

**JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB**

**Project Manual
Specifications and Contract Documents for the Construction of:**

**JUNIPER SPRINGS ROAD
ROAD RECONSTRUCTION**



September 2020

**Control No.: L200471
County IFB No.:19-20-003-RB**

**The County of Lincoln
300 Central Avenue
P.O. Box 711
Carrizozo, NM 88301
Telephone: (575) 648-2385
Fax: (575) 648-2382**

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

NOTICE OF INVITATION FOR BIDS

PROJECT NAME: JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471
COUNTY IFB NO.: 19-20-003-RB

Due to State of New Mexico regulations and the practice of social distancing regarding COVID-19, electronic bids will be accepted for this project:

- a. All submitted bids must be received with a time stamp before the bid date on **Monday, September 14, 2020 at 10:00 a.m. (MDT).**
- b. Bids must be submitted via email and submitted to droybal@pettigrew.us
- c. Electronic Bids will be accepted for this project in PDF Format.
- d. File sizes larger than 30MB must be separated into separate messages.

Bids must be submitted with the email subject clearly marked with the **BID NO.: 19-20-003-RB** and the project name **JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION.**

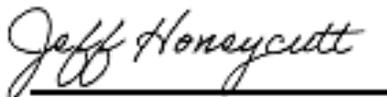
The Bid Opening shall be conducted via Teleconference. Bidders are requested to contact Pettigrew & Associates and should email droybal@pettigrew.us to submit their contact information no later than 24 hours before the Bid Opening Teleconference to receive an invitation.

Complete sets of the bidding documents may be obtained electronically upon request through Pettigrew & Associates. Email droybal@pettigrew.us or call at (575) 393-9827.

Prospective bidders should review the project site on their own prior to bidding. Last day to submit questions is on Thursday, September 10, 2020. No Pre-Bid Meeting will be held.

In case of ambiguity or lack of clearness in stating bid prices the County of Lincoln, reserves the right to adopt the most advantageous thereof, or to reject any or all bids and waive irregularities.

COUNTY OF LINCOLN
CARRIZOZO, NEW MEXICO



Jeffrey Honeycutt

Date: September 02, 2020

(FOR OWNER USE ONLY)

Newspaper: <u>Albuquerque Journal</u>	Publish: <u>09/02/2020</u>
Newspaper: <u>Ruidoso News</u>	Publish: <u>09/02/2020</u>

BIDDING INFORMATION

I. SUBMITTING BIDS

- a. Due to State of New Mexico regulations and the practice of social distancing regarding COVID-19, electronic bids will be accepted for this project:
 1. All submitted bids must be received with a time stamp before the bid date on **Monday, September 14, 2020 at 10:00 a.m. (MDT).**
 2. Bids must be submitted via email and submitted to droybal@pettigrew.us
 3. Electronic Bids will be accepted for this project in PDF Format.
 4. File sizes larger than 30MB must be separated into separate messages.
- b. Bidders shall use the bid form included with the specifications, and the specifications shall be returned with the bid. Bid form must bear the signature of the bidder to be considered.
- c. Bids must be submitted with the email subject clearly marked with the **BID NO.: 19-20-003-RB** and the project name **JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION.**
- d. All bids are subject to all applicable taxes. Any contracts that include labor or services require that the full amount be subject to the County of Lincoln Gross Receipts Tax. Do not include the taxes in the total bid price. Taxes will be added and paid at time of billing.
- e. All prices that the Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents as supplemented or clarified by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at the Bidder's sole risk.

II. SERVICES

- b. It is the bidder's responsibility to deliver his bid to the proper place and at the time designated. The fact that a bid was dispatched will not be considered.
- c. The successful bidder must honor any guarantee or warranty normally offered with any product bid.
- d. The successful bidder shall replace any defective equipment or material at no cost to the Owner, for as long as warranty is in effect.
- e. Any proposed material or equipment to be furnished shall carry the usual new warranty and service that is provided by the manufacturer and dealer. The unit offered under this bid shall be new, standard production model of the latest design in current production. The successful bidder shall supply the County any books or manuals from the manufacturer that regularly accompany the item furnished.

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III. AWARD OF CONTRACT

- b. The Lincoln County Board of Commissioners reserves the right to waive irregularities in bids, and to reject any or all bids or portions thereof. They may accept any bid that in its opinion is in the best interest of the County of Lincoln. Contract will be awarded on their decision as to the best bid offered.
- c. Contract may be awarded based on a Total Bid Price. The Bid Form contains a base bid, as described in Section 3 – Bid Form:
- d. Note: The Lincoln County Board of Commissioners may extend quantities for any one or all bid items at the listed unit prices. This additional work will be issued by change order.

IV. DELIVERY

- b. All bids shall be F.O.B., Job Site, Lincoln County, New Mexico.

ENGINEERING CERTIFICATION

Public Works Projects estimated \$100,000 or more shall be stamped by a Registered Professional Engineer.

This is to certify that I am a Registered Professional Engineer in the State of New Mexico, that these documents were prepared by me, or directly under my supervision, and that the same are true and correct to the best of my knowledge and belief.



A handwritten signature in black ink that reads "David Roybal".

David Roybal, P.E.
License Number **23576**
State of New Mexico

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SECTION 2 - INSTRUCTIONS TO BIDDERS

Bids are requested for construction of the project named and described below for the County of Lincoln in accordance with these specifications and all Special Provisions, Plans, and Documents thereto.

2.1 PROJECT DESCRIPTION

- a. This project consists of furnishing all labor, materials, tools, machinery, and equipment, etc., necessary to construct.

The County of Lincoln is proposing to reconstruct Juniper Springs Road. The project scope is as follows: Pavement rehabilitation/improvements via double penetration chip seal, blading and shaping, drainage improvements, and miscellaneous. Route is Juniper Springs Road, Termini – Ruidoso North Hwy 48 to junction with Hwy 37 turn onto Hwy 37 go to MM 4.8 turn West onto Juniper Springs Road project begins and goes 1.3 miles.

2.2 QUALIFICATIONS OF BIDDERS

- a. To demonstrate his qualifications for the Project, each bidder must be prepared to submit within five (5) days of Owner's written request a written statement of Bidder's Qualifications on the form contained herein or as prescribed by the Owner, including the Contractor Pre-Qualification Survey.

2.3 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- a. Before submitting his bid, each bidder must (a) examine the Contract Documents thoroughly; (b) visit the site to familiarize himself with local conditions that may in any manner affect performance of the work; (c) familiarize himself with federal, state, and local laws, ordinances, rules and regulations affecting performance of the work; and (d) carefully correlate his observations with the requirements of the Contract Documents. Failure to examine any of the above will not relieve the bidder of his obligation with respect to his bid.

2.4 INTERPRETATIONS

- a. All questions about the meaning or intent of the Contract Documents shall be submitted to Engineer in writing. Replies will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the bidding documents. Questions received less than five (5) 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.

2.5 BID GUARANTY

- a. Bid Guaranty in the amount of 5% of the amount of the bid shall accompany the bid and must be in the form of a certified or bank cashier's check made payable to Owner or a bid bond issued by a surety licensed to conduct business in the State of New Mexico and named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the

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Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department. The Bid Guaranty of the successful bidder will be retained until he has executed the Agreement and furnished the required Contract Security, whereupon it will be returned; if he fails to execute and deliver the Agreement and furnish the required Contract Security within fifteen (15) days of the Notice of Award, Owner may annul the Notice of Award and the Bid Guaranty of that Bidder will be forfeited. The Bid Guaranty of any bidder whom the Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the executed agreement is delivered by Owner to Contractor and the required Contract Security is furnished or the forty-sixth (46) day after the bid opening. Bid Guaranty of other bidders will be returned within seven (7) days of the bid opening.

2.6 CONTRACT TIME

- a. The number of days for the completion of work (the Contract Time) is set forth in the Bid Form and will be included in the executed agreement. Any provisions for liquidated damages are set forth in the Contract Documents.

2.7 SUBCONTRACTORS, ETC.

- a. Each Contractor shall submit a list of proposed Subcontractors with bid to be used on the project. This information will be reviewed for the apparent low bidder. If the Contractor desires, the list of Subcontractor may be submitted in a sealed envelope. If the Contractor is not the apparent low bidder, the Contractor may request the list to be turned, and will be returned unopened.
- b. In addition, if a Subcontractor's work to be constructed in the project is greater than \$5,000.00 or one-half of one percent the total project cost whichever is greater, each bidder shall furnish:
- c. The name and location of the place of business of each Subcontractor under subcontract to the contract who will perform work or labor or render service to the Contractor in or about the construction of the public works construction in an amount in excess of the listing threshold.
- d. Such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person, and organization **if requested by Owner**. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, other person, or organization, he may before giving Notice of Award request the apparent low bidder to submit an acceptable substitute without an increase in his bid price. If the apparent low bidder declines to make any such substitution, he will not thereby sacrifice his bid guaranty. Any Subcontractor, other person, or organization so listed and to whom the Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer.
- e. In contracts where the Contract Price is on the basis of cost of the work plus a fee, Contractor, prior to the Notice of Award, must identify in writing to Owner those portions of the work that he proposes to subcontract and, after the Notice of Award, may only

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subcontract other portions of the work with Owner's written consent.

- f. Contractor shall not be required to employ any Subcontractor, other person, or organization against who he has reasonable objection.
- g. A Contractor or Sub-Contractor that submits a bid valued at more than sixty thousand dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-13.1 NMSA 1978] shall be registered with the New Mexico Department of Workforce Solutions at the time of bid opening. All tiers of Sub-Contractors shall be subject to the requirements of this subsection.

2.8 BID FORM

- a. The Bid Form is included in the Contract Documents; additional copies may be obtained from Engineer.
- b. Bid Forms must be completed in ink or by typewriter. The Bid price of each item on the form must be stated in numerals.
- c. Bids by corporations must be executed in the corporate name by the president or vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- d. Bids by partnership must be executed in the partnership name and signed by a partner, his title must appear under his signature, and the official address of the partnership must be shown below the signature.
- e. All names must be typed or printed below the signature.
- f. The bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which shall be filled in on the Bid Form).

2.9 SUBMISSION OF BIDS

- a. Due to State of New Mexico regulations and the practice of social distancing regarding COVID-19, Electronic Bids will be accepted for this project:
 - 1. All submitted bids must be received with a time stamp before the bid date on **Monday, September 14, 2020 at 10:00 a.m. (MDT)**
 - 2. Bids must be submitted via email and submitted to droybal@pettigrew.us
 - 3. Electronic Bids will be accepted for this project in PDF Format
 - 4. File sizes larger than 30MB must be separated into separate messages
- b. At that time, the bids will be publicly opened and read aloud via teleconference and will be considered at the next regularly scheduled meeting of the County Commission or at a later meeting as the Commission may determine.

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- c. Terms used in these Instructions to Bidders have the meanings assigned to them in the General Provisions of the Specifications.

2.10 MODIFICATION AND WITHDRAWAL OF BIDS

- a. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that Bid must be executed and delivered to the place where bids are to be submitted at any time prior to the opening of bids.

2.11 OPENING OF BIDS

- a. The Bid Opening shall be conducted via Teleconference. Bidders are requested to contact Pettigrew & Associates and should email droybal@pettigrew.us to submit their contact information no later than 24 hours before the Bid Opening Teleconference to receive an invitation.

2.12 BIDS TO REMAIN OPEN

- a. All bids shall remain open for Forty-five (45) days after the day of the Bid Opening; but Owner may, in his sole discretion, release any bid and return the Bid Guaranty prior to that date.

2.13 AWARD OF CONTRACT

- a. Owner reserves the right to reject any and all bids and waive any and all informalities and the right to disregard all nonconforming or conditional bids or counter bids.
- b. In evaluating bids, Owner shall consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and alternates and unit prices if requested in the bid forms. He may consider the qualifications and experience of Subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the work whose identity may be submitted as specified in the Special Provisions. He may conduct such investigations as he deems necessary to establish the responsibility, qualifications, and financial ability of the Bidders, proposed Subcontractors, and other persons and organizations to do the work in accordance with the contract documents to Owner's satisfaction within the prescribed time. Owner reserves the right to reject the Bid of any Bidder who does not pass any such evaluation to Owner's satisfaction.
- c. If a contract is to be awarded, it will be awarded to the lowest responsible Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interest of the project.
- d. If the contract is to be awarded, Owner will give the apparent successful bidder a Notice of Award within forty-five (45) days after the day of the bid opening.

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- e. Simultaneously with delivery of the executed counterparts of the agreement to Owner, Contractor shall deliver to Owner the required Contract Security.

2.14 WAGE RATES

- a. The Bidder's attention is directed to the fact that wages to be paid on this project shall not be less than the prevailing wage rates as listed by the New Mexico State Office of Labor Commission or Federal Wage Rate for New Mexico (if federal funds are part of this project). Wage rates for this project are included in these documents. It shall be the successful Bidder's responsibility to inform them self thoroughly of all state, federal, and local laws and statutes pertaining to the employment of labor, the freedom of organization, and the conditions of employment and shall strictly adhere to such laws and regulations as are applicable. There shall be no discrimination because of race, creed, color, national origin, or legal political affiliation in the employment of persons qualified by training and experience for work under this contract.

2.15 PUBLIC WORKS APPRENTICE AND TRAINING ACT

- a. Any bidder on a County of Lincoln, Public Works Construction Project shall comply with Section 13-4D-1 through 13-4D-8 of the New Mexico State Statutes, known as the "Public Works Apprentice and Training Act."
- b. The County of Lincoln shall verify that the bidder is not out of compliance with this Act by contacting the New Mexico Construction Industries Division prior to awarding of the contract.

2.16 BID OPENING PROCEDURE

- a. Bidders are invited to be present at the opening of the bids. The person or persons opening the bids will adhere to the following procedure:
 - 1. Name the bidder and the number of the bidder's New Mexico Contractor's License.
 - 2. Check for Bid Guaranty.
 - 3. Check for acknowledgment of Addendums.
 - 4. Check for proper signature on Bid Form.
 - 5. Check for type of Affirmative Action Program (if required).
 - 6. Check other requirements on Bid Form.
 - 7. Check for list of Subcontractors.
 - 8. Check Resident or Resident Veterans Bidders Preference Number.
 - 9. Check for Workforce Solutions proof of registration
- b. If any of the above requirements have not been met, the bid shall be read after the deficiency or deficiencies have been accounted and noted. All bids shall be compared on the bases of the quantities set forth in the bid.

2.17 TIME OF CONTRACT

- a. Time of contract shall be listed in Section 7 - Contract along with any Liquidated damages amount. The amount Liguated damages listed in the contract plus additional engineering

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and inspection costs will be charged to the Contractor. The Contractor shall begin on-site construction in accordance with requirements set forth in the Notice to Proceed. Time extensions for non-compliance with work start-up period will not be allowed.

2.18 COLLUSION

- a. No bidder shall be interested in more than one bid. Collusion among bidders or submission or more than one bid under different names by any firm or individual shall be cause for rejection of all bids without consideration. Subcontractor work to be performed or suppliers providing for multiple bidders will not constitute a violation of this section.

2.19 PREPARATION OF BID

- a. Each bid must be submitted on the forms contained herein and attached to the specifications documents. All blank spaces for bid prices must be filled in, in ink or typewritten. Any final modifications on bid prices must be in ink and the initials of the person signing the bid must be placed at each modification made. In the event a discrepancy occurs between Unit Price shown multiplied by Quantity, and the resulting amount shown of that multiplication, the unit price shall govern and the bid totals and line items shall be adjusted accordingly.

2.20 POWER OF ATTORNEY

- a. Attorneys-in-fact who sign Bid Guaranties or Contract Bonds must file with each guaranty/bond the certified and effectively dated copy of their power of attorney contained herein.

2.21 CONDITIONAL BIDS

- a. Conditional bids will not be accepted.

2.22 INSURANCE

- a. See the General Conditions for insurance requirements and minimum limits.

2.23 NOTICE OF EXTENDED PAYMENT PROVISION

- a. This construction contract specifically provides for a payment later than twenty-one days after submission of an undisputed request for payment. This contract allows the Owner to may payment within 45 (not to exceed 45 days) days after submission of an undisputed request for payment (Section 57-28-5 B (2) NMSA 1978).

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SECTION 3 - BID FORM (Unit Price Contract)

Bid No. 19-20-003-RB

PLACE: County of Lincoln
300 Central Avenue
Carrizozo, NM 88301

DATE: _____

Bid of _____ (hereinafter called "BIDDER"), organized and existing under the laws of the State of _____ to the County of Lincoln (hereinafter called "OWNER").

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION

The Bidder, in compliance with your invitation for bids for construction of the **JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION**, having examined the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of labor, hereby proposes to furnish all materials, labor, and equipment, within the time set therein, at the prices stated below in accordance with the following:

1. Advertisement for bids dated **Wednesday, September 02, 2020**.
2. New Mexico Standard Specifications for Public Works Construction, 2019 Edition. New Mexico State Highway and Transportation Departments' Standard Specifications for Highway and Bridge Construction, 2019 Edition.
3. The contract documents, including General Conditions, Project Description, Special Provisions, Construction Procedures and Sequencing, and Technical and Supplemental Specifications as prepared by the County of Lincoln.
4. Construction Plans and Specifications as prepared by Pettigrew & Associates, P.A..

All of which are incorporated herein and made a part hereof. The following prices are to cover all expenses incurred in performing the work required under the contract documents, of which this bid is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in a written Notice to proceed by the Owner and to fully complete the project within time frame specified in Section 7 – Contract. Bidder further agrees to pay as liquidated damages, as stated in Section 7 – Contract.

Bidder agrees to perform all of the work described in the Specifications and shown on the plans for the following unit prices. Each item must be bid. The cost of any work added or deducted from the following estimated quantities shall be computed at the unit prices bid.

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BID FORM - JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION

ITEM NO.	DESCRIPTION	UNIT	QTY.	UNIT PRICE	AMOUNT
1	MOBILIZATION	L.S.	1		
2	CLEARING AND GRUBBING	ACRE	2.37		
3	SUBGRADE PREPARATION	S.Y.	23670		
4	DOUBLE BITUMINOUS CHIPSEAL	S.Y.	18640		
5	BASE COURSE 3"	C.Y.	1710		
6	BLADING AND RESHAPING	MILE	0.15		
7	TRAFFIC CONTROL	L.S.	1		
8	SWPPP	L.S.	1		

SUBTOTAL BASE BID \$ _____

SUBTOTAL BASE BID, IN WRITING:

New Mexico Gross Receipts Tax will be added to total bid price at the time of billing. Do not add New Mexico Gross Receipts Tax to the total bid price shown above.

Bid Guarantee shall be 5% of the Total Bid Price.

Receipt of Addenda to be acknowledged

Addendum No. _____ Date _____.

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Bids will be opened on **Monday, September 14, 2020 at 10:00 a.m. (MDT)** via Teleconference.

The Bid is hereby respectfully submitted by:

Name of Bidder

(SEAL) if Bid is by Corp.

By (Signature) Date

New Mexico Contractor's
License Number

Printed Name & Title

New Mexico Contractor's
License Classifications

Address

New Mexico Contractor's Resident
Bidder's Preference Number

City & State Zip

New Mexico Contractor's Resident
Veterans Preference Number

Telephone

Workforce Solutions Dept.
Registration Number

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

Federal Employer Tax ID No.

State of New Mexico Tax ID No.

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Chief Engineer
January 1, 2019

NOTICE TO CONTRACTORS
Itemized List

An itemized list is required on this Project. The total Bid Item Unit Price for the following items:

- ITEM 1 – MOBILIZATION (L.S.)
- ITEM 2 – CLEARING AND GRUBBING (ACRE)
- ITEM 3 – SUBGRADE PREPARATION (S.Y.)
- ITEM 4 – DOUBLE BITUMINOUS CHIPSEAL (S.Y.)
- ITEM 5 – BASE COURSE 3" (C.Y.)
- ITEM 6 – BLADING AND RESHAPING (MILE)
- ITEM 7 – TRAFFIC CONTROL (L.S.)
- ITEM 8 – SWPPP (L.S.)

shall reflect all costs associated with the completion of the itemized list.

The Bidder shall submit a completed Itemized List Form, attached to this Notice to Contractors ("NTC"), before Bid Opening.

Failure to comply with this NTC shall result in the Bidder's Bid being rejected as non-responsive.

If quantities are increased or decreased, the Itemized List Form will be used to determine payment to the Contractor for the quantities of actual Work Accepted.

The total Lump Sum costs derived from the completed itemized list shall be entered in the Bid Schedules for the following Bid Items:

Itemized List Form

ITEM NO.	DESCRIPTION	UNIT	QTY.	UNIT PRICE	AMOUNT
1	MOBILIZATION	L.S.	1		
2	CLEARING AND GRUBBING	ACRE	2.37		
3	SUBGRADE PREPARATION	S.Y.	23670		
4	DOUBLE BITUMINOUS CHIPSEAL	S.Y.	18640		
5	BASE COURSE 3"	C.Y.	1710		
6	BLADING AND RESHAPING	MILE	0.15		
7	TRAFFIC CONTROL	L.S.	1		
8	SWPPP	L.S.	1		

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CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. 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 a 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.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

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 unreimbursed 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.

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

**JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB**

Notice to Contractors

Project Specific Disadvantaged Business Enterprise (DBE) Participation Goal

Control Number ("CN"): L200471

YOU ARE HEREBY ADVISED OF THE FOLLOWING:

Contractor is advised that there is no project specific Disadvantaged Business Enterprise (DBE) Goal, however a bidders list of Sub-Contractors will still be required.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

New Mexico Department of Transportation ('NMDOT')
NOTICE TO CONTRACTORS
Non-Debarment Certification

Control Number ('CN'): L200471

BIDDER: _____ TELEPHONE: () _____

ADDRESS: _____

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

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

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

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

I acknowledge

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

NOTICE TO CONTRACTOR

New Mexico Department of Transportation ("NMDOT")
Pay Equity Reporting Acknowledgement
New Mexico Executive Order 2009-049

Control Number ("CN"): L200471

BIDDER: _____ TELEPHONE: () _____

ADDRESS: _____

Pre-Award

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

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

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

http://www.generalservices.state.nm.us/statepurchasing/pay_equity.aspx

Post Award

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

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

If a Subcontractor, at any tier, performs ten percent or more of the Total Original Contract Amount and during the performance of the Work grows to have ten or more employees or eight (8) employees in the same job classifications then the Contractor shall immediately submit form PE 10-249 or PE250.

Subsequent form PE 10-249 or PE250 submittals, by the Contractor for its Subcontractors, at any tier, shall be due yearly on the anniversary date of the Project Manager's approval of the permission to subcontract package.

Failure of the Contractor to comply with the Pay Equity Reporting Acknowledgement shall result in the NMDOT exercising its remedies under the Contract.

I acknowledge

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

New Mexico Department of Transportation ("NMDOT")
 Subcontractors Fair Practices Act Compliance

Control Number ("CN"): L200471

BIDDER: _____ TELEPHONE: () _____
 ADDRESS: _____

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

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

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

Only one Subcontractor shall be listed below for each Description of Work. The listing requirements do not apply if the Contractor:

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

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

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

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

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

SECTION 4 – BID GUARANTY

New Mexico Department of Transportation (“NMDOT”)
Bid Guaranty

Control Number (“CN”): L200471

BIDDER: _____ TELEPHONE: () _____

ADDRESS: _____

SURETY: _____

SURETY BUSINESS ADDRESS: _____

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

The Surety undertakes to pay the NMDOT up to the above amount upon receipt of the NMDOT’s first written demand, without the NMDOT having to substantiate its demand, provided that in its demand the NMDOT will note that the amount claimed by the NMDOT is due to the Bidder failing to return the signed Contact and Contract Bonds within fifteen (15) Days of Receiving the Contract. The Guaranty will remain in force up to 45 Days after Bid Opening or as it may be extended by the NMDOT, notice of which extension(s) to the Surety is hereby waived.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____, as "SURETY" are held and firmly bound unto the County of Lincoln, New Mexico, hereinafter called the "OWNER", in the penal sum of _____ Dollars (\$_____) in lawful money of the United States, for the payment of which sum will and truly be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, WHEREAS, the Principal has submitted the Accompanying Bid, dated the _____ day of _____, 20____, to the County of Lincoln, New Mexico, for:

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION

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

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

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

ATTEST:
(SEAL)

Principal

By: _____

Witness as to Principal

Principal Address

ATTEST:
(SEAL)

Surety

By: _____

Witness as to Surety

Surety Address

COUNTERSIGNED:

By: _____

Attorney-in-Fact, State of _____

Power-of-Attorney for person signing for Surety Company must be attached to bond.

SECTION 5 - PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we (1) _____, a (2) _____, hereinafter called "PRINCIPAL", and (3) _____ of _____, State of _____, hereinafter called the "SURETY", are held and firmly bound unto (4) County of Lincoln, New Mexico, hereinafter called "OWNER", in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, personal representatives, and successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the ____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of:

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION

NOW, THEREFORE, if the principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or addition to these terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed as an original, this ____ day of _____, 20_____.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

ATTEST:

(SEAL)

Principal

By: _____

Principal-Secretary

Name/Title

Witness as to Principal

Principal Address

ATTEST:

(SEAL)

Surety

By: _____

Surety-Secretary

Attorney-in-Fact

Witness as to Surety

Surety Address

Note: Date of Bond must not be prior to date of contract.

- (1) Correct name of Contractor.
- (2) A corporation, a partnership, or an individual as case may be.
- (3) Correct name of Surety.
- (4) Correct name of Owner.
- (5) If Contractor is partnership, all partners should execute Bond.

SECTION 6 - PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we (1) _____, a (2) _____, hereinafter called "Principal", and (3) _____ of _____, State of _____, hereinafter called the "Surety", are held and firmly bound unto (4) County of Lincoln, New Mexico, hereinafter called "OWNER", in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, personal representatives, and successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the ____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of:

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, Subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including, but not limited to, all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment, and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said Subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this ____ day of _____, 20_____.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

ATTEST:

(SEAL)

Principal

By: _____

Principal-Secretary

Name/Title

Witness as to Principal

Principal Address

ATTEST:

(SEAL)

Surety

By: _____

Surety-Secretary

Attorney-in-Fact

Witness as to Surety

Surety Address

Note: Date of Bond must not be prior to date of contract.

- (1) Correct name of Contractor.
- (2) A corporation, partnership, or individual, as case may be.
- (3) Correct name of Surety.
- (4) Correct name of Owner.
- (5) If Contractor is partnership, all partners should execute Bond.

This bond is issued simultaneously with Performance Bond in favor of contracting agency for the faithful performance of the contract.

SECTION 7 – CONTRACT

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION

This Contract, the "Contract," is made and entered into the ____ day of _____ 20____, between the County of Lincoln, New Mexico, hereinafter referred to as "OWNER," and _____, hereinafter referred to as "CONTRACTOR."

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and undertakings contained herein, and upon the terms, conditions and provisions set forth below, OWNER and CONTRACTOR agree as follows:

I. SCOPE OF CONTRACTOR'S WORK

A. CONTRACTOR will complete the **JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION**, hereinafter referred to as the "Project," by furnishing all materials, labor, machinery, equipment and tools necessary to construct:

The County of Lincoln is proposing to reconstruct Juniper Springs Road. The project scope is as follows: Pavement rehabilitation/improvements via double penetration chip seal, blading and shaping, drainage improvements, and miscellaneous. Route is Juniper Springs Road, Termini – Ruidoso North Hwy 48 to junction with Hwy 37 turn onto Hwy 37 go to MM 4.8 turn West onto Juniper Springs Road project begins and goes 1.3 miles.

All quantities are approximate. All work to be performed and materials to be installed hereunder shall be in accordance with subsequent sections of this contract and specifications.

B. All construction shall further be in accordance with, and this Contract shall include, and CONTRACTOR shall be bound by all provisions of the NMSSPWC, 2006 edition and the NMDOT Standard Specifications for Highway and Bridge Construction, 2019 Edition as modified by the Technical and Supplemental Specifications, which are incorporated herein by reference.

C. All construction shall further be in accordance with, and this Contract shall include all provisions of the following documents, which documents are hereby incorporated herein by reference, and which documents the parties hereby acknowledge that they possess and have knowledge of their contents: (1) Bid; (2) Addenda (3) Performance Bond; (4) Payment Bond; (5) Certificate of Insurance; (6) Wage Rate Determination(s); (7) General Conditions; (8) Special Provisions; (9) Construction Procedures and Sequencing; (10) Technical and Supplemental Specifications; (11) Project Plans & Details (Drawings); (12) Project Specifications, (13) Project Description.

II. COMPENSATION

A. CONTRACTOR shall perform the construction of the Project on a per unit basis in accordance with the bid quantities. The parties understand and agree that the total price of this Contract is based upon price quotes for certain items of goods multiplied by the estimated number of units which will be required for the Project. The parties understand and agree that all parties have made a serious good faith effort to arrive to the closest and most accurate estimates possible and that certain adjustments in quantity may have to be made as performance under this project proceeds. However, the parties agree that the unit prices quoted, as well as the figure quoted for services, will remain the same, unless otherwise provided herein. The "Bid," previously incorporated herein by reference, sets forth the unit prices, estimated number of units, and the figures for service, which figures have been used to arrive at the Bid item prices shown on the Bid. The Bid sets forth the **TOTAL BID PRICE:**

_____ Dollars (\$ _____). New Mexico
Gross Receipts Tax will be added to this amount at the time of billing.

B. OWNER agrees to pay CONTRACTOR as provided for in the "General Conditions," incorporated herein by reference.

III. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

A. Both owner and contractor agree that time is of the essence in the completion of this public project. Both parties agree that significant financial loss will be incurred should the project not be completed on time and the calculation of said damages will be difficult to determine. Both parties acknowledge the difficulty of damage calculating and expense of litigating or otherwise proving the actual costs of such delay and agree that such is not in either parties' best interest. In lieu of such determination, both parties agree to sum of **one thousand dollars (\$1000) per calendar day** as liquidated damages for each calendar day the project is not substantially complete and **one thousand dollars (\$1000) per calendar day** as liquidated damages for each calendar day the project is not finally complete, as the sole and exclusive remedy for the damage costs of project delay. The parties agree that any dispute over damages from either party shall be limited by the daily liquidated damages amount. This amount shall be withheld from the appropriate pay request and retained by the owner as reimbursement; or in the case of damage costs due to the contractor, be billed to the owner on the final pay request once all the punch-list items are corrected upon final project completion.

B. For purposes of this section, the contract time shall be calculated as the time allowed from the date stated in the Notice-to-Proceed to no later than **thirty (30) consecutive calendar days** for Substantial Completion and **sixty (60) consecutive calendar days** for Final Completion for this specific contract, with days added for agreed-upon weather days, days added for owner-caused delays, and days added or subtracted for change orders, per each specific change order. The number of days added for inclement weather or owner-caused delays shall be reduced by the number of days where no or minimal work was observed being done on the project, based on a 7-day week. Further, an owner-caused delay can only be counted, if no other work could be performed each day of the claimed delay. If the resulting net owner-caused delays exceed contractor-caused and weather delays to the point of delaying the contractor beyond the date of substantial completion, contractor shall be entitled to the agreed-upon liquidated damages as his sole and exclusive remedy for the costs of such delay.

C. For purposes of this specific project, Substantial Completion shall be defined as the date the owner's representative certifies the project construction, or a specified part of, is sufficiently finished to

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

allow the owner to use the project, or specified part thereof, in the manner for which it was intended. More specifically to this project, substantial completion shall include at a minimum, completion of all the following:

- Clearing and grubbing, completed and approved
- Subgrade preparation, completed and approved
- Double bituminous chip seal, completed and approved
- Base course 3", completed and approved
- Blading and reshaping, completed and approved
- SWPPP completed and approved
- No traffic control on the project and the project open for public use
- All residential and commercial driveways and turnouts complete and open

IV. INDEMNIFICATION

CONTRACTOR shall indemnify, hold harmless and defend OWNER and its employees, officers and agents, against liability, claims, damages, losses or expenses, including attorney's fees, arising out of bodily injury to persons or damage to property caused by or arising out of the acts or omissions of CONTRACTOR, its officers, employees or agents.

V. MISCELLANEOUS

A. CONTRACTOR shall not transfer or assign his interest in this Contract without prior written approval from OWNER.

B. Insofar as authorized by law, this Contract shall be binding upon the parties hereto, their successors, executors, administrators, and assigns.

C. It is mutually understood and agreed that this Contract shall be governed by the laws of the State of New Mexico, both as to interpretation and performance, and jurisdiction and venue relating to any litigation or dispute arising out of this Contract shall be in Lincoln County, New Mexico, only.

D. If any part of this Agreement shall be in violation of the laws or Constitution of New Mexico, only such part thereof shall be invalidated, and all other parts hereof shall remain valid and enforceable.

E. The foregoing Contract, inclusive of all documents identified herein and incorporated herein by reference, constitutes the entire agreement between the parties and may be modified only in writing signed by both parties.

F. Any change order shall be in writing and signed by both parties prior to any work begins pursuant to the change order.

IN WITNESS WHEREOF, the parties hereto have executed five (5) copies of this Contract, each of which shall be deemed an original, on the day and the year first above written.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB

Owner:

ATTEST:

THE COUNTY OF LINCOLN, NEW MEXICO

County Clerk

By: _____

Title: _____

Title: _____

APPROVED AS TO FORM:

County Attorney

Contractor:

By: _____

Title: _____

Secretary

SECTION 8 - INSURANCE CERTIFICATE

<<<This sheet shall be replaced with the awarded Contractor's Certificate of Insurance>>>

Insurance Coverage:

The Contractor shall obtain, and provide proof thereof, to the Owner the following insurance coverage:

General Liability as follows:

Premises, operations, explosions and collapse hazard, underground hazard, contractual insurance, products with completed operations, broad form property damage, independent Contractors and personal injury. The limits of liability shall be no less than \$1,000,000 combined single limit for bodily injury and property damage.

Automobile Liability as follows:

Owned, hired and non-owned vehicles. The limits of liability shall be no less than \$1,000,000 combined single limit bodily injury and property damage.

The County of Lincoln shall be named as an additional insured on all coverages.

Contractor shall further obtain and provide proof to the Owner of any other insurance coverage required by the statutes of the State of New Mexico or regulations of any agency of the State of New Mexico governing this type of Project.

Workers' Compensation is required along with State statutory employers' liability limits regardless of number of employees.

Contractor covenants, warrants, and agrees that it shall indemnify, defend, save and hold the County of Lincoln, the Lincoln County Board of Commissioners, its individual commissioners, its officers, employees and agents (collectively and individually as "Owner") harmless from any and all liability, damage, expense, cause of action, suits, claims, judgments, losses, costs, expenses, and liens, of every kind and nature, including, but not limited to, those arising from injury to person(s) or damage to property, arising out of, resulting from, or occurring during this project. This indemnification and hold harmless by Contractor to the County of Lincoln (Owner) shall include, but not be limited to, the County of Lincoln (Owner's) attorney's fees and costs incurred in defending against the same, and in prosecuting any cross claims or counterclaims required or arising therefrom.

SECTION 9 – PREVAILING WAGE RATES



LABOR RELATIONS DIVISION

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

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

WWW.DWS.STATE.NM.US

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

Wage Decision Approval Summary

1) Project Title: Juniper Springs Road Road Reconstruction
 Requested Date: 07/13/2020
 Approved Date: 07/14/2020
 Approved Wage Decision Number: LI-20-1435-A

Wage Decision Expiration Date for Bids: 11/11/2020

2) Physical Location of Jobsite for Project:
 Job Site Address: Juniper Springs Road
 Job Site City: Nogal
 Job Site County: Lincoln

3) Contracting Agency Name (Department or Bureau): County of Lincoln
 Contracting Agency Contact's Name: Toni Foligno
 Contracting Agency Contact's Phone: (575) 648-2385 Ext. 106

4) Estimated Contract Award Date: 09/14/2020

5) Estimated total project cost: \$325,000.00
 a. Are any federal funds involved?: No
 b. Does this project involve a building?: No
 c. Is this part of a larger plan for construction on or appurtenant to the property that is subject to this project?: No
 d. Are there any other Public Works Wage Decisions related to this project?: No
 e. What is the ultimate purpose or functional use of the construction once it is completed?: Plan, design, reconstruction, pavement rehabilitation/improvements via double penetration chip seal, blading, shaping, drainage improvements, and miscellaneous.

6) Classifications of Construction:

Classification Type and Cost Total	Description
Highway/Utilities (A) Cost: \$325,000.00	The County of Lincoln is proposing to reconstruct Juniper Springs Road. The project scope is as follows: Pavement rehabilitation/ improvements via double penetration chip seal, blading and shaping, drainage improvements, and miscellaneous. Route is Juniper Springs Road, Termini Ruidoso North Hwy 48 to junction with Hwy 37 turn onto Hwy 37 go to MM 4.8 turn West onto Juniper Springs Road project begins and goes 1.3 miles.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB



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

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.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
CONTROL NO.: L200471 COUNTY IFB NO.: 19-20-003-RB



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.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
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TYPE "A" - STREET, HIGHWAY, UTILITY & LIGHT ENGINEERING

Effective January 1, 2020

Trade Classification	Base Rate	Fringe Rate
Bricklayer/Block layer/Stonemason	24.46	8.81
Carpenter/Lather	24.63	11.24
Carpenter- Los Alamos County	27.80	13.19
Cement Mason	17.42	6.81
Ironworker	27.00	15.75
Painter- Commercial	17.00	6.88
Plumber/Pipefitter	30.76	11.62
Electricians- Outside Classifications: Zone 1		
Ground man	23.27	12.67
Equipment Operator	33.39	15.35
Lineman/ Technician	39.28	16.91
Cable Splicer	43.21	17.95
Electricians-Outside Classifications: Zone 2		
Ground man	23.27	12.67
Equipment Operator	33.39	15.35
Lineman/ Technician	39.28	16.91
Cable Splicer	43.21	17.95
Electricians-Outside Classifications: Los Alamos		
Ground man	23.94	12.85
Equipment Operator	34.35	15.60
Lineman/ Technician	40.41	17.21
Cable Splicer	44.45	18.28
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		

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Group I	18.79	6.34
Group II	19.72	6.34
Group III	19.82	6.34
Group IV	19.93	6.34
Group V	20.03	6.34
Group VI	20.21	6.34
Group VII	20.37	6.34
Group VIII	20.66	6.34
Group IX	28.16	6.34
Group X	31.41	6.34
Truck Drivers		
Group I-IX	16.45	7.87

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.

SECTION 10 - STATEMENT OF BIDDER'S QUALIFICATIONS

(To be submitted by the Bidder only upon the specific request of the Owner in writing.)

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

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

SECTION 11 - PROJECT DESCRIPTION

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION

Project Description

The County of Lincoln is proposing to reconstruct Juniper Springs Road. The project scope is as follows: Pavement rehabilitation/improvements via double penetration chip seal, blading and shaping, drainage improvements, and miscellaneous. Route is Juniper Springs Road, Termini – Ruidoso North Hwy 48 to junction with Hwy 37 turn onto Hwy 37 go to MM 4.8 turn West onto Juniper Springs Road project begins and goes 1.3 miles.

All items necessary for the complete construction shall be included in the Contractors Unit Prices in the Bid Form. Items not specifically listed on the Bid Form and part of the project as listed in the plans, details and specifications shall be incidental to the construction item in the Bid Form or incidental to the project.

The Contractor is responsible for acquiring any and all permits necessary for the construction of this project (unless otherwise noted), and for contacting all utilities or the New Mexico One Call system to determine all lines located in the project area.

END OF SECTION

SECTION 12 - SPECIAL PROVISIONS

SPECIAL PROVISIONS: The 2019 Edition of the New Mexico Department of Transportation's Standard Specifications for Highway and Bridge Construction shall have precedence over the project in whole. This section is intended to provide supplemental project information.

- SP-1** **RIGHT-OF-ENTRY-AND-INSPECTION-OF-WORK:** All authorized personnel of the County of Lincoln or their representatives shall have the right to visit the site and inspect the work and materials. The franchise utility owners or their representatives shall have the right to visit the site and inspect the work and materials along Juniper Springs Road. The Contractor shall furnish reasonable facilities for obtaining such information as necessary to determine the progress and manner of the work and character of materials being used. Authorized representatives shall bring to the attention of the Contractor any work which does not meet the specifications of this contract, and the Contractor shall correct such work as brought to his attention.
- SP-2** **EXISTING PUBLIC AND PRIVATE UNDERGROUND UTILITIES, PIPELINES, CABLES, AND UNDERGROUND STRUCTURES (LINES):** Lines may exist in a different location than shown on the construction plans which may affect the construction of new items with this project. Additional lines, active and/or abandoned, may exist that are not shown on the constructions plans. The Contractor shall be responsible for making and maintaining records of one call notification to NM811 by dialing 811 or 1 800-321-2537 or online at www.nm811.org. The exact location of all lines shall be determined by safe and acceptable means, in accordance with the New Mexico Excavation Law. Each line shall be located at each crossing (utility and roadway), alley, and at 500 foot intervals within the limits of the project. Lines not found within 18 inches of the marks per locates shall be reported to the company responsible for the marks, additional exposing may be required to locate these lines per revised markings. When construction operations approach the location of underground lines, the exact location shall be determined again in accordance with the New Mexico Excavation Law. Once lines are exposed, the Contractor will be required to protect & support, or remove and dispose and re-install existing active lines meanwhile maintaining operation of such active lines, in accordance with the contract. The Contractor shall be responsible for the destruction of or damage to all lines; and he shall use all reasonable measures and precautions to protect such lines and maintain or replace them in as good condition or better as they were prior to the construction operations. The costs associated with replacing all lines which are damaged during construction activities shall be borne by the Contractor. The costs associated with properly locating, measuring, identifying, protecting, supporting and maintaining **all lines shown on the construction plans and as identified through the NM811 LOCATE**, shall be considered incidental to the installation of the item or items being installed and **no additional payment will be made**. The costs associated with removing and disposing, and re-installing existing lines (if applicable) as shown on the Construction drawings shall be paid for under items set forth on the bid proposal and as described in subsequent sections.
- SP-3** **FENCES, BUILDINGS:** Where it becomes necessary to work in easements or alleys that have been improved with fences, buildings, walks or drives, or where construction, although on public

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right-of-way, is close enough to cause damage to such structures, on completion of the construction, the Contractor shall replace the fence, buildings, walks, curb and drives at no additional cost to the Owner, leaving all in the original condition as found. The Contractor shall be responsible for means and methods in order to protect existing facilities and construct project, which shall include appropriate equipment for the work.

- SP-4** **GUARANTEE:** All work, materials, and performance shall be guaranteed for a period of **one year** from date of final acceptance against defective workmanship. Upon receipt of notice from the Owner of failure of any part of the guaranteed workmanship, the Contractor shall promptly replace the defective parts at his own expense.
- SP-5** **DRAWINGS:** The data given herein and on the drawings is as exact as could be secured, but extreme accuracy is not guaranteed. Discrepancies occurring between the works covered by this section shall be immediately reported to the Engineer, and he will issue written instructions for any changes or any clarifications.
- SP-6** **EXAMINATION OF PLANS, SPECIFICATIONS AND SITE:** The offering of a bid shall serve as prima facie evidence that the bidder has visited the sites of the proposed project, and has satisfied himself that the character, quality and quantities of work to be performed, materials to be furnished, and requirements of the proposed contract are reasonably accounted for in his bid.
- SP-7** **WASTE MATERIAL:** All waste material encountered on this project shall be disposed by the Contractor of in accordance with applicable codes and ordinances. The costs for removing and disposing waste material shall be considered incidental to the project and no additional payment will be made.
- SP-8** **ORDER OF WORK:** The Contractor shall complete the work under this contract in accordance with Section 14 Construction Procedures and General Notes. The Contractor shall be required to coordinate his activities with other Contractor's and Owner's staff that may be working in this or adjacent areas.
- SP-9** **FEES AND CODES:** The Contractor shall pay all costs for any and all fees and/or work permits required in connection with the work, unless noted otherwise. All materials supplied and work performed by the Contractor shall be in accordance with all State and local codes and/or ordinances governing such material and work.
- SP-10** **NOTICE OF COMPLETION:** When the Contractor is satisfied that work and cleanup is completed, he shall issue the notice of completion to the Owner's authorized representative. The notice of completion shall include the request for final inspection with date and time given.
- SP-11** **FINAL INSPECTION WITH OWNER'S REPRESENTATIVE:** The Owner's representative will respond to the notice of completion by the Contractor and shall appear at the given time for a tour of the project with the purpose of making it the final inspection. Any inconsistencies to the specifications shall be noted by the Owner's representative, and a written copy of corrections

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shall be given to the Contractor.

- SP-12** ACCEPTANCE OF THE PROJECT: The Owner may accept the project even though the corrections on the final inspection have not been made by the Contractor. In such a case, there will be deductions for the uncompleted or corrected work based on previous provisions of these specifications. Such deductions shall be made from the final payment.
- SP-13** AS-BUILT PLAN ACCEPTANCE: It will be the responsibility of the CONTRACTOR to complete an as-built plan for this project, which includes confirmation of existing plan elevations, inverts, utility crossing depths, finished elevations, etc. The CONTRACTOR shall keep a record drawing set to be verified monthly by the Project Manager with each Progress Payment and be delivered to the Owner prior to project acceptance.
- SP-14** CONTRACT TIME AND PROJECT COMPLETION: All work must be complete within specified number of calendar days from the effective date of the "Notice to Proceed".
- SP-15** SUBMITTALS: Contractor shall submit to Engineer for the limited purpose of checking for conformance with the information given in the Contract Documents. Contractor shall submit each submittal separately per specification section, each with its own transmittal letter that includes all of the Contractors information. Indicate Project Name, Contractor, Subcontractor or Supplier, any related details, and specification Section number. Contractor shall sign and stamp certifying review of required dimensions, coordination with any adjoining work, and verifying product is correct. Contractor shall indicate if there is any variation from the Contract Documents which may affect the work. Contractor shall distribute all reviewed submittals to interested parties with notice to take prompt response to any comments from Engineer. The submittal process as described in this Special Provisions shall apply to any and all types of submittals made by Contractor to Engineer including, Construction Schedules, Shop Drawings, Certificates, Product Lists, Product Data, or any other necessary submittal. For each individual submittal review allow **15 business days** excluding delivery time to and from the Contractor.

Format: Submittals will only be accepted by Engineer in .PDF Electronic file format via e-mail. Hard Copies shall be rejected, any other Electronic file format shall be rejected, and if submittal is not legible it shall be rejected.

If a Resubmittal is required Contractor shall make all necessary changes, corrections, and address comments and resubmit the entire submittal. The resubmittal shall be clearly marked as a RESUBMITTAL.

- SP-16** TESTING:
- A. A professional engineering testing firm will be retained by the Owner to perform all compaction testing, asphalt testing, and concrete testing. The County of Lincoln shall pay for the first test on each material as required. Any retesting due to the initial test failing shall be paid for by the Contractor, whether the retest is passing or failing. Costs to the

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Contractor for any re-test will be withheld from partial pay estimates and/or final pay estimate prior to final acceptance. A copy of the cost schedule may be obtained from the County of Lincoln. The Contractor shall provide the Owner 24 hours' notice (Monday through Friday) of any testing required. Any item installed without being tested or certified shall be removed and replaced at Contractor's expense. Contractor shall notify the Owner before any tests are made, and Owner shall contact the testing firm as necessary.

- B. Proctor determinations and gradation results take a minimum of 72 hours and up to 5 working days to complete. A proctor determination and gradation test will be performed for each type of soil, or mixture thereof, which will be used for backfill. It shall be the responsibility of the Contractor to request for samples of material to be obtained as to avoid delays. Furthermore, it shall be the responsibility of the Contractor to label each stockpile with a permanent sign or marker which identifies the material.
- C. Compaction testing will be performed at a minimum of one test for every 200 feet of compaction and 2 feet in height. Compaction testing may be performed for each lift of material which exceeds 12 inches in loose depth as well as lengths of backfill which are less than 200 feet, or as determined by the Owner's authorized representative. These tests are made using a nuclear densometer and preliminary results are available when the test is made. Official results are sent within 72 hours and can take up to 5 working days.

SP-17 TRAFFIC CONTROL: The Contractor shall submit a traffic control plan to the Engineer for approval. The Contractor shall provide and maintain all barrels, cones, flashers, barricades and flagmen, as specified in this contract and as required to conform to the M.U.T.C.D. requirements. All cones, barrels, flashers and barricades shall be kept clean and in working order at all times. Any of the above that are, in the opinion of the Engineer, damaged and/or non-functioning shall be removed and replaced. It is also the Contractor's responsibility to maintain or provide, at all times, access to all individual properties during the life of the project and coordinate for temporary pick up, drop off, and parking locations with individual residents including those with special access needs. Additional work may be required to provide residential access to any person with special needs including providing access which complies with the Americans with Disabilities Act. It shall be up to the discretion of the Engineer as to whether or not adequate access has been provided. Traffic Control shall be paid for under item set forth on the bid proposal and as described in subsequent sections.

SP-18 PUBLIC SAFETY: The Contractor shall provide and erect temporary construction fencing along the perimeter of the trenches at all times in accordance of OSHA regulations. Safety control devices for the separation of work areas from the general public such as barricades, barrels, cones, tape, fencing, and pedestrian signs shall be the responsibility of the Contractor and considered incidental to project. No additional payment will be made.

SP-19 MAINTENANCE OF EXISTING ROADWAY DURING CONSTRUCTION: The Contractor shall be responsible for maintaining the existing roadway as necessary to maintain a satisfactory driving surface, so safe driving conditions are maintained and vehicle damage is avoided. This will consist of pothole patching and edge and driveway grading during the construction contract

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time, and as required by NMDOT drop off Policy. Cost for this maintenance shall not be paid for separately, but shall be considered incidental to the roadway construction.

SP-20 WASTE CONTROL: The Contractor shall notify New Mexico Waste Management, business owners, and home owners one week prior to beginning construction to schedule an alternate route for Waste Control during the scheduled days of trash pickup in these areas.

SP-21 RFI: Contractor shall only submit an RFI in .PDF electronic file format to Engineer via e-mail. RFI will only be accepted by Engineer from Contractor, any RFI requests from any Subcontractor or Supplier shall be rejected. RFI requests shall contain only one item, unless a specific issue exists relating to multiple items.

Engineer shall respond to Contractors RFI in writing in .PDF electronic file format via email. RFI Responses from Engineer will not change any of the requirements as set forth in the Contract Documents. If Contractor should believe that a RFI response constitutes a change to the Contract, Contractor shall provide Engineer written notice. The Contractors written notice shall include specific reasons and detailed breakdowns of change in cost or time based on Engineers response. Contractors written notice shall not be considered a Change Order but rather provide a basis for further discussion.

SP-22 COORDINATION OF CONTRACT DOCUMENTS: The following documents are essential parts of the Contract and are intended to be complementary. In case of a discrepancy, the documents will govern in the following order of importance

1. Addenda
2. Required Documents for bid Submittal
3. Notice to Contractors
4. Invitation for bids
5. Project Description
6. Project Plans
7. Special Provisions
8. Construction Procedures and Sequencing
9. Technical and Supplemental Specifications
10. General Conditions
11. Standard Specifications
12. Standard Drawings

SP-23 UTILITIES:

Protection and Restoration of Property

The Contractor shall never unnecessarily interfere with or interrupt the services of any public utility that may have property within or adjacent to the streets, alleys, and easements involved in the work and shall take all necessary precautions and efforts to locate and protect all underground conduit, cable, pipes, water mains, sewers, structures, gas lines, trees, monuments, power lines, telephone and telegraph lines, traffic control devices and other structures, both below and above ground. Contractor shall give all public utility companies a

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reasonable notice in writing, in no event less than forty-eight (48) hours, for any work that he contemplates which would interfere in any way whatsoever with the service of any existing public utility and County-Owner facilities. If such public utility does not cooperate for the protection of its services, the Contractor shall notify the Engineer-Inspector. Utility lines shall be located by the Contractor far enough in advance of construction work in order that the owner of such lines may raise, lower, realign, or remove lines and structures, if necessary, and in order that the Engineer may make any line and grade changes necessary should the existing utility lines conflict with the work under construction providing such adjustments do not materially affect the work. The Contractor shall immediately report any damages to property or plant of public utility companies and County property to the company or owner involved, and to the Engineer.

Contractor shall restore at his own expense any public, County-Owner, or private property damage, for which he is directly responsible, to a condition equal to that existing before damage. Contractor shall promptly notify his insurance carrier of the alleged damage, and if he refused to do so upon notice, Owner may cause such restoration and deduct cost from monies due, or which may become due, to the Contractor.

Abandoned Utilities

Unless otherwise specified, the Contractor shall remove all interfering portions of utilities which are shown on the drawings as "abandoned" or "to be abandoned in place" and which interfere with the construction of the project. All abandoned water mains on the drawings as "abandoned" or "abandoned in place" or found during construction shall be removed or capped as a minimum, unless otherwise specified. All costs involved in said removals shall be included in the prices bid for the various items of work. All such abandoned utilities removed by the Contractor shall be stored on the site where directed and shall remain the property of the owner utility company or contracting agency as determined by the Engineer.

Where utilities are shown on the drawings as "abandoned" or "to be abandoned in place", it shall be the Contractor's responsibility to contact the utility company involved, within 48 hours, prior to excavating around such utilities to ascertain that the abandonment of the utility has been completed.

Location of Existing Utilities

The public utilities shall be responsible to locate their utilities and provide information stating the horizontal and vertical alignments of same. If field verification excavations are required, the public utility will provide same in a timely manner.

Utilities which upon exploration are found to interfere with the permanent project work, or within the trenching prism as defined by OSHA, will be relocated, altered, or reconstructed by others or the Engineer may order changes in location, line, or grade or structures being built in order to avoid the utilities. The cost of such changes will be paid for under applicable bid items.

Unknown Utilities Disclosed During the Contract Work

In the event that a utility is disclosed subsequent to the award of the Contract, such utility not

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being indicated on the drawings, or in the event that an existing utility is found to be in a materially different location than shown on the drawings and thus requires additional work on the part of the Contractor for its maintenance, relocation or support, the necessary alteration, relocation, proper support and protection shall be done and paid for as follows:

When said utility is found to occupy the space to be occupied by a part of the permanent works or to be in such close proximity to the new work as to require the relocation or alteration of said utility, Contractor shall arrange for the relocation as directed by Engineer. Contractor shall be paid for such relocation if he incurs any expense in doing so.

When any portion of the utility is in close proximity and more or less parallel to a structure or conduit, Contractor shall advise Owner thereof, and in cooperation with Owner, provide and place the necessary support for proper protection to insure continuous and safe operation of the utility structure. All costs for such work shall be borne by the Contractor.

Responsibility of the Contractor

The Contractor shall be held responsible for all costs for the repair of any and all damage to the contract work or to any utility (which is previously known and disclosed to him by the utility) as may be caused by his operations. Utilities which are relocated by others in order to avoid interference with structures and which cross the project work shall be maintained in their relocated positions by the Contractor. All costs for such work shall be absorbed or included in the prices bid for the various items of work.

Delays Caused by Failure to Relocate Utilities

Where parties other than Contractor are responsible for the relocation of utilities and a delay in Contractor's work is caused by the failure on the part of said parties to remove or relocate such utilities in time to prevent such delay, or by any action or lack of action on the part of Owner, it shall be understood that Contractor shall not be entitled, as a result of such delay to his work, to damages or additional payments over and above the contract price. If delays in Contractor's work are caused by the reasons mentioned herein, Contractor shall be entitled to an extension of time. The length of such extension of time will be determined by Engineer with consideration as to the effect of the delay on the project as a whole.

In order to minimize delays to Contractor caused by the failure of other parties to relocate utilities which interference with structures, Contractor upon request to Engineer, may be permitted to temporarily omit the portion of the work affected by the utility. The portion thus omitted shall be constructed by Contractor immediately following the relocation of the utility involved.

SECTION 13 – NOTICES TO CONTRACTORS

Project Specific Notice(s) to Contractors

- Schedule Format

Standard Notice(s) to Contractors

- Approved Products List
- Buy America
- Chief Engineer
- Electronic Data Files
- Environmental and Archaeological Approvals for Pit Areas
- Federal Requirements
- New Mexico Employees Health Coverage
- Office of Inspector General
- Professional Services
- Quality Standards for Traffic Control Devices
- Return of Contract Documents
- Returning of Lobbying Disclosure/Disclosure of Lobbying Activities Form
- Specialty Items
- Subcontractor List
- Name Change

Chief Engineer
January 1, 2019

NOTICE TO CONTRACTORS

Schedule Format

CN L200471

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

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

Maintenance
January 1, 2019

NOTICE TO CONTRACTORS

Approved Products List

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

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

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

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

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

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

CCRB
January 1, 2019

NOTICE TO CONTRACTORS

Buy America

The following clarifies the 2019 Edition of the New Mexico Department of Transportation's (NMDOT) Standard Specifications for Highway and Bridge Construction Section 106.12 - "Preference for Domestic Materials" which requires the Contractor to provide Materials that comply with the Buy America requirements in 23 CFR § 635.410.

Previous interpretations of the Buy America requirements allowed exclusions for certain steel and iron manufactured products that contained less than 90% steel or iron components. Previous interpretations also allowed exclusions for miscellaneous steel and iron components, subcomponents and hardware. These exclusions no longer apply.

Since these exclusions no longer apply, the Contractor shall provide certification proving that all steel or iron Materials were manufactured in the United States before performing Work that uses steel or iron Materials. Additionally, the Contractor shall provide certification that all coatings on the steel or iron Materials were applied in the United States. If these certifications are not provided, the NMDOT may take any remedies available under the Contract.

Other exclusions to the Buy America requirements remain in effect, including but not limited to, minimal use of foreign steel and iron Materials. The exclusion allows the Contractor to use foreign steel or iron Material that does not exceed one-tenth of one percent (0.1%) of the Total Bid Amount or that does not exceed \$2,500.00 whichever is greater. To comply with the minimal use exclusion, the Contractor shall provide to the NMDOT Project Manager invoices showing the cost of the foreign steel or iron Material that cannot be certified as delivered to the Project.

JUNIPER SPRINGS ROAD ROAD RECONSTRUCTION
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Chief Engineer
January 1, 2019

NOTICE TO CONTRACTORS

Chief Engineer

Requests for Contract interpretation shall be directed in writing to the Chief Engineer in accordance with the 2019 Edition of the New Mexico Department of Transportation's Standard Specifications for Highway and Bridge Construction, Section 102.7 - "Examination of Contract, Site of Work, and Requests for Contract Interpretation".

The contact information for the Chief Engineer is as follows:

Pettigrew & Associates, P.A.
David Roybal, PE
droybal@pettigrew.us

Chief Engineer
January 1, 2019

NOTICE TO CONTRACTORS

Electronic Data Files

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

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

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

- A) Survey Data, in accordance with the Standard Specifications Section 801.1.2 - "Department-Supplied Documents and Services":
 - 1. Existing Computer Aided Design Drafting ("CADD") survey files; and,
 - 2. Existing Digital Terrain Model ("DTM") files.

- B) Design Files, subject to the terms and conditions below:
 - 1. Centerline Alignment Files ("CAF"), including horizontal and vertical alignment files for all alignments referenced in the plans.

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

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

The electronic data referenced in sub-sections "A" and "B" will be available to the requestor on discs and will be available at the Pettigrew & Associates P.A., located at 100 E. Navajo Dr. Suite 100, Hobbs, NM 88240.

Environmental
January 1, 2019

NOTICE TO CONTRACTORS

Environmental and Archaeological Approvals for Pit Areas

In addition to the requirements contained in the 2019 Edition of the New Mexico Department of Transportation ('NMDOT') Standard Specifications for Highway and Bridge Construction Section 107.14.1 - "Environmental and Cultural Resource Studies and Approvals" the Contractor shall coordinate pit activity with the NMDOT in order to facilitate government-to-government tribal consultation, excluding commercial pits with affected tribes. The listing of affected tribes can be obtained from the following link:

<http://nmhistoricpreservation.org/outreach/native-american-consultations.html>

The Contractor shall initiate tribal consultation in writing through the NMDOT Project Manager ("PM"). The Contractor shall include, in the request to initiate tribal consultation, its scope of Work and clearly delineate plan view location of the Contractor located activity on a United State Geological Service 7.5' map. This process takes approximately 45 Days from the PM's receipt of the Contractor's written request to initiate tribal consultation. If concerns are expressed by the affected tribes this process will exceed 45 Days.

CCRB
January 1, 2019

NOTICE TO CONTRACTORS
Federal Requirements

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References made to the New Mexico Department of Transportation ("NMDOT") web page can be accessed through the following link: <http://dot.state.nm.us/content/nmdot/en.html>

I. TITLE VI

The text United States Department of Transportation (USDOT) Order No. 1050.2A has been excerpted for this section with minimal modification by the NMDOT.

The Contractor (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the NMDOT, is subject to and will comply with the following:
Statutory/Regulatory Authorities

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); 49 C.F.R. Part 21 (entitled Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964); 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.
General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

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"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including NMDOT.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

"The NMDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively insure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award".

The NMDOT's Title VI Assurances, Appendices A and E are included in Section X at the end of this Notice to Contractors ("NTC").

For further information, contact the Title VI coordinator for the NMDOT through the following link: <https://dot.state.nm.us/content/nmdot/en/OEOP.html>

II. DISADVANTAGED BUSINESS ENTERPRISE ("DBE")

Per 49 C.F.R. § 26.13(b) (2014), the Contract NMDOT signs with the Contractor (and each Subcontract the Contractor signs with a Subcontractor) must include the following assurance:

"The contractor, sub recipient or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) withholding of monthly progress payments;
- (2) assessing sanctions;
- (3) liquidated damages; and/or
- (4) disqualifying the contractor from future bidding as non-responsible."

For the purposes of the assurance, DOT-assisted Contracts means Contracts that receive federal funding and recipient means the NMDOT.

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Terms and Definitions

Terms and Definitions contained in 49 C.F.R. § 26.5 are incorporated in this NTC by reference. Terms and definitions in the same control over terms that conflict with the terms and definitions in the 2019 Edition of the NMDOT Standard Specifications for Highway and Bridge Construction (“Standard Specifications”) Section – 101.4 “Terms and Definitions”.

Pre-Award Procedures

Projects that have DBE goals established in the Advertisement are subject to race-conscious measures. When a DBE goal is established the following DBE form and NTC, or evidence of the Bidder’s good faith efforts, are required in order for the Bid to be considered responsive:

1. Disadvantaged Business Enterprise Goal Form A-585 (“A-585”); and
2. NTC Disadvantaged Business Enterprise (DBE) Bidder’s Commitment and DBE’s Confirmation Form A-644 (“A-644”).

In the event the Bidder is also a certified DBE Contractor, and intends to self-perform a portion of the Work, the Bidder shall list itself and any other DBE it will use on Form A-585. Failure to comply with this requirement shall render the Bid non-responsive.

Pre-Award Bidder’s Good Faith Efforts

When a Project has an established DBE goal, a Bidder may meet the requirements even if it doesn't meet the goal through documenting adequate good faith efforts. This means that the Bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful. The documentation of good faith efforts shall include, but is not limited to, copies of each DBE and non-DBE quote submitted to the Bidder when a non-DBE was selected over a DBE for Work on the Contract.

Per 49 C.F.R. § 26.53 (b)(3) (2014) and 49 C.F.R. § 26 Appendix A the NMDOT has the responsibility to make a fair and reasonable judgment as to whether a Bidder, that did not meet the goal, made adequate good faith efforts.

The below contains a list of types of actions, which the NMDOT may consider as part of the Bidder’s good faith efforts to obtain DBE participation. This is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive, as other factors or types of efforts may be relevant in appropriate cases. The following is a list of the type of actions, and documentation, which the NMDOT will consider as part of the Bidder’s good faith efforts to obtain DBE participation:

- 1) The Bidder’s copies of each DBE and non-DBE Subcontractor quote submitted to the Bidder when a non-DBE Subcontractor was selected over a DBE for Work on the Contract to review whether DBE prices were substantially high; and the NMDOT may contact the DBEs listed on a

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- the Bidder's List of Quoters submitted by the Bidder to inquire whether DBE primes were contacted by the Bidder. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under this NTC or rule;
- 2) The Bidder's solicitation of the interest of DBEs as early in the acquisition process as possible and as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the Subcontract. The Bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow-up initial solicitations;
 - 3) The Bidder's selection of portions of the Work to be performed by the DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract Work items into economically feasible units to facilitate DBE participation even when the Bidder might otherwise prefer to perform these Work items with its own forces;
 - 4) The Bidder's negotiations in good faith with interested DBEs. It is the Bidder's responsibility to make a portion of the Work available to DBE Subcontractors, sub-consultants and Suppliers and to select those portions of the Work or material needs consistent with the available DBE Subcontractors, sub-consultants and Suppliers, so as to facilitate DBE participation. Evidence of such negotiations includes the names, addresses and telephone numbers of DBEs that were considered, a description of the information provided regarding the construction plans and specifications for the Work selected for subcontracting or requirements of Work, and evidence as to why additional agreements could not be reached for DBEs to perform the Work; and,
 - 5) The Bidder's rejection of DBEs as being unqualified. The Bidder shall not reject a DBE as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Bids in the Bidder's efforts to meet the Project goal. Another practice considered insufficient good faith effort is the rejection of the DBE because its quotations for Work were not the lowest received. However, nothing in this paragraph will be considered to require the Bidder to accept unreasonable quotes to satisfy the Contract goal.

If the NMDOT determines that the Bidder has failed to make adequate good faith efforts to meet the DBE goal requirements, the NMDOT shall reject the Bid as non-responsive. The Bidder may dispute this determination and rejection of the Bid through the procedures in Standard Specification Section - 103.3 "Bidding Dispute Resolution Procedures".

Post-Award

Counting DBE Participation toward Goals

This section in no way alters the obligations in Standard Specification Section - 108.1 "Subcontracting" and is only used to determine DBE participation levels for each Bidder. The Contractor must still comply with Standard Specification Section - 108.1 and perform with its own organization at least 40% of the Work based on the Total Bid Amount.

Only the value of the Work actually performed by the DBE will be counted towards DBE Project goals. DBE participation shall be credited as follows:

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1. Count the entire amount of that portion of the Contract Work that is performed by the DBE's own forces. Include the cost of supplies and Materials obtained by the DBE for the Work including supplies purchased or equipment leased by the DBE. Supplies and equipment purchased or leased by a DBE from a prime contractor shall not be counted toward the DBE Project goal.
2. Count the entire amount of fees or commissions charged by a DBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required of the performance of the Contract, toward DBE goals, provided NMDOT determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. When a DBE subcontracts part of its Work to another firm, the value of the subcontracted Work may be counted toward DBE goals only if the DBE's Subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE does not count toward DBE goals.

When a DBE performs as a participant in a joint venture, count the portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the Work of the Contract that the DBE performs with own forces toward DBE goals.

The NMDOT counts expenditures to a DBE toward DBE goals only if the DBE is performing a commercially useful function ("CUF") on the Contract.

1. A DBE performs a CUF when it is responsible for execution of the Work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the Work involved. To perform a CUF, the DBE must also be responsible, with respect to Materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the Material and installing (where applicable) and paying for the Material itself.
2. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, Contract, or Project through which funds are passed in order to obtain the appearance of DBE participation.
3. If a DBE Contractor, Subcontractor, at any tier, or Supplier does not perform or exercise responsibility for at least 30% of the total cost of its Contract with its own forces, or the DBE subcontracts a greater portion of the Work of a Contract than would be expected on the basis of normal industry practice for the type of Work involved, it will be presumed that the DBE is not performing a CUF.
4. When a DBE is presumed not to be performing a CUF as provided in paragraph 3 of this section, the DBE may present evidence to rebut this presumption.
5. Decisions concerning CUF matters are not administratively appealable to USDOT.

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DBE Trucking

Per the Standard Specification Section 108.1 "Subcontracting"... "A Trucker is not a Subcontractor unless the Contractor is using the Trucker to meet the DBE requirement associated with the Project". The following factors shall be used to determine whether DBE trucking Subcontractors are performing a CUF:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract.
3. The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
4. The DBE may lease trucks from another DBE, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
5. The DBE may also lease trucks from a non-DBE, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the Contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
6. The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
7. For purposes of this DBE trucking section a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

DBE Supplying Materials

1. If the Materials or supplies are obtained from a DBE manufacturer, count 100 % of the cost of the Materials or supplies toward the DBE goal. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises the Materials, supplies, articles, or Equipment required under the Contract.

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2. If the Materials or supplies are purchased from a DBE regular dealer, count 60 % of the cost of the Materials or supplies toward DBE goals. A DBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the Materials, supplies, articles or Equipment required under the Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. The DBE regular dealer, must be an established regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

A DBE may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as required in paragraph 1 of this section if the DBE both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on ad hoc or contract-by-contract basis.

Packagers, brokers, manufacturers' representatives, or other person who arrange or expedite transactions are not regular dealers for the purpose of paragraph 2 of this section.

3. With respect to Materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees and commissions charged for assistance in the procurement of the Materials and supplies, or fees or transportation charges for the delivery of Materials and supplies required on a job site, toward DBE goals, provided the NMDOT determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the Materials or supplies themselves is not creditable toward DBE goals.

Credit for Work performed shall not be counted toward the DBE project goal until the amount committed has been paid to the DBE.

Pre-Award Substitution/Replacement and Post-Award Termination of DBE for Projects Having a DBE Goal

The Contractor shall use the DBE listed on the A-585 and confirmed on the A-644 to perform the specific Work identified. The Contractor shall not substitute, replace or terminate a DBE listed on the A-585 and confirmed on the A-644 (or an approved substitute DBE) without the prior written consent of NMDOT. The NMDOT considers it an improper DBE substitution, replacement or termination when a Contractor performs Work originally designated for a DBE with its own forces or those of an affiliate, or with a non-DBE, or with a substitute DBE. Unless NMDOT consent is provided, the Contractor shall not be entitled to any payment for Work or Materials unless it is performed by the listed DBE.

NMDOT will provide written consent to the termination request only if NMDOT agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate the DBE. For purposes of this paragraph, good cause includes the following circumstances:

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1. The listed DBE fails or refuses to execute a written Contract;
2. The listed DBE fails or refuses to perform the Work consistent with normal industry standards, provided, however, that good cause does not exist if the failure or refusal to perform results from the bad faith or discriminatory action of the Contractor;
3. The listed DBE fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements;
4. The listed DBE becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE is ineligible to Work on public works projects because of suspension or debarment proceedings pursuant to 26 CFR Parts 180, 215 or 1200 or applicable state law;
6. The listed DBE is not a responsible Contractor;
7. The listed DBE voluntarily withdraws from the Project and provides to NMDOT written notice of its withdrawal;
8. The listed DBE is ineligible to receive DBE goal credit for the type of Work required;
9. A DBE owner dies or becomes disabled with the result that the listed DBE is unable to complete its Work on the Project; or
10. Other documented good cause that NMDOT determines compels the termination of the DBE. Provided that good cause does not exist if the Contractor seeks to terminate a DBE it relied on to obtain the Contract so that the Contractor can self-perform the Work for which the DBE was engaged or so that the Contractor can substitute another DBE or non-DBE after Contract Award.

Before seeking concurrence from the NMDOT to substitute, replace or terminate a DBE (or an approved substitute DBE) the Contractor must provide the DBE written notice including the reason of its intent to substitute, replace or terminate and give the DBE 5 Days to respond to the Contractor's notice. If required in a particular case as a matter of public necessity the NMDOT may allow a response period shorter than 5 Days. The DBE in response to the notice may provide the Contractor and NMDOT with the reasons, if any, why it objects to the proposed substitution, replacement or termination and why NMDOT should not approve the Contractor's request.

After receipt and review of the DBE response the NMDOT will provide a written response to the Contractor's request. NMDOT's decision is not appealable to USDOT.

After an approved termination of a DBE the Contractor shall make good faith efforts to subcontract with a substitute DBE which can perform the same type of work on the Project as the substituted, replaced or terminated DBE or to subcontract with a replacement DBE which can perform other types of work remaining on the Project. The good faith efforts shall be documented by the Contractor. The NMDOT

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may request a copy of the documented good faith efforts and the Contractor shall submit the same in 7 Days, which may be extended to an additional 7 Days at the request of the Contractor. The NMDOT will provide a written determination stating whether or not good faith efforts have been demonstrated. The Contractor may refer to Appendix A of 49 C.F.R. § 26 for guidance on good faith efforts.

NMDOT may allow a DBE contract goal waiver, adjust the DBE goal, or assess construction contract liquidated damages or design contract liquidated damages as may be appropriate, depending on the individual project's overall circumstances. NMDOT's decision to waive or adjust the contract goal is not appealable to USDOT.

Record Keeping Requirements

The Contractor shall keep such records as necessary to ensure compliance with its DBE utilization obligations, in accordance with Standard Specification Section - 107.28 "Contractor Records".

Compliance Procedures

The Contractor is solely responsible and obligated to ensure DBE compliance at all tiers until the final payment is made in accordance with Standard Specification Section - 109.10 "Project Closure".

If it is found that the Contractor or Subcontractor at any tier is not in compliance with this NTC and DBE program, NMDOT will notify the non-compliant party in writing. Failure to be compliant is a material breach of the Contract and may result including, but not limited to, the NMDOT exercising the remedies below. The NMDOT may conduct a compliance conference with the non-compliant party or parties to discuss the area(s) of non-compliance. In the event that the non-compliant party or parties fails or refuses to perform in compliance the NMDOT will send the non-compliant party or parties a "Notice of Non-Compliance" containing a deadline for the compliance. If the non-compliant party becomes compliant after the "Notice of Non-Compliance" the NMDOT will rescind the "Notice of Non-Compliance" and notify the party or parties. If the deficiencies are not corrected, NMDOT will initiate administrative action against the non-compliant party or parties, which may include but not be limited to:

1. Termination of the Contract;
2. Withholding of monthly progress payments;
3. Initiation of appropriate suspension or debarment proceedings;
4. Referral of any unlawful actions to the appropriate enforcement agencies; or
5. Other actions as appropriate, at the discretion of NMDOT.

III. SUBCONTRACTOR PROMPT PAYMENT PROVISIONS

This NTC does not alter the sole discretion of the NMDOT to make good cause determinations concerning Contractor prompt payment matters.

To ensure that all obligations to promptly pay Subcontractors are met Contractors shall pay all Subcontractors, Suppliers and Fabricators their respective Subcontract amount by electronic transfer, if available, for NMDOT undisputed Accepted Work within the timeframes specified in the Standard Specification Section 108.1 - "Subcontracting".

The Contractor is solely responsible and obligated to ensure prompt payment obligations and compliance reporting through all tiers until the final payment is made in accordance with Standard Specification Section 109.10 - "Project Closure". Contractors, Subcontractors or Suppliers, at all tiers, shall be required to submit payment information, as provided for in the B2GNow supporting software system, indicating when payments are made to any Subcontractor, Supplier and or Fabricator, regardless of DBE status. The Subcontractor, Supplier or Fabricator shall in B2GNow timely select whether payment was or was not received for the undisputed and Accepted Work. The NMDOT may recognize supporting documentation of such payment(s) in one or more of the following forms:

1. Proof of the timely deposit of funds into the Subcontractor, Supplier and or Fabricator bank account;
2. Proof of timely hand delivery of payment to the Subcontractor, Supplier and or Fabricator; or
3. Proof of timely mailing payment to the Subcontractor, Supplier and or Fabricator.

The Contractor shall notify the NMDOT in all situations when it will not make full prompt payment to its Subcontractor, Supplier or Fabricator before the payment becomes due. The Contractor shall also notify the Subcontractor, Supplier or Fabricator in all situations when it will not make full prompt payment before the payment becomes due. A Contractor will be required to fully document any alleged disputes with its Subcontractors, Suppliers and or Fabricators and provide the documentation to the NMDOT upon request.

The Contractor shall have good cause for any failure to fully or partially provide prompt payment for Accepted Work. The NMDOT determines good cause. Good cause recognized by the NMDOT to excuse a failure to promptly pay includes, but is not limited to, a claim concerning the Subcontractor's or Supplier's Work, failure to provide certified payrolls, and other required Project documentation. The amount withheld cannot exceed the amount in dispute between the Contractor and Subcontractor or Supplier. The Contractor has the burden to support the Contractor's assertion of good cause. If the failure to fully or partially provide prompt payment is based on a claim, the Contractor shall submit a verifiable explanation and/or proof of the claim between the parties to the Project Manager.

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Retainage

The NMDOT will require Contractors to pay all retainage owed to the Subcontractor, Supplier or Fabricator within 30 Days of the Progress Payment indicating Acceptance of the completed Subcontract Work, even if the NMDOT continues to withhold retainage from the Contractor. The Subcontract Work is completed when all the tasks called for in the Subcontract have been accomplished, documented and Accepted by the NMDOT. The Contractor may request partial acceptance in accordance with Standard Specifications Section - 105.18.1 "Partial Acceptance" upon satisfactory completion of the Subcontract Work. Good cause recognized by the NMDOT to excuse a failure to promptly release retainage includes, but is not limited to, a claim concerning the Subcontractor's or Supplier's Work, failure to provide certified payrolls, and other required Project documentation. The amount withheld cannot exceed the amount in dispute between the Contractor and Subcontractor or Supplier. The Contractor has the burden to support the Contractor's assertion of good cause for the failure to promptly release retainage. If the failure to promptly release retainage is based on a claim, the Contractor shall submit verifiable explanation and/or proof of the claim between the parties to the Project Manager.

Cross-Project Offsets

The NMDOT will not recognize cross-Project offsets as "good cause" excusing untimely payment for Accepted Work. The Contractor's Contract with Subcontractors or Suppliers shall not contain any provision that allows the Contractor to withhold payment from the Subcontractor or Supplier as a result of the Subcontractor's or Supplier's performance on separate Contract(s). Any such provision will be without effect, and shall not be recognized as good cause excusing a failure to make prompt payment.

IV. REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS AND SUPPLEMENTS

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government-wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

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I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or Subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any Subcontractor, lower-tier Subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any Subcontractor, lower-tier Subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

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In addition, the contractor and all Subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all Subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
 - a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.
 - b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."
2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and

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promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
 - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
 - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.
 - a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.
 - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against

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minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

- c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.
5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
 - b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
 - c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
 - d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.
6. Training and Promotion:
- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
 - b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in

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accordance with 23 U.S.C. 140(a).

- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
 - d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.
7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:
- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
 - b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
 - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
 - d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.
8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.
 - a. The contractor shall notify all potential Subcontractors and suppliers and lessors of their EEO obligations under this contract.
 - b. The contractor will use good faith efforts to ensure Subcontractor compliance with their EEO obligations.
10. Assurance Required by 49 CFR 26.13(b):
 - a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.
 - b. The contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.
11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.
 - a. The records kept by the contractor shall document the following:
 - (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;
 - b. The contractors and Subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data

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should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

- a. All laborers and mechanics employed or working upon the site of the work, 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.

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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 paragraph 1.d. of this section; 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 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 paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times 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.

b.

- (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, 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. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the

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proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

- (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, 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.
- c. 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.
- d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of 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.

2. Withholding

The contracting agency 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, employed by the contractor or any Subcontractor the full amount of wages 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, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, 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.

3. Payrolls and basic records

- a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and

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mechanics working at the site of the work. 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.

b.

- (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/whd/programs/dbra/wh347.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a Subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.
- (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - (i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5,

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and that such information is correct and complete;

- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the 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 Regulations, 29 CFR part 3;
 - (iii) 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.
- (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.
- (4) 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.
- c. The contractor or Subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, 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, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, 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 5.12.
4. Apprentices and trainees
- a. Apprentices (programs of the USDOL).

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, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, 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 Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

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The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the 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 of 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 Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, 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.

b. Trainees (programs of the USDOL).

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 in 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

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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 classification of 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 predetermined rate for the work performed until an acceptable program is approved.

- c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.
- d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

- 5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- 6. Subcontracts. The contractor or Subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the Subcontractors to include Form FHWA-1273 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 5.5.
- 7. Contract termination: debarment. A breach of the contract clauses in 29 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

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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 the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

- a. 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).
- b. 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 or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. 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 permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.
4. Subcontracts. The contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).
 - a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a Subcontractor or lower tier Subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:
 - (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
 - (2) the prime contractor remains responsible for the quality of the work of the leased employees;
 - (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

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- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any Subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under

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conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

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IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or Subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:
 - a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
 - b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
 - c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
 - d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier

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participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as Subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://sam.gov/SAM/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in

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this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:
 - a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
 - b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as Subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://sam.gov/SAM/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a

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person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

V. SUPPLEMENTAL EEO REQUIREMENTS

Incorporated in this Contract, by reference, are supplemental requirements to the Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") Equal Employment Opportunity Program ("EEO"). The supplemental requirements are:

1. Exec. Order No. 11246, 30 FR 12319 (September 24, 1965);
2. 41 C.F.R. § 60-4.1 through 60-4.9 (2015);
3. Exec. Order No. 13665 Non-Retaliation for Disclosure of Compensation Information (April 8, 2014); and
4. Further Amendments to Exec. Order No. 11478, Equal Employment Opportunity in the Federal Government and Exec. Order No. 11246, Equal Employment Opportunity (July 21, 2014).

Per 41 C.F.R. § 60-4.2 all federally-assisted Contracts shall include (information has been interlineated applicable to this Contract as required):

"(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in § 60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in § 60-4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this part 60-4.

(b) All non-construction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered non-construction contract.

(c) Contracting officers, applicants and non-construction contractors shall give written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of this part (see 41 CFR 60-4.2(a)):

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

The most current participation goals for minorities and females can be found at <http://www.dol.gov/ofccp/TAguides/TAC FedContractors JRF QA 508c.pdf> and are:

New Mexico:

160 Albuquerque, NM:
SMSA Counties.

0200 Albuquerque, NM-38.3%

NM Bernalillo; NM Sandoval.

Non-SMSA Counties-45.9%

NM Catron. NM Colfax; NM De Baca; NM Guadalupe; NM San Juan; NM San Miguel; NM Santa Fe;
NM Socorro; NM Taos; NM Torrance; NM Valencia.

Goals for females:

Nationwide goal-6.9%

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 geographical area located outside of the covered area, it shall apply the goals established for such geographical 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. 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.

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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 of the Subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

The most current OFFCP staffing can be found at <http://www.dol.gov/ofccp/contacts/regkeyp.htm> and are:

SOUTHWEST and ROCKY MOUNTAIN REGION

Covered States/Territories: Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming

Regional Director: Melissa L. Speer

Deputy Regional Director: Aida Collins

Regional Outreach Coordinator: E. Michelle Hernandez

Contact Information:

U.S. Department of Labor for OFCCP

Federal Building, Room 840

525 South Griffin St.

Dallas, TX 75202

(972) 850-2550

(972) 850-2552 (Fax)

(877) 889-5627 (TTY-National Office)

Pre-Award Email Address: OFCCP-SW-PreAward@dol.gov

For Complaints: OFCCP-SW-CC4@dol.gov

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is in the Advertisement."

VI. INDIAN PREFERENCE

This Contract preference requirement is an expansion of the provisions of the equal employment opportunity responsibilities for Contractors contained elsewhere in this NTC and the provisions contained under FHWA-1273.

If the Project is located on or near a reservation the Contractor, or its Subcontractor at any tier, may be required to extend a publically announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The

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word “near” includes all areas where a person seeking employment could reasonably expected to commute in the course of a work day. Contractors or Subcontractors, at any tier, shall not discriminate among Indians on the basis of religion, sex, tribal affiliation, and the use of such a preference shall not excuse compliance with the remaining EEO provisions of this NTC.

If the Contractor extends an Indian preference, then this NTC requires that Contractors shall afford preference to initial hiring, reassignment, transfer, competitive promotion, reappointment, reinstatement, or any personnel action to fill a vacant position to qualified and enrolled members of federally recognized Indian tribe. The extended preference shall extend to Indians and not extend to a specific tribe or tribal affiliation. There may be tribal laws and regulations that the Contractor is required to follow if an Indian preference is extended. Contractors shall make themselves aware of any labor requirements, taxes, fees, licenses, permits or conditions that may be imposed by the affected tribes for the Project work performed in the area. In order to be apprised of the tribal law or regulation requirements, the Contractor shall establish a liaison with local tribe employment offices and provide this individual’s name and contact information to the Project Manager at the Pre-Construction Conference per Standard Specification Section 108.2 “Notice to Proceed and Pre-Construction Conference”. The tribe’s employment office may then assist the Contractor in identifying qualified and tribally enrolled individuals and assist in guidance related to applicable tribal laws or regulations. Verification of available, qualified and enrolled individuals will be provided to the Contractor by the tribe’s employment office. A list of contacts to facilitate the Contractor’s coordination with the tribal liaison is at:

http://dot.state.nm.us/content/dam/nmdot/planning/Tribal_Contact_Listing.pdf

VII. NMDOT ON THE JOB TRAINING/SUPPORTIVE SERVICES (“OJT/SS”) PROGRAM

The primary objective of the Special Provisions referenced in the below-link is to address the underrepresentation of minority and female workers in the construction trades through the assignment of OJT goals. To that end, the primary objective of the OJT program is the training and upgrading of minorities and females to journeyman status on NMDOT state lead, federal-aid contracts. Accordingly, the Contractor shall make every effort to enroll minority, women and economically disadvantaged persons to the extent that such persons are available within a reasonable area of recruitment. This training commitment is not intended, and will not be used to discriminate against any applicant for training, whether or not he/she is a member of a minority group.

If Federal-aid funding is available and the NMDOT elects that the Project will be subject to the OJT/SS requirements then the Contractor or Subcontractor, at any tier, shall comply with the procedures outlined in Appendix B to Subpart A of 230 C.F.R. § 230. The OJT/SS program implemented by the Contractor or Subcontractor, at any tier, must be formally approved by the NMDOT before use of the program. In lieu of the use of a formally approved OJT/SS program the Contractor, or Subcontractor at any tier, may submit its own individual OJT/SS program for NMDOT consideration and approval. Until formal approval is received from the NMDOT CCRB through ACNM the individual Contractor or Subcontractor OJT/SS program cannot be used.

http://dot.state.nm.us/content/dam/nmdot/OEOP/On_The_Job_Training_Program_and_Special_Prov

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[ision_2016.pdf](#)

Contractors meeting the selection criteria for implementation of an OJT/SSS program, and who have a formally approved OJT/SSS program will be notified by the NMDOT's CCRB of its training assignment at the beginning of the reporting year, typically commencing with the calendar year beginning in January through December. The reporting year and the training assignment will be identified in the notification from the NMDOT's CCRB.

The Contractor shall fulfill all of the requirements of the OJT training program including the maintenance of records and submittal of periodic reports documenting program performance. The requirements and reports related to the OJT/SSS program shall include the Contractor's use of forms A-2201, A-2202, A-2203. The forms are incorporated herein by reference. The Contractor shall submit Form A-2202 by the tenth (10th) of each month of the reporting period or as indicated on the form itself.

The Contractor has the option to pay its trainees either the full prevailing wage for the trainee's job classification or at least 60% of the minimum prevailing wage for the trainee's job classification for the first half of the training period, 75% for the third quarter, and 90% for the last quarter respectively. Prevailing wages are those specific to this Contract.

For federally-funded Projects, and if requested the Contractor may be reimbursed \$0.80 per training hour by the NMDOT. Requests for reimbursement shall be submitted by the Contractor to the Project Manager in writing and after Substantial Completion for the Project is declared. Reimbursement is not available for 100% state-funded Projects.

Noncompliance with the responsibilities and requirements of this section, including being a non-responsive participant in the program, may be cause for the NMDOT to issue a show cause notice and other action as deemed necessary by the NMDOT.

VIII. WAGE RATES

The higher wage rates shall govern in the event of a discrepancy between the minimum wage rates in the Wage Decision of the DWS and the U.S. Department of Labor Wage Decision applicable to this Contract.

IX. LABOR REPORTING AND SUBMISSION OF WEEKLY PAYROLLS

Contractors and Subcontractors must pay employees weekly. Certified Payrolls and Statements of Compliance on federally funded Projects are due to the NMDOT seven (7) Days after date that the actual payment is processed by Contractor or Subcontractor, at any tier, to its employee.

The date that the actual payment is processed to the employee may be different that the payroll end date in some situations. Notwithstanding the difference between a payroll end date and actual payment date, the Contractor or Subcontractor at any tier shall make actual full payment to the employee no later than seven (7) Days after the payroll end date. And then shall submit the Certified Payrolls and Statements of Compliance no later than seven (7) Days after the actual payment date.

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The Contractor and Subcontractors at all tiers Working on federal-aid Projects shall use the following EEO Software Programs to report specific EEO, Labor Compliance and DBE information as required by the Contract and as specified by this NTC. The two software programs are:

- B2GNow software
- LCPtracker software

Use of B2GNow and LCPtracker software programs is required and shall be considered Incidental. Failure of a Contractor or Subcontractor to use the required software programs to report specific EEO, Labor Compliance and DBE information may result in the issuance of a Non-Conformance per Standard Specification Section – 109.8.2 “Non-Conformance” or other Contract remedies.

B2GNow - (Business to Government Now), is a web-based software program used to collect, verify and manage payment information for Contractors and Subcontractors working on federal-aid Projects. Additionally, the software is used to collect and report DBE participation and utilization on federal-aid Projects. Information related to the use of the software is available at <https://nmdot.dbesystem.com/>.

The Contractor shall upload the fully executed contract between the Contractor and Subcontractor at any tier, the completed permission to subcontract form and associated attachments, and subcontract checklist to B2GNow.

LCPtracker - (Labor Compliance Program Tracker) is a web-based software program used to collect, verify and manage prevailing wage certified payrolls and related labor compliance documentation for Contractors and Subcontractors on federal-aid Projects. Information related to the use of the software is available at <https://prod.lcptracker.net/Lcp/WebForms/Login.aspx>. On all Projects, the Contractor shall submit and shall ensure all Subcontractors submit weekly payroll information into the LCPtracker software program.

To adequately track timely submission of weekly payrolls the Contractor shall enter the actual payment date in the field on the weekly Certified Payroll reporting form in LCPtracker titled “payment date”.

Information on access to the software programs, log-on information, use of the programs, available training, user manuals, etc. can be obtained by accessing the web page referenced in this NTC.

X. TITLE VI Assurances Appendix A and E

Appendix A of the Title VI Assurances
49 C.F.R. § Pt. 21, App. A

Appendix A of the Title VI Assurances

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time-to-time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of the 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the New Mexico Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the New Mexico Department of Transportation (NMDOT), or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's non-compliance with the nondiscrimination provisions of this contract, the New Mexico Department of Transportation (NMDOT) will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating or suspending the contract, in whole or in part.

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6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the NMDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a Subcontractor, or supplier because of such direction, the contractor may request the NMDOT to enter into any litigation to protect the interests of the NMDOT. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix E of the Title VI Assurances

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et. seq., 78 stat. 252), (prohibits discrimination on the basis of race, color national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (29 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

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- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your program (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (U.S.C. 1681 et seq.)

Procurement
January 1, 2019

NOTICE TO CONTRACTORS

New Mexico Employees Health Coverage

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

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

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

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

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

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

Office of Inspector General
January 1, 2019

NOTICE TO CONTRACTORS

Office of Inspector General

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

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

To Report Fraud, Waste & Abuse

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

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

The New Mexico Fraud Against Taxpayers Act:

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

To Report Bid Rigging Activities

1-800-424-9071

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

Chief Engineer
January 1, 2019

NOTICE TO CONTRACTORS

Professional Services

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

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

Traffic
January 1, 2019

NOTICE TO CONTRACTORS

Quality Standards for Traffic Control Devices

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

PSE
January 1, 2019

NOTICE TO CONTRACTORS

Return of Contract Documents

In accordance with the 2019 Edition of the New Mexico Department of Transportation's Standard Specifications for Highway and Bridge Construction, Section 103.7 - "Execution and Approval of Contract", the successful Bidder shall return the documents listed in the notice of preliminary award of contract letter within fifteen (15) Days of the date on the letter.

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

PSE
January 1, 2019

NOTICE TO CONTRACTORS

Return of Lobbying Disclosure

Pre-Award

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

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

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

Post-Award

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

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

1. Add the NTC titled “Federal Requirements” in all subcontracts at any tier. The inclusion of the NTC ensures that the terms and conditions of the certification are incorporated into the Subcontract at any tier;
2. If any funds other than Federal-aid funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Project require its Subcontractors at any tier to complete and return the Disclosure with its permission to subcontract request form A-1086; and

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3. Require its Subcontractors at any tier to submit an updated Disclosure to the Contractor at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any Disclosure previously submitted by the Subcontractor. The Contractor shall immediately submit the same to the Project Manager.

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

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

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

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Chief Engineer
January 1, 2019

NOTICE TO CONTRACTORS

Specialty Items

To clarify the definition of Specialty Items in the 2019 Edition of the New Mexico Department of Transportation's Standard Specifications for Highway and Bridge Construction ("Standard Specifications"), Section 101.4 - "Terms and Definitions".

All Technician Training and Certification Program requirements for testing of Materials are Specialty Items.

Specialty Item Work will not be counted towards the Contractor's obligation to perform 40 % of the Work with its own forces as noted in Standard Specifications, Section 108.1 - "Subcontracting".

The Contractor shall obtain the Project Manager's approval to Subcontract Specialty Items prior to starting Work.

Subcontractors performing Specialty Item Work are not required to be prequalified.

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Form No. A-1310
New 12/17
Date Submitted: _____

Initial Subcontractor List
 Updated Subcontractor List

SUBCONTRACTOR LIST
Wage Decision No.: LI-20-1435-A
JUNIPER ROAD ROAD RECONSTRUCTION
Control No.: L200471

Prime Contractor _____

LIST ALL SUBCONTRACTORS AT ALL TIERS THAT ARE SUBJECT TO THE APPLICABLE WAGE DECISION(S). DO NOT LIST SUPPLIERS OR PROFESSIONAL SERVICES. PROVIDE ALL REQUESTED INFORMATION. MAKE ADDITIONAL COPIES OF THIS FORM AS NECESSARY.

Subcontractor Company Name: _____
Address: _____ City: _____ State: _____ Zip: _____
Email Address: _____ Phone: _____ Fax: _____
Contractor License No: _____ NMDWS Registration No: _____
 1st Tier Sub 2nd Tier Sub to: _____ 3rd Tier Sub to: _____
Work to be performed: _____ Amount (\$): _____
Start Date: _____

Subcontractor Company Name: _____
Address: _____ City: _____ State: _____ Zip: _____
Email Address: _____ Phone: _____ Fax: _____
Contractor License No: _____ NMDWS Registration No: _____
 1st Tier Sub 2nd Tier Sub to: _____ 3rd Tier Sub to: _____
Work to be performed: _____ Amount (\$): _____
Start Date: _____

Subcontractor Company Name: _____
Address: _____ City: _____ State: _____ Zip: _____
Email Address: _____ Phone: _____ Fax: _____
Contractor License No: _____ NMDWS Registration No: _____
 1st Tier Sub 2nd Tier Sub to: _____ 3rd Tier Sub to: _____
Work to be performed: _____ Amount (\$): _____
Start Date: _____

January 1, 2019

NOTICE TO CONTRACTORS

Name Change

YOU ARE HERBY ADVISED OF THE FOLLOWING:

Any reference made to the New Mexico Department of Transportation (**NMDOT**) shall by replaced with the **County of Lincoln**.

SECTION 14 - CONSTRUCTION PROCEDURES AND GENERAL NOTES:

1. Prior to start of construction the Contractor shall notify adjacent property owners as to when construction will start, the estimate completion date and anticipated access blockages. A verbal and written notification is required in both English and Spanish.
2. Call State One-Call Number (1-800-321-Alert) and the County of Lincoln Utilities Division (397-9315) for line spotting a minimum of 72 hours prior to digging at each location.
3. Requests for road closure and detours shall be submitted in writing to the Project Manager a minimum of one week prior to scheduled closure or detour.
4. Coordinate trash pickup a minimum of one week prior to blocking any street or alley and make arrangements for alternate waste pick up schedules.
5. Allow a minimum of one week notice prior to blocking any street and make arrangements for alternate school bus route.
6. The Contractor shall notify the affected property owners a minimum of one week prior to any change in access as well as the effects caused by the vibratory and other equipment. This should include all necessary precautions. The Contractor shall notify homeowners through door tags or other approved method. The door tags shall be written in both English and Spanish and shall contain directions for the resident to contact the Contractor in case a need for special access (ADA) exists. The Contractor shall maintain or provide access to all individual properties during the life of the project and shall coordinate for temporary pick up, drop off, and parking locations with individual residents including those with special needs. Additional work may be required to provide residential access to any person with special needs including providing access which complies with the Americans with Disabilities Act. These costs shall be considered incidental to traffic control.
7. The Contractor shall notify the affected property owners a minimum of 48 hours prior to any water or sewer service disruption. No water or sewer service will be allowed to remain disrupted overnight. The Contractor shall notify homeowners through door tags or other approved method.
8. All door tags are to be written in both English and Spanish.
9. If any work is to be performed on any day beyond the normal 40-hour work week, the contractor shall first notify the Project Manager or his representative 48 hours prior to commencing this work to be sure inspection will be available. Any material or work installed or constructed without notification for inspection shall be subject to removal.
10. All lawns, shrubs, trees, landscaping, irrigation lines, fences, and walls which have been disturbed during construction shall be replaced in a workman like manner and nearly as possible to their original condition. Repairs shall be made within 48 hours.
11. Contractor shall coordinate with utility companies to allow for various repairs and updates while the roadbed is exposed.

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12. No more than 200 feet of open trench will be allowed on this project at any given time. Trenches backfilled to subgrade level are not considered open, as long as they comply with the NMDOT Drop-Off Policy. The slope of the backfill along the length of the pipe will not be included as open trench for this purpose. In addition, intermittent trenches for water fittings and sewer manholes will not be included as open trench for this purpose.

END OF SECTION

SECTION 15 – TECHNICAL SPECIFICATIONS:

**DOUBLE BITUMINOUS SURFACE TREATMENT
CHIP SEAL**

PART 1 GENERAL

1.1 DESCRIPTION

This work shall consist of a wearing surface composed of one initial prime coat followed by two applications of asphaltic material, each covered with aggregate, constructed on the prepared base or other surface with these specifications.

1.2 SECTION INCLUDES

- A. Prime
- B. Blotter Material
- C. Emulsified Asphalt
- D. Aggregate (Chip)

1.3 RELATED STANDARDS

- A. AASHTO T44 Standard Method of Test for Solubility of Bituminous Materials. 2018.
- B. ASTM D2042 Standard Test Method for Solubility of Asphalt Materials in Trichloroethylene. 2015.
- C. AASHTO T49 Standard Method of Test for Penetration of Bituminous Materials. 2015.
- D. ASTM D5 Standard Test Method for Penetration of Bituminous Materials. 2019.
- E. AASHTO T50 Standard Method of Test for Float Test for Bituminous Materials. 2018.
- F. ASTM D139 Standard Test Method for Float Test for Bituminous Materials. 2016.
- G. AASHTO T51 Standard Method of Test for Ductility of Asphalt Materials. 2018.
- H. ASTM D113 Standard Test Method for Ductility of Asphalt Materials. 2017.
- I. AASHTO T59 Standard Method of Test for Emulsified Asphalts. 2016.
- J. AASHTO T301 Standard Method of Test for Elastic Recovery of Asphalt Materials by Means of a Ductilometer. 2017.

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- K. AASHTO T104 Standard Method of Test for Soundness of Aggregate by Use of Sodium Sulfate or Magnesium Sulfate. 2016.
- L. ASTM C131 Standard Test Method for Resistance to Degradation of Small-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine. 2020.
- M. ASTM C136 Standard Test Method for Sieve Analysis of Fine and Coarse Aggregates. 2019.

1.4 SUBMITTALS

- A. See Special Provisions SC-15 – Submittals, for administrative requirements and submittal procedures.
- B. Certificates: Submit two copies of material certificates signed by the material producer and Contractor, certifying that each material item complies with specified requirements.
 - 1. If requested, submit independent testing laboratory reports on aggregates and asphalt for sieve analysis, wear abrasion and other specified characteristics.
- C. Project Record Documents: Maintain record of time and date of placement, temperature and weather conditions at time of placement.

1.5 DELIVERY, STORAGE, AND PROTECTION

- A. Temporary aggregate stockpile areas will be inspected and approved by the Owner.
- B. The Contractor shall be responsible for proper preparation of all stockpile areas before aggregate are placed thereon, including leveling and cleaning of debris necessary for protection of aggregate to prevent any contamination thereof.
- C. Contaminated material will be rejected.
- D. All storage tanks, piping, retorts, booster tanks, and distributors used in storing or handling asphaltic materials shall be kept clean and in good condition at all times, and they shall be operated in such manner that there will be no contamination of asphaltic material with foreign material.

PART 2 MATERIALS

2.1 PRIME

- A. The prime material shall be asphalt emulsified prime.

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B. Asphalt Emulsified Prime (AE-P) conforming to the requirements of this table:

TEST DESCRIPTION	AE-P		TEST NO.
	Min.	Max.	
Original Material:			
Viscosity, Saybolt Furol at 50°C (122°F), Sec	15	150	AASHTO T-59
Settlement / Storage Stability Rest, 24 hours, %	-	1.0	AASHTO T-59
Residue from Distillation Test @ 260°C (500°F)	65	-	AASHTO T-59
Oil Distillate by Volume of Emulsion, %	-	25	AASHTO T-59
Residue Material:			
Solubility in Trichloroethylene, %	97.5	-	AASHTO T-44 ASTM D2042

2.2 BLOTTER

- A. Blotter material shall be composed of fine aggregate (sand).
- B. Blotter Material must conform to gradations requirement as specified herein. Gradations shall be determined by ASTM C136.

SIEVE DESIGNATION	PERCENT BY WEIGHT PASSING SQUARE MESH SIEVE
Sieve Size	Blotter Material
3/8"	100
#4	80 - 100
#16	45 - 80
#50	10 - 30
#100	2 - 10

2.3 EMULSIFIED ASPHALT

- A. The asphalt shall be an anionic emulsified asphalt.
- B. Polymer-Modified High-Float Emulsion conforming to the requirements of this table:

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TEST DESCRIPTION	HFE-100P		TEST NO.
	Min.	Max.	
Original Material:			
Viscosity, Saybolt Furol at 50°C (122°F), Sec	50	-	AASHTO T-59
Sieve Test, Retained on No. 20 Sieve, %	-	0.1	AASHTO T-59
Storage Stability Rest, 24 hours, %	-	1.0	AASHTO T-59
Demulsibility, 35mL (1.2 fl oz) 0.10 N, CaCl, %	30	-	AASHTO T-59
Residue from Distillation Test to 204°C (400°F)	65	-	AASHTO T-59
Oil Distillate by Volume of Emulsion, %	-	3	AASHTO T-59
Residue Material:			
Penetration at 25°C (77°F), 100 g, 5 s, 0.1 mm	90	150	AASHTO T-49 ASTM D5
Float Test @ 60°C (140°F), Sec	1200	-	AASHTO T-50 ASTM D139
Ductility 25°C (77°F), 5cm (2 inch)/min	40	-	AASHTO T-51 ASTM D113
Elastic Recovery 10°C (50°F), %	58	-	AASHTO T-301

2.4 AGGREGATE (CHIP)

- A. The aggregate shall be a crushed stone or gravel, composed of hard durable fragments.
- B. Aggregate shall be free from clay or adherent films of clay or other matter that would prevent it from adhering to the emulsified asphalt.
- C. Aggregate must conform to gradations requirement as specified herein. Gradations shall be determined by ASTM C136.

SIEVE DESIGNATION	PERCENT BY WEIGHT PASSING SQUARE MESH SIEVE	
	First Course 3/4" Aggregate (Chip)	Second Course 1/2" Aggregate (Chip)
3/4"	100	-
1/2"	20 - 30	100
3/8"	0 - 10	50 - 70
#4	0 - 1	0 - 5
#10	0 - 2	0 - 2
#200	1.0 max	1.0 max

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- D. Fractured Faces: Ninety percent (90%) by weight to all plus No. 4 material shall have a minimum of two (2) mechanically fractured faces.
- E. Soundness: When tested for soundness, by use of sodium Sulfate or Magnesium Sulfate, as described by AASHTO T-104, the loss in 5 cycles shall not exceed eighteen percent (18%).
- F. Percent Wear: Percent of LA wear of 40 or less shall be determined by ASTM C131.
- G. Aggregate that becomes contaminated or otherwise unusable shall be corrected by screening or washing at the contractor's expense.
- H. Aggregate cannot be caliche.
- I. All Aggregate for project shall be from same source.

PART 3 EQUIPMENT

3.1 EMULSIFIED ASPHALT DISTRIBUTOR

- A. The distributor and equipment shall be capable of uniformly distributing asphalt emulsion at even temperature and uniform pressure on variable widths of surface up to 20 feet at readily determined and controlled rates from 0.05 to 2.0 gallons per square yard.
- B. The allowable variation any specified rate shall not exceed plus or minus 0.02 gallon per square yard.
- C. The distributor's spreading capabilities shall be computer controlled or it shall be calibrated to conform to the distributor manufacturer's procedure prior to applying the emulsified asphalt.
- D. Distributor equipment shall include a tachometer, pressure gauges, accurate volume measuring devices or a calibrated tank, and a thermometer for measuring temperatures of tank contents.
- E. Distributors shall be equipped with a power unit for the pump, and full circulation spray bars adjustable laterally and vertically.
- F. Distributors shall be equipped with an automatic heater capable of maintaining the asphalt emulsion at the manufacture's recommended application temperature or at 140°F, whichever is higher.

3.2 MECHANICAL SPREADER

- A. Self-propelled aggregate spreader of approved design supported by at least four wheels equipped with pneumatic tires on two axles.

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- B. The aggregate spreader shall be capable of applying the larger chip material and shall have positive controls so the required quantity of materials is deposited uniformly over the full width of the asphalt emulsion.
- C. Other types of aggregate spreaders may be used provided they accomplish equivalent results and are approved.

3.3 ROLLERS

- A. A minimum of two self-propelled pneumatic tire rollers weighting no less than 5 tons or more than 10 tons and consist of 2 axles on which are mounted not less than 9 pneumatic-tired wheels in such manner that the rear group of tires will not follow in the tracks of the forward group.
- B. The axles shall be mounted in a rigid frame provided with a loading platform or body suitable for ballast loading.
- C. The tires shall be uniformly inflated.
- D. If required, one 5-8 ton static steel wheel roller shall be provided.

3.4 POWER BROOM

- A. A rotary power broom with a positive means of controlling vertical pressure and capable of cleaning and removing loose aggregate.

PART 4 CONSTRUCTION METHOD

4.1 WEATHER LIMITATIONS

- A. Chip seal materials shall be applied only when the surface is dry and when there is no rain or threat of rain.
- B. The chip seal shall not be placed if the ambient temperature during the curing period is expected to be below 50°F in a twenty-four (24) hour period.
- C. Two course surface treatment shall not be applied when the air temperature is below 60°F and is falling, but may be applied when the air temperature is above 50°F and rising.
- D. Air temperature shall be taken in the shade and away from artificial heat. Asphaltic material shall not be placed when the general weather conditions, in the opinion of the Owner, are not suitable.

4.2 SURFACE PREPARATION

- A. The entire surface shall be cleaned of loose sand, dust, rock, mud and all other debris that could prevent proper adhesion of the asphalt emulsion.
- B. The cleaning shall be accomplished by power broom, scaping, blading or other approved measures. The operation shall not be started until the surface is approved.
- C. Ensure that the surface is slightly moist but not saturated when applying the prime.

4.3 APPLICATION

A. RATE OF APPLICATION - DOUBLE CHIP SEAL

- 1. Prime
 - i. Asphalt Emulsified Prime (AE-P) shall be applied at a rate of 0.12 to 0.14 gal/sq.yd.
- 2. First Course:
 - i. 3/4" Aggregate shall be applied at a rate of 32 to 36 lbs/sq. yd.
 - ii. Polymer Modified High Float Emulsion (HFE-100P) shall be applied at a rate of 0.42 to 0.50 gal/sq. yd.
- 3. Second Course:
 - i. 1/2" Aggregate (Chip) shall be applied at a rate of 30 to 34 lbs/sq. yd.
 - ii. Polymer Modified High Float Emulsion (HFE-100P) shall be applied at a rate of 0.40 to 0.46 gal/sq. yd.

Note: Actual application rates will vary depending on site conditions.

B. PRIME

- 1. Prime coat shall not be applied until the Owner has approved the quantities, application rates, material temperature, and locations.
- 2. The prime materials shall be applied in a uniform and continuous layer using a pressure distributor.
- 3. Ensure the nozzles on the pressure distributor are fully open and at the same angle from the spray bar, approximately 30°.
- 4. Keep the spray bar at a height above the pavement surface to provide a double or triple lap of the prime material.
- 5. If using a hand-held wand, ensure the application is uniform.
- 6. If distribution irregularities occur, cease operations and take corrective action.
- 7. Prime material shall be protected from traffic during curing process.

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C. BLOTTER MATERIAL

1. If the Prime material fails to penetrate the surface within 24 hours after its application, the Contractor shall spread Blotter material to absorb the excess Prime material.
2. The Owner may approve the use of Blotter material on roadway sections that must be opened to traffic before the 24 hours waiting period.
3. Spread blotter material before allowing traffic to use a primed surface.
4. Apply blotter to spot locations to accommodate traffic movement through the work area.
5. Remove blotter material before placing the surface.
6. Dispose of blotter material according to applicable state requirement

D. EMULSIFIED ASPHALT

1. Asphalt emulsion shall be applied by a pressure distributor in a uniform, continuous spread and within the temperature range specified.
2. The distributor's spreading capability shall be computer controlled or calibrated to conform to the distributor manufacturer's procedure prior to applying the emulsified asphalt.
3. If streaking occurs, the distributor operation shall be stopped immediately until the cause is determined and corrected. Streaking is alternating, narrow, longitudinal areas of excessive and then insufficient quantities of asphalt emulsion.
4. The quantity of asphalt emulsion per square yard may vary from the rate shown in the contract, as directed.
5. A strip of building paper at least 3 feet in width and with a length equal to that of the spray bar of the distributor plus 1 foot shall be used at the beginning of each spread.
6. If the distributor does not have a positive cut-off, the paper shall be used at the end of each spread. The paper shall be removed and disposed of in a satisfactory manner.
7. The distributor shall be moving forward at proper application speed at the time the spray bar is opened. Skipped areas and deficiencies shall be corrected. Junctions of spreads shall be carefully made to assure a smooth riding surface.
8. The length of spread of asphalt emulsion shall not be in excess of the area that trucks loaded with aggregate can immediately cover.
9. The spread of asphalt emulsion shall not be more than 6 inches wider than the width covered by the chop material from the spreading device.
10. Under no circumstances shall operations proceed so asphalt emulsion will be allowed to chill, set up, dry or otherwise impair retention of the aggregate.
11. The distributor shall be parked so that asphalt emulsion will not drip on the surface of the traveled way.

E. AGGREGATE (CHIP)

1. The aggregate shall be applied after the emulsion has broken or as directed by the engineer.
2. The aggregate shall be spread in quantities as designated.
3. The spreading rate may vary from the rate shown in the contract when approved. Spreading shall be accomplished so the tires of the trucks or aggregate spreader do no contact the uncovered and newly applied asphalt emulsion.
4. The aggregate shall be moistened with a sufficient amount of water to reduce the dust coating of the aggregate prior to spreading.
5. The cover coat material shall not contain free moisture as evidenced by drain down in the delivery truck bed.

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6. Immediately after the aggregate material is spread, deficient areas shall be covered with additional material.
7. Rolling shall begin immediately behind the spreader and shall continue until three complete coverages are obtained.
8. Rolling shall be completed the same day the asphalt emulsion and aggregate are applied.

4.4 CLEANING, PROTECTING, AND SWEEPING

- A. The completed roadway surface shall be lightly broomed the following morning to remove any excess material, without removing any imbedded material.
- B. The contractor shall conduct additional brooming if so directed.
- C. The contractor shall protect manholes, valve boxes and other surfaces.
- D. Care shall be taken to prevent the spraying of asphalt upon adjacent pavements and that portion of the street being used for traffic or structures, guard rails, guide posts, makers, trees, shrubs, adjacent property, improvements, and facilities of all kinds.

4.5 QUALITY CONTROL TESTING

- A. The contractor is responsible for quality control (QC) sampling and testing.
- B. PRIME COAT
 1. Provide a manufacturer's material certification and quality control test results for each batch of prime materials used on the project.
 2. Use prime materials from certified sources only.
 3. Include the supplier name, plant location, prime grade and batch number on all reports.
- C. BLOTTER MATERIAL
 1. Provide material gradation and quality test results taken during production.
 2. The testing rate for gradation is one per 250 tons.
- D. EMULSIFIED ASPHALT
 1. Only emulsion from certified sources is allowed for use.
 2. The contractor shall provide material certification and quality control test results for each batch of asphalt emulsion used on the project.
 3. Include the supplier name, plant location, emulsion grade and batch number on all reports.
- E. AGGREGATE (CHIP)
 1. Provide material gradation and quality test results taken during production.
 2. The testing rate for gradation is one per 250 tons.

PART 5 METHOD OF MEASUREMENT AND PAYMENT

5.1 MEASUREMENT AND LIMIT

- A. The area shall be measured by square yard of completed and accepted surface treatment.
- B. The length is measured along the surface. The width is specified on the Plans, plus or minus any authorized changes. Irregular areas are measured by the surface square yard within the lines shown on the Plans or authorized changes.

5.2 BASIS OF PAYMENT

- A. The surface treatment shall be paid for at the Contract Unit Price per square yard accepted by the Owner. Payment shall be full compensation for the surface treatment work completed in accordance with the above specifications.

Pay Item	Pay Unit
Double Penetration Chip/Seal with Prime, Complete-in-Place	Square Yard

- B. Work included in payment shall be as follows:
 - 1. Providing, mixing, heating and applying prime, asphalt materials and aggregate (chip) onto the roadbed
 - 2. Provide blotter material as required
 - 3. Shipping/Delivery to project site
 - 4. Water

END OF SECTION