<p>ENGINEER [1-1/2"] ENGINEERING ANALYTICS, INC [1-1/2"] 219 S. 2ND STREET [1"] RATON, NM 87740 [1"] TELEPHONE N°. 575-445-7192 [1"]</p>	<p>CONTRACTOR (NAME) (ADDRESS) (CITY, STATE, ZIP CODE) (TELEPHONE N°. 505-000-0000)</p>	<p>OWNER [1-1/2"] CITY OF RATON [1-1/2"] 224 SAVAGE AVENUE [1"] RATON, NM 87740 [1"] TELEPHONE N°. 575-445-9551 [1"] SCOTT BERRY, CITY MANAGER [1"]</p>	<p>FUNDING CDBG GRANT - \$725,000 DOT COOP GRANT - N/A CITY FUNDS - \$75,000 TOTAL PROJECT COST - \$825,000</p>
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[1-1/2"]	<p>COUNCIL/COMMISSION</p> <p>[1"] JEFF KIELY, DISTRICT 1</p> <p>[1"] WAYNE SONCHAR, DISTRICT 2</p> <p>[1"] BRUCE JOEL PERLMAN, DISTRICT 3</p> <p>[1"] CONSTANCE WILLIAMS, DISTRICT 4</p> <p>[1"] SPENSER BACA, DISTRICT 5</p> <p>[1"] EVELYN CABALLERO HOLGUIN, DISTRICT 6</p> <p>[1"] GARY WHITEHEAD, DISTRICT 7</p>					

11. OTHER ADDITIONAL CONDITIONS (list):

- 11.1 Federal Labor Standards Provisions
- 11.2 Attachments to Federal Labor Standards Provisions

MODIFICATIONS TO ADDITIONAL CONDITIONS

SUPPLEMENTARY CONDITIONS
Section 00830

No modifications to the Additional Conditions of this contract were made.

FEDERAL LABOR STANDARDS PROVISIONS
U.S. Department of Housing and Urban Development

HUD4010 (2-84) (HB 1344.1)

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the Provisions applicable to such Federal assistance.

A. 1.(i)Minimum Wages. All laborers and mechanics employed or working upon the site of the work (or under the United State Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all time by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(a)Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits were appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30 day period that additional time is necessary. *(Approved by the Office of Management and Budget under OMB control number 1215-0140.)*

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30 day period that additional time is necessary. *(Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)*

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b)

or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages or any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and Basic Records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140 and 1215-0017).

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1). U.S. Government Printing Office, Washington, DC 20402. For all CDBG projects, the mandatory form WH-347 (Exhibit 4-P Certified Payroll) located on the website link http://nmdfa.state.nm.us/CDBG_Implementation_Manual.aspx. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149).

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agency who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid in full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 (for all CDBG projects use the mandatory Exhibit 4-P Certified Payroll located on the website link http://nmdfa.state.nm.us/CDBG_Implementation_Manual.aspx) shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3.(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

4. (i) Apprentices and Trainees. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to any contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level or progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered a

program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermine rate for the work performed until an acceptable program is approved.

(iii) **Equal Employment Opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirement of Executive Order 11246, as amended and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements. The contractor shall comply with the requirements 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD of its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract Termination; Debarment. A breach of the contract clauses in 9 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act of 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transaction", provides in part "Whoever, for the purpose of...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. A. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this contract are applicable shall be discharged or in any other manner discriminated against by the contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this contract to his employer.

B. Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contractor for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards employed in violation of the clause set forth in subparagraph (1) of the paragraph, in the sum of \$27 (or as otherwise specified by the Contract Work Hours and Safety Standards Act (CWHSSA) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of fourth hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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

C. Health and Safety

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

(3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

HUD-1010.1 (2-76)

ATTACHMENT TO FEDERAL LABOR STANDARDS PROVISIONS

**SO-CALLED "ANTI-KICKBACK ACT" AND REGULATIONS PROMULGATED
PURSUANT THERETO BY THE SECRETARY OF LABOR
UNITED STATES DEPARTMENT OF LABOR**

TITLE 18, U.S.C., section 874

(Replaces section 1 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C.,
sec. 276b) pursuant to the Act of June 25, 1948, 62 Stat. 862)

KICKBACKS FROM PUBLIC WORKS EMPLOYEES

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

**SECTION 2 OF THE ACT OF JUNE 13, 1934, AS AMENDED (48 Stat. 948, 62 Stat. 862,
63 Stat, 108, 72 Stat. 967, 40 U.S.C., sec 276c)**

The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 (United State Code) shall apply to such statements.

---X X X---

Pursuant to the aforesaid Anti-Kickback Act, the Secretary of Labor, United States Department of Labor, has promulgated the regulations hereinafter set forth, which regulations are found in Title 29, Subtitle A, Code of Federal Regulations, Part 3. The term "this part," as used in the regulations hereinafter set forth, refers to Part 3 last above mentioned. Said regulations are as follows:

TITLE 29 - LABOR

Subtitle A - Office of the Secretary of Labor

**PART 3- CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING OR PUBLIC WORK
FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED
STATES.**

Section 3.1 Purpose and Scope.

This part prescribes "anti-kickback" regulations under section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the Copeland Act. This part applies to any contract which is subject to Federal wage standards and which is for the construction, prosecution, completion, or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States. The part is

intended to aid in the enforcement of the minimum wage provisions of the Davis-Bacon Act and the various statutes dealing with Federally assisted constructions that contain similar minimum wage provisions, including those provisions which are not subject to Reorganization Plan No. 14 (e.g., the College Housing Act of 1950, the Federal Water Pollution Control Act, and the Housing Act of 1959), and in the enforcement of the overtime provisions of the Contract Work Hours Standards Act whenever they are applicable to construction work. The part details the obligation of contractors and subcontractors relative to the weekly submission of statements regarding the wages paid on work covered thereby; sets forth the circumstances and procedures governing the making of payroll deductions from the wages of those employed on such work; and delineates the methods of payment permissible on such work.

Section 3.2 Definitions.

As used in the regulations in this part:

(a) The terms "building" or "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals; dredging, shoring, scaffolding, drilling, blasting, excavating, clearing, and landscaping. Unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, the manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not a "building" or "work" within the meaning of the regulations in this part.

(b) The terms "construction," "prosecution," "completion," or "repair" means all types of work done on a particular building or work at the site thereof, including, without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work, by persons employed at the site by the contractor or subcontractor.

(c) The terms "public building" or "public work" include building or work for whose construction, prosecution, completion, or repair, as defined above, a Federal agency is a contracting party, regardless of whether title thereof is in a Federal agency.

(d) The term "building or work financed in whole or in part by loans or grants from the United States" includes building or work for whose construction, prosecution, completion, or repair, as defined above, payment or part payment is made directly or indirectly from funds provided by loans or grants by a Federal agency. The term does not include building or work for which Federal assistance is limited solely to loan guarantees or insurance.

(e) Every person paid by a contractor or subcontractor in any manner for his labor in the construction, prosecution, completion, or repair of a public building or public work or building or work financed in whole or in part by loans or grants from the United States is "employed" and receiving "wages," regardless of any contracted relationship alleged to exist between him and the real employer.

(f) The term "any affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with the contractor or subcontractor as parent, subsidiary or otherwise, and an officer or agent of such corporation.

(g) The term "Federal agency" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or any of the foregoing departments, establishments, agencies and instrumentalities.

Section 3.3 Weekly Statement with Respect to Payment of Wages

(a) As used in this section, the term "employees" shall not apply to persons in classifications higher than that of laborer or mechanic and those who are the immediate supervision of such employees.

(b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by 29 CFR Parts 3 and 5 during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages and shall be on form WH 348, "Statement of Compliance", or on an identical form on the back of WH 317, "Payroll (For Contractors Optional Use)" or on any form with identical wording. Sample copies of WH 347 and WH 348 may be obtained from the Government contracting or sponsoring agency, and copies of these forms may be purchased at the Government Printing Office.

(c) The requirements of this section shall not apply to any contract of \$2,000 or less.

(d) Upon a written finding by the head of a Federal agency, the Secretary of Labor may provide reasonable limitations, variations, tolerances, and exemptions from the requirements of this section subject to such conditions as the Secretary of Labor may specify.

[20 F.R. 93, Jan. 4, 1964, as amended at 33 F.R. 10186, July 17, 1968]

Section 3.4 Submission of Weekly Statements and the Preservation and Inspection of Weekly Payroll Records.

(a) Each weekly statement required under section 3.3 shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement, or a copy thereof, shall be kept available, or shall be transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.

(b) Each contractor or subcontractor shall preserve his weekly payroll records for a period of three years from date of completion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representative, and by authorized representatives of the Department of Labor.

Section 3.5 Payroll Deductions Permissible Without Application to or Approval of the Secretary of Labor.

Deductions made under the circumstances or in the situations described in the paragraphs of this section may be made without application and approval of the Secretary of Labor:

(a) Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes.

(b) Any deductions of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.

(c) Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the contractor, subcontractor or any affiliated person, or when collusion or collaboration exists.

(d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employee, their families and dependents; Provided, however, that the following standards are met: (1) The deduction is not otherwise prohibited by law; (2) it is either (i) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commissions, dividend, or otherwise; and (4) the deductions shall serve the convenience and interest of the employee.

(e) Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.

(f) Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

(g) Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.

(h) Any deductions voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.

(i) Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments; Provided however, that a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.

(j) Any deduction not more than for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and Part 531 of this title. When such a deduction is made the additional records required under section 516.27(a) of this title shall be kept.

Section 3.6 Payroll Deductions Permissible with the Approval of the Secretary of Labor

Any contractor or subcontractor may apply to the Secretary of Labor for permission to make any deduction not permitted under Section 3.5. The Secretary may grant permission whenever he finds that:

(a) The contractor, subcontractor, or any affiliated person does not make a profit or benefit directly or indirectly the deduction either in the form of a commission, dividend, or otherwise;

(b) The deduction is not otherwise prohibited by law;

(c) The deduction is either (1) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representative of its employees; and

(d) The deduction serves the convenience and interest of the employee.

Section 3.7 Applications for the Approval of the Secretary of Labor

Any application for the making of payroll deductions under section 3.6 shall comply with the requirements

prescribed in the following paragraphs of this section:

(a) The application shall be in writing and shall be addressed to the Secretary of Labor.

(b) The application shall identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions only on specific, identified contracts, except upon a showing of exceptional circumstances.

(c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of section 3.6. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.

(d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.

(e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

Section 3.8 Action by the Secretary of Labor Upon Applications.

The Secretary of Labor shall decide whether or not the requested deduction is permissible under provisions of section 3.6; and shall notify the applicant in writing of his decision.

Section 3.9 Prohibited Payroll Deductions.

Deductions not elsewhere provided for by this part and which are not found to be permissible under Section 3.6 are prohibited.

Section 3.10 Methods of Payment of Wages.

The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under this part. No other methods of payment shall be recognized on work subject to the Copeland Act.

Section 3.11 Regulations Part of Contract.

All contracts made with respect to the construction, prosecution, completion, or repair of any public building or public work or building or work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see section 5.5(a) of the subtitle.

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TYPE "A" - STREET, HIGHWAY, UTILITY & LIGHT ENGINEERING

Effective January 1, 2021

Trade Classification	Base Rate	Fringe Rate
Bricklayer/Block layer/Stonemason	24.46	8.81
Carpenter/Lather	25.63	11.74
Carpenter- Los Alamos County	28.37	13.44
Cement Mason	17.42	6.81
Ironworker	27.35	17.49
Painter- Commercial	17.25	7.75
Plumber/Pipefitter	31.52	12.90
Electricians- Outside Classifications: Zone 1		
Ground man	23.74	13.16
Equipment Operator	34.06	15.94
Lineman/ Technician	40.07	17.57
Cable Splicer	44.08	18.65
Electricians-Outside Classifications: Zone 2		
Ground man	23.74	13.16
Equipment Operator	34.06	15.94
Lineman/ Technician	40.07	17.57
Cable Splicer	44.08	18.65
Electricians-Outside Classifications: Los Alamos		
Ground man	24.42	13.34
Equipment Operator	35.04	16.21
Lineman/ Technician	41.22	17.88
Cable Splicer	45.34	18.99
Laborers		
Group I- Unskilled	12.26	6.22
Group II- Semi-Skilled	12.56	6.22
Group III- Skilled	12.96	6.22
Group IV- Specialty	13.21	6.22
Operators		



Group I	19.15	6.54
Group II	20.11	6.54
Group III	20.21	6.54
Group IV	20.33	6.54
Group V	20.43	6.54
Group VI	20.62	6.54
Group VII	20.78	6.54
Group VIII	21.08	6.54
Group IX	28.80	6.54
Group X	32.15	6.54
Truck Drivers		
Group I-IX	16.67	8.27

NOTE: All contractors are required to pay **SUBSISTENCE, ZONE AND INCENTIVE PAY** according to the particular trade. Details are located in a PDF attachment at WWW.DWS.STATE.NM.US. Search Labor Relations/Labor Information/Public Works/Prevailing Wage Rates.

For more information about the Subsistence, Zone, and Incentive Pay rates, or to file a wage claim, contact the Labor Relations Division at (505) 841-4400 or visit us online at www.dws.state.nm.us.



PUBLIC WORKS PROJECT REQUIREMENTS

As a participant in a Public Works project valued at more than \$60,000 in the state of New Mexico, the following list addresses many of the responsibilities that are defined by statute or regulation to each project stakeholder.

Contracting Agency

- Ensure that all contractors wishing to bid on a Public Works project when the project is \$60,000 or more are actively registered with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> (Contractor Registration) prior to bidding.
- Please submit Notice of Award (NOA) and Subcontractor List(s) to the PWAA website promptly after the project is awarded.
- Please update the Subcontractor List(s) on the PWAA website whenever changes occur.
- All sub-contractors and tiers (excluding professional services) regardless of contract amount must be listed on the Subcontractor List and must adhere to the Public Works Minimum Wage Act.
- Ninety days after project completion please go into the PWAA system and close the project. Only contracting agencies are allowed to close the project. Agents or contractors are not allowed to close projects.

General Contractor

- Provide a complete Subcontractor List and Statements of Intent (SOI) to Pay Prevailing Wages for all contractors, regardless of amount of work, to the contracting agency within 3 (three) days of award.
- Ensure that all subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- Confirm the Wage Rate poster, provided in PWAA, is displayed at the job site in an easily accessible place.
- When the project has been completed, make sure the Affidavits of Wages Paid (AWP) are sent to the contracting agency.
- All subcontractors and tiers (excluding professional services) regardless of contract amount must pay prevailing wages, be listed on the Subcontractor List, and adhere to the Public Works Minimum Wage Act.



LABOR RELATIONS DIVISION
121 Tijeras Ave NE, Suite 3000
Albuquerque, NM 87102
Phone: 505-841-4400
Fax: 505-841-4424

WWW.DWS.STATE.NM.US

Subcontractor

- Ensure that all subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- All subcontractors and tiers (excluding professional services) regardless of contract amount must pay prevailing wages, be listed on the Subcontractor List, and adhere to the Public Works Minimum Wage Act.

Additional Information

Reference material and forms may be found in the New Mexico Department of Workforce Solutions Public Works web pages at: <https://www.dws.state.nm.us/Labor-Relations/Labor-Information/Public-Works>.

CONTACT INFORMATION

Contact the Labor Relations Division for any questions relating to Public Works projects by email at public.works@state.nm.us or call (505) 841-4400.

EXHIBIT 4-C
REQUEST FOR FEDERAL WAGE RATE DETERMINATION/10 DAY CALL

Federal Wage Rates **MUST** be obtained from LGD office. Wages cannot be pulled from DOL website.
Check the appropriate box: Initial Request for Federal Wages, or 10 Day Call

To receive decision fill out this form and mail to:

Local Government Division, DFA; Suite 202, Bataan Memorial Building; Santa Fe, New Mexico 87501
or email to: Administrative Assistant, Camille Baca at Camille.Baca@state.nm.us, 505-827-8051 and CDB Project Manager

CDBG Project #: _____ Grantee: _____ Phone #: _____

Location of work to be performed: _____ County: _____

Date of Request: _____ Est. Advertising Date: _____ Est. Bid Opening: _____

Description of Work (Exhibit "A" of Grant Agreement):

Select type of construction:

Building: Generally includes construction of sheltered enclosures with walk-in access for housing persons, machinery, equipment or supplies. This includes all construction within and including the exterior walls, both above and below grade.

Highway: Includes construction, alteration or repair of roads, streets, highways, parking areas and other projects not incidental to building or heavy construction.

Residential: Involves the construction, alteration or repair of single-family houses or apartment buildings no more than four stories tall.

Heavy: Is generally considered for all construction not properly classified as highway, residential, or building. Water and sewer line construction will typically be categorized as heavy construction.

***Federal definitions above are not identical to those issued by the New Mexico Department of Workforce Solutions. It is possible to have two different types of wage decisions.**

Send information to:

Name: _____ Phone #: _____ Email: _____

Address: _____

To be completed by DFA/Local Government Division:

Decision Number: NM20210037 Date of Decision: 01/01/2021

Expires: _____ Supersedes Decision: NM 20200037

Approved: Camille Baca Date: 03/04/2021
DFA/Local Government Division

MICHELLE LUJAN GRISHAM
GOVERNOR



DEBORAH K. ROMERO
CABINET SECRETARY

DONNIE J. QUINTANA
DIRECTOR

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
Bataan Memorial Building ♦ 407 Galisteo St. ♦ Suite 202 ♦ Santa Fe, NM 87501
PHONE (505) 827-4950 ♦ FAX (505) 827-4948

March 4, 2021

Tyler Davis
Raton NM

RE: Initial Request for Federal Wage Determination: Colfax County
Project Number: 19-C-NR-I-01-G-16

Purpose: The scope of work includes milling existing pavement surfaces, repairing deteriorating underlaying pavement as necessary, and overlaying the road surfaces with new pavement; replacing sidewalk curb ramps and adding new ADA compliant ramps; replacing damaged concrete sidewalk, valley gutter, drive pads, and curb & gutter at select locations; and replacing selected storm drain inlets. The Project is located in downtown Raton on 3rd Street from Cook Ave. to Parsons Ave.; Cook Ave. from 2nd Street to 3rd Street; Park Ave. from 1st Street to 3rd Street; and Clark Ave. from 1st Street to 3rd Street. The purpose of the project is to rehabilitate existing streets, storm drain inlets, concrete sidewalk, valley gutter, and curb and gutter to improve the functionality of the area for Raton residents.

Type of Construction: Highway
Wage Decision Number: NM20210037
Date of Decision: 01/01/2021

Dear Ms. Davis,

Attached are the results of the initial Davis-Bacon Wage Determinations. Also, the procedure to request the State Wage rates are written in (Exhibit 4-B) Request for State Wage Determination. The Federal and State predetermined wage rates are required to be included in bid contracts for the Community Development Block Grant (CDBG) project which the Davis-Bacon and related Acts apply.

To confirm there are no modifications to the federal wage determinations, within ten (10) days prior to bid opening, please contact me to determine if superseding changes have been made. Any modifications to the federal wage decision must be made available to all contractors who received the original bid package. After bid opening for any contract not awarded within 90 days, you must once again, contact me to determine if superseding changes have been made.

Contractor(s) and subcontractor(s) on this project are required to certify that their firm is eligible to be awarded Government contracts by virtue of the Davis-Bacon Act or HUD contracts. Verification of eligibility of the contractor(s) registration in the System of Award Management (SAM) is approved by

the Local Government Division (LGD) by submitting (Exhibit 1-X) Contractor/Subcontractor Clearance Form.

Contractor(s) and subcontractor(s) on this project are required to attend the preconstruction conference and address all the subjects in the (Exhibit 4-L) CDBG Preconstruction Conference Minutes with Required Elements. Refer to the CDBG Implementation Manual – Chapter 4 on our processes, forms and resources used to assist you with questions or concerns regarding required bid documents, equal opportunity, labor standards, and other requirements.

Included is the web link to “Making Davis-Bacon Work: A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects”
<https://www.hudexchange.info/resource/2541/making-davis-bacon-work-contractors-guide-prevailing-wage-requirements/>. If you do not have access to this web site, please feel free to request a copy from me.

If you should need additional information or have any questions, please contact Donna Stewart Project Manager at 827-4972

Sincerely,

Camille Baca-Martinez
LGD, Administrative Assistant

Davis-Bacon Act WD # NM20210037

Wage Determination

Modification

0

Construction

Highway

Published Date

Jan 01, 2021

States and Counties

State

New Mexico

Counties

Cibola, Colfax, Guadalupe, Harding, Los Alamos, McKinley, Mora, Quay, Rio Arriba, San Miguel, Taos, Union

Document

Print [Download](#)

"General Decision Number: NM20210037 01/01/2021

Superseded General Decision Number: NM20200037

State: New Mexico

Construction Type: Highway

Counties: Cibola, Colfax, Guadalupe, Harding, Los Alamos, McKinley, Mora, Quay, Rio Arriba, San Miguel, Taos and Union Counties in New Mexico.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded

(and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/01/2021

* SUNM2011-005 08/26/2011

	Rates	Fringes
CARPENTER (Includes Form Work)		
Cibola, Ria Arriba.....	\$ 14.27	0.44
Guadalupe, Los Alamos, Colfax, Harding, Guay, Taos, Union.....	\$ 13.84	0.44
McKinley.....	\$ 13.51	0.44
Mora.....	\$ 14.44	0.44
San Miguel.....	\$ 13.93	0.44
CEMENT MASON/CONCRETE FINISHER		
Cibola.....	\$ 15.58	0.26
Colfax, Guadalupe, Harding, Los Alamos,		

McKinley, mora, Quay, Union..\$	15.07	0.26
Rio Arriba, San Miguel.....\$	15.58	1.54
Taos.....\$	14.98	0.26
ELECTRICIAN (Including Traffic Signal Installation).....\$	24.66	8.56
HIGHWAY/PARKING LOT STRIPING: Includes Highway Line/Parking Lot Line Striping and Line Striping Truck Driver		
Cibola.....\$	13.66	0.35
Colfax, Guadalupe, Harding, Los Alamos, Mora, Rio Arriba, Taos, Union.....\$	15.16	0.35
McKinley.....\$	14.55	0.35
Quay.....\$	16.37	0.26
San Miguel.....\$	15.31	0.35
INSTALLER: (Guardrails, Handrails and Signs)		
Cibola.....\$	12.35	0.35
Colfax.....\$	11.68	0.35
Guadalupe, Harding, Los Alamos, McKinley, Mora, Rio Arriba, San Miguel, Taos, Union.....\$	12.37	0.35
Quay.....\$	12.00	0.35
IRONWORKER, REINFORCING/REBAR		
Cibola.....\$	23.05	1.54
Colfax, Guadalupe, Harding, Los Alamos, Mora, Quay, San Miguel, Taos, Union.....\$	21.57	4.80
McKinley.....\$	22.44	5.85
Rio Arriba.....\$	21.98	6.03
IRONWORKER, STRUCTURAL.....\$	21.77	6.03
LABORER		
Asphalt Raker.....\$	14.39	0.35
Common or General		
Cibola.....\$	12.27	0.35
Colfax.....\$	9.60	0.35
Guadalupe, Los Alamos.....\$	11.83	0.35
Harding.....\$	11.57	0.35

McKinley.....	\$ 11.22	0.35
Mora.....	\$ 11.34	0.35
Quay.....	\$ 12.15	0.35
Rio Arriba.....	\$ 12.28	0.35
San Miguel.....	\$ 12.56	0.35
Taos.....	\$ 12.61	0.35
Union.....	\$ 10.89	0.35
Flagger/Cone Setter		
Cibola.....	\$ 13.14	0.35
Colfax, Guadalupe, Harding, Los Alamos, Mora, Rio Arriba, San Miguel, Taos, Union.....	\$ 12.15	0.99
McKinley.....	\$ 11.66	0.35
Quay.....	\$ 12.21	0.26
Grade Checker.....	\$ 14.67	1.60
MasonTender-		
Brick/Cement/Concrete		
Cibola, Colfax, Guadalupe, Harding, Los Alamos, McKinley, Mora, Quay, San Miguel, Taos, Union.....	\$ 13.04	1.78
Rio Arriba.....	\$ 13.33	1.97
Pipelayer.....	\$ 16.99	0.35

PAINTER (Brush, Roller and
Spray)

Cibola, Colfax, Guadalupe, Harding, Los Alamos, McKinley, Mora, Quay, Rio Arriba, San Miguel, Taos, Union.....	\$ 15.06	0.44
McKinley.....	\$ 14.15	0.44

POWER EQUIPMENT OPERATOR:

Asphalt/Concrete Paver, Laydown Machine, and Plant..	\$ 16.43	1.51
Backhoe/Excavator/Trackhoe		
Cibola, Colfax, Guadalupe, Los Alamos, Mora, Rio Arriba, San Miguel, Taos, Union.....	\$ 16.80	0.26
Harding.....	\$ 20.74	0.26
McKinley.....	\$ 16.70	0.26
Quay.....	\$ 16.27	0.26
Bobcat/Skid Loader.....	\$ 18.06	0.26

Broom Operator.....	\$ 15.72	0.26
Bulldozer		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		
Rio Arriba, San Miguel,		
Taos, Union.....	\$ 14.97	0.26
Quay.....	\$ 14.89	0.26
Crusher.....	\$ 16.53	0.26
Distributor.....	\$ 14.50	0.26
Forklift.....	\$ 17.16	0.26
Grader/Blade		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		
Rio Arriba, San Miguel,		
Taos, Union.....	\$ 17.48	0.26
Quay.....	\$ 19.50	0.26
Loader (Front End)		
Cibola, Guadalupe, Los		
Alamos, Rio Arriba, San		
Miguel, Taos, Union.....	\$ 16.27	0.26
Colfax.....	\$ 15.72	0.26
Harding.....	\$ 19.37	0.26
McKinley.....	\$ 16.13	0.26
Mora.....	\$ 16.21	0.26
Quay.....	\$ 16.10	0.26
Mechanic.....	\$ 17.48	0.26
Milling Machine.....	\$ 16.89	0.26
Oiler.....	\$ 14.29	0.26
Piledriver		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, Mora, Rio Arriba,		
San Miguel, Taos, Union....	\$ 15.87	0.26
McKinley.....	\$ 14.95	0.26
Quay.....	\$ 15.99	0.26
Roller (Asphalt and Dirt)		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		
Rio Arriba, San Miguel,		
Taos, Union.....	\$ 14.39	0.98
McKinley.....	\$ 16.49	0.26
Quay.....	\$ 14.74	0.26
Rotomill.....	\$ 15.80	0.26
Scraper.....	\$ 15.91	0.26

Screed.....	\$ 15.96	0.26
Tractor.....	\$ 16.84	0.26
Trencher.....	\$ 16.26	0.26

TRUCK DRIVER

Distributor.....	\$ 13.56	0.26
Dump Truck		
Cibola, Guadalupe,		
Harding, Los Alamos,		
Mora, Rio Arriba, Taos,		
Union.....	\$ 14.75	0.26
Colfax, San Miguel.....	\$ 13.24	0.26
McKinley.....	\$ 13.15	0.26
Quay.....	\$ 15.20	0.26
Flatbed Truck		
Cibola.....	\$ 12.71	0.26
Colfax, Guadalupe,		
Harding, Los Alamos,		
Mora, Taos, Union.....	\$ 13.27	0.26
McKinley.....	\$ 13.55	0.26
Quay, San Miguel.....	\$ 13.30	0.26
Rio Arriba.....	\$ 12.95	0.26
Pickup and Pilot Car.....	\$ 12.74	0.26
Semi-Trailer Truck.....	\$ 16.58	0.26
Tractor Haul Truck.....	\$ 14.00	
Water Truck.....	\$ 13.13	0.26

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic

violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average

rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

TECHNICAL SPECIFICATIONS

General

All work shall be performed in accordance with Project Drawings, Specifications, and Contract Documents. Work not covered by Project Drawings, Specifications and Contract Documents shall be performed in accordance with New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction (current edition, including Addenda, Special Provisions, and Supplemental Documents; hereinafter called NMDOT Specifications). Work not covered by Project Drawings, Contract Documents, or NMDOT Specifications shall be performed in accordance with New Mexico Standard Specifications for Public Works Construction, 2006 edition, published by the American Public Works Association (hereinafter called APWA Specifications).

Where differences, conflicts, or discrepancies that occur between Project Drawings, Specifications, Contract Documents, NMDOT Specifications and APWA Specifications; the Project Specific Drawings, Specifications and Contract Documents shall take precedence and apply to work. Quantities are given only as a guide to the Contractor; the Contractor must satisfy and inform themselves of required quantities by field verification before submitting their bid. The Owner reserves the right to make alterations in the work as may be necessary to complete the work as originally intended.

The Contractor shall supply all labor, equipment, tools, supervision, materials, parts and appurtenances, whether or not specifically required or detailed by Project Drawings, Specifications, or Contract Documents, to complete a fully functional project. Where applicable, material manufacturer's recommendations or specifications shall be submitted by the Contractor to the Owner's Project Representative and shall receive written approval for incorporation into the work. If approved, manufacturer's recommendations or specifications shall be fully complied with. The Contractor is required to supply qualified and competent labor and supervision capable of completing the required work in a timely manner and the necessary equipment in safe and good working condition suitable for the required work. Necessary work, materials, equipment and appurtenances needed to complete the project for which there is no bid item shall be considered as Incidental.

Utilities

Due to insufficient or conflicting information, not all existing utilities are shown on the Drawings. Existing utilities known to be present within the project boundaries include, but are not limited to, water, sanitary sewer, storm sewer, electrical, natural gas, telephone, cable, and fiber optic. The existing conditions on the plans do not reflect changes made after the survey or mapping, such as recent construction projects or City repairs or maintenance.

The Contractor shall coordinate the work with any affected public or private utility owner with facilities, structures, lines, wires, pipes or other fixtures and appurtenances in the project area. The Contractor shall reasonably protect existing utilities, request locations and spots of utilities in a timely manner prior to excavation or disturbance, and shall cooperate with utility owners if relocation or adjustment is necessary.

The Contractor shall supply, at his own expense with no additional payment by the Owner, all necessary incidental fees and costs related to waste disposal, electricity, construction water, sewer, telephone, cleanup, hauling, replacement of damaged property, staging, claims, fines, etc. Construction utilities,

utility coordination and protection are incidental and no direct payment will be made outside the scope of Bid Items 5 and 6 for Manhole Cover Adjustment and Water Valve Cover Adjustment, respectively.

Construction Sequencing, Safety and Traffic Control

Safety and traffic control shall conform to OSHA and the Manual of Uniform Traffic Control Devices, respectively and are to be the sole responsibility of the Contractor; no direct payment will be made. The Contractor shall prepare and submit a Traffic Control Plan and a Construction Sequence Plan that will ensure reasonable access to residents and businesses. Construction and/or demolition activities shall be scheduled so as to minimize disturbance and disruption to area residents, businesses, and traffic. Street closures resulting in obstruction of service to residences or businesses shall be limited to a maximum 8-hour period. The Contractor is responsible to provide adequate notification to all affected persons prior to street closures. A Construction Sequence Plan, including public notification plans, shall be submitted by the Contractor to the Owner's Project Representative prior to construction and/or demolition activities. The Construction Sequence Plan shall include provisions to ensure that sufficient material and trucks are provided that the pavement is able to be laid without stopping during day time operations. The plans for traffic control and sequencing of construction must be approved by the Owner's Project Representative prior to commencement of the work. Safety and Traffic Control are incidental and no direct payment will be made. Necessary work, materials, equipment and appurtenances needed to complete the project for which there is no bid item shall be considered as Incidental.

The Contractor shall arrange for traffic control within the project area to be in effect at all times during the construction phase and should conform to the Manual on Uniform Traffic Control Devices (MUTCD). Traffic control devices and methods shall be in compliance with section 702 of the NMDOT Standard Specifications. A detour route must be arranged to accommodate any and all road closures. The Contractor shall submit a Traffic Control Plan to the Owner's Project Representative, and the Traffic Control Plan must be approved prior to the commencement of work.

Construction Staging Area

Contractor can utilize the vacant lot bounded by Park Ave., 3rd St., Clark Ave. and the alley as a construction staging area, as long as the Contractor secures the site during construction and returns the lot to its pre-construction condition. The City of Raton is not responsible for securing the Contractor's equipment or cleaning up any contamination caused by the Contractor's staff or equipment/property.

Dust Control

Contractor is responsible for job site dust control. Dust must be controlled at all times as directed by the Owner's Project Representative. The Contractor is responsible for obtaining all necessary construction water and all costs associated with construction water or other utilities necessary for the completion of the work or appurtenant usages. Dust Control is incidental and no direct payment will be made.

Ponding of Surface Water

Ponding of surface water will not be permitted at any time during construction.

Demolition and Removals

The Contractor shall provide all necessary tools, equipment and materials to cut, demolish, and remove all areas of existing concrete or asphalt pavement or structures as indicated on the Drawings. The limits of the demolition shall be neatly saw cut. The area outside the demolition shall be protected in place. Sawcut may not be necessary if the limits of demolition coincide with a construction joint. Contractor can stockpile demolished concrete and asphalt at the designated City maintenance yard on Hereford Avenue,

as long as the concrete and asphalt are separated and “clean” from other construction debris. Contractor can dispose of all other construction debris at the City landfill at no cost, as long as there are no hazardous materials. No direct payment will be made for demolition and removals. Work associated with demolition and removals shall be paid under the associated work item, such as Base Bid Items 2A, 2B, 3A, 3B, 5, 6, 10, 11, 12, 13 and Deductive Alternate Items DA-1 and DA-2.

Specification for Portland Cement Concrete

Standard Portland Cement Concrete (PCC) shall conform to the requirements of Sections 509 and 510 of the NMDOT Specifications. Class HPD shall be used for concrete paving and concrete paving patches. Class A shall be used for cast-in-place sidewalks, ADA ramps, curb/gutter, valley gutters, collars and storm drain inlets. Class AA shall be used for cast-in-place drivepads. Concrete shall have a maximum slump of 5 inches and shall be air-entrained with an air content of 5% to 8%. Full documentation of the approved mix design submittal shall be filed with the Owner's Project Representative. White pigmented curing compound shall be used on all new concrete. All forms shall be inspected and approved by the Owner's Project Representative prior to concrete placement. Concrete shall be properly cured and protected from temperature extremes in accordance with ACI Specifications 305 and 306.

Specification for Asphalt Pavement

Asphalt pavement shall conform to Section 423, NMDOT Specifications for Hot Mix Asphalt (HMA). Pavement placement shall be SP-IV per NMDOT Specifications Section 423. Placement shall be completed in accordance with Placement Operations requirements in Section 423 of the NMDOT Specifications and shall be roller compacted to no less than 95 percent of the theoretical maximum density. Final compaction of pavement less than 95 percent may be considered acceptable for a bid price reduction comparable to that outlined in Table 416.3.3.2.1.1:1 of the NMDOT Standard Specifications, Price Adjustments for Density. Lift thicknesses must meet the requirements of Table 416.3.1.2.1.1:5 HMA/WMA Lift Thickness, NMDOT Specification Section 416. Pavement with a thin or feathered edge is not acceptable – Contractor shall transition the pavement to existing surfaces, such as existing pavement, gutters and drivepads, per the details provided in the Drawings. Pavement shall not be placed unless the chill factor is at least 40 degrees F and rising for HMA.

Requirement for Pre-Construction Meeting

The Project Engineer shall schedule a Pre-Construction Meeting for the purpose of discussion of requirements for construction. The Contractor shall provide all supervisory staff, equipment operators, and other skilled personnel for mandatory attendance at the Pre-Construction Meeting for instruction by the Project Engineer in project requirements. The Pre-Construction Meeting shall provide opportunity for the Engineer and Owner to clarify its requirements and the Contractor's obligations under the Contract. All replacement personnel beginning work on the project following Pre-Construction Meeting shall be required to attend project requirement training.

Submittals

The following submittals will be required and submitted to the Owner's Project Representative.

1. Project Identification Sign Proof
2. Asphalt Mix Design
3. Portland Cement Concrete Mix Design
4. Construction Sequencing Plan
5. Traffic Control and Safety Plan
6. Pavement Fabric

Materials testing performed by Contractor or Contractor's agents for the purpose of preparation of a mix design or any required submittal information for approval of material for incorporation into the project will not be paid or reimbursed. Submission of test data, reports or documentation on similar material previously utilized on NMDOT projects may be utilized for acceptance of material, however, no payment shall be made.

Materials Testing

Owner will furnish and pay for two soil proctor tests, nuclear density testing once per week for 16 weeks, and concrete testing for the inlets and/or concrete patches. The Contractor will pay for all re-tests required due to failed tests performed by the Owner's Consultant. The Contractor is responsible for providing a schedule for materials testing and a minimum of 48 hours' notice to the Owner and Engineer when testing furnished by the Owner is required. Contractor shall provide adequate samples required for proctor testing with no additional payment. All other testing required in the Drawings and Specifications shall be the responsibility of the Contractor.

DESCRIPTION OF BID ITEMS

BASE BID ITEMS

ITEM 1: MOBILIZATION, DEMOBILIZATION AND GENERAL REQUIREMENTS

The Contractor shall mobilize all necessary tools, equipment and materials to complete the project. Payment under Item 1 shall include all associated costs with mobilization and demobilization of equipment and tools, material delivery, protection and storage of materials and equipment, temporary labor boarding, bonding and permitting, and all general requirements not included in other payment items. Payment under this item shall be paid for at the contract lump sum price for mobilization, demobilization and general requirements.

ITEM 2A: MILL CONCRETE PAVEMENT (1-INCH DEPTH, FULL ROAD WIDTH)

The Contractor shall provide work in accordance with the requirements of Section 414, NMDOT Specifications. Contractor shall be responsible for milling and removing existing concrete pavement by cold milling method to a depth of 1 inch completed for the full width of the road. The Contractor shall provide a neat, straight full depth saw cut of existing asphalt pavement at edges of milling limits, unless limits are located at a pavement joint.

The Contractor is responsible for removal of silt, sediment, organic material or debris from potholes, road edges, drainage ways, and existing street surfaces. Brooming and sediment removal shall be performed after milling operations and before preparing existing surface for new pavement. Removal may be accomplished by brooming, sweeping, excavation, or approved effective method.

Work under this item shall include, but not limited to, saw cutting, surface brooming / sediment removal, milling, loading, hauling, and placement of milling material at the designated Raton maintenance yard or properly disposed of off-site. Measurement and payment for this item shall be at the contract unit price per square yard of concrete milling at a 1-inch depth completed by the Contractor.

ITEM 2B: CONCRETE PAVEMENT PATCH, IN PLACE

Minimal concrete patching is anticipated for the completion of this project; however, additional patching may be deemed necessary by the Project Engineer upon the discovery of existing deteriorated concrete after cold milling operations have been completed. The work under this section shall consist primarily of saw cutting the perimeter of the area to be patched, removing and disposing of the existing damaged concrete and other materials to the depth of the patch, reconditioning and compacting the subgrade, placing and compacting base course and concrete to the thicknesses in the typical pavement patching detail (Sheet D-1.0, Detail 8).

Subgrade shall be scarified, moisture conditioned, and recompacted to not less than 95 percent of the maximum density as determined by the modified proctor (ASTM D-1557). Moisture content shall be at optimum moisture content plus or minus two percent (+/-2%) as determined by ASTM D-1557.

The Contractor shall provide, haul, place, grade, water and compact Base Course material. Base Course material shall conform to Section 303 of the NMDOT Standard Specification for Base Course, Type I or Type II. All Base Course material shall be compacted to a minimum of 95 percent maximum dry density and at moisture content of minus one to plus three percent (-1% to +3%) of optimum moisture in accordance with the standard proctor (ASTM D-698).

Contractor shall provide and place approved concrete per the Specification herein to match the grade of the milled surface (i.e., prior to placement of overlay course). Concrete shall comply with the Specifications provided herein. Concrete shall be placed in one lift.

Work under this item shall include, but not limited to, saw cutting, removal, disposal, subgrade preparation, base course and asphalt installation, and compaction. Measurement and payment for this bid item shall be at the contract unit price per square yard of the Concrete Pavement Patch provided and placed by the Contractor.

ITEM 3A: MILL ASPHALT PAVEMENT (1.5-INCH DEPTH, FULL ROAD WIDTH)

The Contractor shall provide work in accordance with the requirements of Section 414, NMDOT Specifications. Contractor shall be responsible for milling and removing existing asphalt pavement by cold milling method to a depth of 1.5-inches completed for the full width of the road. The Contractor shall provide a neat, straight full depth saw cut of existing asphalt pavement at edges of milling limits, unless limits are located at a pavement joint.

The Contractor is responsible for removal of silt, sediment, organic material or debris from potholes, road edges, drainage ways, and existing street surfaces. Brooming and sediment removal shall be performed after milling operations and before preparing existing surface for new pavement. Removal may be accomplished by brooming, sweeping, excavation, or approved effective method.

Work under this item shall include, but not limited to, saw cutting, surface brooming / sediment removal, milling, loading, hauling, and placement of milling material at the designated Raton maintenance yard or properly disposed of off-site. Measurement and payment for this item shall be at the contract unit price per square yard of asphalt milling at a 1.5-inch depth completed by the Contractor.

ITEM 3B: ASPHALT PAVEMENT PATCH, IN PLACE

Minimal asphalt patching is anticipated for the completion of this project; however, additional patching may be deemed necessary by the Project Engineer upon the discovery of existing deteriorated asphalt after cold milling operations have been completed. The work under this section shall consist primarily of saw cutting the perimeter of the area to be patched, removing and disposing of the existing damaged asphalt and other materials to the depth of the patch, reconditioning and compacting the subgrade, placing and compacting base course and asphalt to the thicknesses in the typical pavement patching detail (Sheet D-1.0, Detail 8).

Subgrade shall be scarified, moisture conditioned, and recompact to not less than 95 percent of the maximum density as determined by the modified proctor (ASTM D-1557). Moisture content shall be at optimum moisture content plus or minus two percent (+/-2%) as determined by ASTM D-1557.

The Contractor shall provide, haul, place, grade, water and compact Base Course material. Base Course material shall conform to Section 303 of the NMDOT Standard Specification for Base Course, Type I or Type II. All Base Course material shall be compacted to a minimum of 95 percent maximum dry density and at moisture content of minus one to plus three percent (-1% to +3%) of optimum moisture in accordance with the standard proctor (ASTM D-698).

Contractor shall provide, place and compact approved asphalt material to match the grade of the milled surface (i.e., prior to placement of overlay course). Asphalt shall comply with the Specifications provided herein. Asphalt shall be placed in two lifts. Lift thickness shall be a minimum of 2 inches.

Work under this item shall include, but not limited to, saw cutting, removal, disposal, subgrade preparation, base course and asphalt installation, and compaction. Measurement and payment for this bid item shall be at the contract unit price per square yard of the Asphalt Pavement Patch provided and placed by the Contractor.

ITEM 4: CRACK SEALING WITH PAVEMENT FABRIC

Pavement reinforcing system shall be provided at full width for all existing concrete pavement that is to be overlaid with asphalt, and possibly at select locations where excessive cracking is present in the milled asphalt pavement surface (at the direction of the Engineer). Pavement reinforcement material shall be applied after pavement milling and before the overlay. The milled pavement surface shall be swept clean to clear debris and inspected by the Owner and/or Engineer prior to placement of tack coat, pavement fabric, or asphalt overlay. Pavement reinforcing fabric shall be Tensar GlasPave50 or approved equivalent, and shall be installed according to the manufacturer's recommendations.

Work under this item shall include, but not limited to, preparations, materials, equipment and installation of pavement fabric in compliance with Specifications herein and manufacturer recommendations. Measurement and payment for this bid item shall be at the contract unit price per square yard of pavement fabric provided and placed by the Contractor.

ITEM 5: MANHOLE COVER ADJUSTMENT

Existing manholes within the street section shall be adjusted accordingly to match the grade and elevation of the final paved surface. The Contractor is responsible for coordinating with the appropriate utility companies to identify any and all manhole lids that are required to be protected in place and raised to grade. Manhole lids shall be set in place with an octagonal concrete collar per NM APWA DWG 2461, included in the unit price. In areas where the grade is raised or where concrete collars are damaged, existing concrete collars (if present) shall be removed and replaced and the manhole shall be protected in place during construction. Concrete collars shall be placed per Section 662 of the NMDOT Specifications.

Work under this item shall include, but not limited to, saw cutting pavement for collar limits, removal, disposal, manhole adjustment rings and concrete collar. Work under this item shall be measured and paid for at the contract unit price per each existing manhole lid adjusted to grade with new concrete collar.

ITEM 6: WATER VALVE COVER ADJUSTMENT

Existing valve boxes within the street section shall be adjusted accordingly to match the grade and elevation of the final paved surface. The Contractor is responsible for coordinating with the appropriate utility companies to identify any and all valve lids that are required to be protected in place and raised to grade. Valve box lids shall be set in place with an octagonal concrete collar per NM APWA DWG 2461, included in the unit price. In areas where the grade is raised or where concrete collars are damaged, existing concrete collars (if present) shall be removed and replaced and the valve box shall be protected in place during construction. Concrete collars shall be placed per Section 662 of the NMDOT Specifications.

Work under this item shall include, but not limited to, saw cutting pavement for collar limits, removal, disposal, adjustment of the valve can/lid and installation of new concrete collars. Work under this item

shall be measured and paid for at the contract unit price per each existing valve lid adjusted to grade with new concrete collar.

ITEM 7: TACK COAT

The Contractor shall provide all labor, materials, tools and equipment necessary for furnishing and applying bituminous material to an existing pavement surface to provide bond for a new asphalt surface course. Contractor shall provide work in accordance with the requirements of Section 407, NMDOT Specifications. The Tack Coat shall be uniformly applied with a pressure distributor at a rate of at least 0.18 gallons per square yard. A hot applied tack coat shall be used equivalent to performance grade (PG) 64 asphalt binder, unless otherwise approved by Engineer. The Tack Coat shall be applied in such a manner as to offer the least inconvenience to traffic, to permit one-way traffic without pick-up or tracking of the asphalt material, and to avoid damage to structures, property, cars, etc. The Tack Coat shall be applied only as far in advance of the next course placement as is necessary to obtain its proper condition of tackiness. Until the course is placed, the Contractor shall protect the Tack Coat from damage.

Measurement and payment for this item shall be at the contract unit price per square yard of Tack Coat constructed by the Contractor.

ITEM 8: ASPHALT PAVEMENT, 2-INCH THICK (OVER CONCRETE PAVEMENT)

Asphalt pavement shall conform to the Specifications provided herein and shall be placed in a single course over the reconstructed road bed at a final compacted lift depth of 2 inches minimum. Over concrete pavement Contractor shall install tack coat and pavement fabric to clean, milled surface prior to pavement overlay operations. Pavement overlay shall be constructed within 24-hours of tack coat and pavement fabric installation. Transitions to existing surfaces shall comply with Specifications herein and shall be considered as incidental to this payment item.

Measurement and payment for this bid item shall be at the contract unit price per square yard of 2-inch depth Hot Mix Asphalt constructed by the Contractor.

ITEM 9: ASPHALT PAVEMENT, 1.5-INCH THICK (OVER ASPHALT PAVEMENT)

Asphalt pavement shall conform to the Specifications provided herein and shall be placed in a single course over the reconstructed road bed at a final compacted lift depth of 1.5 inches minimum. Over asphalt pavement Contractor shall install tack coat to clean, milled surface prior to pavement overlay operations. Pavement overlay shall be constructed within 24-hours of tack coat application. Transitions to existing surfaces shall comply with Specifications herein and shall be considered as incidental to this payment item.

Measurement and payment for this bid item shall be at the contract unit price per square yard of 1.5-inch depth Hot Mix Asphalt constructed by the Contractor.

ITEM 10: REMOVE & REPLACE CURB & GUTTER

The Contractor shall provide all necessary tools, equipment, materials, and labor to construct Type "C" (8"X24") concrete curb and gutter in accordance with NMDOT Standard Drawing No. 609 and Section 609 of the NMDOT Specifications. This item shall include all work required to completely demolish and remove existing curb and gutter and construct new curb and gutter in its place. Adjacent structures, utilities, and landscaping areas shall be protected in place.

Existing curb height varies throughout the Project area from approximately 5-inches to approximately 9-inches. Curb height shall transition smoothly to existing grades, or match existing grades when indicated on the Plans. No additional payment will be made by the Owner for varying curb height throughout the Project and any additional costs incurred by the Contractor due to curb height variance shall be considered as incidental.

Work under this item shall include, but not limited to, protection of existing surfaces to remain, saw cutting as necessary, removal, disposal, subgrade preparation, installation of new curb and gutter (including new curb and gutter along new ADA ramps), bituminous expansion joint and contraction joints. Measurement and payment will be made on a unit price basis per linear foot of Type "C" curb and gutter removed and replaced.

ITEM 11: REMOVE & REPLACE SIDEWALK

The Contractor shall provide all tools and materials necessary to construct 4" thick gray concrete sidewalk with joints in accordance with the Drawings and in compliance with NMDOT Standard Drawing 608. Subgrade below existing sidewalk to be replaced shall be scarified, moisture conditioned, and re-compacted to a minimum of 90% of the maximum dry density in accordance with ASTM D1557 at plus or minus two percent (+/-2%) of the optimum moisture content. The unit price for this item shall include materials, excavation, backfilling and compaction, and removal and proper disposal of existing sidewalk as needed. Concrete sidewalk shall be placed per Section 608 of the NMDOT Specifications.

Work under this item shall include, but not limited to, protection of existing surfaces to remain, saw cutting as necessary, removal, disposal, subgrade preparation, set and meet ADA grades, installation of new sidewalk, bituminous expansion joint and contraction joints. Measurement and payment will be made on a unit price basis per square foot of 4" thick concrete sidewalk removed and replaced.

ITEM 12: REMOVE & REPLACE STORM DRAIN INLET TYPE SINGLE "C"

The Contractor shall provide all necessary tools, equipment, materials, and labor to construct a Type Single "C" storm drain inlet in accordance with APWA Standard Drawing No. 2205. The unit price for this item shall include structure, grating, excavation, backfilling and compaction, and removal and proper disposal of existing inlet as needed. Adjacent structures, utilities, and landscaping areas shall be protected in place. The existing storm drain pipeline shall be protected in place and tied into with the new storm drain inlet. Concrete inlets shall be placed per Section 623 of the NMDOT Specifications. If Contractor chooses to install pre-cast concrete inlets, the pre-cast concrete structures shall comply with Section 517 of the NMDOT Specifications.

Measurement and payment will be made on a unit price basis for each Type Single "C" storm drain inlet removed and replaced.

ITEM 13: REMOVE & REPLACE ADA RAMP

The Contractor shall provide all tools and materials necessary to construct an ADA compliant curb ramp in accordance with NMDOT Standard Drawing 608-001-2. This item shall include all work required to completely demolish and remove existing sidewalk and construct a new concrete ADA ramp in its place. Contractor shall provide and install required detectable markings with color selected by Owner under this payment item. Refer to Item 10, Remove and Replace Curb and Gutter for the replacement of curb and gutter along new ADA ramps.

Work under this item shall include, but not limited to, protection of existing surfaces to remain, saw cutting as necessary, removal, disposal, subgrade preparation, set and meet ADA grades, installation of ADA ramp, bituminous expansion joint and contraction joints. Measurement and payment will be made on a unit price for each ADA ramp constructed in place by the Contractor.

ITEMS 14A – 14C: PLACEMENT OF PAVEMENT MARKINGS

The Contractor shall provide all necessary tools, equipment, materials, and labor to construct painted traffic pavement markings as indicated on the Drawings. Painted pavement markings shall be traffic grade with reflectorized glass beads in accordance with NMDOT Standard Specification Section 704. This item shall include the application of two (2) coats of painted pavement markings. Installation procedures and painted marking requirements shall comply with NMDOT Standard Specification 704.

Measurement and payment will be made on a unit price per linear foot of 4", 6" or 12" wide painted pavement markings constructed in place by the Contractor as indicated on the Drawings.

ITEM 14D: PLACEMENT OF PAVEMENT MARKINGS – ADA MARKINGS

The Contractor shall provide all necessary tools, equipment, materials, and labor to construct painted or thermoplastic ADA traffic pavement markings as indicated on the Drawings. Painted pavement markings shall be traffic grade with reflectorized glass beads in accordance with NMDOT Standard Specification Section 704. This item shall include the application of two (2) coats of painted pavement markings. Installation procedures and painted marking requirements shall comply with NMDOT Standard Specification 704. At locations where the international symbol of accessibility is used, a stencil that matches the stencil owned by the City of Raton shall be used to avoid complications with future re-painting. Hot thermoplastic markings shall comply with NMDOT Standard Specification Section 704-C. This item shall include all required pavement markings in accordance with the Drawings.

Measurement and payment will be made on a unit price each ADA space pavement markings constructed in place by the Contractor as indicated on the Drawings.

DEDUCTIVE ALTERNATE ITEMS

In the event that the Construction Bid exceeds the Project Budget, the following Deductive Alternate Items will be removed from the scope of work. Deductive alternate items will be removed from the scope of work starting with lowest number and increasing to the highest number when determining the low bidder.

ITEM DA-1: REMOVE & REPLACE CONCRETE DRIVEPAD

The Contractor shall provide all tools and materials necessary to construct a new reinforced concrete driveway apron as indicated on the Drawings and in accordance with NMDOT Standard Drawing No. 608-001-9 (typically Type 2 or 2A). Concrete shall be a minimum of 6-inches thickness throughout the entire drive pad. Concrete shall contain control joints with a maximum spacing of 10 feet between joints or as indicated by the Project Engineer. Concrete drivepads shall be placed per Section 608 of the NMDOT Specifications.

The unit price for this item shall include materials, excavation, backfilling and compaction, and removal and proper disposal of existing concrete as needed. Subgrade below existing drive pad or valley gutter to be replaced shall be scarified, moisture conditioned, and re-compacted to a minimum of 95% of the maximum dry density in accordance with ASTM D1557 at plus or minus two percent (+/-2%) of the optimum moisture content.

Work under this item shall include, but not limited to, protection of existing surfaces to remain, saw cutting as necessary, removal, disposal, subgrade preparation, installation of concrete drivepad and associated curb returns and gutter, bituminous expansion joint and contraction joints. Work under this item shall be measured and paid for at the contract unit price per square yard of 6-inch concrete drive pad constructed by the Contractor.

ITEM DA-2: REMOVE & REPLACE CONCRETE VALLEY GUTTER

The Contractor shall provide all tools and materials necessary to construct a new reinforced concrete driveway apron as indicated on the Drawings and in accordance with NMDOT Standard Drawing No. 608-001-9. Concrete shall be a minimum of 6-inches thickness throughout the entire valley gutter. Concrete sidewalk shall be placed per Section 609 of the NMDOT Specifications.

The unit price for this item shall include materials, excavation, backfilling and compaction, and removal and proper disposal of existing concrete as needed. Subgrade below existing drive pad or valley gutter to be replaced shall be scarified, moisture conditioned, and re-compacted to a minimum of 95% of the maximum dry density in accordance with ASTM D1557 at plus or minus two percent (+/-2%) of the optimum moisture content.

Work under this item shall include, but not limited to, protection of existing surfaces to remain, saw cutting as necessary, removal, disposal, subgrade preparation, installation of valley gutter, bituminous expansion joint and contraction joints. Work under this item shall be measured and paid for at the contract unit price per square yard of 6-inch concrete valley gutter constructed by the Contractor.