

# INVITATION FOR BID

**SOLICITATION NUMBER:** 6982AF23B000019  
**SOLICITATION TYPE:** FULL & OPEN  
**PROJECT NUMBER:** NM FLAP 159(1)  
**PROJECT NAME:** CATWALK ACCESS ROAD

<b>BID OPENING DATE:</b>
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See Page A-1, Item 13A
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**This solicitation cites Standard Specifications for  
Construction of Roads and Bridges on  
Federal Highway Projects, FP-14 US Customary Units**

**ISSUING OFFICE:**



**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
CENTRAL FEDERAL LANDS HIGHWAY DIVISION  
12300 W. DAKOTA AVENUE, SUITE 360  
LAKEWOOD, CO 80228  
Web site: <https://highways.dot.gov/federal-lands>  
E-mail: [CFLContracts@dot.gov](mailto:CFLContracts@dot.gov)**

PROJECT

NM FLAP 159(1)

LOCATION

GILA NATIONAL FOREST

COUNTY

CATRON

STATE

NEW MEXICO

LENGTH

SCHEDULE A: 4.78 MILES

OPTION X: .21 MILES

OPTION Y: .74 MILES

TYPE OF IMPROVEMENT

LOW WATER CROSSINGS, GRADING,  
DRAINAGE IMPROVEMENTS,  
PULVERIZATION, AGGREGATE BASE,  
ASPHALT SURFACING, CONCRETE  
SURFACING

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### **SPECIAL CONTRACT REQUIREMENTS (SCRs)**

**The following Special Contract Requirements amend and supplement the Standard Specification for Construction of Roads and Bridges on Federal Highway Projects**

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### **PROJECT OVERVIEW**

The NM FLAP 159(1) project is located in Catron County, NM within the Gila National Forest. This project includes pavement reconstruction, low water crossing construction, and erosion protection of 5.0 miles of roadway.

## NOTICE TO BIDDERS

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### I. PRE-BID INFORMATION

**ELECTRONIC BIDS WILL NOT BE ACCEPTED. Submit a printed copy of your bid to the address listed on the SF-1442 (Page A-1, Item 8). Submit the following documents with your Bid Package–**

- SF-1442, Solicitation, Offer & Award, Pages A-1 and A-2
- Indication of interest in formal Partnering, Page A-5
- Bid Schedule Pages A-6 through A-22
- Completed an applicable Authority to Bind certificate, pages A-23 through A-27
- Buy American Act & Hazardous Materials, Pages A-28 through A-29
- Bid Guarantee (see FAR Clause 52.228-1), Pages B-1 and B-2. Bid bonds must be originals with original signatures and corporate seals. Photocopies and Faxed copies are NOT acceptable and will make your bid non-responsive.
  - Digital copies may be downloaded at <https://www.gsa.gov/forms-library/bid-bond>
- Completed the VETS-4212 declaration, Page A-ii; Bidders' Information, Pages B-3 through B-6.
- HUBZone small business concerns electing to waive the evaluation preference, complete 52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns, Section C of the IFB.

Bidders should retain all other pages for their information. Bids should be submitted in a sealed envelope and include the Contractor's Name, Solicitation Number and the Project Number/Name.

It is the responsibility of the bidder to verify that this solicitation document, including the plans, are complete as listed in the table of contents and the index to sheets. Plan sheets can be found at <https://sam.gov> and viewed by individual sections, downloaded by individual sections, or the entire plan set downloaded in a zip file. Physical data relevant to this solicitation may also be viewed or downloaded at the above site.

This solicitation and subsequent contract are governed by the Federal Acquisition Regulations (FAR), agency supplemental regulations, and the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-14.

The FP-14 was utilized for the design of this project. Paper copies of the FP-14 will not be provided to bidders or the awarded Prime Contractor. The FP-14 is available electronically at <https://flh.fhwa.dot.gov/resources/specs/> and a copy is uploaded with this solicitation. A single paper copy can be obtained from the Research & Technology Distribution Center (RTPDC) by email [report.center@dot.gov](mailto:report.center@dot.gov).

## NOTICE TO BIDDERS

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Applicable FAR/TAR provisions and clauses in this IFB are incorporated by reference or full text. FAR provisions and clauses incorporated by reference can be accessed on the Internet at <https://www.acquisition.gov/content/regulations>.

**Notice of SAM Registration** – you must be registered in the System for Award Management (SAM) prior to submission of a bid in response to this solicitation. Failure to register prior to submission of a bid may require award to the next successful registered offeror. See FAR Subpart 4.1102. Register online at [www.sam.gov](http://www.sam.gov).

**Representations and Certifications** – This solicitation is issued under **NAICS 237310** – Highway, Street & Bridge Construction with a small business size standard of \$45 million. If your average annual gross receipts for the past 5 years are above \$45 million, you are a large business for this solicitation. If they are below \$45 million you are a small business. Before submitting bids, you must ensure you have completed your annual representations and certifications electronically at the SAM website at [www.sam.gov](http://www.sam.gov). Include NAICS 237310 in your SAM profile.

**Vets-4212 Reporting:** - The Contractor must complete the report if required. See reporting requirements at: <https://www.dol.gov/agencies/vets/contractor/instructions-for-electronic-submission-vets-4212-reports>.

- My firm had a qualifying Federal Contract in 2022 and has complied with the reporting requirements. ☐
- My firm did not have a qualifying Federal Contract in 2022 and is therefore exempt from the reporting requirements ☐

**This Solicitation Contains a Price Evaluation Factor** - The Government will apply a factor of 10% to the price of all offers except HUBZone small business concerns that have not waived the evaluation preference and otherwise successful offers from small business concerns. See FAR Clause 52.219-4, *Notice of Price Evaluation Preference for HUBZone Small Business Concerns*.

In the event this full and open competition results in a contract award to a qualified HUBZone SBC after a price evaluation preference, FAR Clause 52.219-14, *Limitations on Subcontracting* will apply.

**Bid Guarantee** – Follow the requirements of FAR Clause 52.228-1 *Bid Guarantee* and Subpart 102.03 of the FP-14. Bid bonds must be originals and have original signatures and corporate seals. Photocopied and faxed copies of bonds will be rejected and cause your bid to be non-responsive.

**Accuracy and Completeness of Bid-** The Contractor is fully responsible to verify that all data is correct when an offer is submitted. Failure to properly update your data may cause the offer to be rejected.

**Request for Technical Information** – Questions relative to the plans and SCRs for this solicitation will only be accepted in writing (see Item 9 on Page A-3).

## NOTICE TO BIDDERS

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<p><b>TECHNICAL QUESTIONS REGARDING THIS SOLICITATION WILL NOT BE ACCEPTED AFTER 4 P.M. ON JULY 20, 2023</b></p>
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<p>Questions can be submitted to <a href="mailto:CFLContracts@dot.gov">CFLContracts@dot.gov</a>. Questions and answers will be posted at <a href="https://sam.gov">https://sam.gov</a></p>
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**Modifications to Bids** - Bids may be modified or withdrawn by regular mail, electronic commerce (email) or facsimile, if such notice is received **prior to the time specified for receipt of bids**. The Government will not be responsible for ANY failure attributable to the transmission or receipt of electronic commerce (email) or facsimile data.

For all modifications, we **STRONGLY ENCOURAGE** you to **resubmit the entire bid schedule with a unit price and amount for every bid item, and a Schedule Total**. See FAR Provision 52.214-5, Submission of Bids. Modifications which make the bid ambiguous, indefinite, or uncertain as to any essential requirement of the contract will cause the bid to be rejected as nonresponsive.

<b>FAX Number to submit modifications to bids for this project is (720) 963-3360</b>
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<b>Email Address to submit modifications to bids for this project is <a href="mailto:cflcontracts@dot.gov">cflcontracts@dot.gov</a></b>
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## II. POST AWARD INFORMATION

**CFLHD will no longer be providing paper copies of the conformed contract to the Awarded Prime Contractor.**

**Subcontracting** - FAR Clause 52.219-8, *Utilization of Small Business Concerns* states that Prime Contractors afford small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns the maximum practicable opportunity to participate in performing contracts let by any Federal agency.

FAR Clause 52.219-9, *Small Business Subcontracting Plan, Alternate I*, requires that the large business concern who is the successful low bidder on a Federal project with an anticipated award amount exceeding \$1.5 million, is required to submit a subcontracting plan prior to contract award. The subcontracting plan expresses goals in terms of percentages of total planned subcontracting dollars for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. If the apparent successful low bidder fails to submit an acceptable subcontracting plan acceptable to the CO within 7 days of request of the CO, that bidder may be ineligible for award of the contract.

## NOTICE TO BIDDERS

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Prime Contractors, who are large businesses, are encouraged to post sources sought notices at the Small Business Administration's Subcontracting Network (SUB-NET) <https://web.sba.gov/subnet/> so that small businesses can identify opportunities in their areas of expertise. The use of SUB-Net fulfills the requirements set forth in Federal Acquisition Regulation (FAR) 5.206, *Notice of Subcontracting Opportunities*, for contractors and subcontractors to post notices and thereby increase competition for subcontracts.

A list of currently known business concerns owned and controlled by socially and economically disadvantaged individuals and/or women-owned small business concerns that have indicated an interest in participating in highway construction is available at <https://www.sam.gov>.

See Appendix C for Sample Small Business Subcontracting Plan.

### **NOTE:**

- Consider the following FHWA small business goals in development of Subcontracting plans and efforts:

<b>FHWA Small Business Subcontracting Goals (As of FY 2023)</b>	
<b>Business Size</b>	<b>Goal (%)</b>
SB	43.0%
SDB	5.0%
HUBZone	3.0%
WOSB	5.0%
SDVOSB	3.0%

### **NON-MANDATORY PRE-BID VIRTUAL MEETING**

A **pre-bid virtual meeting** will be conducted to solicit contractor interest and to orient contractors with the project prior to the bid opening. A Representative from the Federal Highway Administration (FHWA) will conduct a meeting on **Tuesday, July 11, 2023, at 10:00 a.m. Local Mountain Time**. FHWA will provide a brief project presentation and will be available to answer questions.

If you would like to attend the virtual meeting, please email [CFLContracts@dot.gov](mailto:CFLContracts@dot.gov) by **Monday, July 10<sup>th</sup>, 2022, 10:00 a.m., Local Mountain Time** to request a link to join the presentation. The virtual meeting will be held using Microsoft Teams. No summary of the meeting will be available for those who do not attend.

**ATTENDANCE AT THE PRE- BID VIRTUAL MEETING IS NOT REQUIRE TO BID**

**Insurance requirements** - See Subsection 107.05 of the FP-14.

**EEBACS** - Contractors shall use the Government's web-based system, *Engineer's Estimating, Bidding, Award, and Construction System (EEBACS)*, to prepare all "*Inspector's Daily Record of Construction Operations*" (*Contractors Daily Reports*) and measurement notes (pay notes).

## NOTICE TO BIDDERS

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The Contractor shall be required to attend a training session on the use of EEBACS. The training session will require up to 4 hours. No more than 3 Contractor staff may attend the training unless approved by the CO. The Contractor shall be responsible for training additional staff.

The Contractor shall be required to submit a user account form to gain access to the EEBACS system. See Subsection 108.01.

A user guide, “*EEBACS for Construction Contractors*”, is available. An electronic version can be found at <https://highways.dot.gov/federal-lands/estimates/eebacs-guide>

**New Mexico Gross Receipts and Compensating Tax Act – Contractors are responsible to understand the tax laws associated with the New Mexico gross receipts tax, pursuant to the Gross Receipts and Compensating Tax Act of New Mexico.**



<b>SOLICITATION, OFFER AND AWARD</b> <i>(Construction, Alteration or Repair)</i>	1. SOLICITATION NO. 6982AF23B000019	2. TYPE OF SOLICITATION <input checked="checked" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 06/26/2023	PAGE OF PAGES 1 of 2
IMPORTANT - THE "OFFER SECTION ON THE REVERSE MUST BE FULLY COMPLETED BY OFFEROR.				
4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO. HFLCEO230183PR		6. PROJECT NO. NM FLAP 159(1)	
7. ISSUED BY: FEDERAL HIGHWAY ADMINISTRATION CENTRAL FEDERAL LANDS DIVISION 12300 WEST DAKOTA AVENUE, SUITE 167 LAKEWOOD, COLORADO 80228		CODE: 69050001	8. ADDRESS OFFER TO: Stephanie Navarro, Contract Specialist Federal Highway Administration Central Federal Lands Division Office 12300 W. Dakota Avenue Lakewood, CO 80228	
9. FOR INFORMATION CALL SEE PAGE A-3	A. NAME: SEE PAGE A-3		B. TELEPHONE NO. <i>(Include area code)</i> SEE PAGE A-3	
<b>SOLICITATION</b> <i>NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder."</i>				
10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS:  ROADWAY CONSTRUCTION PROJECT IN STRICT ACCORDANCE WITH: <ol style="list-style-type: none"> <li>1. FEDERAL ACQUISITION AND TRANSPORTATION ACQUISITION REGULATIONS (FAR &amp; TAR)</li> <li>2. DEPARTMENT OF LABOR, CONSTRUCTION WAGE RATE REQUIREMENT RATES</li> <li>3. SPECIAL CONTRACT REQUIREMENTS</li> <li>4. PLANS</li> <li>5. BID SCHEDULE</li> <li>6. STANDARD SPECIFICATIONS FOR CONSTRUCTION OF ROADS AND BRIDGES ON FEDERAL HIGHWAY PROJECTS, FP-14, U.S. CUSTOMARY UNITS</li> <li>7. SUBCONTRACTING PLAN (IF APPLICABLE)</li> </ol> <p>See Subsection 104.04 of the FP-14 for governing order of precedence</p>				
11. The Contractor shall begin performance within <u>10</u> calendar days and complete it within <u>  </u> * calendar days after receiving <input type="checkbox"/> award <input checked="checked" type="checkbox"/> notice to proceed. The performance period is <input checked="checked" type="checkbox"/> mandatory <input type="checkbox"/> negotiable. <b>*Refer to Subsection 108.01 as amended in the Special Contract Requirements.</b>				
12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? <i>(If "YES," indicate within how many calendar days after award in Item 12B.)</i> <input checked="checked" type="checkbox"/> YES <input type="checkbox"/> NO			12B. CALENDAR DAYS 10	
13. ADDITIONAL SOLICITATION REQUIREMENTS: <p>A. Sealed offers in original and <u>0</u> copies to perform the work required are due at the place specified in Item 8. by <u>2:00 p.m.</u> (hour) local time on <u>7/27/23</u> (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.</p> <p>B. An offer guarantee <input checked="checked" type="checkbox"/> is <input type="checkbox"/> is not required.</p> <p>C. All offers are subject to the (1) work requirements and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.</p> <p>D. Offers providing less than <u>60</u> calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.</p>				

**OFFER (Must be fully completed by offeror)**

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)		15. TELEPHONE NUMBER (Include area code)	
		16. REMITTANCE ADDRESS (Include only if different than Item 14.)	
CODE		FACILITY CODE	

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within \_\_\_\_\_ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13d. Failure to insert any number means the offeror accepts the minimum in Item 13d.)

AMOUNTS



18. The offeror agrees to furnish any required performance and payment bonds.

**19. ACKNOWLEDGMENT OF AMENDMENTS**

(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)

AMENDMENT NUMBER										
DATE										

20a. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20b. SIGNATURE	20c. OFFER DATE

**AWARD (To be completed by Government)**

21. ITEMS ACCEPTED:

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO THE UNITED STATES CODE AT <input type="checkbox"/> 10 U.S.C. 3204(a) ( ) <input type="checkbox"/> 41 U.S.C. 3304(a) ( )
26. ADMINISTERED BY	27. PAYMENT WILL BE MADE BY

**CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE**

<input type="checkbox"/> 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.		<input type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.	
30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)		31a. NAME OF CONTRACTING OFFICER (Type or print)	
30b. SIGNATURE	30c. DATE	31b. UNITED STATES OF AMERICA  BY	31c. DATE

- Item 8:**      **LOCATION OF PUBLIC BID OPENING:** Offers must be received by designated date and time as stated in Item 13A.
- Item 9:**      **FOR GENERAL INFORMATION:** E-mail us at [CFLContracts@dot.gov](mailto:CFLContracts@dot.gov).
- FOR TECHNICAL INFORMATION (plans and specifications):** Questions must be submitted in writing by e-mail at [CFLContracts@dot.gov](mailto:CFLContracts@dot.gov) .
- Item 11:**      **COMPLETION DATE:** Work shall be completed on or before the date specified in *Subsection 108.01 of the SCRs*.
- Item 12A:**      **PERFORMANCE AND PAYMENT BONDS:** See FAR *Clause 52.228-15 Performance and Payment Bonds-Construction* (Clauses begin on Page C-1) and Subsection 102.06 of the FP-14.
- Item 13B:**      **BID BOND AMOUNT:** See FAR Provision *52.228-1 Bid Guarantee* (Provisions begin on Page B-1) and *Subsection 102.03 Bid Guarantee* of the FP-14. All bid guarantees must have original signatures with original corporate seals.
- Item 19:**      **ACKNOWLEDGMENT OF AMENDMENTS: FAILURE TO ACKNOWLEDGE AMENDMENTS, IN ITEM 19 OF THE SF-1442, BY THE DESIGNATED DATE AND HOUR SPECIFIED IN THE SOLICITATION MAY RESULT IN REJECTION OF YOUR BID.** If amendments are issued, they will be posted to <https://sam.gov>.
- Item 24:**      **SUBMITTING INVOICES:** See *Subsection 109.08 Progress Payments* of the FP-14.

**ESTIMATED**

**PRICE:**      The price range of the project work is between \$10,000,000 and \$20,000,000.

### **Bid Schedule Instructions**

BIDDERS, PLEASE NOTE: This Bid Proposal is comprised of one schedule and two options. Before preparing the bid, carefully read the Solicitation Provisions and the following:

- Insert a numeric unit bid price for each pay item for which a quantity appears in the bid schedule. Unit bid prices should be quoted no more precisely than the nearest cent (2 decimal places). Unit bid prices quoted more precisely will be rounded up to the nearest cent by the Government
- Multiply the unit price by the quantity for each pay item and show the amount bid. When the words “Lump Sum” appear as a unit bid price, insert an amount for each lump sum pay item.
- Total all amounts bid for each pay item and show the Construction Cost Total on the space provided on the last page of each schedule or option.
- Also show the Construction Cost Total for each schedule/option as well as the combined Total of each Schedule and the Option in the spaces provided on the Bid Summary page.

**NOTE:** If the amount bid for a pay item is inconsistent with the product of the unit price provided by the bidder and the quantity provided by the Government, the unit price will govern and the Government will determine a corrected amount bid for the pay item by multiplying the unit price by the quantity.

### **Basis for Award**

To be eligible for award of contract, the offeror shall submit prices for each item necessary to complete all contract work in Schedule A, Option X and Option Y. Accordingly, award of contract, if made, will be made to the lowest responsive, responsible bidder, if funds are available.

Per FAR provision 52.217-5, Evaluation of Options (JULY 1990), the Government will evaluate offers for award purposes by adding the total price for all options to the total price for Schedule A. Evaluation of options will not obligate the Government to exercise the option(s). If the determination is made to exercise any of the Options, the Contracting Officer will provide the contractor with written notice no later than 120 days after contract award, per FAR clause 52.217-7, Option for Increased Quantity- Separately Priced Line Item (MAR 1989).

### **Partnering**

A Partnership recognizes the Government and the Contractor are both responsible and can affect the successful completion of this project. Partnering is a vehicle to ensure the partnership has structure and quality. It recognizes the strengths of each party and uses those strengths to identify and achieve shared goals. One of the primary objectives of Partnering is to facilitate the resolution of disputes in a timely, professional, and non-adversarial manner with the outcome focused on achieving those shared goals.

CFLHD supports the concepts and tenets of Partnering and as such is encouraging the Contractors and it's subcontractors to establish a Partnering relationship on this project.

A formal Partnering meeting can help facilitate this relationship by helping do document the parties' common purpose and goals, and ensuring alignment. The goals are mutually agreed upon and address effective and efficient performance within the scope of the contract.

Participation in a formal Partnering meeting is voluntary. Costs of implementing and maintaining the partnership would be agreed to by both parties as described in *Subsection 103.05 Partnering* of the FP-14. Costs of partnering would be in addition to the contract award amount.

Please indicate your desire to participate in a formal partnering meeting on this project.

☐ We would like to participate in a formal partnering meeting.

☐ We do not want to participate in a formal partnering meeting.

Bidder/Offeror please note: Before preparing the bid, carefully read the Solicitation Provisions. Insert a unit bid price, in figures, for each pay item for which a quantity appears in the bid schedule. Multiply the unit price by the quantity for each pay item and show the amount bid. Should any mathematical check made by the Government show a mistake in the amount bid, the corrected unit price extension shall govern. When the word "LPSM" (Lump Sum) appears as a unit bid price, insert an amount for each lump sum pay item. When a sum based on a fixed rate appears for any pay item in the amount bid column, include the Government inserted amount bid for the item in the total bid amount. Total all of the amounts bid for each pay item and show the total bid amount.

Item No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount
A0050	15101-0000	MOBILIZATION				
			ALL	LPSM	\$__LPSM__	\$_____
A0100	15214-2000	SURVEY AND STAKING, RETAINING WALL (Gabion Wall)				
			ALL	LPSM	\$__LPSM__	\$_____
A0150	15215-3000	SURVEY AND STAKING, DRAINAGE STRUCTURE (Low Water Crossing)				
			7	EACH	\$_____	\$_____
A0200	15215-3000	SURVEY AND STAKING, DRAINAGE STRUCTURE				
			12	EACH	\$_____	\$_____
A0250	15216-2000	SURVEY AND STAKING, GRADE FINISHING STAKES				
			2.019	MILE	\$_____	\$_____
A0300	15216-3000	SURVEY AND STAKING, TEMPLATE CONTROL				
			2.820	MILE	\$_____	\$_____
A0350	15225-0000	SLOPE, REFERENCE, AND CLEARING AND GRUBBING CONTROL				
			3.830	MILE	\$_____	\$_____
A0400	15301-0000	CONTRACTOR QUALITY CONTROL				
			ALL	LPSM	\$__LPSM__	\$_____
A0450	15401-0000	CONTRACTOR TESTING				
			ALL	LPSM	\$__LPSM__	\$_____
A0500	15501-0000	CONSTRUCTION SCHEDULE				
			ALL	LPSM	\$__LPSM__	\$_____
A0550	15701-0000	SOIL EROSION CONTROL				
			ALL	LPSM	\$__LPSM__	\$_____
A0600	15720-0000	STORM WATER POLLUTION PREVENTION PLAN				
			ALL	LPSM	\$__LPSM__	\$_____
A0650	15802-0000	WATERING FOR DUST CONTROL				
			ALL	LPSM	\$__LPSM__	\$_____
A0700	20101-0000	CLEARING AND GRUBBING				
			22.0	ACRE	\$_____	\$_____

Bid Schedule

Schedule:A

Schedule Type:Base

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

A0750	20301-0600	REMOVAL OF CATTLE GUARD	4	EACH	\$ _____	\$ _____
A0800	20301-0700	REMOVAL OF DELINEATOR	30	EACH	\$ _____	\$ _____
A0850	20301-1100	REMOVAL OF GATE	2	EACH	\$ _____	\$ _____
A0900	20301-1900	REMOVAL OF PIPE CULVERT	11	EACH	\$ _____	\$ _____
A0950	20301-2400	REMOVAL OF SIGN	50	EACH	\$ _____	\$ _____
A1000	20302-0700	REMOVAL OF FENCE	7,800	LNFT	\$ _____	\$ _____
A1050	20304-1000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	ALL	LPSM	\$ __LPSM__	\$ _____
A1100	20402-0000	SUBEXCAVATION	250	CUYD	\$ _____	\$ _____
A1150	20420-0000	EMBANKMENT CONSTRUCTION	6,600	CUYD	\$ _____	\$ _____
A1200	20425-1000	DITCH, EXCAVATION	400	LNFT	\$ _____	\$ _____
A1250	20815-0000	COFFERDAMS	ALL	LPSM	\$ __LPSM__	\$ _____
A1300	25101-2300	PLACED RIPRAP, METHOD B, CLASS 3	1,300	CUYD	\$ _____	\$ _____
A1350	25101-2400	PLACED RIPRAP, METHOD B, CLASS 4	1,000	CUYD	\$ _____	\$ _____
A1400	25302-1000	GABIONS, GALVANIZED OR ALUMINIZED COATED	642	CUYD	\$ _____	\$ _____

Bid Schedule

Schedule:A

Schedule Type:Base

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road



A1450	25701-0100	CONTRACTOR FURNISHED GABION WALL DESIGN	ALL	LPSM	\$ _LPSM_	\$ _____
A1500	30202-2000	ROADWAY AGGREGATE, METHOD 2	14,800.0	TON	\$ _____	\$ _____
A1550	30401-5300	FULL DEPTH RECLAMATION, METHOD 2, 6-INCH DEPTH	3.700	MILE	\$ _____	\$ _____
A1600	40101-5600	ASPHALT CONCRETE PAVEMENT, GYRATORY MIX, 1/2-INCH OR 3/4-INCH NOMINAL MAXIMUM SIZE AGGREGATE, 0.3 TO <3 MILLION ESAL	8,160.0	TON	\$ _____	\$ _____
A1700	40105-3000	ANTISTRIP ADDITIVE, TYPE 3	81.70	TON	\$ _____	\$ _____
A1800	40601-0000	FOG SEAL	21.40	TON	\$ _____	\$ _____
A1850	41102-1000	PRIME COAT, METHOD 1	50,000	SQYD	\$ _____	\$ _____
A1900	41105-0000	BLOTTER	100.0	TON	\$ _____	\$ _____
A1950	41201-0000	TACK COAT	21.40	TON	\$ _____	\$ _____
A2000	50101-0800	MINOR CONCRETE PAVEMENT, REINFORCED, 8-INCH DEPTH	2,885	SQYD	\$ _____	\$ _____
A2050	60103-0000	CONCRETE, HEADWALL (TRIPLE 30-INCH)	2	EACH	\$ _____	\$ _____
A2100	60103-0000	CONCRETE, HEADWALL (QUADRUPLE 72-INCH)	2	EACH	\$ _____	\$ _____
A2150	60103-0220	CONCRETE, HEADWALL FOR 48-INCH PIPE CULVERT	2	EACH	\$ _____	\$ _____

Bid Schedule

Schedule:A

Schedule Type:Base

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

A2200	60103-0380	CONCRETE, HEADWALL FOR 96-INCH PIPE CULVERT	2	EACH	\$ _____	\$ _____
A2250	60103-0700	CONCRETE, HEADWALL FOR DOUBLE 48-INCH PIPE CULVERT	4	EACH	\$ _____	\$ _____
A2300	60201-0900	30-INCH PIPE CULVERT (RCP)	60	LNFT	\$ _____	\$ _____
A2350	60201-1200	48-INCH PIPE CULVERT (RCP)	320	LNFT	\$ _____	\$ _____
A2400	60201-1600	72-INCH PIPE CULVERT (RCP)	240	LNFT	\$ _____	\$ _____
A2450	60201-2000	96-INCH PIPE CULVERT (CMP)	60	LNFT	\$ _____	\$ _____
A2500	60210-0900	END SECTION FOR 30-INCH PIPE CULVERT (RCP)	2	EACH	\$ _____	\$ _____
A2550	60501-0000	STANDARD UNDERDRAIN SYSTEM	800	LNFT	\$ _____	\$ _____
A2600	60704-0000	CLEANING CULVERT IN PLACE	6	EACH	\$ _____	\$ _____
A2650	61801-0000	CONCRETE BARRIER	1,400	LNFT	\$ _____	\$ _____
A2700	61901-0900	FENCE, BARBED WIRE, 4 STRAND	8,500	LNFT	\$ _____	\$ _____
A2750	61902-0000	GATE	2	EACH	\$ _____	\$ _____
A2800	61903-0700	CATTLE GUARD, 24 FEET	4	EACH	\$ _____	\$ _____
A2850	61920-2000	REMOVE AND RESET GATE	2	EACH	\$ _____	\$ _____

Bid Schedule

Schedule:A

Schedule Type:Base

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

A2900	62201-0250	DUMP TRUCK, 10 CUBIC YARD MINIMUM CAPACITY	20	HOUR	\$ _____	\$ _____
A2950	62201-2750	MOTOR GRADER	20	HOUR	\$ _____	\$ _____
A3000	62201-3000	HYDRAULIC EXCAVATOR	20	HOUR	\$ _____	\$ _____
A3050	62301-0000	GENERAL LABOR	40	HOUR	\$ _____	\$ _____
A3100	62302-1000	SPECIAL LABOR, HIRED TECHNICAL SERVICES	20	HOUR	\$ _____	\$ _____
A3150	62302-1100	SPECIAL LABOR, HIRED SURVEY SERVICES	20	HOUR	\$ _____	\$ _____
A3200	62511-2000	SEEDING, HYDRAULIC METHOD	37,300	SQYD	\$ _____	\$ _____
A3250	62516-2000	MULCHING, HYDRAULIC METHOD	37,300	SQYD	\$ _____	\$ _____
A3300	62901-0000	ROLLED EROSION CONTROL PRODUCT	2,000	SQYD	\$ _____	\$ _____
A3350	63301-0000	SIGN SYSTEM	66	EACH	\$ _____	\$ _____
A3400	63302-1000	SIGN SYSTEM, GOVERNMENT FURNISHED SIGN	1	SQFT	\$ _____	\$ _____
A3450	63308-2000	OBJECT MARKER, TYPE 2	18	EACH	\$ _____	\$ _____
A3500	63308-3000	OBJECT MARKER, TYPE 3	34	EACH	\$ _____	\$ _____
A3550	63309-0000	DELINEATOR	30	EACH	\$ _____	\$ _____

Bid Schedule

Schedule:A

Schedule Type:Base

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

A3600	63316-1000	REMOVE AND RESET SIGN	7	EACH	\$ _____	\$ _____
A3650	63402-0300	PAVEMENT MARKINGS, TYPE B, SOLID	38.00	MILE	\$ _____	\$ _____
A3700	63402-0400	PAVEMENT MARKINGS, TYPE B, BROKEN	1.20	MILE	\$ _____	\$ _____
A3750	63501-1000	TEMPORARY TRAFFIC CONTROL, TRAFFIC CONTROL SUPERVISOR	ALL	LPSM	\$ __LPSM__	\$ _____
A3800	63502-0600	TEMPORARY TRAFFIC CONTROL, BARRICADE TYPE 3	4	EACH	\$ _____	\$ _____
A3850	63502-0700	TEMPORARY TRAFFIC CONTROL, CONE	220	EACH	\$ _____	\$ _____
A3900	63502-1300	TEMPORARY TRAFFIC CONTROL, DRUM	40	EACH	\$ _____	\$ _____
A3950	63502-1600	TEMPORARY TRAFFIC CONTROL, WARNING LIGHT TYPE B	8	EACH	\$ _____	\$ _____
A4000	63502-2000	TEMPORARY TRAFFIC CONTROL, PORTABLE CHANGEABLE MESSAGE SIGN	3	EACH	\$ _____	\$ _____
A4050	63502-3100	TEMPORARY TRAFFIC CONTROL, TRAFFIC SIGNAL SYSTEM	1	EACH	\$ _____	\$ _____
A4100	63503-1000	TEMPORARY TRAFFIC CONTROL, PLASTIC FENCE	1,000	LNFT	\$ _____	\$ _____
A4150	63504-1000	TEMPORARY TRAFFIC CONTROL, CONSTRUCTION SIGN	800	SQFT	\$ _____	\$ _____
A4200	63505-1000	TEMPORARY TRAFFIC CONTROL, PAVEMENT MARKINGS	3.90	MILE	\$ _____	\$ _____
A4250	63506-0500	TEMPORARY TRAFFIC CONTROL, FLAGGER	4,000	HOUR	\$ _____	\$ _____

Bid Schedule

Schedule:A

Schedule Type:Base

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

A4300	63506-0600	TEMPORARY TRAFFIC CONTROL, PILOT CAR	2,000	HOUR	\$ _____	\$ _____
A4350	63701-0000	FIELD OFFICE	1	EACH	\$ _____	\$ _____
<p>Submitted by: _____</p> <p>Schedule Total: _____</p>						

Item No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount
X0050	15101-0000	MOBILIZATION				
			ALL	LPSM	\$__LPSM__	\$__
X0100	15215-3000	SURVEY AND STAKING, DRAINAGE STRUCTURE (Low Water Crossing)				
			1	EACH	\$__	\$__
X0150	15215-3000	SURVEY AND STAKING, DRAINAGE STRUCTURE				
			1	EACH	\$__	\$__
X0200	15216-2000	SURVEY AND STAKING, GRADE FINISHING STAKES				
			0.330	MILE	\$__	\$__
X0250	15216-3000	SURVEY AND STAKING, TEMPLATE CONTROL				
			0.041	MILE	\$__	\$__
X0300	15225-0000	SLOPE, REFERENCE, AND CLEARING AND GRUBBING CONTROL				
			0.206	MILE	\$__	\$__
X0350	15301-0000	CONTRACTOR QUALITY CONTROL				
			ALL	LPSM	\$__LPSM__	\$__
X0400	15401-0000	CONTRACTOR TESTING				
			ALL	LPSM	\$__LPSM__	\$__
X0450	15501-0000	CONSTRUCTION SCHEDULE				
			ALL	LPSM	\$__LPSM__	\$__
X0500	15701-0000	SOIL EROSION CONTROL				
			ALL	LPSM	\$__LPSM__	\$__
X0550	15720-0000	STORM WATER POLLUTION PREVENTION PLAN				
			ALL	LPSM	\$__LPSM__	\$__
X0600	15802-0000	WATERING FOR DUST CONTROL				
			ALL	LPSM	\$__LPSM__	\$__
X0650	20101-0000	CLEARING AND GRUBBING				
			2.0	ACRE	\$__	\$__
X0700	20304-1000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS				
			ALL	LPSM	\$__LPSM__	\$__

Bid Schedule

Schedule:X

Schedule Type:Options

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

X0750	20402-0000	SUBEXCAVATION	200	CUYD	\$ _____	\$ _____
X0800	20420-0000	EMBANKMENT CONSTRUCTION	180	CUYD	\$ _____	\$ _____
X0850	20425-1000	DITCH, EXCAVATION	70	LNFT	\$ _____	\$ _____
X0900	20815-0000	COFFERDAMS	ALL	LPSM	\$ __LPSM__	\$ _____
X0950	25101-2300	PLACED RIPRAP, METHOD B, CLASS 3	860	CUYD	\$ _____	\$ _____
X1000	25110-2500	GROUTED RIPRAP, METHOD B, CLASS 5	775	CUYD	\$ _____	\$ _____
X1050	30202-2000	ROADWAY AGGREGATE, METHOD 2	1,100.0	TON	\$ _____	\$ _____
X1100	30401-5300	FULL DEPTH RECLAMATION, METHOD 2, 6-INCH DEPTH	0.050	MILE	\$ _____	\$ _____
X1150	40101-5600	ASPHALT CONCRETE PAVEMENT, GYRATORY MIX, 1/2-INCH OR 3/4-INCH NOMINAL MAXIMUM SIZE AGGREGATE, 0.3 TO <3 MILLION ESAL	180.0	TON	\$ _____	\$ _____
X1250	40105-3000	ANTISTRIP ADDITIVE, TYPE 3	2.0	TON	\$ _____	\$ _____
X1350	40601-0000	FOG SEAL	0.50	TON	\$ _____	\$ _____
X1400	41102-1000	PRIME COAT, METHOD 1	1,100	SQYD	\$ _____	\$ _____
X1450	41105-0000	BLOTTER	10.0	TON	\$ _____	\$ _____

Bid Schedule

Schedule:X

Schedule Type:Options

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

X1500	41201-0000	TACK COAT	0.50	TON	\$ _____	\$ _____
X1550	50101-0800	MINOR CONCRETE PAVEMENT, REINFORCED, 8-INCH DEPTH	2,640	SQYD	\$ _____	\$ _____
X1600	60101-0000	CONCRETE	60	CUYD	\$ _____	\$ _____
X1650	60103-0140	CONCRETE, HEADWALL FOR 24-INCH PIPE CULVERT	1	EACH	\$ _____	\$ _____
X1700	60201-0800	24-INCH PIPE CULVERT (CMP)	160	LNFT	\$ _____	\$ _____
X1750	61801-0000	CONCRETE BARRIER	200	LNFT	\$ _____	\$ _____
X1800	62201-0250	DUMP TRUCK, 10 CUBIC YARD MINIMUM CAPACITY	20	HOUR	\$ _____	\$ _____
X1850	62201-2750	MOTOR GRADER	20	HOUR	\$ _____	\$ _____
X1900	62201-3000	HYDRAULIC EXCAVATOR	20	HOUR	\$ _____	\$ _____
X1950	62301-0000	GENERAL LABOR	40	HOUR	\$ _____	\$ _____
X2000	62302-1000	SPECIAL LABOR, HIRED TECHNICAL SERVICES	20	HOUR	\$ _____	\$ _____
X2050	62302-1100	SPECIAL LABOR, HIRED SURVEY SERVICES	20	HOUR	\$ _____	\$ _____
X2100	62511-2000	SEEDING, HYDRAULIC METHOD	300	SQYD	\$ _____	\$ _____
X2150	62516-2000	MULCHING, HYDRAULIC METHOD	300	SQYD	\$ _____	\$ _____

Bid Schedule

Schedule:X

Schedule Type:Options

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road



X2200	63308-2000	OBJECT MARKER, TYPE 2	1	EACH	\$ _____	\$ _____
X2250	63308-3000	OBJECT MARKER, TYPE 3	6	EACH	\$ _____	\$ _____
X2300	63501-1000	TEMPORARY TRAFFIC CONTROL, TRAFFIC CONTROL SUPERVISOR	ALL	LPSM	\$ __LPSM__	\$ _____
X2350	63502-0600	TEMPORARY TRAFFIC CONTROL, BARRICADE TYPE 3	2	EACH	\$ _____	\$ _____
X2400	63502-0700	TEMPORARY TRAFFIC CONTROL, CONE	40	EACH	\$ _____	\$ _____
X2450	63502-1300	TEMPORARY TRAFFIC CONTROL, DRUM	10	EACH	\$ _____	\$ _____
X2500	63502-1600	TEMPORARY TRAFFIC CONTROL, WARNING LIGHT TYPE B	4	EACH	\$ _____	\$ _____
X2550	63504-1000	TEMPORARY TRAFFIC CONTROL, CONSTRUCTION SIGN	150	SQFT	\$ _____	\$ _____
X2600	63505-1000	TEMPORARY TRAFFIC CONTROL, PAVEMENT MARKINGS	0.25	MILE	\$ _____	\$ _____
X2650	63506-0500	TEMPORARY TRAFFIC CONTROL, FLAGGER	1,600	HOUR	\$ _____	\$ _____
X2700	63506-0600	TEMPORARY TRAFFIC CONTROL, PILOT CAR	800	HOUR	\$ _____	\$ _____
Submitted by: _____ Schedule Total: _____						

Bid Schedule

Schedule:X

Schedule Type:Options

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

Item No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount
Y0050	15101-0000	MOBILIZATION				
			ALL	LPSM	\$__LPSM__	\$__
Y0100	15215-3000	SURVEY AND STAKING, DRAINAGE STRUCTURE				
			1	EACH	\$__	\$__
Y0150	15216-3000	SURVEY AND STAKING, TEMPLATE CONTROL				
			0.744	MILE	\$__	\$__
Y0200	15301-0000	CONTRACTOR QUALITY CONTROL				
			ALL	LPSM	\$__LPSM__	\$__
Y0250	15401-0000	CONTRACTOR TESTING				
			ALL	LPSM	\$__LPSM__	\$__
Y0300	15501-0000	CONSTRUCTION SCHEDULE				
			ALL	LPSM	\$__LPSM__	\$__
Y0350	15701-0000	SOIL EROSION CONTROL				
			ALL	LPSM	\$__LPSM__	\$__
Y0400	15720-0000	STORM WATER POLLUTION PREVENTION PLAN				
			ALL	LPSM	\$__LPSM__	\$__
Y0450	15802-0000	WATERING FOR DUST CONTROL				
			ALL	LPSM	\$__LPSM__	\$__
Y0500	20120-1000	REMOVAL, INDIVIDUAL TREE				
			10	EACH	\$__	\$__
Y0550	20301-1900	REMOVAL OF PIPE CULVERT				
			1	EACH	\$__	\$__
Y0600	20303-1600	REMOVAL OF PAVEMENT, ASPHALT				
			8,775	SQYD	\$__	\$__
Y0650	20402-0000	SUBEXCAVATION				
			500	CUYD	\$__	\$__
Y0700	20425-1000	DITCH, EXCAVATION				
			30	LNFT	\$__	\$__

Bid Schedule

Schedule:Y

Schedule Type:Options

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

Y0750	25101-2300	PLACED RIPRAP, METHOD B, CLASS 3	90	CUYD	\$ _____	\$ _____
Y0800	30202-2000	ROADWAY AGGREGATE, METHOD 2	180.0	TON	\$ _____	\$ _____
Y0850	30301-6000	ROADWAY RECONDITIONING	1.000	MILE	\$ _____	\$ _____
Y0950	40101-5600	ASPHALT CONCRETE PAVEMENT, GYRATORY MIX, 1/2-INCH OR 3/4-INCH NOMINAL MAXIMUM SIZE AGGREGATE, 0.3 TO <3 MILLION ESAL	1,500.0	TON	\$ _____	\$ _____
Y1000	40105-3000	ANTISTRIP ADDITIVE, TYPE 3	15.00	TON	\$ _____	\$ _____
Y1100	40601-0000	FOG SEAL	4.00	TON	\$ _____	\$ _____
Y1150	41102-1000	PRIME COAT, METHOD 1	8,850	SQYD	\$ _____	\$ _____
Y1200	41105-0000	BLOTTER	25.0	TON	\$ _____	\$ _____
Y1250	41201-0000	TACK COAT	4.00	TON	\$ _____	\$ _____
Y1300	60201-0800	24-INCH PIPE CULVERT (CMP)	40	LNFT	\$ _____	\$ _____
Y1350	60501-0000	STANDARD UNDERDRAIN SYSTEM	500	LNFT	\$ _____	\$ _____
Y1400	60704-0000	CLEANING CULVERT IN PLACE	2	EACH	\$ _____	\$ _____
Y1450	62201-0250	DUMP TRUCK, 10 CUBIC YARD MINIMUM CAPACITY	10	HOUR	\$ _____	\$ _____

Bid Schedule

Schedule:Y

Schedule Type:Options

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

Y1500	62201-2750	MOTOR GRADER	10	HOUR	\$ _____	\$ _____
Y1550	62201-3000	HYDRAULIC EXCAVATOR	10	HOUR	\$ _____	\$ _____
Y1600	62301-0000	GENERAL LABOR	20	HOUR	\$ _____	\$ _____
Y1650	62302-1000	SPECIAL LABOR, HIRED TECHNICAL SERVICES	10	HOUR	\$ _____	\$ _____
Y1700	62302-1100	SPECIAL LABOR, HIRED SURVEY SERVICES	10	HOUR	\$ _____	\$ _____
Y1750	62901-0000	ROLLED EROSION CONTROL PRODUCT	500	SQYD	\$ _____	\$ _____
Y1800	63308-2000	OBJECT MARKER, TYPE 2	4	EACH	\$ _____	\$ _____
Y1850	63309-0000	DELINEATOR	10	EACH	\$ _____	\$ _____
Y1900	63501-1000	TEMPORARY TRAFFIC CONTROL, TRAFFIC CONTROL SUPERVISOR	ALL	LPSM	\$__LPSM__	\$ _____
Y1950	63502-0700	TEMPORARY TRAFFIC CONTROL, CONE	90	EACH	\$ _____	\$ _____
Y2000	63504-1000	TEMPORARY TRAFFIC CONTROL, CONSTRUCTION SIGN	110	SQFT	\$ _____	\$ _____
Y2050	63505-1000	TEMPORARY TRAFFIC CONTROL, PAVEMENT MARKINGS	1.00	MILE	\$ _____	\$ _____
Y2100	63506-0500	TEMPORARY TRAFFIC CONTROL, FLAGGER	400	HOUR	\$ _____	\$ _____
Y2150	63506-0600	TEMPORARY TRAFFIC CONTROL, PILOT CAR	200	HOUR	\$ _____	\$ _____

Bid Schedule

Schedule:Y

Schedule Type:Options

Project No:NM FLAP 159(1)

Project Name:Catwalk Access Road

Submitted by:\_\_\_\_\_

Schedule Total:\_\_\_\_\_

## Bid Schedule Summary

Schedule	Bid Total
Schedule A - Base(A - 7)	
Schedule X - Option(A - 14)	
Schedule Y - Option(A - 18)	
Total - Schedules	

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

INSTRUCTIONS: When the offeror/principal is a corporation, include this certification with your offer/bid.

## Corporate Certificate

I, \_\_\_\_\_(name), certify that I am the  
\_\_\_\_\_(title), of the corporation named as the  
Offeror/Principal herein;

that \_\_\_\_\_(name), who signed this

offer and/or bid bond on behalf of \_\_\_\_\_(company name) is

\_\_\_\_\_(title) of this corporation;

that the offer was duly signed for and on behalf of said corporation by authority and scope of its governing body, and within the scope of its corporate powers.

\_\_\_\_\_ (signature)

Affix Corporate Seal

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(title)

INSTRUCTIONS: When the offeror/principal is a limited liability corporation, include this certification with your offer/bid.

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**Limited Liability Certificate**

I, \_\_\_\_\_ (name), certify that I am the  
\_\_\_\_\_ (title), of the limited liability company

named as the Offeror/Principal herein;

that \_\_\_\_\_ (name), who signed this

offer and/or bid bond on behalf of \_\_\_\_\_ (company name) is

\_\_\_\_\_ (title) of this company;

that the offer was duly signed for and on behalf of said company by authority and scope of its

governing body, and within the scope of its powers.

\_\_\_\_\_ (signature)

\_\_\_\_\_ (title)

Affix Company Seal  
(as applicable)



INSTRUCTIONS: When the offeror/principal is a partnership, include this certification with your offer/bid.

---

### **Authority to Bind Partnership**

This certifies that the names and signatures of all partners are listed below, and that the person signing the proposal has the authority to actually bind the partnership pursuant to its partnership agreement. Each of the partners individually has full authority to enter into and execute contractual instruments on behalf of said partnership, except as follows:

(State "None" or describe limitations, if any)

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This authority shall remain in full force and effect until such time as the revocation of authority by any cause whatsoever has been furnished in writing to and acknowledge by the Contracting Officer.

(Include names and signatures of all partners)

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INSTRUCTIONS: When the offeror/principal is a joint venture, include this certification with your offer/bid.

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**Authority to Bind Joint Venture**

This certifies that the person signing the proposal has the authority to actually bind the joint venture pursuant to its joint venture agreement, and that each of the named persons listed below individually has full authority to enter into and execute contractual instruments on behalf of said joint venture, except as follows:

(State "None" or describe limitations, if any)

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This authority shall remain in full force and effect until such time as the revocation of authority by any cause whatsoever has been furnished in writing to and acknowledge by the Contracting Officer.

(Include names and signatures of all applicable individuals)

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INSTRUCTIONS: When the offeror/principal is a sole proprietorship, include this certification with your offer/bid.

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**Sole Proprietorship Requirement**

An Offeror/Principal that is a sole proprietorship must submit an offer/bid and a bond signed by the sole proprietor, or by one duly authorized to sign for the sole proprietor. If the signature is by someone other than the sole proprietor, a copy of the power of attorney authorizing the individual to sign must be provided with the offer/bid.

**BUY AMERICAN ACT- CONSTRUCTION MATERIALS  
UNDER TRADE AGREEMENTS**

It is understood and agreed that the materials and components listed in Subparts 25.1 and 25.2 of the FAR are a part of this contract and are deemed to be Domestic Construction Material for the purposes of this contract.

**NOTE TO CONTRACTOR:**

The following information and any applicable supporting data is required for evaluation of requests under FAR Clause 52.225-11 Paragraph (c) & (d) and FAR Provision 52.225-12 Paragraph (b).

Material and/or Component

Construction Material Description	Unit of Measure	Quantity	*Cost Delivered to Job Site
Foreign Construction Material			
Comparable Domestic Material			

Material and/or Component

Construction Material Description	Unit of Measure	Quantity	*Cost Delivered to Job Site
Foreign Construction Material			
Comparable Domestic Material			

*[\* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]  
[Please include name, address, telephone number and contact for suppliers surveyed. Attach copy of response; if oral, attach summary. Include all applicable supporting information.]*

## HAZARDOUS MATERIALS

As required by FAR Clause 52.223-3, Hazardous Materials Identification and Safety Data - Alternate I, the apparent low bidder must submit prior to award a Material Safety Data Sheet (MSDS) for all hazardous materials that the bidder identifies in paragraph (b) of the FAR clause and defined under the latest version of Federal Standard No. 313.

Hazardous Material	Identification Number

## USE OF RECOVERED MATERIALS ON FEDERAL LANDS HIGHWAY PROJECTS

Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. 6901 et seq.), requires Federal, State, and local procuring agencies using appropriated Federal funds to purchase items composed of the highest percentage of recovered materials practical. Use of recovered materials is strongly encouraged on Federal Lands Highway Projects. Highway construction items covered by the Environmental Protection Agency's *Comprehensive Guidelines for Procurement of Products Containing Recovered Materials* include fly ash, ground granulated blast furnace slag, traffic barricades, traffic cones, hydraulic mulch and compost for mulch.

Use of fly ash and ground granulated blast furnace slag and construction materials containing fly ash and ground granulated blast furnace slag on Federal Lands Highway Projects:

- It is the policy of the United States Government that fly ash and ground granulated blast furnace slag and materials containing fly ash and ground granulated blast furnace slag shall have maximum practicable opportunity for incorporation into its construction projects.
- The Contractor agrees to investigate the use of fly ash and ground granulated blast furnace slag and materials containing fly ash and ground granulated blast furnace slag to the fullest extent consistent with the efficient performance of this contract. Both the contractor and the subcontractors are urged to seek out suppliers of fly ash and ground granulated blast furnace slag, cement and concrete containing fly ash and ground granulated blast furnace slag and to solicit bids for these materials.
- Names of firms that supply fly ash and ground granulated blast furnace slag and materials containing fly ash and ground granulated blast furnace slag are available from the American Coal Ash Association and the National Slag Association.

<b>BID BOND</b> <i>(See instructions on reverse)</i>		<b>OMB Control Number: 9000-0045</b> <b>Expiration Date: 8/31/2025</b>
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Paperwork Reduction Act Statement - This information collection meets the requirements of 44 USC § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0045. We estimate that it will take 1 hour to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

PRINCIPAL *(Legal name and business address)*

TYPE OF ORGANIZATION ("X" one)

☐ INDIVIDUAL    ☐ PARTNERSHIP    ☐ JOINT VENTURE

☐ CORPORATION    ☐ OTHER *(Specify)*

STATE OF INCORPORATION

SURETY(IES) *(Name and business address)*

PENAL SUM OF BOND					BID IDENTIFICATION	
PERCENT OF BID PRICE 20%	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NUMBER
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS		6982AF23B000019
	3	000	000	00	FOR <i>(Construction, Supplies or Services)</i>	Construction

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal - (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) is waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

**PRINCIPAL**

SIGNATURE(S)	1. _____ (Seal)	2. _____ (Seal)	3. _____ (Seal)	Corporate Seal
NAME(S) & TITLE(S) <i>(Typed)</i>	1. _____	2. _____	3. _____	

**INDIVIDUALSURETY(IES)**

SIGNATURE(S)	1. _____ (Seal)	2. _____ (Seal)
NAME(S) <i>(Typed)</i>	1. _____	2. _____

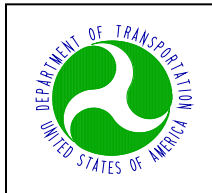
**CORPORATE SURETY(IES)**

<b>SURETY A</b>	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1. _____	2. _____		
	NAME(S) & TITLE(S) <i>(Typed)</i>	1. _____	2. _____		

<b>SURETY B</b>	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
<b>SURETY C</b>	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
<b>SURETY D</b>	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
<b>SURETY E</b>	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
<b>SURETY F</b>	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
<b>SURETY G</b>	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		

### INSTRUCTIONS

1. This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., 20% of the bid price but the amount not to exceed \_\_\_\_\_dollars).
4. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitations listed therein. The value put into the LIABILITY LIMIT block is the penal sum (i.e., the face value) of the bond, unless a co-surety arrangement is proposed.  
  
 (b) When multiple corporate sureties are involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identifier corresponding to each of the sureties. Moreover, when co-surety arrangements exist, the parties may allocate their respective limitations of liability under the bond, provided that the sum total of their liability equals 100% of the bond penal sum.  
  
 (c) When individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
6. Type the name and title of each person signing this bond in the space provided.
7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror."



FEDERAL HIGHWAY ADMINISTRATION  
CENTRAL FEDERAL LANDS HIGHWAY DIVISION

**BIDDER'S INFORMATION**

INSTRUCTIONS: Answer all questions on this form inserting "none" or "not applicable" where appropriate. If more space is required attach additional sheets. Return the signed, dated and completed form with the bid to the address shown in the invitation for bids on or before the time set for bid opening. The prospective bidder shall provide any additional information requested by the Government during evaluation of the bids.

If the prospective bidder is a joint venture or general partnership, a separate Bidder's Qualifications form shall be provided individually for each joint venture participant or partner.

1. Name and address of business:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Unique Entity ID (See FAR Provision 52.204-6) \*

\_\_\_\_\_  
Street

\_\_\_\_\_  
Employer ID Number (EIN)\*

\_\_\_\_\_  
City State Zip Code

\* Necessary for Government reporting purposes only.

\_\_\_\_\_  
County

\_\_\_\_\_  
Telephone Number (Include Area Code)

\_\_\_\_\_  
Fax Number (Include Area Code)

\_\_\_\_\_  
E-mail address

2. a. Type of organization (check appropriate box):

☐ Individual

☐ Non-profit organization

☐ Corporation

☐ Partnership

☐ Joint Venture

☐ Incorporated in: \_\_\_\_\_

If a Foreign entity:

☐ Individual

☐ Non-profit organization

☐ Corporation

☐ Partnership

☐ Joint Venture

☐ Registered in: \_\_\_\_\_

b. Size and type of Business Concern (check appropriate boxes):

☐ Large Business Concern

☐ Small Disadvantaged Business Concern

☐ Emerging Small Business

☐ Small Business Concern

☐ Women-Owned Small Business

☐ SBA 8(a) Certified

☐ HUB Zone Business Concern

☐ Veteran Owned Business Concern

☐ Service-Disabled Veteran-Owned Business Concern



## 3. If a joint venture or general partnership:

- a. Provide the name under which the project will be bid, the home office address, and name of the principal who will represent the company with regard to this project if different from "1." above.

Principal

Business Name

Street

City

State

Zip Code

- b. Provide the name and home office addresses of each of the joint venture partners; indicate which partner is the sponsoring partner. Attach a separate sheet for additional partners.

Sponsoring Partner

Other Partner

Street

Street

City

State

Zip Code

City

State

Zip Code

## 4. Date organization established: \_\_\_\_\_

## 5. Name of succeeded business, if any: \_\_\_\_\_

## 6. How many years have you been in business as:

- a. General contractor \_\_\_ years.  
b. Subcontractor \_\_\_ years.

## 7. a. Furnish the following information concerning the owner, partners, officers and directors:

Name	Title	Percent of Business Owned	Years of Business Experience	
			Contracting	Other

- b. Attach resumes of these key personnel as well as the on-site project manager(s) and superintendent(s), and specifically identify the following:

- Present position, responsibility, and length of employment.
- Amount and type of construction experience.
- Amount and type of highway construction experience, including position, responsibility, and a brief project description of each period of employment.
- Formal education and training, professional or technical registrations or licenses.

## 8. a. Contracts in force. (Attach additional sheets if necessary)

Project Name and Contract Numbers	Owner's Name, Address, and Contact Name, Email and Telephone #	Scope of Work Performed	Contract Amount	Estimated Completion Date	Name of Surety

- b. Are there any unresolved claims or lawsuits associated with these projects? If so, state the amount in dispute, parties involved, nature and circumstances of the dispute, and status of the matter on a separate sheet.

9. a. List up to five of the largest jobs you have completed in the last five years which are similar in project work scope to this project. (Attach additional sheets if necessary)

Project Name and Contract Numbers	Owner's Name, Address, Contact Name, Email and Telephone #	Scope of Work Performed	Original and Final Contract Amounts	Original and Final Completion Dates	Names of On-site Project Manager and Superintendent	Name of Surety

- b. Are there any unresolved claims or lawsuits associated with these projects? If so, state the amount in dispute, parties involved, nature and circumstances of the dispute, and status of the matter on a separate sheet

### **Solicitation Provisions**

**52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. (SEP 2007)**

**52.203-18 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements-Representation. (JAN 2017)**

**52.204-5 Women-Owned Business (Other Than Small Business). (OCT 2014)**

**52.204-7 System for Award Management. (OCT 2018)**

**52.204-8 Annual Representations and Certifications. (MAR 2023)**

**52.204-16 Commercial and Government Entity Code Reporting (AUG 2020)**

**52.204-17 Ownership or Control of Offeror (AUG 2020)**

**52.204-20 Predecessor or Offeror (AUG 2020)**

**52.204-22 Alternative Line Item Proposal (JAN 2017)**

**52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021)**

**52.204-26 Covered Telecommunications Equipment or Services-Representation. (OCT 2020)**

**52.209-5 Certification Regarding Responsibility Matters. (AUG 2020)**

**52.209-7 Information Regarding Responsibility Matters (OCT 2018)**

**52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law (FEB 2016)**

**52.209-13 Violation of Arms Control Treaties or Agreements – Certification (NOV 2021)**

**52.214-3 Amendments to Invitations for Bids. (DEC 2016)**

**52.214-4 False Statements in Bids. (APR 1984)**

**52.214-5 Submission of Bids. (DEC 2016)**

**52.214-6 Explanation to Prospective Bidders. (APR 1984)**

**52.214-7 Late Submissions, Modifications, and Withdrawals of Bids. (NOV 1999)**

**52.214-18 Preparation of Bids - Construction. (APR 1984)****52.214-19 Contract Award - Sealed Bidding - Construction. (AUG 1996)****52.214-31 Facsimile Bids (DEC 1989)****52.214-34 Submission of Offers in the English Language. (APR 1991)****52.214-35 Submission of Offers in U.S. Currency. (APR 1991)****52.215-5 Facsimile Proposals. (OCT 1997)****52.216-1 Type of Contract. (APR 1984)**

The Government contemplates award of a **FIRM FIXED PRICE** contract resulting from this solicitation.

(End of provision)

**52.217-5 Evaluation of Options (JUL 1990)**

The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of provision)

**52.222-5 Construction Wage Rate Requirements Secondary Site of the Work. (MAY 2014)****52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction. (FEB 1999)**

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals 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:

<b>Goals for Minority Participation for Each Trade</b>	<b>Goals for Female Participation for Each Trade</b>
<b><i>49.5% - Catron County, NM</i></b>	<b><i>6.9%</i></b>

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located

outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the *Federal Register* in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled Affirmative Action Compliance Requirements for Construction, and (3) 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. 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, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following 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 -

(1) Name, address, and telephone number of the subcontractor; (2)

Employer's identification number of the subcontractor;

(3) Estimated dollar amount of the subcontract;

(4) Estimated starting and completion dates of the subcontract; and

(5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the covered area is Catron, NM.

(End of provision)

**52.222-38 Compliance with Veterans' Employment Reporting Requirements. (FEB 2016)**

**52.223-22 Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation (DEC 2016)**

**52.225-12 Notice of Buy American Act Requirement—Construction Materials Under Trade Agreements. (MAY 2014)**

**52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan--  
Certification. (AUG 2009)**

**52.228-1 Bid Guarantee. (SEP 1996)**

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds -

(1) To unsuccessful bidders as soon as practicable after the opening of bids;  
and

(2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) The amount of the bid guarantee shall be twenty (20%) percent of the bid price or \$3,000,000.00, whichever is less.

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

**52.233-2 Service of Protest. (SEP 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

***Mr. Joseph Wilson  
Contracting Officer  
Federal Highway Administration  
12300 West Dakota Avenue, Suite 360***

***Lakewood, Colorado 80228***

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

**52.236-27 Site Visit (Construction). (FEB 1995)**

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) Site visits may be arranged during normal duty hours by contacting: No organized site visit will be held.

(End of provision)

**52.252-1 Solicitation Provisions Incorporated by Reference. (FEB 1998)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): <http://www.acquisition.gov/far>

(End of provision)

**52.252-3 Alterations in Solicitation. (APR 1984)**

Portions of this solicitation are altered as follows: **NONE**

(End of provision)

**1252.239–92 Information and Communication Technology Accessibility Notice (NOV 2022)**



## **Contract Clauses**

**52.202-1 Definitions. (JUN 2020)**

**52.203-3 Gratuities. (APR 1984)**

**52.203-5 Covenant Against Contingent Fees. (MAY 2014)**

**52.203-6, Restrictions on Subcontractor Sales to the Government (JUN 2020)**

**52.203-7 Anti-Kickback Procedures. (JUN 2020)**

**52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity. (MAY 2014)**

**52.203-10 Price or Fee Adjustment for Illegal or Improper Activity. (MAY 2014)**

**52.203-12 Limitation on Payments to Influence Certain Federal Transactions. (JUN 2020)**

**52.203-13 Contractor Code of Business Ethics and Conduct (NOV 2021)**

**52.203-14 Display of Hotline Poster(s) (NOV 2021)**

(a) *Definition.*

*United States*, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites-

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

General Fraud	<a href="https://www.oig.dot.gov/sites/default/files/files/OIG-generic-2.pdf">https://www.oig.dot.gov/sites/default/files/files/OIG-generic-2.pdf</a>
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(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation [3.1004](#)(b)(1) on the date of subcontract award, except when the subcontract—

- (1) Is for the acquisition of a commercial product or commercial service; or
- (2) Is performed entirely outside the United States.

(End of clause)

**52.203-17 Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights (JUN 2020)**

**52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017)**

**52.204-1 Approval of Contract (DEC 1989)**

This contract is subject to the written approval of the *Acquisitions Branch Chief* and shall not be binding until so approved.

(End of Clause)

**52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Paper. (MAY 2011)**

**52.204-9 Personal Identity Verification of Contractor Personnel. (JAN 2011)**

**52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards. (JUN 2020)**

**52.204-13 System for Award Management Maintenance. (OCT 2018)**

**52.204-14 Service Contract Reporting Requirements (OCT 2016)**

**52.204-18 Commercial and Government Entity Code Maintenance (AUG 2020)**

**52.204-19 Incorporation by Reference of Representations and Certifications. (DEC 2014)**

**52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021)**

**52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021)**

**52.204-27 Prohibition on a ByteDance Covered Application.**

PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023)

(a) *Definitions.* As used in this clause—

*Covered application* means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

*Information technology*, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) *Prohibition.* Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27,

2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

**52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021)**

**52.209-10 Prohibition on Contracting With Inverted Domestic Corporations (NOV 2015)**

**52.211-10 Commencement, Prosecution, and Completion of Work. (APR 1984) Alternate I (APR 1984)**

The Contractor shall be required to (a) commence work under this contract within ten (10) calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than {Refer to Subsection 108.01 of the SCRs}. The time stated for completion shall include final cleanup of the premises.

The completion date is based on the assumption that the successful offeror will receive the notice to proceed by September 20, 2023. The completion date will be extended by the number of calendar days after the above date that the Contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

(End of clause)

**52.211-12 Liquidated Damages - Construction. (SEP 2000)**

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of (see FP-14 section 108) for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of clause)

**52.211-13 Time Extensions. (SEP 2000)**

**52.211-18 Variation in Estimated Quantity. (APR 1984)**

**52.214-26 Audit and Records – Sealed Bidding. (JUN 2020)**

**52.214-27 Price Reduction for Defective Certified Cost or Pricing Data – Modifications – Sealed Bidding. (JUN 2020)**

**52.214-28 Subcontractor Certified Cost or Pricing Data – Modifications – Sealed Bidding. (JUN 2020)**

**52.217-7 Option for Increased Quantity - Separately Priced Line Item. (MAR 1989)**

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within 120 days after award. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

(End of clause)

**52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns. (OCT 2022)**

(a) Evaluation preference. (1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except-

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference; and

(ii) Otherwise successful offers from small business concerns.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) When the two highest rated offerors are a HUBZone small business concern and a large business, and the evaluated offer of the HUBZone small business concern is equal to the evaluated offer of the large business after considering the price evaluation preference, award will be made to the HUBZone small business concern.

(b) Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes.

☐ Offeror elects to waive the evaluation preference.

(c) Joint venture. A HUBZone joint venture agrees that, in the performance of the contract, at least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business parties to the joint venture must be more than administrative functions.

(End of clause)

**52.219-8 Utilization of Small Business Concerns (OCT 2022)**

**52.219-9 Small Business Subcontracting Plan (OCT 2022) - Alternate I (NOV 2016)**

**52.219-14 Limitations on Subcontracting (OCT 2022)**

**52.219-16 Liquidated Damages -- Subcontracting Plan (SEP 2021)**

**52.219-28 Post-Award Small Business Program Rerepresentation (MAR 2023)**

**52.222-1 Notice to the Government of Labor Disputes. (FEB 1997)**

**52.222-3 Convict Labor. (JUN 2003)**

**52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation. (MAY 2018)**

**52.222-6 Construction Wage Rate Requirements. (AUG 2018)**

**52.222-7 Withholding of Funds. (MAY 2014)**

**52.222-8 Payrolls and Basic Records. (JUL 2021)**

**52.222-9 Apprentices and Trainees. (JUL 2005)**

**52.222-10 Compliance with Copeland Act Requirements. (FEB 1988)**

**52.222-11 Subcontracts (Labor Standards). (MAY 2014)**

**52.222-12 Contract Termination - Debarment. (MAY 2014)**

**52.222-13 Compliance with Construction Wage Rate Requirements and Related Regulations. (MAY 2014)**

**52.222-14 Disputes Concerning Labor Standards. (FEB 1988)**

**52.222-15 Certification of Eligibility. (MAY 2014)**

**52.222-21 Prohibition of Segregated Facilities. (APR 2015)**

**52.222-26 Equal Opportunity. (SEP 2016)**

**52.222-27 Affirmative Action Compliance Requirements for Construction. (APR 2015)**

**52.222-35 Equal Opportunity for Veterans. (JUN 2020)**

**52.222-36 Affirmative Action for Workers with Disabilities. (JUN 2020)**

**52.222-37 Employment Reports on Veterans (JUN 2020)**

**52.222-40 Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)**

**52.222-50 Combating Trafficking in Persons (NOV 2021)**

**52.222-54 Employment Eligibility Verification (MAY 2022)**

**52.222-55 Minimum Wages Under Executive Order 13658 (JAN 2022)**

**52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2022)**

**52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts (SEP 2013)**

**52.223-3 Hazardous Material Identification and Material Safety Data. (FEB 2021)**

**52.223-5 Pollution Prevention and Right-to-Know Information. (MAY 2011)**

**52.223-6 Drug-Free Workplace. (MAY 2001)**

**52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts (AUG 2018)**

**52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving. (JUN 2020)**

**52.223-21 Foams (JUN 2016)**

**52.224-1 Privacy Act Notification. (APR 1984)**

**52.224-2 Privacy Act. (APR 1984)**

**52.225-11 Buy American Act - Construction Materials under Trade Agreements (DEC 2022)**

(a) *Definitions.* As used in this clause—

*Caribbean Basin country construction material* means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

*Commercially available off-the-shelf (COTS) item*—

- (1) Means any item of supply (including construction material) that is—
  - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) [2.101](#));
  - (ii) Sold in substantial quantities in the commercial marketplace; and
  - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in [46 U.S.C.40102\(4\)](#), such as agricultural products and petroleum products.

*Component* means an article, material, or supply incorporated directly into a construction material.

*Construction material* means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

*Cost of components* means—

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of



this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

*Critical component* means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR [25.105](#).

*Critical item* means a domestic construction material or domestic end product that is deemed critical to U.S. supply chain resiliency. The list of critical items is at FAR [25.105](#).

*Designated country* means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

"Designated country construction material" means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

*Domestic construction material* means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both-

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029.

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of "cost of components".

*Fastener* means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

*Foreign construction material* means a construction material other than a domestic construction material.

*Foreign iron and steel* means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

*Free Trade Agreement country construction material* means a construction material that-

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

*Least developed country construction material* means a construction material that-

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

*Predominantly of iron or steel or a combination of both* means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

*Steel* means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

*United States* means the 50 States, the District of Columbia, and outlying areas.

*WTO GPA country construction material* means a construction material that-

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

(1) This clause implements [41 U.S.C. chapter 83](#), Buy American, by providing a preference for domestic construction material. In accordance with [41 U.S.C.1907](#), the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction material, excluding COTS fasteners. (See FAR [12.505](#)(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

(2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial product or to the construction materials or components listed by the Government as follows:

*None*

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that-

(i) The cost of domestic construction material would be unreasonable.

(A) *For domestic construction material that is not a critical item or does not contain critical components.*

(1) The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

(2) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(A)(1) of this clause.

(3) The procedures in paragraph (b)(4)(i)(A)(2) of this clause will no longer apply as of January 1, 2030.

(B) *For domestic construction material that is a critical item or contains critical components.*

(1) The cost of a particular domestic construction material that is a critical item or contains critical components, subject to the requirements of the Buy American statute, is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent plus the additional preference factor identified for the critical item or construction material containing critical components listed at FAR [25.105](#).

(2) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(B)(1) of this clause.

(3) The procedures in paragraph (b)(4)(i)(B)(2) of this clause will no longer apply as of January 1, 2030.

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American statute.

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including-

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a

domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) *Data*. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

### **Foreign and Domestic Construction Materials Price Comparison**

<u>Construction Material Description</u>	<u>Unit of Measure</u>	<u>Quantity</u>	<u>Cost (Dollars)*</u>
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***Item 1:***

Foreign construction material	_____	_____	_____
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Domestic construction material	_____	_____	_____
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***Item 2:***

Foreign construction material	_____	_____	_____
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Domestic construction material	_____	_____	_____
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*[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]*

*[Include other applicable supporting information.]*

*[\* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]*

(End of Clause)

**52.227-1 Authorization and Consent. (JUN 2020)**

**52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement. (JUN 2020)**

**52.227-4 Patent Indemnity--Construction Contracts. (DEC 2007)**

**52.228-2 Additional Bond Security. (OCT 1997)**

**52.228-5 Insurance - Work on a Government Installation. (JAN 1997)**

**52.228-11 Individual Surety - Pledges of Assets. (FEB 2021)**

**52.228-12 Prospective Subcontractor Requests for Bonds. (DEC 2022)**

**52.228-14 Irrevocable Letter of Credit (Nov 2014)**

**52.228-15 Performance and Payment Bonds - Construction. (JUN 2020)**

**52.229-3 Federal, State, and Local Taxes. (FEB 2013)**

**52.232-5 Payments under Fixed-Price Construction Contracts. (MAY 2014)**

**52.232-17 Interest. (MAY 2014)**

**52.232-23 Assignment of Claims. (MAY 2014)**

**52.232-27 Prompt Payment For Construction Contracts. (JAN 2017)**

**52.232-33 Payment by Electronic Funds Transfer – System for Award Management (OCT 2018)**

**52.232-39 Unenforceability of Unauthorized Obligations (JUN 2013)**

**52.232-40 Providing Accelerated Payments to Small Business Subcontractors (MAR 2023)**

**52.233-1 Disputes. (MAY 2014) - Alternate I (DEC 1991)**

**52.233-3 Protest after Award. (AUG 1996)**

**52.233-4 Applicable Law for Breach of Contract Claim. (OCT 2004)**

**52.236-1 Performance of Work by the Contractor (APR 1984)**

The Contractor shall perform on the site, and with its own organization, work equivalent to at least **thirty percent [ 30 %]** of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of Clause)

**52.236-2 Differing Site Conditions. (APR 1984)**

**52.236-3 Site Investigation and Conditions Affecting the Work. (APR 1984)**

**52.236-4 Physical Data. (APR 1984)**

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by:

- 1) **PAVEMENT REPORT January 2020**
- 2) **Final HYDRAULICS REPORT January 2019**

(b) Weather conditions **Contact National Weather Service.**

(c) Transportation facilities – N/A

(End of clause)

**52.236-5 Material and Workmanship. (APR 1984)**

**52.236-6 Superintendence by the Contractor. (APR 1984)**

**52.236-7 Permits and Responsibilities. (NOV 1991)**

**52.236-8 Other Contracts. (APR 1984)**

**52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements. (APR 1984)**

**52.236-10 Operations and Storage Areas. (APR 1984)**

**52.236-11 Use and Possession Prior to Completion. (APR 1984)**

**52.236-12 Cleaning Up. (APR 1984)**

**52.236-13 Accident Prevention. (NOV 1991) Alternate I (NOV 1991)**

**52.236-15 Schedules for Construction Contracts. (APR 1984)**

**52.236-17 Layout of Work. (APR 1984)**

**52.236-21 Specifications and Drawings for Construction. (FEB 1997)**

**52.236-26 Preconstruction Conference. (FEB 1995)**



**52.242-13 Bankruptcy. (JUL 1995)**

**52.242-14 Suspension of Work. (APR 1984)**

**52.243-4 Changes. (JUN 2007)**

**52.243-6 Change Order Accounting. (APR 1984)**

**52.244-6 Subcontracts for Commercial Products and Commercial Services. (MAR 2023)**

**52.245-1 Government Property (SEP 2021) - Alternate I (APR 2012)**

**52.245-9 Use and Charges. (APR 2012)**

**52.246-12 Inspection of Construction. (AUG 1996)**

**52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021)**

**52.248-3 Value Engineering - Construction. (OCT 2020)**

**52.249-2 Termination for Convenience of the Government (Fixed-Price). (APR 2012) - Alternate I (SEP 1996)**

**52.249-10 Default (Fixed-Price Construction). (APR 1984)**

**52.252-2 Clauses Incorporated by Reference. (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://www.acquisition.gov/far>

(End of clause)

**52.252-4 Alterations in Contract. (APR 1984)**

Portions of this contract are altered as follows: **NONE**

(End of clause)

**52.253-1 Computer Generated Forms. (JAN 1991)**

**1252.201-70 Contracting Officer's Representative (NOV 2022)**

**1252.222-72 Contractor Cooperation in Equal Employment Opportunity and Anti-**

## **Harassment Investigations (NOV 2022)**

### **1252.223-70 Removal or Disposal of Hazardous Substances – Applicable Licenses and Permits (NOV 2022)**

### **1252.223-71 Accident and Fire Reporting (NOV 2022)**

### **1252.223-73 Seat Belt Use Policies and Programs (NOV 2022)**

### **1252.228-74 Notification of Payment Bond Protection (NOV 2022)**

(a) The prime contract is subject to the Bonds statute (historically referred to as the Miller Act) (40 U.S.C. chapter 31, subchapter III), under which the prime contractor has obtained a payment bond. This payment bond may provide certain unpaid employees, suppliers, and subcontractors a right to sue the bonding surety under the Bonds statute for amounts owed for work performed and materials delivery under the prime contract.

(b) Persons believing that they have legal remedies under the Bonds statute should consult their legal advisor regarding the proper steps to take to obtain these remedies. This notice clause does not provide any party any rights against the Federal Government, or create any relationship, contractual or otherwise, between the Federal Government and any private party.

(c) The surety which has provided the payment bond under the prime contract is: On File with the FHWA.

(d) Subcontract flowdown requirements. This clause shall be flowed down to all subcontractors. Prime contractors shall insert this notice clause in all first-tier subcontracts and shall require the clause to be subsequently flowed down by all first-tier subcontractors to all their subcontractors, at any tier. This notice contains information pertaining to the surety that provided the payment bond under the prime contract and is required to be inserted in its entirety to include the information set forth in paragraph (c).

(End of clause)

### **1252.232–70 Electronic Submission of Payment Requests (NOV 2022)**

### **1252.239–93 Information and Communication Technology Accessibility (NOV 2022)**

## **POST-AWARD EVALUATION OF CONTRACTOR PERFORMANCE**

### **Contractor Performance Evaluations**

- a. Interim and final evaluations of contractor performance will be prepared on this contract in accordance with FAR 42.1502 and TAM 1242.1502. The final performance evaluations will be prepared at the time of completion of work.
- b. The Contractor can elect to review the evaluation and submit additional information or provide a rebuttal statement. The contractor will be permitted 60 calendar days to

respond from the date of receipt of the evaluation. Contractor response is voluntary. If the contractor does not respond within 60 days, the Government will presume that the Contractor has no comment. Any disagreement between the parties regarding an evaluation will be referred to an individual at a level above the Contracting Officer, whose decision is final.

- c. Copies of the evaluations, Contractor responses, and review comments, if any, will be retained as part of the contract file, and may be used to support future award decisions.

The Federal Highway Administration utilizes the Contractor Performance Assessment Reporting System (CPARS) to record and maintain past performance information. CPARS hosts a suite of web-enabled applications that are used to document contractor performance information that is required by Federal Regulations. The CPARS module assesses performance on contracts for Systems, Services, Information Technology, and Operations Support; Architect-Engineer contracts; and Construction contracts. Reference material can be accessed in CPARS.

The registration process requires the Contractor to identify an individual that will serve as a primary contact. This individual will be authorized access to the evaluation for review and comment. In addition, the Contractor is encouraged to identify a secondary contact in the event the primary contact is unavailable to process the evaluation within the required 60 day time period. After the FHWA Focal Point registers the contract in CPARS, the contractor representative will receive a system generated email notifying him/her that the contract is registered. A system generated email will also provide the Contractor with a User ID if the person does not already have a CPARS User ID.

After a performance evaluation has been prepared and is ready for comment, the Contractor representative will receive a system generated email notification that the performance evaluation is electronically available for review and comment. The Contractor representative will receive an automated email whenever an assessment is completed and can subsequently retrieve the completed assessment from CPARS.

Contractors may access evaluations in CPARS for review and comment.

(End of Clause)

"General Decision Number: NM20230036 01/06/2023

Superseded General Decision Number: NM20220036

State: New Mexico

Construction Type: Highway

Counties: Catron, Chaves, Curry, De Baca, Eddy, Grant, Hidalgo, Lea, Lincoln, Luna, Otero, Roosevelt, Sierra and Socorro Counties in New Mexico.

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

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li> </ul>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li> </ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at

<http://www.dol.gov/whd/govcontracts>.

Modification Number      Publication Date  
0                              01/06/2023

SUNM2011-004 08/26/2011

	Rates	Fringes
CARPENTER (Includes Form Work)		
Catron, Chaves, Curry,		
DeBaca, Eddy, Grant,		
Hidalgo, Lincoln, Otero,		
Roosevelt, Sierra, Socorro..\$ 13.93 **		0.44
Lea.....\$ 13.30 **		0.44
Luna.....\$ 13.11 **		0.44
CEMENT MASON/CONCRETE FINISHER		
Catron, Chaves, Curry,		
DeBaca, Eddy, Grant,		
Hidalgo, Lincoln, Otero,		
Roosevelt, Sierra, Socorro..\$ 14.17 **		0.55
Lea.....\$ 13.74 **		0.68
ELECTRICIAN (Including Traffic Signalization)		
Catron, Chaves, Curry,		
DeBaca, Eddy, Grant,		
Hidalgo, Lincoln, Otero,		
Roosevelt, Sierra, Socorro..\$ 26.21		9.35
Lea.....\$ 24.90		8.56
HIGHWAY/PARKING LOT STRIPING:		
Includes Highway Line/Parking		
Lot Line Striping and Line		
Striping Truck Driver.....\$ 15.93 **		0.35
INSTALLER: (Guardrails, Handrails and Signs)		
Catron, Chaves, Curry,		
DeBaca, Eddy, Grant,		
Hidalgo, Lincoln, Otero,		
Roosevelt, Sierra, Socorro..\$ 13.58 **		0.35
Lea.....\$ 14.62 **		0.30
IRONWORKER, REINFORCING		
Catron, Chaves, Curry,		
DeBaca, Eddy, Grant,		
Hidalgo, Lincoln, Otero,		
Roosevelt, Sierra, Socorro..\$ 21.66		6.03
Lea.....\$ 21.77		6.03
IRONWORKER, STRUCTURAL.....\$ 21.77		6.03
LABORER		
Asphalt Raker.....\$ 13.00 **		0.35
Common or General		
Catron, Chaves, Curry,		
Hidalgo, Lincoln, Sierra,		
Socorro.....\$ 11.67 **		0.35
DeBaca.....\$ 11.33 **		0.35
Eddy.....\$ 11.78 **		0.35
Grant.....\$ 10.62 **		0.35
Lea.....\$ 11.61 **		0.35

Luna, Roosevelt.....	\$ 12.56 **	0.35
Otero.....	\$ 12.73 **	0.35
Flagger/Cone Setter.....	\$ 12.56 **	0.35
Grade Checker.....	\$ 16.18 **	1.60
Mason Tender-		
Brick/Cement/Concrete.....	\$ 11.39 **	0.79
Pipelayer.....	\$ 19.28	
Power/Air Tool Operator,		
Includes Jack Hammer.....	\$ 13.91 **	0.86
PAINTER (Brush, Roller, and		
Spray).....	\$ 15.41 **	0.44
POWER EQUIPMENT OPERATOR:		
Asphalt/Concrete Paver,		
Laydown Machine, and Plant..	\$ 15.42 **	0.26
Backhoe/Excavator/Trackhoe		
Catron, Chaves, Curry,		
DeBaca, Grant, Hidalgo,		
Lincoln, Luna, Otero,		
Roosevelt, Sierra, Socorro.	\$ 19.92	0.26
Eddy.....	\$ 14.87 **	0.26
Lea.....	\$ 16.88	0.26
Bobcat/Skid Loader.....	\$ 18.06	0.26
Broom.....	\$ 15.48 **	0.26
Bulldozer.....	\$ 16.25	0.26
Crusher.....	\$ 16.53	0.26
Distributor.....	\$ 14.50 **	0.26
Forklift.....	\$ 17.16	0.26
Grader/Blade.....	\$ 18.02	0.26
Loader (Front End).....	\$ 16.12 **	0.26
Mechanic		
Catron, Chaves, Curry,		
DeBaca, Eddy, Grant,		
Hidalgo, Lincoln, Luna,		
Otero, Roosevelt, Sierra,		
Socorro.....	\$ 19.44	0.26
Lea.....	\$ 20.69	0.26
Milling Machine.....	\$ 16.59	0.26
Oiler.....	\$ 15.79 **	0.26
Piledriver.....	\$ 17.82	0.26
Roller (Asphalt, Dirt, and		
Sheepsfoot)		
Catron, Chaves, Curry,		
Eddy, Grant, Hidalgo,		
Lincoln, Luna, Otero,		
Roosevelt, Sierra, Socorro.	\$ 15.86 **	0.26
DeBaca.....	\$ 14.19 **	0.75
Lea.....	\$ 17.41	0.26
Scraper.....	\$ 15.91 **	0.26
Screed.....	\$ 15.70 **	0.26
Tractor.....	\$ 15.40 **	0.26
Trencher.....	\$ 16.31	0.26
TRUCK DRIVER		
Distributor		
Catron, Chaves, Curry,		
DeBaca, Grant, Hidalgo,		
Lea, Lincoln, Luna,		
Otero, Roosevelt, Sierra,		
Socorro.....	\$ 13.81 **	0.26
Eddy.....	\$ 13.70 **	0.26
Dump Truck		
Catron, Chaves, Curry,		
DeBaca, Eddy, Grant,		

Hidalgo, Lincoln, Luna, Otero, Roosevelt, Sierra, Socorro.....	\$ 14.60 **	0.26
Lea.....	\$ 14.61 **	0.26
Flatbed Truck		
Catron, Chaves, Curry, DeBaca, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, Socorro.....	\$ 12.96 **	0.26
Eddy.....	\$ 12.71 **	0.26
Lea.....	\$ 13.05 **	0.26
Roosevelt.....	\$ 13.26 **	0.26
Pickup and Pilot Car		
Catron, Chaves, Curry, DeBaca, Grant, Hidalgo, Lincoln, Luna, Otero, Roosevelt, Sierra, Socorro..	\$ 12.70 **	0.26
Eddy.....	\$ 12.60 **	0.26
Lea.....	\$ 12.84 **	0.26
Semi-Trailer Truck.....	\$ 16.58	0.26
Tractor Haul Truck.....	\$ 14.00 **	
Water Truck		
Catron, Chaves, Curry, DeBaca, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Roosevelt, Sierra, Socorro.....	\$ 14.39 **	0.26
Lea.....	\$ 15.07 **	0.26

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of



each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

## SPECIAL CONTRACT REQUIREMENTS

The following Special Contract Requirements amend and supplement the *Standard Specifications for Construction of Roads and Bridges, on Federal Highway Projects (FP-14)*, U.S. Department of Transportation, Federal Highway Administration.

### Section 101. – TERMS, FORMAT, AND DEFINITIONS

#### 101.03 Abbreviations.

**(a) Acronyms.** Add the following:

**EEBACS** — Engineer's Estimating, Bidding, Award, and Construction System

**GSA** – General Services Administration

**NMDOT** – New Mexico Department of Transportation

**(b) US Customary abbreviations and symbols.** Delete the text and substitute the following:

<b>°F</b>	— degrees Fahrenheit	temperature
<b>A</b>	— ampere	electric current
<b>ac.</b>	— acre	area
<b>BTU</b>	— British Thermal Unit	energy
<b>cu. in. or in<sup>3</sup></b>	— cubic inches	volume
<b>cu. ft., cf, ft<sup>3</sup> or CUFT</b>	— cubic feet	volume
<b>cu. yd., cy, yd<sup>3</sup> or CUYD</b>	— cubic yards	volume
<b>D</b>	— day	time
<b>deg. or °</b>	— degree	plane angle
<b>Fc</b>	— foot-candles	luminous intensity
<b>fl. oz.</b>	— fluid ounces	volume
<b>ft. or '</b>	— foot or feet	length
<b>gal. or GAL</b>	— gallon	volume
<b>H</b>	— Henry	inductance
<b>hr. or HR</b>	— hour	time
<b>Hz</b>	— hertz (s <sup>-1</sup> )	frequency
<b>in. or "</b>	— inch or inches	length
<b>K</b>	— kelvin	temperature
<b>lb or LB, lbs</b>	— pound, pounds	mass
<b>Lbf</b>	— pound-force	force
<b>lnft or LNFT</b>	— linear foot	length
<b>mi.</b>	— miles	length
<b>min. or m</b>	— minute	time
<b>min. or '</b>	— minute	plane angle
<b>oz.</b>	— ounces	mass
<b>Psi</b>	— pounds/square inch	pressure

<b>Q</b>	— cubic feet/second	flow rate
<b>sec. or s</b>	— second	time
<b>sec. or "</b>	— second	plane angle
<b>sq. in. or in<sup>2</sup></b>	— square inches	area
<b>sq. ft., sf, ft<sup>2</sup> or SQFT</b>	— square feet	area
<b>sq. yd., sy, yd<sup>2</sup> or SQYD</b>	— square yards	area
<b>T</b>	— short ton (2000 lbs)	mass
<b>V</b>	— volt (W/A)	electric potential
<b>W</b>	— watt (J/s)	power
<b>yd or YD</b>	— yard or yards	length
<b>Ω</b>	— ohm V/A	electric resistance

(c) **Metric unit abbreviations and symbols.** Delete the text and substitute the following:

<b>A</b>	— ampere	electric current
<b>Cd</b>	— candella	luminous intensity
<b>°C</b>	— degree Celsius	temperature
<b>D</b>	— day	time
<b>deg. or °</b>	— degree	plane angle
<b>g or gram</b>	— gram	mass
<b>H</b>	— Henry	inductance
<b>Ha</b>	— hectare	area
<b>hr. or HR</b>	— hour	time
<b>Hz</b>	— hertz (s <sup>-1</sup> )	frequency
<b>J</b>	— Joule (N·m)	energy
<b>K</b>	— kelvin	temperature
<b>Kg</b>	— kilogram	mass
<b>L</b>	— liter	volume
<b>Lx</b>	— lux	illuminance
<b>M</b>	— meter	length
<b>mm</b>	— millimeter	length
<b>m<sup>2</sup></b>	— meter squared	area
<b>m<sup>3</sup></b>	— cubic meter	volume
<b>min. or m</b>	— minute	time
<b>min. or '</b>	— minute	plane angle
<b>N</b>	— Newton (kg·m/s <sup>2</sup> )	force
<b>Pa</b>	— Pascal (N/m <sup>2</sup> )	pressure
<b>sec. or s</b>	— second	time
<b>sec. or "</b>	— second	plane angle
<b>T</b>	— metric ton	Mass
<b>V</b>	— volt (W/A)	electric potential
<b>W</b>	— watt (J/s)	Power
<b>Ω</b>	— ohm V/A	electric resistance

**101.04 Definitions.**

Add the following:

**EEBACS** — Engineer’s Estimating, Bidding, Award, and Construction System. A web-based system used by the Government, Construction Contractors, and Subcontractors on this Government contract to prepare “*Inspector’s Daily Record of Construction Operations*” (*Contractors Daily Reports*) and measurement notes (pay notes and field measurement documentation).

**Roadway Prism** Delete the text and substitute the following:

**Roadway Prism** – The volume defined by the area between the original terrain cross-section and the final design cross-section multiplied by the horizontal distance between the centroids (geometric center) of the area.

**Subcontractor** Delete the text and substitute the following:

**Subcontractor** – An individual or legal entity with which the Contractor sublets part of the work. This includes subcontractors and material suppliers at any tier.

**Section 104. — CONTROL OF WORK****104.03 Specifications and Drawings.**

Add the following to (a) General (2) Drawings:

(h) Erosion and sediment control drawings for the SWPPP application.

**Section 105. — CONTROL OF MATERIAL****105.01 Source of Supply and Quality Requirements.** Add the following:

Materials containing petroleum-based solvents such as cutback asphalts and traffic paints may be restricted from use by local laws or ordinances in certain geographic areas. Upon presenting proof of such restrictions, alternate materials considered acceptable to the CO may be substituted for the materials specified in the contract.

Add the following:

Certify, according to Subsection 107.10 (d)(2), that sources of rock, sand, gravel, earth, subsoil, or other natural material imported into the project construction limits are noxious weed free.

**105.02(c) Contractor-located sources.** Add the following:

The contractor is responsible for providing water for the project.

**105.04 Storing and Handling Material.** Add the following after the third sentence of the second paragraph:

For Contractor-located, non-commercial staging, storing, and material handling areas, secure environmental clearances according to Subsection 107.10.

Add the following:

There are no areas designated as storage/stockpile/parking areas for use within the project limits.

Use all products according to the manufacturer's recommendations for handling, storage, and disposal. Follow the requirements of FAR Clause 52.236-10 Operations and Storage Areas and FAR Clause 52-236-12 Cleaning Up. Maintain the staging and storage areas in a clean, neat, and orderly condition satisfactory to the CO.

Store construction materials within the limits indicated on the contract drawings. Properly store materials according to the applicable permit and the requirements in Section 107, 157, 203, 204, 624, and 625. Check the storage areas weekly and according to the applicable permit.

Store construction, building and waste materials, and containers in designated areas indoors or protect with a suitable covering.

Submit a site map showing the material storage and stockpile locations at least 14 calendar days prior to the start of construction activities.

Keep the manufacturer's MSDS, an inventory of the material, and emergency numbers near the storage area. Take appropriate measures to ensure that incompatible chemicals are not stored next to each other.

## **Section 106. — ACCEPTANCE OF WORK**

**106.01 Conformity with Contract Requirements.** Delete (a) and (b) and substitute the following:

**(a) Disputing Government test results.** If the accuracy of Government test results is disputed, promptly inform the CO. If the dispute is unresolved after reasonable steps are taken to resolve the dispute, further evaluation may be obtained by written request. Include a narrative describing the dispute and a proposed resolution protocol that addresses the following:

- (1) Sampling method
- (2) Number of samples
- (3) Sample transport
- (4) Test procedures
- (5) Testing laboratories
- (6) Reporting

(7) Estimated time and costs

(8) Validation process

**(b) Alternatives to removing and replacing non-conforming work.** As an alternative to removal and replacement, the Contractor may submit a written request to:

(1) Have the work accepted at a reduced price; or

(2) Be given permission to perform corrective measures to bring the work into conformity.

The request must contain supporting rationale and documentation. Include references or data justifying the proposal based on an evaluation of test results, effect on service life, value of material or work, quality, aesthetics, and other tangible engineering basis. The CO will determine disposition of the nonconforming work.

Add the following after (b):

The number of significant figures used in the calculations will be according to ASTM E 29, absolute method.

Where sample/testing procedures make reference to AASHTO, ASTM, or other standards (designated as FLH T), the procedure as modified in the Materials Manual shall govern. Where the specifications make reference to AASHTO Test T11, "Procedure B - Washing Using a Wetting Agent" shall be the procedure followed.

Where the specifications make reference to AASHTO Test T310, "Direct Transmission Method of In-Place Nuclear Density and Moisture Content" shall be the procedure followed.

**106.02 Visual Inspection.** Delete the Subsection and substitute the following:

**106.02 Visual Inspection.** Acceptance is based on visual inspection of the work for compliance with the contract requirements. In the absence of specific contract requirements or tolerances, use prevailing industry standards.

**106.03 Certification.** Add the following after the second paragraph:

See Table 106-3 for schedule for full or partial acceptance by material certification. Submit certification and sample of material for testing as required.

Delete the third bullet of the third paragraph and substitute the following:

Contractor signed certification stating "to the best of our knowledge the materials certified by the attached certification represent the materials incorporated into the work of this contract"; and

**Table 106-3 Schedule For Full or Partial Acceptance by Materials Certification.** Add Table 106-3 following Table 106-2.

**Table 106-3**  
**Schedule For Full or Partial Acceptance by Materials Certification**

Section	Description	Material	Material Property Or Specification	Frequency	
				Certification	Sample
<b>302</b>	Minor Crushed Aggregate	Crushed Aggregate	Source, Quality and Gradation	1 per source	1 per source
<b>312</b>	Dust Palliative	Calcium Chloride Magnesium Chloride, Lignosulfonate,	As specified	1 per shipment	First shipment
<b>403</b>	Asphalt Concrete	Aggregate Asphalt Mix	Source quality, Gradation, Stability, and Grade	1 per mix	1 per source
<b>634 and 635</b>	Permanent Pavement Markings, Temporary Traffic Control	634.02 as applicable, 635 as applicable	As specified	1 per source	-----
<b>701</b>	Hydraulic Cement	Portland Cement, Blended Hydraulic Cement, Masonry and Mortar Cement	AASHTO M 85, M 240, ASTM C 91 and ASTM C1392 as applicable	1 per shipment	1 per 100 tons
<b>702.01</b>	Asphalt Material	Asphalt Cement	AASHTO M 226 or M 320, as applicable	1 per shipment	1 per shipment
<b>702.02</b>	Asphalt Material	Emulsified Asphalt	AASHTO M 140 or M 208 as applicable	1 per shipment	1 per shipment
<b>702.03</b>	Asphalt Material	Asphalt Materials used for Dampproofing and Waterproofing Concrete and Masonry Surfaces	As specified for each type of asphalt material	1 per shipment	-----
<b>702.05</b>	Antistrip	As specified	As applicable	1 per shipment	-----
<b>706</b>	Concrete and Plastic Pipe	As specified	As applicable	1 per shipment	-----
<b>707</b>	Metal Pipe	As specified	As applicable	1 per shipment	-----
<b>708</b>	Plastic Pipe	As specified	As applicable	1 per shipment	-----
<b>709</b>	Reinforcing and Prestressing Steel	As specified	As applicable	1 per shipment	For 709.01 submit 3, 1-yard (1-meter) bars of each size and grade of bar furnished.  709.02 submit 1 6-foot (2-meter) length for each size furnished
<b>710</b>	Fence and Guardrail	As specified	As applicable	1 per shipment	-----
<b>711</b>	Concrete Curing Material and Admixtures	As specified	As applicable	1 per material source per material type	-----

Section	Description	Material	Material Property Or Specification	Frequency	
				Certification	Sample
712	Joint Material (all)	As specified	As applicable	1 per shipment	-----
713	Roadside Improvement Materials (all)	As specified	As applicable	1 per shipment	-----
714	Geosynthetic Material (all)	As specified	As applicable	1 per shipment	1 per project per type
715	Piling	As specified	As applicable	1 per shipment	-----
716	Material for Timber Structures	Timber and Hardware	As applicable	1 per shipment	-----
717	Structural Metal	As specified	As applicable	1 per shipment	717.01(e) minimum 6 per shipment for each size used.  717.10 1 per project
718	Traffic Signing and Marking Material (all)	As specified	As applicable	1 per shipment	-----
719	Paint	As specified	As applicable	1 per batch\lot	1 sample for quantities > 25 gallons (100L)
720	Structural Wall and Stabilized Embankment Material (all)	As specified	As applicable	1 per shipment per material type	-----
721	Electrical and Illumination Material (all)	As specified	As applicable	1 per shipment per material type	-----
722	Anchor Material	As specified	As applicable	1 per shipment per material type	-----
725	Miscellaneous materials	As specified	As applicable	1 per shipment per material type	-----

## Section 107. - LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

### 107.01 Laws to be Observed. Add the following:

#### Section 401 and 404 of the Clean Water Act.

Comply with the terms and conditions of any permits that are issued for the performance of work within the jurisdictional waters of the U.S., including Section 404 permits and Section 401 water quality certifications.



**Section 402 of the Clean Water Act.**

Comply with the terms and conditions of any permits that are issued for the performance of work, including Section 402 permits for Construction, Municipal Separate Storm Sewer Systems, Industrial, and Chemical applications in accordance with the National Pollutant Discharge Elimination System. Prepare a Stormwater Pollution Prevention Plan (SWPPP) according to Section 157.

**National Pollutant Discharge Elimination System (NPDES)**

Comply with the requirements of EPA Construction General Permit (CGP);

<https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-permit.pdf>

This permit is scheduled to expire on 02/16/2027. Amend the SWPPP and site plan when a new permit goes into effect to meet new permit conditions.

Allow 14 days from submittal of NOI to issuance of permit.

**(a) General.** Designate a qualified Erosion Control Supervisor according to Subsection 157.03.

Obtain a separate NPDES permit associated with industrial activity for any mobile asphalt and concrete plants that provide material for the project. Provide a copy of the permit and acknowledgement letter to the CO for their records.

**(b) Notice of Intent (NOI).** File a NOI as a primary operator if required or permitted. Provide a copy of the NOI and confirmation letter to the CO. The Government will also file a separate NOI if required and provide that information to the Contractor for inclusion in the SWPPP. Do not perform any ground disturbing activities including clearing, grubbing, or earthwork until an acknowledgement letter is received from the regulatory agency and the SWPPP has been approved and implemented.

Post all project authorization numbers near the entrance to the site and on the bulletin board.

**(c) Payment of Permit Fees.** Submit the appropriate permit fees and renewal fees required for both the Contractor and Government to the regulatory agency.

**(d) Notice of Termination (NOT).** File a NOT if the conditions listed in the CGP have been met or transfer the NOI to the maintaining agency when project has reached final acceptance.

**107.02 Protection and Restoration of Property and Landscape**

Add the following at the end of this subsection:

The locations of the utilities shown in the plans have been certified to a Quality Level C, with spot locations certified to a Quality Level C according to the CFLHD Utility Data Quality Certification requirements:

<http://flh.fhwa.dot.gov/resources/row/cfl/documents/UtilityDataQualityLevelCertification.doc>

**Table 107-1**  
**Status of Utilities**

	Company	Utility Type	Contact Name	Phone Number	Status 1, 2, 3, or 4
1	Navopache Electric Corp.	Overhead Electric	Nick Heggen nheggen@navopache.org	928-368-1205 928-242-2911	4
2	Western New Mexico Communications.	Telephone/Fiber optic	Michael McGarr	575-538-1089 575-597-0163	1

**Status 1:** The utilities are in conflict with the project and REQUIRE relocation by OTHERS DURING construction.

**Status 2:** The utilities are in conflict with the project and REQUIRE relocation by the Contractor DURING construction.

**Status 3:** The utilities are in conflict with the project and REQUIRE relocation BEFORE construction.

**Status 4:** The utilities are located within the project rights of way but require NO relocation.

**107.05 Responsibility for Damage Claims.** Add the following after the first sentence of the third paragraph:

Certify that policies will not be changed or canceled until 30 days written notice has been given to the Government.

**107.08 Sanitation, Health, and Safety.** Add the following:

Maintain a clean work area and institute a litter control program.

**107.10 Environmental Protection.**

**(a) Federal Water Pollution Control Act (Clean Water Act) 33 USC § 1251 et seq.** Add the following:

(4) Do not ford running streams with construction equipment. Obtain approval from the CO to use temporary bridges or other structures whenever crossings are necessary.

(5) Immediately clear ephemeral drainages, intermittent and perennial streams, lakes and reservoirs of all work items, debris or other obstructions placed by or resulting from construction operations.

(6) Locate machinery servicing and refueling areas away from streambeds and washes to reduce the possibility and minimize the impacts of accidental spills or discharges.

**(b) Oil and hazardous substances.** Add the following to the end of the third paragraph:

Sand or soils are not approved absorbent materials.

Add the following to the end of the fourth paragraph:

Report the spill to the appropriate federal, state, and local authorities as required by the SPCC plan or hazardous spill plan.

**(c) Vehicles and equipment.** Add the following:

All vehicles and equipment entering the project area must be clean of noxious weeds and free from oil leaks and are subject to inspection. Wash all construction equipment to thoroughly remove all dirt, plant, and other foreign material prior to entering the project. Particular attention must be shown to the under carriage and any surface where soil containing exotic seeds may exist. Allow the CO to inspect each piece of equipment before entering the project. Provide the cleaning and inspection records to the CO. Equipment found operating on the project that has not been inspected, or has oil leaks will be shut down and subject to citation.

**(d) Clearances for Contractor-selected, noncommercial areas.** Add the following to the end of the first paragraph:

Do not import into the project limits rock, sand, gravel, earth, subsoil, or other natural materials from a Contractor-selected non-commercial materials source, that have not been certified free of noxious weeds. Materials imported into the project limits which do not include a noxious weed free certification may be rejected and ordered by the CO to be removed from the project limits. The CO has the discretion of requesting inspection of certified materials by a third party, and rejecting the use of the source if noxious weeds or seeds thereof are found to be present.

Add the following:

**(5) Any required Certifications.**

**107.11 Protection of Forests, Parks, and Public Lands.** Add the following:

The Gila National Forest Fire Precautions Plan Guidelines involving emergency curtailment of operations is included in the Appendix and is in effect on this project. The CO will order the suspension of burning and other operations when directed to do so by the USFS.

Add the following:

**107.12 Vegetation Clearing.**

Conduct vegetation clearing between September 1 and February 28, outside of the nesting season for migratory birds. If clearing is proposed to be performed between March 1 and August 30, conduct a survey through the project area for migratory birds prior to beginning operations.

When conducting migratory birds surveys, furnish a qualified biologist with Bachelor's Degree in the biological sciences with previous experience performing similar surveys. The biologist is responsible for performing bird nest surveys and determining if construction operations will have a negative impact on nesting birds. The biologist is responsible for preparing the results of the survey, with determinations for submittal to the CO. Conduct the survey no sooner than 7 calendar days prior to beginning clearing. Submit the results of the survey to the CO for evaluation. The results should include the locations of active nests, proposed buffers around the active nests and proposed times of operation.

### **Section 108. — PROSECUTION AND PROGRESS**

#### **108.01 Commencement, Prosecution, and Completion of Work. Add the following:**

Limit operations as follows:

- (a) Construct low water crossings within the Whitewater Creek during periods of low flow, generally between October and April.
- (b) Refer to Section 156 for traffic restrictions and Section 107 for Environmental Conditions.
- (c) Attend an open house public meeting in Glenwood, NM prior to the start of physical construction activities to discuss impacts of the project with local residents and businesses. Arrangements for the meeting will be completed by the Government.

Perform no work except to maintain traffic control devices, erosion control devices, the roadway driving surface, and to control dust during the listed Federal holidays and surrounding days as shown in Table 108-2.

**Table 108-2**  
**Federal Holidays and Surrounding Days**

<b>Federal Holiday</b>	<b>Time</b>	<b>Remarks</b>
Birthday of Martin Luther King, Jr.	12:00 Noon Friday to 6:00 am Tuesday	-
Washington's Birthday	12:00 Noon Friday to 6:00 am Tuesday	-
Memorial Day	12:00 Noon Friday to 6:00 am Tuesday	-
Juneteenth National Independence Day	12:00 Noon June 18 to 6:00 am June 20	-

Independence Day	12:00 Noon July 3 to 6:00 am July 5	If July 4 falls on a weekend, Friday, or Monday, do not work the weekend.
Labor Day	12:00 Noon Friday to 6:00 am Tuesday	-
Columbus Day	12:00 Noon Friday to 6:00 am Tuesday	-
Veterans Day	12:00 Noon November 10 to 6:00 am November 12	-
Thanksgiving	12:00 Noon Wednesday to 6:00 am Monday	-
Christmas / New Year's	12:00 Noon December 23 to 6:00 am January 2	If December 23 or January 1 falls on a Monday, do not work the adjacent weekend and do not work on December 23. If January 1 falls on a Friday, do not work the weekend.

Schedule at least 2 non-work days out of every 14 calendar days. The selected non-work days do not need to be consecutive, but they must be scheduled. Provide at least 2 weeks notice before changing the scheduled days off.

Exemptions to scheduled days off may be granted by written approval from the CO for specific project operations and/or for periods of limited duration.

Add the following:

A Notice to Proceed must be issued before commencement of any work. The contract completion date is August 30, 2024. There will be no additional time for Option X and Y.

Add the following:

Use the Government's web-based system, *Engineer's Estimating, Bidding, Award, and Construction System (EEBACS)*, to prepare all "*Inspector's Daily Record of Construction Operations*" (*Contractors Daily Reports*) and measurement notes (pay notes and field measurement documentation).

Attend a training session on the use of EEBACS. The training session will require up to 4 hours. No more than 3 Contractor staff may attend the training unless approved by the CO. The Contractor shall be responsible for training additional staff.

Complete and electronically submit "*EEBACS User Account Form*" (Form EEBACS-001) for each individual requiring EEBACS access. Submit forms to the CO at the preconstruction conference or at least 10 days prior to the start of any contract work or EEBACS training. As needed, request additional system access using Form EEBACS-001 and allow 7 days for system access.

Maintain active EEBACS accounts for all contractor staff who use EEBACS and ensure that the CO is notified within 24 hours after an account holder is reassigned or no longer employed by the Contractor. Within 24 hours after an account holder is reassigned or no longer employed by the Contractor, submit an EEBACS-001 form requesting that the account be disabled.

The electronic version of EEBACS-001 is available at:

<http://flh.fhwa.dot.gov/resources/pse/estimate/accounts.htm>

**108.02 Subcontracting.** Delete the third paragraph and substitute the following:

Within 14 days of subcontract award, submit a completed SF 1413 and 1413S. Complete Part I for each Subcontractor, and include Part II when the Subcontractor performs on-site work. Complete other forms that may be required by the Government to show the work subcontracted and the total dollar amount of the subcontract. Submit the above required information for each Subcontractor at lower tiers.

**108.04 Failure to Complete Work on Time.**

Delete Table 108-1 and substitute the following:

**Table 108-1**  
**Charge for Liquidated Damages for Each Day**  
**Work Is Not Substantially Completed**

Original Contract Price		Daily Charge
From More Than —	To and Including —	
\$ 0	\$ 1,000,000	\$ 1,600
\$ 1,000,000	\$ 2,000,000	\$ 2,400
\$ 2,000,000	\$ 5,000,000	\$ 4,100
\$ 5,000,000	\$ 10,000,000	\$ 5,600
\$ 10,000,000	and more	\$ 6,500

## **Section 109. — MEASUREMENT AND PAYMENT**

**109.01 Measurement of Work.** Add the following after the sixth paragraph:

Prepare, sign, and submit electronic measurement notes (pay notes and supporting field documentation) using EEBACS. Measurement notes will be reviewed by the CO. Unacceptable measurement notes will be electronically rejected and returned. Correct rejected measurement notes and resubmit electronically.

**109.02 Measurement Terms and Definitions.**

**(o) Square foot and Square yard (Square meter).** Add the following: Do not measure overlaps.

#### **109.08 Progress Payments.**

**(a) General.** Delete the last sentence and substitute the following:

The CO may withhold partial progress payment according to Subsection 109.08 (g) for failure to make satisfactory progress until a construction schedule or schedule update is approved by the CO.

**(b) Closing date and invoice submittal date.** Delete the text and substitute the following:

Submit invoices to the designated billing office by the 7<sup>th</sup> day after the closing date. Invoices received by the designated billing office after the 16<sup>th</sup> day following the closing date will not be accepted for payment processing that month. Include late, unprocessed invoice submittals in the following months invoice.

**(d) Government's receiving report.** Delete the first sentence and substitute the following:

The Government's receiving report will be developed using the measurements and quantities from Pay Notes received by the CO in EEBACS and determined acceptable.

**(e) Processing progress payment requests.**

**(1) Proper invoices.** Delete the title and text and substitute the following:

**(1) Invoices received by the 7th day following the closing date.**

*(a) Proper invoices.* If the invoice meets the requirements of Subsection 109.08(c), and the quantities and unit prices shown on the Contractor's invoice agree with the corresponding quantities and unit prices shown on the Government's receiving report, the invoice will be paid.

*(b) Defective invoices.* If the invoice does not meet the requirements of Subsection 109.08(c), or if any of the quantities or unit prices shown on the Contractor's invoice exceed the corresponding quantities and unit prices shown on the Government's receiving report, the invoice will be deemed defective and the Contractor so notified according to FAR Clause 52.232-27(a)(2). Defective invoices will not be corrected by the Government and will be returned to the Contractor within 7 days after the Government's designated billing office receives the invoice.

Revise and resubmit returned invoices by the 18th day following the closing date. The CO will evaluate the revised invoice. If the invoice still does not meet the requirements of Subsection 109.08(c), the Contractor will be so notified according to FAR Clause 52.232-27(a)(2), and no progress payment will be made that month. Correct the deficiencies and resubmit the invoice the following month.

If the revised invoice meets the requirements of Subsection 109.08(c), but still had quantities or unit prices exceeding the corresponding quantities and unit prices shown on the Government's receiving report, the Government's data for that item or work will be used. The Contractor's invoice, as revised

by the Government's receiving report, will be forwarded for processing by the 23rd day following the closing date. The Contractor will be notified by the 23rd day following the closing date of the reasons for any changes to the invoice.

**(2) Defective invoices.** Delete the title and text and substitute the following:

**(2) Invoices received between the 8th and 16th day following the closing date.**

*(a) Proper invoices.* If the invoice meets the requirements of Subsection 109.08(c), and the quantities and unit prices shown on the Contractor's invoice agree with the corresponding quantities and unit prices shown on the CO's receiving report, the invoice will be deemed proper and forwarded for processing within 7 days of receipt.

*(b) Defective invoices.* If the invoice does not meet the requirements of Subsection 109.08(c), the invoice will be deemed defective, the Contractor so notified according to FAR Clause 52.232-27(a)(2), and no progress payment will be made that month. Correct the deficiencies and resubmit the invoice the following month.

If the invoice meets the requirements of Subsection 109.08(c), but has quantities or unit prices exceeding the corresponding quantities and unit prices shown on the Government's receiving report, the Government's data for that item of work will be used. The Contractor's invoice, as revised by the Government's receiving report, will be forwarded for processing within 7 days of the Government's receipt of the invoice. The Contractor will be notified of the reasons for any changes to the invoice.

**(f) Partial payments.** Delete the subsection and substitute the following:

**(f) Partial payments.** Progress payments may include partial payment for material to be incorporated in the work according to FAR Clause 52.232-5(b)(2), provided the material meets the requirements of the contract and is delivered on, or in the vicinity of, the project site or stored in acceptable storage places.

Partial payments for stockpiled manufactured material (aggregates) will be based on Contractor process control test results. If test results show the material to be out-of-specification, or in "reject" where statistical evaluation procedures are used, no payment for stockpiled materials will be made.

Partial payment for material does not constitute acceptance of such material for use in completing items of work. Partial payments will not be made for living or perishable material until incorporated into the project.

Individual and cumulative partial payments for preparatory work and material will not exceed the lesser of:

- (1) 80 percent of the contract bid price for the item; or
- (2) 100 percent of amount supported by copies of invoices submitted.



The quantity paid will not exceed the corresponding quantity estimated in the contract. The CO may adjust partial payments as necessary to protect the Government.

## **Section 152. — CONSTRUCTION SURVEY AND STAKING**

### **Construction Requirements**

**152.04 General.** Add the following to the second paragraph:

The Government will establish basic survey control points for vertical and horizontal control of the project.

The Government will furnish the following:

- (1) Computer listings containing: horizontal alignment, vertical alignment, earthwork quantities.
- (2) Horizontal and vertical alignment staking information.
- (3) Digital terrain model of existing ground.
- (4) Information for segments as shown as 3R or 3R+ will not be furnished.

Delete the last sentence of the fourth paragraph from the bottom of the subsection and substitute the following:

Reestablish missing control points and stakes before slope staking begins.

**(f) Grade-finishing stakes.** Delete (1) AMG method.

**(g) Culverts.** Delete the text and substitute the following:

Verify and set culvert locations at the inlet, outlet, and inlet basin points according to the plans. Plot the centerline of the proposed culvert at a 1:20 scale. Show the natural ground, the flow line, the roadway section, and the culvert including end treatments and other appurtenances. Provide the elevations, grade, culvert length, degree of elbow, catch points, and hinge points on the plot.

Perform the following if the culvert design shown in the plans does not fit field conditions, when the CO requires adjustment to a culvert location, or when a culvert design isn't provided for a new culvert, culvert replacement, or culvert extension:

- (1) Recommend a revised culvert location and alignment if needed.
- (2) Survey and record the ground profile along the culvert centerline;
- (3) Determine the slope catch points at the inlet and outlet;

(4) Set reference points and record information necessary to determine culvert length and end treatments;

(5) Plot to scale the profile along the culvert centerline. Show the natural ground, the flow line, the roadway section, and the culvert including end treatments and other appurtenances. Show elevations, grade, culvert length, and degree of elbow.

(a) For single skewed culverts, submit a plotted field-design cross-section normal to roadway centerline and at each end section. Plot the offset and elevation of natural ground at the end section and at proposed template break points between centerline and the end section. Ensure the template design embankment slope is not exceeded;

(b) For multiple skewed culverts, submit a plotted field design cross-section normal to roadway centerline and at the end sections (left and right) nearest to the shoulder. Plot the offset and elevation of natural ground at the end section and at proposed template break points between centerline and the end section. Ensure the template design embankment slope is not exceeded;

(c) Submit the plotted field-design cross-section for approval of final culvert length and alignment. Plot at a clear and readable scale;

(d) Set inlet, outlet, and reference stakes when the field design has been approved. Stake inlet and outlet ditches to make sure the culvert and end treatments (such as drop inlets) are functional; and

(e) Adjust slope, reference, and clearing stakes as necessary to provide for culvert inlet treatments in cut slopes. Readjust slope, reference, and clearing stakes as necessary when culvert inlets are moved from their plan locations. Review slope adjustments with the CO and obtain approval.

**(i) Retaining walls and reinforced soil slopes.** Delete the Subsection and substitute the following:

**(i) Retaining walls (Gabion wall).** Survey and record profile measurements along the face of the proposed wall at 5 feet, 10 feet, and in front of the wall face. Take cross-sections every 5 feet along the length of the wall, at 5 feet, 10 feet in front of the wall, and at major breaks in terrain within the limits designated by the CO. Measure and record points every 5 feet and at major breaks in terrain for each cross-section. Set additional references and control points to perform the work.

Add the following:

**(m) Template control staking.** Verify stationing shown in the plans by measuring along the existing centerline with a method approved by the CO. Calibrate all measuring devices and furnish calibration data to CO before use. Use landmarks (e.g., culverts, turnouts, approach roads) to verify that the ground stationing matches the stationing shown on the plans. Use white spray paint to mark each centerline station. Add station equations to adjust field stationing to match the plans. Notify the CO on any readjustment or change to stationing or establishment of additional centerline points.

Prior to disturbing the existing road surface measure the existing roadway surface width and cross-slopes at centerline points of curve and tangent, at changes in roadway template, at the beginning and ending of superelevation transitions and runoff, in the middle of superelevated sections, at 100 foot (30 meter) stationing intervals on tangents, and at 50 foot (15 meter) intervals on curves. At

each location, each side of the roadway and outside the construction limits, place an offset stake of adequate dimensions to place all required information. Label each stake with the following information corresponding to each respective lane:

- (1) Station;
- (2) Offset from striped centerline or other location;
- (3) Offset from the proposed edge of pavement;
- (4) Existing pavement cross-slope. If cross-slope is to be changed, provide proposed change;
- (5) Offset to existing/proposed paved ditch, including ditch cross-slope, if different from mainline, and ditch width; and
- (6) Offset to face of existing/proposed guardrail.

Record the above information and provide to the CO. Provide the CO a list of any stations or locations where the proposed pavement edge is within 2 feet (0.6 meters) of a break in the topography of the shoulder. The CO will determine if corrective action is required.

Measure stations to the nearest foot (meter), offsets to the nearest 2 inches (50 millimeters), and cross-slopes to the nearest 0.2 percent. Record the above information and provide one printed copy to the CO.

Make minor adjustments in alignment to produce a smooth flowing, best-fit alignment. The final alignment need not be a geometrically computed centerline and may be field adjusted up to 12 inches (300 millimeters).

Use the recorded information to reestablish the existing roadway template and striping. Control crown and superelevation on the project. Proposed cross-slope information shown in the plans is typical and grading adjustments may be altered as necessary to fit field conditions.

On tangents compute the appropriate grade adjustment from the measured elevation differences between centerline and proposed edge of pavement. Determine the elevation adjustment so both lanes are within the desired limits of minus 1 to minus 3 percent crown. The crown on each lane of the roadway may be different. Set a grade finishing stake on centerline to control crown.

On curves compute the appropriate grade adjustment from the measured elevation differences to obtain a consistent cross-slope along the curve length (typically an average of the measured cross-slopes) within a tolerance of  $\pm 0.5$  percent. Where possible raise the elevation of a shoulder to make the adjustment. Only lower the elevation of a shoulder when approved by the CO. Set a grade finishing stake on either shoulder (typically the shoulder point to be raised) to control the cross-slope. Use the existing superelevation runoff and tangent runout lengths to transition between the crown on tangents and superelevation on curves.

The methodology used to accomplish the existing roadway surface measurement, template control staking, and to determine template adjustments shall be the Contractor's option, but the methods will be subject to the approval of the CO.

**(n) Low Water Crossing.** Verify that the proposed low water crossing and any proposed features fit the site as shown in the plans and the current ground surface matches the survey provided in the contract. Document and report any changes to the ground surface to the CO. Perform the following if the site terrain varies from the survey provided and adjustments to the low water crossing features are needed to fit current field conditions:

- (1) Perform Original Ground Topographic Verification, according to Subsection 152.05;
- (2) Propose revisions to the low water crossing channel elevations;
- (3) Propose revisions to the low water crossing features. These may include riprap armoring, gabion baskets, revett mattresses, concrete slope paving, drop structures and other appurtenances;
- (4) Determine slope catch points at upstream and downstream ends of the crossing;
- (5) Submit the proposed changes to the CO for approval. Allow 14 calendar days.

### Measurement

**152.07** Delete the third paragraph and substitute the following:

Do not measure miscellaneous survey and staking.

**152.07** Add the following to the fourth paragraph:

Reestablishing missing control points and stakes will be measured under Special labor, Hired survey services when it is paid by the hour.

**152.07** Add the following:

Measure template control staking only one time per project.

## Section 153. — CONTRACTOR QUALITY CONTROL

### Description

**153.01** Add the following:

This work also consists of using EEBACS to prepare electronic "*Inspector's Daily Record of Construction Operations*" (*Contractors Daily Reports*) and measurement notes (pay notes), including entering labor, equipment, subcontractors, and inspection records into the system.

**Construction Requirements****153.02 Qualifications.**

**(a)(1) Full-time, on-site QCM.** Delete subsections (a) and (b) and substitute the following:

(a) Four years of experience managing quality control on highway construction projects of similar type and scope, and

(b) National Institute for Certification in Engineering Technologies (NICET) Level III certification, or equivalent, in highway construction or highway material.

**153.03 Quality Control Plan (QCP).****(b) Quality control procedures**

**(2) Add the following:** List the material to be tested by pay item, tests to be conducted, the location of sampling, and the frequency of testing.

Add the following:

**(d) Subcontractors and suppliers.** Include the work of all subcontractors. If a subcontractor is to perform work under this Section, explain how the subcontractor's inspection plan will interface with the Prime Contractor first tier subcontractors and lower tier subcontractors and organizations, and the CO. Include the work of major suppliers and suppliers of structural and geotechnical services and materials.

Add the following:

Modifications or additions may be required to any part of the plan that is not adequately covered. Acceptance of the quality control plan will be based on the inclusion of the required information. Acceptance does not imply any warranty by the Government that the plan will result in consistent contract compliance. It remains the responsibility of the Contractor to demonstrate such compliance.

**153.04 Prosecution of Work.** Delete the sentence and substitute the following:

Address each of the subjects shown for each phase of construction:

**(a) Preparatory phase.**

**(1) Delete the paragraph and substitute the following:**

In a preparatory phase meeting, review the contract requirements for the work; the process for constructing the work; and the plan for inspecting, testing, measuring, and reporting the work. Include the project superintendent, the quality control supervisor (QCS), the foreman for the work to be performed, and the CO in the meeting. Schedule and conduct a preparatory meeting for each type of work to be performed at least one week prior to beginning the work.

**(b) Start-up phase.**

**(1) Delete the paragraph and substitute the following:**

**(1)** In a start-up phase meeting, review the contract requirements and the processes for constructing the work with the personnel who will be performing the work. Invite the CO, project superintendent, QCS, testers, and inspectors of the work being performed, and the personnel directly supervising and performing the work. Review the planned testing, inspection, and reporting requirements with the quality control personnel responsible for the testing and inspection. Explain the reporting procedures to be used when defective work is identified. Conduct a start-up meeting for each type of work to be performed upon beginning the work.

**(c) Production phase. Add the following:**

**(4)** Provide feedback on processes and deficiencies. Identify root causes of deficiencies, and make timely and effective changes to work processes to prevent repeated deficiencies.

**153.05 Sampling and Testing. Delete the text and substitute the following:**

**153.05 Sampling and Testing.**

Perform sampling and testing required by the accepted QCP. As a minimum perform process control testing according to the Sampling, Testing and Acceptance Requirements tables at the end of each Section where applicable. Where no minimums are specified, submit proposed tests to be performed and the proposed sampling and testing frequencies.

**(a) Sample Splitting.** Schedules and times or locations for obtaining on-site split samples for Government use will be provided by the CO using a procedure for random sampling. Sample any material that appears defective or inconsistent with similar material being produced, unless such material is voluntarily removed and replaced or otherwise corrected according to Subsection 106.01

**(b) Testing.** Furnish a laboratory equipped with all test equipment necessary to satisfy the requirements of the contract. Ensure test equipment has been checked, calibrated, standardized and/or otherwise verified in accordance with AASHTO and ASTM standards by an individual qualified to perform the work. Perform an equipment inspection after the laboratory has been moved to its permanent location on the project site, and anytime it is moved thereafter. Inspect equipment within 45 days of actual use for project testing, and at least once a year thereafter. Do not use equipment that has not been inspected or is found to be deficient. Mark deficient equipment and take it out-of-service until repaired or replaced and shown by subsequent inspection to perform as required. Maintain records documenting laboratory equipment inspections. Provide certification(s) stating the equipment conforms to testing requirements and provide evidence of current inspection. Keep laboratory facilities clean and maintain equipment in proper working condition. Allow the CO unrestricted access to the laboratory for inspection and review.

The CO may require a demonstration of proficiency in sampling and testing capabilities. One or more proficiency samples may be provided by the Government to verify basic qualifications. Provide the results of the proficiency samples to the CO within 48 hours of receipt of the material.

**153.06 Certifications. Delete the text and substitute the following:**

For materials or work accepted by certification according to Subsection 106.03, review all certifications to insure compliance with the requirements of the contract prior to incorporating materials into the work and provide a signed copy of the reviewed certification(s) to the CO. According to FAR Subpart 46.407, materials or work without proper certification will be rejected in writing, and payment for such material or work will be withheld until proper certification has been provided to the CO.

**153.07 Records and Control Charts.** Delete the first sentence and substitute the following:

Maintain complete testing and inspection records by pay item number and make them accessible to the CO.

**(a) Quality control and construction operations reports.** Delete the text and substitute the following:

For each day of the contract, prepare an “*Inspector’s Daily Record of Construction Operations*” (*Contractors Daily Reports (CDR)*) using EEBACS. Enter initial data for Labor/Equipment and Subcontractors prior beginning any work. Maintain and update the Labor/Equipment and Subcontractors data to reflect ongoing changes as they occur. Report operations or items of work separately, with manpower and equipment assigned to each operation separately. Detail inspection results, including deficiencies observed and corrective actions taken. Complete a CDR for each contractor and subcontractor working that day.

When submitting test results on material being incorporated into the work, report test results within the reporting times indicated in the sampling and testing requirements at the end of each section or as specified in the contract.

Enter the following data into EEBACS:

**(1) Subcontractors data.**

**(2) Labor/Equipment.**

(a) All manpower and equipment, including contractor and subcontractors. Complete all data fields.

(b) Labor: Type/classification, move-in date, move-out date, hourly rate, the contractor or subcontractor, and name.

(c) Equipment: Type/classification, move-in date, move-out date, make, model, and year of equipment manufacture.

Certify all CDR’s using the following statement:

*“I certify that the information contained in this record is accurate and that work documented herein complies with the contract. Exceptions to this certification are documented as a part of this record.”*

Submit certified CDR’s that have been signed by a person who has both responsibility for the inspection system and signature authority.

Submit the record and certification within 24 hours of the work being performed. If the CDR is incomplete, in error, or otherwise misleading, the CDR will be rejected and returned within EEBACS with corrections noted. Correct rejected CDRs and resubmit the revised CDR within 24 hours. When chronic errors or omissions occur, correct the procedures by which the records are produced.

**153.08 Acceptance.** Add the following:

Performance of the work may be stopped according to Subsection 108.05, either in whole or in part, for failure to comply with the requirements of this Section. The Government may charge to the Contractor the cost of any additional inspections required when the work being inspected is found not to comply with contract requirements during the initial inspection. Work stop orders, due to recurring deficiencies of work required by this Section, will be rescinded after the Contractor demonstrates to the CO that changes were made to the quality control plan and system which resulted in the correction of those deficiencies. There will be no adjustment in the contract time, or payments to the Contractor for any impacts, delays or other costs due to any periods of work stoppage resulting from failure to comply with the requirements of this Section.

EEBACS electronic documentation will be evaluated under Subsection 106.02.

**153.09 Measurement and Payment.** Delete the text and substitute the following:

**Measurement**

**153.09** Measure contractor quality control according to Subsection 109.02.

Do not measure EEBACS electronic documentation for payment.

**Payment**

**153.10** The accepted quantities will be paid at the contract price per unit of measurement for the Section 153 pay item listed in the bid schedule. Payment will be full compensation for the work prescribed in this Section. See Subsection 109.05.

Progress payments for Contractor quality control will be paid as follows:

- (1) 25 percent of the item amount, not to exceed 0.5 percent of the original contract amount, will be paid after the contractor quality control plan is accepted; all testing facilities are in place; qualified quality control supervisor, inspection, and sampling and testing personnel are in position to provide quality control activities; and the work being inspected or tested has started.
- (2) 65 percent of the total lump sum will be prorated for payment based on the completed portion of the total work not including the original 25 percent completed under (1) above.
- (3) Payment of the remaining 10 percent of the lump sum will be paid when all inspections, test results, submittals, and reports are complete and accepted.



## **Section 154. — CONTRACTOR SAMPLING AND TESTING**

### **Construction Requirements**

#### **154.03 Sampling.** Add the following:

Perform the curing of all concrete test cylinders. Provide for transporting the government verification cylinders to the FHWA-Central Federal Lands Highway's Laboratory unless other testing facilities are authorized by the CO.

Label each concrete mold with the name and number of the Project, the cylinder number, date molded, location of the sample, and the test age (i.e. – 7, 14, or 28 days). Label the mold after casting and the cylinder after stripping to ensure the sample can be identified throughout the entire curing process.

Provide the required cylinder molds.

#### **154.04 Testing** Add the following:

Where Process Control Sampling and Testing frequencies are identical to the Sampling, Testing, and Acceptance Tables at the end of each Section for all applicable work, the Process Control Samples may be used for acceptance.

#### Add the following subsections:

**154.04B Field Laboratory (Contractor-Furnished).** Furnish a laboratory equipped with all test equipment necessary to satisfy the requirements of the contract.

The sampling and testing services of a commercial laboratory meeting or exceeding the requirements described herein may be used if all contract sampling and testing requirements are satisfied by the use of the commercial facility.

Ensure test equipment has been checked, calibrated, standardized and/or otherwise verified in accordance with AASHTO and ASTM standards by an individual qualified to do this work. Ensure mobile laboratories receive an equipment inspection after the laboratory has been moved to its permanent location on the project site and anytime it is moved thereafter. Inspect equipment within 45 days of actual use in project testing and at least once a year thereafter. Do not use equipment that has not been inspected or is found to be deficient. Mark deficient equipment and it take out-of-service until it is repaired or replaced and shown by subsequent inspection to perform as required. Maintain records documenting these inspections in the laboratory. Provide certification(s) stating the equipment conforms to testing requirements and provide evidence of current inspection.

The CO may require the Contractor to perform testing to demonstrate acceptable equipment and an acceptable level of technician competence. The CO may also check equipment and inspection records to verify condition. Repair or replace equipment not meeting applicable requirements. Keep laboratory facilities clean and maintain equipment in proper working condition. Provide the CO unrestricted access to the laboratory for inspection and review.

**Section 155. — SCHEDULES FOR CONSTRUCTION CONTRACTS****Construction Requirements****155.04 Preliminary Construction Schedule.**

Add the following:

(j) A list of the permits required for the contract. See Section 107.

**155.05 Initial and Baseline Construction Schedule.**

Delete (a) (1) (c) and substitute the following:

(c) Show activities in the order the work will be performed, including submittals, submittal reviews, permit applications, permit reviews, fabrication, and delivery.

Delete the second sentence of (b) (2) (g) and substitute the following:

Non-construction activities include mobilization, drawing and sample submittals by pay item number, permit applications, and the fabrication and delivery of key material.

Add the following to the end of (b) (2) (g):

Refer to the permitting agencies to determine an appropriate duration for permit application review, permit approval, and distribution of permits.

**(f) Submission and approval.** Add the following to the end of the second paragraph:

No progress payments will be made until an initial construction schedule is approved by the CO.

**155.06 Baseline Schedule Updates.** Delete the second paragraph and substitute the following:

Unless previously approved by the CO, changes to the construction schedule for the work that is still to be completed, can only be changed with a Time Impact Analysis according to Subsection 108.03, and a Baseline Construction Schedule revision according to Subsection 155.07. Receipt of a baseline construction schedule update with negative float does not constitute agreement by the Government of the revised completion date.

Add the following:

**(f) Working Schedule.** At each construction progress meeting, provide the CO with a written summary detailing the work completed in the previous week and the proposed work activities for the following two weeks. Provide detail of proposed operations that will affect traffic flow, residents and businesses adjacent to the project. Provide the CO with a schedule revision if the written summary significantly differs from the baseline construction schedule or the latest construction schedule revision.

**155.07 Baseline Schedule Revision.** Delete the first paragraph and substitute the following:

Submit a time impact analysis when requesting approval of a baseline schedule revision. Submitting a proposed baseline schedule revision is not considered a notification of delay or of other basis for change. Continue to submit monthly schedule updates according to Subsection 155.06 until a baseline construction schedule revision is approved.

**Section 156. — PUBLIC TRAFFIC****Construction Requirements****156.04 Accommodating Traffic During Work.** Delete the first paragraph and substitute the following:

Accommodate traffic according to the MUTCD, contract traffic control drawings, Section 635, and this Section. Submit a traffic control plan for approval according to Subsection 104.03. Submit a traffic control plan at least 30 days before intended use

**156.05 Maintaining Roadways During Work.****(a)** Add the following:

Do not construct diversions outside of the clearing limits or use alternate route detours without the approval of the CO.

**156.07 Limitations on Construction Operations.****(c)** Delete the first sentence and substitute the following:

For alternate one-way traffic control, provide a minimum lane width of 9 feet. For two-way traffic, provide a minimum roadway width of 18 feet.

**(i)** Delete the text and substitute the following:

Limit construction-caused delays to public traffic to a maximum of 30 minutes per passage through the project. Provide access to emergency vehicles and local residents at all times.

Add the following:

**(k)** Limit the length of area affected as approved by the CO. See Subsection 108.01 for limitations on work.

**Section 157. — SOIL EROSION AND SEDIMENT CONTROL**

Delete the entire Section and substitute the following:

## **Section 157. — SOIL EROSION CONTROL, SEDIMENT CONTROL, AND STORMWATER POLLUTION PREVENTION PLAN**

### **Description**

**157.01** This work consists of preparing and managing a Stormwater Pollution Prevention Plan (SWPPP) including non-stormwater pollution prevention. This work also consists of implementing the SWPPP including but not limited to furnishing, constructing, and maintaining soil erosion and sediment control devices to eliminate or minimize pollutants in stormwater discharges from the project.

### **Material**

**157.02** Conform to the following Subsections:

Backfill material	704.03
Concrete masonry unit	725.07(c)
Fertilizer	713.03
Fiber rolls and socks	713.12
Floating turbidity curtains	713.21
Gravel bags	713.13
Mulch	713.05
Plastic lining	725.12
Prefabricated filter insert	713.20
Riprap	705.02
Rock mulch	705.07
Sandbags	713.14
Sediment filter bags	713.19
Seed	713.04
Separation and stabilization geotextile and geotextile filter	714.01(a)
Silt fence	713.16
Tackifiers	713.11(a)
Temporary culvert pipe	713.15
Temporary plastic fence	710.11
Temporary rolled erosion control products	713.17
Turf reinforcement mats	713.18
Water	725.01(b)

If using materials not listed here, see Subsection 106.04.

### **Construction Requirements**

**157.03 Qualifications.** Submit the names of personnel responsible for the following roles and qualifications for approval with SWPPP submittal:

- (a) SWPPP Developer;
- (b) Erosion Control Supervisor; and

**(c) On-Site Stormwater Lead.**

Provide documentation that personnel meet the qualifications set forth in the Construction General Permit of the state(s) that the project is located in, or the qualifications below, whichever is more stringent. Include certifications in those states where applicable. One person may serve in more than one role if qualified.

**(a) SWPPP Developer.** Provide a SWPPP Developer with all the following qualifications:

- (1)** Have completed 40 hours of stormwater management training;
- (2)** Have 5 years of highway or equivalent experience developing stormwater pollution prevention plans and designing site specific best management practices (BMPs); and
- (3)** Be registered or certified in the state(s) in which the project is located for one or more of the following:
  - (a)* Registered civil engineer;
  - (b)* Registered professional geologist or engineering geologist;
  - (c)* Licensed landscape architect;
  - (d)* Registered professional hydrologist; or
  - (e)* Other state or nationally recognized certification program for erosion and sediment control professionals.

**(b) Erosion Control Supervisor.** Provide an Erosion Control Supervisor with the following qualifications:

- (1)** Both of the following:
  - (a)* Have completed 24 hours of stormwater management training; and
  - (b)* Have 3 years of highway or equivalent construction experience that included oversight of erosion, sediment, and pollution control best management practices; or
- (2)** One of the following:
  - (a)* Meet requirements of SWPPP Developer above; or
  - (b)* Be registered or certified as a stormwater inspector from a state or nationally recognized certification program for stormwater inspectors.

**(c) On-Site Stormwater Lead.** Provide a Stormwater Lead with the following qualifications:

- (1)** Both of the following:
  - (a)* Have completed 8 hours of stormwater management training;
  - (b)* Have 1 year of highway construction experience including stormwater management duties; or

(2) One of the following:

- (a) Meet requirements of Erosion Control Supervisor;
- (b) Be registered or certified as a stormwater inspector from a state or nationally recognized certification program for stormwater inspectors.

**157.04 Roles and Responsibilities.** Furnish a Stormwater Team that is qualified to perform the following roles and responsibilities:

**(a) SWPPP Developer.** Develop and approve the SWPPP for the project based on requirements in the Construction General Permit, contract plans, and specifications. Show construction phasing of erosion, sediment, and pollution prevention BMPs for all construction activities on a site plan to meet water quality regulations. Review field changes and provide amendments to the SWPPP when substantial changes occur.

**(b) Erosion Control Supervisor.** Implement the SWPPP, which includes but is not limited to scheduling installation and maintenance of all BMPs, job site inspections, and other activities for pollution prevention. Review all inspection reports and ensure that SWPPP and Site Plan are implemented and updated.

**(c) Stormwater Lead.** Install and maintain BMPs, conduct site inspections, monitor water quality, and perform all on-site and reporting activities required to comply with the Construction General Permit. Inform the Erosion Control Supervisor when changes are made. The Stormwater Lead is required to be on the project site during working hours, and available during non-work hours to do inspections before, during, and after qualifying rain events.

**157.05 General.** Develop, submit, and manage a SWPPP or SWPPP amendment according to the Construction General Permit requirements for project location. Contract permits amend the requirements of this Section. Submit SWPPP to the CO at or before the preconstruction conference. Allow 7 calendar days for CO review and approval prior to submission to regulatory agency(ies).

Basic project information typically needed to fill out an NPDES permit and produce an acceptable SWPPP will be provided by the Government for the Contractor's use in development of the SWPPP.

When soil erosion and sediment pollution control measures are not functioning as intended, take immediate corrective action to eliminate or minimize pollutants in stormwater discharges from the project.

Provide certified weed free devices.

Do not use monofilament plastic for erosion or sediment control products.

**157.06 Controls and Limitations on Work.** Prior to the start of a construction activity, implement appropriate pollution prevention measures for the activity. No soil disturbing construction activity may begin on the project until the SWPPP has been reviewed and approved and the NOI has been accepted by the permitting agency and is active.

**157.07 Stormwater Pollution Prevention Plan.** Prepare, submit, and implement a Construction SWPPP following the SWPPP template of the state in which the project is located. Include the Federal Highway Administration as an operator on the project in charge of plans and specifications. If the state does not provide a template, follow the SWPPP template provided by the Environmental Protection Agency (EPA)

(<https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates#swppp>).

Provide a SWPPP according to the Stormwater Construction General Permit (CGP) and the following manual: “The Stormwater Practitioners Guide by the FHWA, Central Federal Lands Highway Division” (The CFL Stormwater Guide) which is available at: <https://highways.dot.gov/federal-lands/construction/cfl-stormwater-guide>

Provisions in the SWPPP are incorporated by reference into the contract. Provide an electronic copy of the SWPPP and obtain approval from the CO prior to mobilization.

Based on the approved SWPPP, provide the CO a list of the planned pollution prevention devices for each of the following: erosion controls, sediment controls, and non-stormwater controls.

Implement the SWPPP as required throughout the construction period. Modify the erosion, sediment, and non-stormwater pollution control details and SWPPP plans as necessary to accommodate project site conditions and proposed construction operations. Update the SWPPP when modifying erosion, sediment, and non-stormwater pollution controls. Provide a copy of the updated SWPPP monthly to the CO for review.

**157.08 Soil Erosion Control.** Apply erosion control measures to stabilize soils and to control temporary concentrated flows throughout the duration of the project. Construct and maintain measures according to manufacturer’s recommendations, the project requirements, and according to the following manual: “The CFL Stormwater Guide.”

**157.09 Sediment Control.** Apply sediment control measures to intercept, slow and detain the flow of stormwater throughout the duration of the project. Construct and maintain measures according to manufacturer’s recommendations, the project requirements, and according to the following manual: “The CFL Stormwater Guide.”

**157.10 Non-Stormwater Controls.** Apply non-stormwater measures as needed and as required in the SWPPP to control non-stormwater discharges, and to prevent or limit potential pollutants at their source from contact with stormwater throughout the duration of the project. Construct and maintain measures according to manufacturer’s recommendations, the project requirements, and according to the following manual: “The CFL Stormwater Guide.”

**157.11 Acceptance.** Material for erosion, sediment, and non-stormwater pollution control measures will be evaluated under Subsections 106.02 and 106.03.

Construction, maintenance, and removal of erosion control, sediment control, and non-stormwater controls will be evaluated under Subsections 106.02 and 106.04.

Separation and stabilization geotextile and geotextile filter will be evaluated under Section 207.

### **Measurement**

**157.12** Measure the Section 157 pay items listed in the bid schedule according to Subsection 109.02 and the following as applicable:

Do not measure replacement erosion, sediment, or non-stormwater pollution control measures.

Do not measure additional or changed erosion, sediment, or non-stormwater pollution control measures required when planned controls are not functioning as intended and corrective actions are taken.

### **Payment**

**157.13** The accepted quantities will be paid at the contract price per unit of measurement for the Section 157 pay items listed in the bid schedule. Payment will be full compensation for the work prescribed in this Section. See Subsection 109.05.

(a) Progress payments for SWPPP will be paid as follows:

- (1) 25 percent of the pay item amount will be paid on the approval of the SWPPP by the CO and upon receipt of authorization from the permitting agency that the project permit is active.
- (2) An additional 50 percent of the pay item amount will be prorated based on total work completed.
- (3) The remaining portion of the pay item amount will be paid when a copy of the final SWPPP and all accompanying documentation, to include, inspection reports, water quality sampling results, and annual report submittals, is submitted and accepted by the CO after the final inspection and resolution of punch list items.

(b) Progress payments for erosion and sediment control measures or devices will be paid as follows:

- (1) 80 percent of the pay item amount will be prorated based on total contract work completed.
- (2) 20 percent of the pay item amount will be paid at completion of contract after final acceptance.

## **Section 203. — REMOVAL OF STRUCTURES AND OBSTRUCTIONS**

### **Construction Requirements**

**203.03 Salvaging Material.** Add the following:



Salvage existing sign panels and deliver to the USFS Glenwood Ranger District Office.

**203.04 Removing Material.** Add the following:

The work required by removal of structures and obstructions includes, but is not limited to, removing concrete at low water crossings, existing gabion baskets, and selective tree clearing.

**203.05 Disposing of Material.**

**(a) Remove from Project.** Add the following:

Secure clearances according to Subsection 107.10.

**(b) Burn.** Delete the subsection.

**(c) Bury.** Delete the subsection.

## **Section 204. — EXCAVATION AND EMBANKMENT**

### **Materials**

**204.03.** Add the following:

Crushed aggregate	703.06
Geotextile	714.01(a)
Asphalt concrete	403, Type I

### **Construction Requirements**

**204.05 Conserved Topsoil.** Delete the first sentence and substitute the following:

Conserve topsoil from the roadway excavation and from embankment foundation areas to the extent and depth determined by the CO.

**204.07 Subexcavation.** Delete the subsection and substitute the following:

**204.07 Subexcavation.**

Use separation-stabilization geotextile, class 1, type C, Nonwoven.

Notify the CO of type and source of backfill material anticipated for subexcavation work at the preparatory phase meeting according to Subsection 153.04(a). Excavate unsuitable materials to the limits designated in the plans, or as directed by the CO. Notify the CO of any additional locations requiring subexcavation, or which require a change in surface dimension or depth. Advise the CO of any adverse conditions such as active subsurface water or unstable soil conditions prior to backfilling. Dispose of unsuitable material according to Subsection 204.14. Do not subexcavate during periods of inclement weather.

Submit a neat line drawing of the excavated volume for each subexcavation prior to backfilling. Place geotextile according to Section 207 prior to placing soil or aggregate backfill materials in the subexcavation. Place and compact soil or aggregate backfill according to Section 204.11, or Section 403 for hot asphalt concrete backfill until the subgrade elevation is achieved. Prevent backfill materials from becoming contaminated with unsuitable materials. Replace the excavated structural section with the structural section shown in the typical section of the plans. Adjust the subgrade elevation to accommodate the replacement structural section.

**204.14 Disposal of Unsuitable or Excess Material.** Add the following:

Secure environmental clearances according to Subsection 107.10(d).

**204.15.** Add the following:

Geotextile will be evaluated under Section 207.

Asphalt concrete will be evaluated under Section 403.

### Measurement

#### 204.16

**(a) Roadway Excavation.**

**(1)** Include the following volumes in roadway excavation:

*(e)* Delete the text and substitute the following:

Conserved topsoil stripped from cuts.

*(h)* Delete the text and substitute the following:

Conserved material taken from stockpiles and used in Section 204 work except topsoil measured under Section 624. Only materials required to be conserved by the CO are eligible for measurement under this item.

**(2)** Do not include the following in roadway excavation: Add the following:

*(n)* Conserved topsoil stripped from fills.

**(c) Embankment construction.** Delete the text and substitute the following:

Measure embankment construction in its final position. Do not make deductions from the embankment construction quantity for the volume of minor structures.

**(1)** Include the following volumes in embankment construction:

*(a)* Roadway embankments;

*(b)* Material used to backfill holes, pits, and other depressions; and

*(c)* Material used for dikes, ramps, mounds, and berms.

(d) Material imported into the obliteration area or exported out of the obliteration area necessary to restore obliterated roadbeds to original contours.

(2) Do not include the following volumes in embankment construction:

- (a) Preparing foundations for embankment construction;
- (b) Adjustments for subsidence or settlement of the embankment or of the foundation on which the embankment is placed;
- (c) Material used to round fill slopes;
- (d) Material used to backfill subexcavated areas; and
- (e) Material used to restore obliterated roadbeds to original contours.

**(g) Subexcavation.** Delete the text and substitute the following:

When a subexcavation pay item is shown in the bid schedule:

- (1) Measure subexcavation by the cubic yard of excavation measured in its original position
- (2) Do not measure backfill material, pavement and geotextile for payment.

### **Payment**

**204.17** Add the following:

Payment for Item 20401 is limited to ten percent of the plan quantity of excavation in the cut until the slope rounding in that cut is completed.

## **Section 251. — RIPRAP**

### **Description**

**251.01** Add the following:

This work also consists of constructing buried riprap stream armoring.

This work also consists of constructing riprap slopes and grouted riprap aprons at low water crossings. Low water crossings may be in stream on the Whitewater Creek or side drainages.

### **Material**

**251.02** Add the following:

Granular Rock Backdrain	703.17
Minor Concrete	601
Plastic Pipe	708

### **Construction Requirements**

**251.06 Grouted Riprap.** Delete the subsection and insert the following:

**251.06 Grouted Riprap.** Grouted riprap for instream crossing is rock placed or keyed on a prepared surface with the voids filled with minor concrete. Grouted Riprap gradations are shown in Table 705-1 as Class 5G. Grouted riprap also includes the installation of a bedding layer composed of granular rock backdrain. It is assumed that 30% voids will be filled when grouting using 601 concrete.

- (a) Installation Plan.** At least 30 days prior to constructing grouted riprap, submit an installation plan. Submit and be prepared to discuss the following:
- (1)** Grout (601 concrete) mix design;
  - (2)** Materials proposed for use;
  - (3)** Placement Plan;
    - a.** Cofferdams and dewatering for in-stream diversion and work
    - b.** Limits of riprap
    - c.** Method(s) of riprap placement
    - d.** Lift thickness
    - e.** Drain Pipe (weep hole) location and installation
    - f.** Method(s) of concrete placement and consolidation
    - g.** Method(s) of curing concrete grout
  - (4)** Equipment for placement of grouted riprap;
  - (5)** Schedule for placement of grouted riprap
- (b) Test Panel.** Provide 14 days notice before beginning placement of grouted riprap. Prior to beginning placement, select an area to serve as a test panel. Test panel dimensions may be up to 10 ft. x 10 ft. x layer thickness. The test panel location may be within the limits of the proposed grouted riprap. Construct the proposed granular rock backdrain, drain pipe (weepholes) and grouted riprap using the means and methods submitted in the installation plan. Do not place concrete grout without the CO present. The accepted test panel may remain in place and will be accepted and measured for payment as part of the completed work. Rejected test panels may be evaluated to remain in place at a reduced price, or be removed and replaced. Submit proposed adjustments to placement and grouting application methods for approval prior to beginning production.
- (c) Placement.** Place granular rock backdrain according to Section 204. Place Geotextile according to Section 207. Provide drain pipe (weep holes) with back screens through grouted riprap as shown in the plans and in the approved installation plan. Place riprap according Subsection 251.04. Prior to placing grout, thoroughly moisten the rocks and wash excess fines and debris from the riprap or to the underside of the riprap. Place concrete grout according to 601. Begin placing concrete grout at the lowest elevation of the riprap. Fill voids without unseating rocks. Do not place riprap in lifts exceeding 5 ft. vertically unless approved in the Installation Plan. Cure concrete according to Section 552.15(b). Cure concrete for 72 hours. Do not place next lift until the concrete grout has achieved a minimum of 70% of the design compressive strength. Place subsequent lifts in a manner that does not damage the underlying layers.

**251.07 Acceptance.** Add the following:

Cofferdams and Dewatering will be evaluated under Section 208.

Granular Rock Backdrain will be evaluated under Subsections 106.02, 106.03 and 106.04

Grouted Riprap will be evaluated under Subsections 106.02, 106.03 and 106.04.

Minor concrete will be evaluated under Section 601.

Material for drain pipe (weep holes) will be evaluated under Subsections 106.02, 106.03 and 106.04.

**Measurement****251.08 Measurement.** Add the following:

Do not measure minor concrete used to grout, material for weep holes, rock back drain, and geotextile for payment.

**Table 251-1**  
**Sampling, Testing, and Acceptance Requirements**

Material or Product (Subsection)	Type of Acceptance (Subsection)	Characteristic	Category	Test Methods Specifications	Sampling Frequency	Point of Sampling	Split Sample	Reporting Time	Remarks
Source									
Riprap (705.02)	Measured and tested for conformance (106.04 & 105)	Apparent specific gravity & absorption	—	AASHTO T 85	1 per material type	Source of material	Yes	Before using in work	—
		Soundness using sodium sulfate	—	AASHTO T 104	"	"	"	"	—
		LA abrasion	—	AASHTO T 96	"	"	"	"	—
Production									
Riprap (705.02)	Process control (153.03)	Size Methods A & B	—	See Note (2)	1 per 100 yd <sup>3</sup> per Class	In-place, and prior to grouting	"	"	—
	Measured and tested for conformance (106.02 & 106.04)	Gradation <sup>(1)</sup> Method B	—	FLH T 521	1 per 1000 yd <sup>3</sup> per Class	Stockpile or in-place <sup>(3)</sup>	No	24 hours	—
Concrete (601)	Measured and Tested for Conformance (106.02, & 106.04)	Refer, sample and test according to Table 601-2							

(1) Notify CO at least 7 days before performing test.

(2) Verify riprap class by confirming that the largest accessible rock has an intermediate dimension greater than the upper limit of the D85 size range specified in Table 705-1.

(3) Point of sampling to be approved by CO.

**Section 253. – GABIONS AND REVET MATTRESSES****Description**

**253.01** Delete the Subsection and insert the following:

253.03 This work consists of constructing rock filled gabion structures. This work also consists of constructing a concrete cap on top of the gabion walls as shown in the plans.

(a) Gabion baskets. A rock filled wire enclosure having a height of 12 inches (300 millimeters) or greater.

**Material**

**253.02** Add the following:

Concrete	601
Select granular backfill	704.08

**Construction Requirements**

**253.03 General.** Delete the first sentence and substitute the following:

Survey according to Section 152 and verify the limits of the structure.

**253.05 Structure Erection.** Add the following to the first paragraph:

For gabion structures, grade the foundation for a width equal to the width of the gabion plus 2 feet. Where gabions are set on rocky foundations, place 6 inches of select granular backfill under the baskets.

**253.07** Add the following subsection:

**253.07A Concrete Cap.**

Construct a reinforced concrete cap on top of the gabion wall structure. Reinforce with W6 x W6 wire mesh. Dowel together the concrete cap to the concrete pavement.

**253.09 Acceptance.** Add the following:

Concrete will be evaluated under Section 601

Reinforcing Steel will be evaluated under Section 554.

**Measurement**

**253.10** Add the following:

Do not measure concrete cap on gabion wall or reinforcing steel or mesh.

## Section 302. — MINOR CRUSHED AGGREGATE

### 302.06 Acceptance. Add the following to the second paragraph:

Sample material at the frequency shown in Table 302-1. Materials that do not meet the approved certification will be considered unacceptable.

Delete Table 302-1 and substitute the following:

**Table 302-1**  
**Sampling, Testing, and Acceptance Requirements**

Material or Product (Subsection)	Type of Acceptance (Subsection)	Characteristic	Test Methods Specifications	Sampling Frequency	Point of Sampling	Split Sample	Reporting Time	Remarks
<b>Production</b>								
Crushed aggregate <sup>(1)</sup>	Measured and tested for conformance (106.04)	Moisture-Density	AASHTO T 180, Method D <sup>(3)</sup>	1 per aggregate supplied	Production output or stockpile	Yes	Before using in work	For Method 2 compaction only
		Gradation <sup>(2)</sup>	AASHTO T11 and T27	1 per 500 tons (450 metric tons)	From the windrow or roadbed after processing.	Yes	Before placing next layer	
		Density	AASHTO T310 or other approved procedures	1 per 500 tons (450 metric tons)	In-place after compaction	No	Before placing next layer	
Crushed aggregate	Process control (153.03)	Moisture content (in-place)	AASHTO T310 or other approved procedures	1 per 500 tons (450 metric tons)	In-place after compaction	No	Before placement of next layer or as requested	
<b>Finished Product</b>								
Crushed aggregate	Measured and tested for conformance (106.04)	Surface tolerance & grade	Subsection 301.06	Determined by the CO	Surface of final course	No	Before placement of next layer or as requested	

<sup>(1)</sup> Sampling and testing required for roadway aggregate.

<sup>(2)</sup> Use only sieves indicated for the specified gradation.

<sup>(3)</sup> Minimum of 5 points per proctor.



## **Section 401. — ASPHALT CONCRETE PAVEMENT BY GYRATORY MIX DESIGN METHOD**

### **Description**

**401.01** Delete the second paragraph and substitute the following:

Asphalt concrete pavement nominal maximum size aggregate is designated according to Tables 401-1 and 703-4. Equivalent single axle loads (ESAL) or number of gyrations at design ( $N_{\text{Design}}$ ) is designated according to Table 401-1.

Delete the fifth paragraph and substitute the following:

Antistrip additive type is designated according to Subsection 702.05. A minimum of one percent Type 3 (lime) is required in the asphalt concrete mixture.

Add the following:

Pavement roughness for the project is shown below:

Schedule A: Type III-B, and IV as shown in Subsection 401.16.

Option X: Type IV as shown in Subsection 401.16.

Option Y: Type III-B, and IV as shown in Subsection 401.16.

Asphalt binder grade is PG 64-22. The Pressure Aging Vessel test temperature shall be 212°F (100°C).

### **Construction Requirements**

**401.03 Composition of Mix (Job-Mix Formula).** Add the following after the first paragraph:

Compact specimens with the gyratory effort corresponding to the design ESAL level of 0.3 to <3 million. Use a gyratory compactor which meets the internal angle requirement according to AASHTO T 312.

If more than 1.0 percent hydrated lime is proposed in the JMF, provide AASHTO T 283 test results showing the additional lime is necessary to meet the minimum tensile strength ratio requirements in Table 401-1.

#### **(c) Submission**

##### **(1) Aggregate and mineral filler.**

(a) Target values: Delete line (2) and substitute the following:

(2) Designate target values within the gradation band specified for the nominal maximum size aggregate grading shown in Table 703-4. Allowable deviations are shown in Table 703-5:

**(2) Asphalt binder.** Add the following:

(e) Laboratory mixing and compaction temperatures and maximum plant mixing temperature

**(3) Antistrip additives.** Add the following:

(e) Dosage rate.

**(4) RAP.** Add the following:

(f) Optional sheet for RAP on Form FHWA 1641.

**(d) Verification.** Delete the first paragraph and substitute the following:

The verification process starts when all required job mix formula documentation and materials are received. The CO will review the job mix formula and may perform job mix formula verification testing. If verification testing is performed, the information supplied in the Contractor's job mix formula must agree with the verification test results within the tolerances shown below. Do not begin asphalt concrete mix production for the control strip until the JMF has been approved.

Delete lines (3) and (4) and substitute the following:

**(3) Bulk specific gravity of aggregate ( $G_{sb}$ ).** The Contractor's coarse and fine  $G_{sb}$  is verified if the CO's results are within 0.038 for AASHTO T 85 and 0.066 for AASHTO T 84.

**(4) Voids in the mineral aggregate (VMA).** The Contractor's VMA is verified if the CO's result is within the specification limit in Table 401-1.

Add the following:

**(8) Hveem stabilometer value.** The Contractor's Hveem stabilometer value is verified if the CO's result is above the minimum specification of 30.

**Table 401-1 Gyratory Asphalt Concrete Mix Design Requirements, AASHTO R 35.** Add the following note:

(4) For AASHTO T 283, use 4-inch (100-millimeter) diameter specimens. Note that AASHTO T 283 requires a freeze-thaw cycle.

**401.05 Equipment.**

**(b) Materials Transfer Vehicle (MTV).** Delete this Subsection and substitute the following:

**(b) Materials Transfer Vehicle (MTV).** Furnish an MTV with the following:

- (1) Independently operated with its own driver/operator;
- (2) Independent from the paver;
- (3) A loading system with the ability to receive mixtures from hauling equipment;
- (4) A minimum storage capacity of 15 tons (13.6 metric tons) with a remixing system in the material storage bin;
- (5) Remixing capability within the storage bin;
- (6) A discharge conveyor to deliver the mixture to the paver hopper; and
- (7) A mass not exceeding the maximum legal loadings on structures.

Pick-up machines, hopper inserts, and material transfer devices are not considered MTVs.

In the event the MTV malfunctions during paving operations, the Contractor must suspend paving, however mix in transit and stored in the silo at the time of breakdown may be placed without the use of an MTV. Do not resume mix placement until the MTV is operational.

**401.14 Compacting.** Add the following:

Do not cause cracking, shoving, or undue displacement. Continue rolling until all roller marks are eliminated, all cracks are sealed, and the required density is obtained. For HMA, do not roll the mix after the surface cools below 175 °F (80°C).

**401.15 Joints, Trimming Edges, and Cleanup.** Add the following:

Make the longitudinal joint in the top layer at the centerline of the pavement on two-lane roadways or at the lane lines of roadways with more than two lanes. Establish the centerline of the pavement from recorded data defined in Subsection 152.05(b) or construction staking data if provided by the government. Offset the longitudinal joint in the layer immediately below at least 6-inches (150-millimeters) from the joint.

For curve widening see the plans for locations and details. For two-lane roadways make the longitudinal joint at the centerline of the pavement. Do not vary the shoulder width where curve widening exists.

At connections to existing pavements and previously placed lifts, make the transverse joints vertical to the depth of the new pavement. Form transverse joints by cutting back the previous run to expose the full-depth of the course.

Delete Subsection 401.16 and substitute the following:

**401.16 Pavement Roughness.** Measure the profile of the pavement surface according to the designated pavement roughness type. In addition, construct pavement surfaces to meet the requirements of Subsection 401.16(e).

**(a) Profile measurement.** The CO will use profile measurements to determine the Mean Roughness Index (MRI) values for the traveled way using the current version of Profile Viewer and Analysis (ProVAL) software. The CO will also determine areas of localized roughness. The MRI and areas of localized roughness will be used to determine payment for the designated pavement roughness type and pavement areas requiring surface corrections.

Conform to the following:

**(1) Equipment.** Provide an ASTM E950, Class 1 inertial profiling system conforming to AASHTO M 328 and certified according to AASHTO R 56. Provide copies of the system certifications at least 21 days before profiling begins. Display a current decal on the equipment indicating the expiration date of the certifications.

The CO may perform verification testing, equipment validation, or both as follows:

*(a) Verification testing.* Verification testing will consist of the CO profiling a section of pavement and comparing the results against the Contractor's results for the same section of pavement. Comparison runs will be made within 21 days of each other. The Contractor's results will be considered verified if the CO's International Ride Index (IRI) for each wheel path differs from the Contractor's IRI for the same wheel path by no more than 10 percent of their mean. Do not use equipment that fails verification.

*(b) Equipment validation.* Equipment validation will consist of determining a cross correlation value on at least one section of pavement having a minimum length of 528 feet (161 meters). The Contractor's profiler and the CO's profiler will be cross correlated on the same day. Coordinate and schedule the equipment validation date at least 14 days before the validation date. The CO will determine the location of the cross correlation segments. The Contractor's equipment will be considered validated if the cross correlation value is greater than or equal to 0.90. Do not use equipment that fails validation.

**(2) Personnel.** Provide the following:

*(a)* A profile system operator certified according to AASHTO R 56. Submit copies of the operator's certifications at least 21 days before profiling begins.

*(b)* Flaggers, pilot car operations, or other temporary traffic control according to Section 635 as required.

**(3) Measuring.** The CO will identify the beginning and ending points of the profile measurements. Measure the pavement profile in both wheel paths using a sensor path spacing of 65 - 71 inches (1650 - 1800 millimeters) and centered in the traveled way of the lane. Operate the inertial profiler according to AASHTO R 57 and the manufacturer's recommendations. Do not apply filters when collecting profile data. Filtering will be applied during profile analysis in ProVAL. Collect profile data (elevation and distance) at a maximum interval of 2 inches (50 millimeters). Provide a lead-in distance of at least 150 feet (45 meters) after reaching the testing speed. Use the profiler's automatic start/stop activation when collecting data.

The CO will identify excluded areas. Cattle guards, bridges not being overlaid, and turning lanes, passing lanes, side roads less than 500 feet (150 meters), and ramps less than 1,000

feet (300 meters) in length will be excluded from profile measurement, the calculation of MRI, and the determination of localized roughness. Use event markers to mark the beginning and ending location of areas to be excluded from profile measurement. Measure excluded areas with a straightedge according to Subsection 401.16(e).

Coordinate profiling operations with the CO. Export each profile (elevation, distance data, header, and marker information) in pavement profile format (ppf) and format specific to the profiler manufacturer to a CD or DVD and submit after profiling. Do not submit non-continuous data files.

Use the following naming convention for electronic file submissions:

(a) For Type I and Type II pavement roughness:

[Project Name (or abbreviation)] \_ [beginning station \_to\_ ending station] \_ [Initial or Final],

Beaver\_Cr\_Rd\_25+50\_to\_387+35\_Initial.ppf.

(b) For Type III pavement roughness:

[Project Name (or abbreviation)] \_ [beginning station \_to\_ ending station],

Beaver\_Cr\_Rd\_25+50\_to\_387+35.ppf.

**(4) Evaluation.** The CO will review and analyze profile measurements. The MRI will be calculated from profile measurements using ProVAL.

Using ProVAL, a high pass filter length of 300 feet (90 meters) and a low pass filter of 10 inches (250 millimeters) will be applied to the profiles. Individual MRI values are determined by averaging the IRI value from each wheel path. Fixed interval MRI values are reported as an average of the individual MRI values over the fixed interval length. An overall MRI value will be determined by averaging the individual MRI values, excluding segments less than 25 feet (7.62 meters) for Type I and Type II pavement roughness or 528 feet (161 meters) for Type III pavement roughness.

Areas of localized roughness will be identified by using ProVAL's continuous MRI function with a segment length of 25 feet (7.62 meters). This will yield an average MRI value and a length for each area of localized roughness which exceeds the localized roughness threshold value of every possible 25-foot (7.62-meter) segment. Areas for which the continuous report exceeds the threshold MRI value for the specified roughness type area defective areas. When corrections are not allowed, a reduction in payment will be applied according to Subsection 401.16(f). No deduction will be made for areas of localized roughness identified within 12.5 feet (3.81 meters) of the beginning or end of a profile section or within 12.5 feet (3.81 meters) of excluded areas. Measure these areas with a straightedge according to Subsection 401.16(e).

**(b) Type I pavement roughness.** Measure the profile of the initial pavement surface before construction activities disturb the existing pavement surface. The initial pavement surface is defined as the existing pavement surface before construction activities begin. The localized roughness threshold computed to the nearest whole number for Type I pavement roughness is equal to the following:

Localized Roughness Threshold = Initial Overall MRI + 1.881(S<sub>25</sub>)

where:

Initial Overall MRI = MRI obtained before construction activities begin.

S<sub>25</sub> = sample standard deviation of the 25 foot (7.62 meters) fixed interval MRI values.

Do not proceed with work that will disturb the initial pavement surface until the CO's analysis is complete.

Measure the profile of the final pavement surface before placing a surface treatment and within 14 days of completing roadway paving. The original overall surface MRI will be used in conjunction with the final overall MRI to determine an overall percent improvement for the entire traveled way.

The overall percent improvement in MRI will be determined to one decimal place for the traveled way according to the following formula:

$$\% \text{ Improvement} = [(\text{Initial Overall MRI} - \text{Final Overall MRI}) / \text{Initial Overall MRI}] \times 100$$

Table 401-3 will be used to determine the final pay factor (PF<sub>rough</sub>) for the traveled way to two decimal places.

No defective area corrections are allowed on the final pavement surface except at locations that do not meet Subsection 401.16(e). Correct locations that do not meet Subsection 401.16(e) according to Subsection 401.16(g).

Correct areas of localized roughness according to Subsection 401.16(g). If a pavement has an overall negative percent improvement, place a minimum 1-inch (25-millimeter) overlay over the entire paved surface.

If a pavement has less than an overall negative percent improvement, place a minimum 1-inch (25-millimeter) overlay over the entire paved surface.

**Table 401-3**  
**Type I Pavement Roughness Pay Factors**

Type I-A	Type I-B	
Percent Improvement (%)	Percent Improvement (%)	Pay Factor (PF <sub>rough</sub> )
Greater than 50.0	Greater than 45.0	PF = 1.05
47.6 – 50.0	44.0 – 45.0	PF = 1.04
45.1 – 47.5	43.0 – 43.9	PF = 1.03
43.6 – 45.0	41.6 – 42.9	PF = 1.02
42.1 – 43.5	40.1 – 41.5	PF = 1.01
25.0 – 42.0	20.0 – 40.0	PF = 1.00
24.0 – 24.9	19.0 – 19.9	PF = 0.99
23.0 – 23.9	18.0 – 18.9	PF = 0.98
22.0 – 22.9	17.0 – 17.9	PF = 0.97

21.0 – 21.9	16.0 – 16.9	PF = 0.96
20.0 – 20.9	15.0 – 15.9	PF = 0.95
19.0 – 19.9	14.0 – 14.9	PF = 0.94
18.0 – 18.9	13.0 – 13.9	PF = 0.93
17.0 – 17.9	12.0 – 12.9	PF = 0.92
16.0 – 16.9	11.0 – 11.9	PF = 0.91
15.0 – 15.9	10.0 – 10.9	PF = 0.90
14.0 – 14.9	9.0 – 9.9	PF = 0.89
13.0 – 13.9	8.0 – 8.9	PF = 0.88
12.0 – 12.9	7.0 – 7.9	PF = 0.87
11.0 – 11.9	6.0 – 6.9	PF = 0.86
10.0 – 10.9	5.0 – 5.9	PF = 0.85
5.0 – 9.9	4.0 – 4.9	PF = 0.80
0.0 – 4.9	0.0 – 3.9	PF = 0.70
Negative % Improvement	Negative % Improvement	Correct & overlay

**(c) Type II pavement roughness.** Measure the profile of the initial pavement surface before construction activities disturb the pavement surface. The initial pavement surface is defined as the original existing pavement surface before construction activities begin. The localized roughness threshold computed to the nearest whole number for Type II pavement roughness is equal to the following:

$$\text{Localized Roughness Threshold} = \text{Initial Overall MRI} + 1.282(S_{25})$$

where:

Initial Overall MRI = MRI obtained before construction activities begin.

( $S_{25}$ ) = sample standard deviation of the 25-foot (7.62-meter) fixed interval MRI values.

Do not proceed with work that will disturb the initial pavement surface until the CO's analysis is complete.

Measure the profile of the final pavement surface before placing a surface treatment and within 14 days of completing roadway paving. The original overall surface MRI will be used in conjunction with the final overall MRI to determine an overall percent improvement for the entire traveled way.

The overall percent improvement in MRI will be determined to one decimal place for the traveled way according to the following formula:

$$\% \text{ Improvement} = [(\text{Initial Overall MRI} - \text{Final Overall MRI}) / \text{Initial Overall MRI}] \times 100$$

Table 401-4 will be used to determine the final  $PF_{\text{rough}}$  for the traveled way to two decimal places.

No defective area corrections are allowed on the final pavement surface except at locations that do not meet Subsection 401.16(e). Correct locations that do not meet Subsection 401.16(e) according to Subsection 401.16(g).

Lower paving lifts can be profiled to locate areas of localized roughness and estimate the final profile pay factor. Defective areas can be corrected on lower paving lifts according to 401.16(g).

If a pavement has less than a 20.0 percent improvement, place a minimum 1-inch (25-millimeter) overlay over the entire paved surface.

**Table 401-4**  
**Type II Pavement Roughness Pay Factors**

Type II-A	Type II-B	
Percent Improvement (%)	Percent Improvement (%)	Pay Factor (PF <sub>rough</sub> )
Greater than 65.0	Greater than 55.0	PF = 1.05
64.0 – 64.9	54.0 – 54.9	PF = 1.04
63.0 – 63.9	53.0 – 53.9	PF = 1.03
62.0 – 62.9	52.0 – 52.9	PF = 1.02
61.0 – 61.9	51.0 – 51.9	PF = 1.01
60.0 – 60.9	50.0 – 50.9	PF = 1.00
59.0 – 59.9	49.0 – 49.9	PF = 0.99
58.0 – 58.9	48.0 – 48.9	PF = 0.98
57.0 – 57.9	47.0 – 47.9	PF = 0.97
56.0 – 56.9	46.0 – 46.9	PF = 0.96
55.0 – 55.9	45.0 – 45.9	PF = 0.95
54.0 – 54.9	44.0 – 44.9	PF = 0.94
53.0 – 53.9	43.0 – 43.9	PF = 0.93
52.0 – 52.9	42.0 – 42.9	PF = 0.92
51.0 – 51.9	41.0 – 41.9	PF = 0.91
50.0 – 50.9	40.0 – 40.9	PF = 0.90
48.0 – 49.9	38.0 – 39.9	PF = 0.89
46.0 – 47.9	36.0 – 37.9	PF = 0.88
44.0 – 45.9	34.0 – 35.9	PF = 0.87
42.0 – 43.9	32.0 – 33.9	PF = 0.86
40.0 – 41.9	30.0 – 31.9	PF = 0.85
35.0 – 39.9	25.0 – 29.9	PF = 0.80
30.0 – 34.9	20.0 – 24.9	PF = 0.70
Less than 30.0	Less than 20.0	Correct & overlay

**(d) Type III pavement roughness.** Measure the profile of the final pavement surface for payment. Measure the profile before placing a surface treatment and within 14 days of completing roadway paving. No defective area corrections are allowed on the final pavement



## CATWALK ACCESS ROAD

surface except at locations that do not meet Subsection 401.16(e). Submit electronic files and the analysis to the CO for analysis. Correct locations that do not meet Subsection 401.16(e) according to Subsection 401.16(g).

Pay factors from Table 401-5 will be used in conjunction with the long continuous histogram printout from ProVAL's Smoothness Assurance Analysis function utilizing a long continuous 528-foot (161-meter) segment length for analysis. The final  $PF_{\text{rough}}$  is equal to the sum of the products of the individual pay factors indicated in Table 401-5 multiplied by the ratio of individual lane miles (lane kilometers) to the overall project lane miles (lane kilometers) and by ProVAL's corresponding histogram percentages, divided by 100. The final  $PF_{\text{rough}}$  will be determined to three decimal places.

Lower paving lifts can be profiled to locate areas of localized roughness and estimate the final profile pay factor. Defective areas can be corrected on lower paving lifts according to 401.16(g).

If the final roadway MRI for the entire traveled way is greater than the value shown in Table 401-5, place a minimum 1-inch (25-millimeter) overlay over the entire paved surface.

**Table 401-5**  
**Type III Pavement Roughness Pay Factors**

<b>Mean Roughness Index (MRI) Type III-A in/mi (m/km)</b>	<b>Mean Roughness Index (MRI) Type III-B in/mi (m/km)</b>	<b>Pay Factor (<math>PF_{\text{rough}}</math>)</b>
Localized roughness threshold 170 in/mi (2.681 m/km)	Localized roughness threshold 190 in/mi (2.996 m/km)	
If MRI of entire roadway is greater than 125 in/mi (1.973 m/km)	If MRI of entire roadway is greater than 140 in/mi (2.210 m/km)	Correct with Overlay
Greater than 95.0 (1.50)	Greater than 110.0 (1.74)	0.700
95.0 – 90.0 (1.50 – 1.42)	110.0 – 105.0 (1.74 – 1.66)	0.750
90.0 – 85.0 (1.42 – 1.34)	105.0 – 100.0 (1.66 – 1.58)	0.800
85.0 – 80.0 (1.34 – 1.26)	100.0 – 95.0 (1.58 – 1.50)	0.850
80.0 – 75.0 (1.26 – 1.18)	95.0 – 90.0 (1.50 – 1.42)	0.900
75.0 – 70.0 (1.18 – 1.10)	90.0 – 85.0 (1.42 – 1.34)	0.950
70.0 – 65.0 (1.10 – 1.02)	85.0 – 80.0 (1.34 – 1.26)	0.970
65.0 – 60.0 (1.02 – 0.94)	80.0 – 75.0 (1.26 – 1.18)	1.000
60.0 – 55.0 (0.94 – 0.86)	75.0 – 70.0 (1.18 – 1.10)	1.010
55.0 – 50.0 (0.86 – 0.78)	70.0 – 65.0 (1.10 – 1.02)	1.020
50.0 – 45.0 (0.78 – 0.70)	65.0 – 60.0 (1.02 – 0.94)	1.030
45.0 – 40.0 (0.70 – 0.62)	60.0 – 55.0 (0.94 – 0.86)	1.040
40.0 – 35.0 (0.62 – 0.54)	55.0 – 50.0 (0.86 – 0.78)	1.050

**(e) Type IV straightedge measurement.** Use a 10 foot (3.0 meters) metal straightedge to measure at right angles and parallel to the centerline. Defective areas are deviations between the surface and the bottom of the straightedge in excess of ¼ inches (6 millimeters) measured between two contacts of the straightedge or deviations in excess of ¼ inches (6 millimeters)

measured at the end of the straightedge. Correct defective areas according to Subsection 401.16(g).

**(f) Localized roughness area pay reduction.** Each area of localized roughness exceeding the threshold MRI specified for the designated pavement roughness type will receive a reduction in payment according to Table 401-6.

**Table 401-6**  
**Localized Roughness Area Pay Reductions**

Type I	Type II	Localized Roughness Limit MRI	Localized Roughness Limit MRI, in/mi (m/km)	Type III-A	Type III-B
Deduction per Occurrence	Deduction per Occurrence			Deduction per Occurrence	Deduction per Occurrence
\$200	\$300	Computed MRI value per Subsection	170.0 – 179.9 (2.681 – 2.838)	\$200	-
		401.16(b) for Type I	180.0 – 189.9 (2.839 – 2.995)	\$400	-
		401.16(c) for Type II	190.0 – 199.9 (2.996 – 3.154)	\$600	\$300
		401.16(d) for Type III	200.0 – 209.9 (3.155 – 3.311)	\$800	\$400
			210.0 – 219.9 (3.312 – 3.469)	\$1,000	\$500
			220.0 – 229.9 (3.470 – 3.626)	\$1,500	\$750
			230.0 – 239.9 (3.627 – 3.784)	\$2,000	\$1,000
			≥ 240.0 (3.785)	\$4,000	\$1,500

**(g) Defective area correction.** Submit a proposal for correction method. Obtain approval before starting corrective work. Allow 7 days for review and approval of correction method proposal.

After corrections are made, re-measure the pavement profile according to Subsection 401.16(a). Data from the re-measurement will be analyzed to determine the MRI or percent improvement, areas of localized roughness, and the final PF<sub>rough</sub>.

**401.17 Acceptance.** Delete (b) and substitute the following:

**(b) VMA.** The specification limit shown in Table 401-1. After the JMF has been verified according to Subsection 401.03 and 401.12, use the Contractor's combined coarse and fine bulk specific gravity of aggregate  $G_{sb}$  values to calculate VMA on field produced asphalt concrete mix samples;

### Payment

**401.19** Delete the equation for Roughness Factor (RF) and substitute the following:

RF = Roughness factor: 80,000 U.S. Customary (49,600 Metric).

Delete the last row of Table 401-8 and substitute the following:

**Table 401-8 (continued)**  
**Sampling, Testing, and Acceptance Requirements**

Material or Product (Subsection)	Type of Acceptance (Subsection)	Characteristic	Test Methods Specifications	Sampling Frequency	Point of Sampling	Split Sample	Reporting Time	Remarks
<b>Finished Product</b>								
Asphalt concrete pavement	Measured and tested for conformance (106.04)	Type I roughness, before construction (Initial MRI)	AASHTO R 56 & R 57	See Subsection 401.16	Left and right wheel paths	No	Within 14 days of Notice to Proceed	Original surface before construction
		Type I roughness, after construction (Final MRI)	"	"	"	"	Within 21 days after completing paving	Surface after construction
		Type II roughness, before construction (Initial MRI)	"	"	"	"	Within 14 days of Notice to Proceed	Original surface before construction
		Type II roughness, after construction (Final MRI)	"	"	"	"	Within 21 days after completing paving	Surface after construction
		Type III roughness (Final MRI)	"	"	"	"	Within 21 days after completing paving	Surface after construction
	Process control (153.03)	Surface tolerance	Straightedge measurements Subsection 401.16(e)	Contractor determined	See Subsection 401.16(e)	"	24 hours	

### **Section 501. — MINOR CONCRETE PAVEMENT**

#### **Material**

**501.02** Add the following Section:

Reinforcing Steel

554

**Construction Requirements****501.03 Composition (Concrete Mix Design).** Delete Table 501-1 and insert the following:

**Table 501-1**  
**Composition of Concrete**

<b>Minimum Cement Content (pounds per cubic yard)</b>	<b>Minimum Compressive Strength @ 28-Days, f'c, psi</b>	<b>Maximum Water/ Cementitious Material Ratio</b>	<b>Slump (maximum)</b>	<b>Air Content (%)</b>	<b>Coarse Aggregate Size Number AASHTO M 43<sup>(1)</sup></b>
611	4500	0.45	4 inches (fixed form)	4.5 – 7.5	56, 57, 67, 68

(1) Meet the processing requirements of AASHTO M 43, *Table 1 – Standard Sizes of Processed Aggregate*.

**501.09 Surface Finishing.** Add the following to the 4<sup>th</sup> paragraph:

Provide a transverse tine finish according to (a).

**501.10 Curing.** Delete the Subsection and insert the following:

**501.10 Curing.** Immediately after finishing and when marring will not occur, cure the surface and exposed sides of concrete for a minimum of 72 hours. Do not leave the concrete exposed for more than 30 minutes during the curing period. Cure using both of the following methods (a) and (b):

**(a) Water method.** Cure according to Subsection 552.15(b). Cover the entire surface of the pavement and edges of the slab with water saturated mats. Extend the mats at least twice the thickness of the pavement beyond the edges of the slab. Place the mats in complete contact with the surface. Use weights or other approved methods to maintain contact.

**(b) Liquid membrane curing compound method.** Cure according to Subsection 552.15(c). Protect sawed joints from intrusion of foreign material into the joint before sealing. Repair damaged areas immediately with additional compound.

For temperature and weather conditions follow the requirements of Subsection 552.10.

Remove forms when the concrete has hardened sufficiently to resist damage but not earlier than 12 hours after placing concrete. Protect the sides of the exposed slabs immediately with a curing method equal to that provided for the surface. Prevent erosion of the base course beneath the exposed pavement edges until shoulders are constructed.

**501.14 Acceptance.** Add the following:

Reinforcing steel will be evaluated under Section 554.

**Section 601. — MINOR CONCRETE STRUCTURES****601.03 Composition (Concrete Mix Design).** Delete Table 601-1 and insert the following:

**Table 601-1**  
**Composition of Minor Concrete**

<b>Minimum Cement Content (pounds per cubic yard)</b>	<b>Minimum Compressive Strength @ 28-Days, f'c, psi</b>	<b>Maximum Water/ Cementitious Material Ratio</b>	<b>Slump (maximum)</b>	<b>Air Content (%)</b>	<b>Coarse Aggregate Size Number AASHTO M 43<sup>(1)</sup></b>
611	3000 2000 <sup>(2)</sup>	0.45	5 inches 9 inches <sup>(2)</sup>	4.5 – 7.5	56, 57, 67, 68

(1) Meet the processing requirements of AASHTO M 43, *Table 1 – Standard Sizes of Processed Aggregate*.

(2) Applies to concrete for grouted riprap only.

**601.07 Acceptance.** Add the following:

The concrete mixture's density, air content, slump, temperature, and compressive strength will be evaluated under Subsections 106.02 and 106.04.

**Table 601-2**  
**Sampling, Testing, and Acceptance Requirements**

Material or Product (Subsection)	Type of Acceptance (Subsection)	Characteristic	Test Methods Specifications	Sampling Frequency	Point of Sampling	Split Sample	Reporting Time	Remarks
<b>Source</b>								
Aggregate (703.01 & 703.02)	Measured and tested for conformance (106.04 & 105)	Quality	Subsection 703.01 & 703.02	1 per material type	Source of material	Yes	Before producing	—
<b>Mix Design</b>								
Concrete Composition (601.03)	"	All	Subsection 601.03	1 per mix design	"	If requested	"	—
<b>Production</b>								
Concrete <sup>(1)</sup>	Measured and tested for conformance (106.04)	Density	AASHTO T 121	1 set per 30 yd <sup>3</sup> (25 m <sup>3</sup> ), but not less than 1 per day	Discharge stream at point of placing	No	Upon completing tests	Deliver cylinders to the CO or designated laboratory for scheduled testing
		Air content	AASHTO T 152 or AASHTO T 196	"	"	No	"	
		Slump	AASHTO T 119	"	"	No	"	
		Temperature	ASTM C1064	"	"	No	"	
		Compressive strength <sup>(2)(3)</sup> (28-day)	AASHTO T 23 & T 22	1 set per 30 yd <sup>3</sup> (25 m <sup>3</sup> ), but not less than 1 per day	Discharge stream at point of placing	Yes	28 days	

(1) Sample according to AASHTO R 60, except composite samples are not required.

(2) Cast at least four compressive strength test cylinders for 6- by 12-inch (150- by 300-millimeter) specimens or six compressive strength cylinders for 4- by 8-inch (100- by 200-millimeter) and carefully transport the cylinders to the job site curing facility.

(3) A single compressive strength test result is the average result from two 6- by 12-inch (150- by 300-millimeter) or three 4- by 8-inch (100- by 200-millimeter) cylinders cast from the same load.

(4) If the point of placement is different from the point of discharge, correlate the discharge tests with the placement tests to document the changes.

**Section 623. — GENERAL LABOR**

Delete the text of this Section and substitute the following:

**Description**

**623.01** This work consists of furnishing workers and hand tools for construction work, survey crews, and furnishing qualified personnel to perform technical work ordered by the CO and not otherwise provided for under the contract.

**623.02 Workers and Equipment.** Furnish competent workers and appropriate hand tools for the work.

Obtain approval of the length of a workday and workweek before beginning the work. Keep daily records of the number of hours worked. Submit the records along with certified copies of the payroll.

**623.03 Surveying Services.** Furnish personnel, equipment, and material that conform to the requirements of Subsection 152.01. Survey according to Section 152.

Survey and establish controls within the tolerances shown in Table 152-1, or within other tolerances as established by the CO.

Prepare field notes in an approved format. Furnish calculations. All field notes, supporting documentation, and calculations become the property of the Government upon completion of the work.

**623.04 Office Technical Services.** Furnish qualified engineering personnel experienced in highway construction and design, capable of performing in a timely and accurate manner. Provide personnel with a minimum of NICET Level II certification in highway design and construction, or State (SHA) or industry certification-related design and construction equivalent to their intended responsibilities. Personnel with 2 years or more of recent job experience in the type of highway design and construction provided for under the contract may be used in lieu of certifications. Provide the names and relevant experience of all personnel. Furnish supporting tools and equipment (e.g., calculator, computer; and software, and appropriate and commonly-used drafting tools for the assigned task).

All calculations, notes, and supporting documentation become the property of the government upon completion of the work.

**623.05 Acceptance.** General labor work will be evaluated under Subsection 106.02.

Additional surveying services will be evaluated under Section 152.

Hired technical services will be evaluated under Subsections 106.02 and 106.04

**Measurement**

**623.06** Measure the Section 623 items listed in the bid schedule according to Subsection 109.02 and the following as applicable.

Round portions of an hour up to the nearest half hour. Measure time in excess of 40 hours per week at the same rate as the first 40 hours.

For surveying services, the minimum field survey crew is two persons. Measure surveying service by the crew hour. Do not measure time spent in making preparations, performing calculations, plotting cross-sections, processing computer or other data, and other efforts necessary to successfully accomplish the ordered survey services.

Do not measure time for worker's transportation to and from the project site.

Measure office technical services by the hour, as ordered by the CO, for performing calculations, plotting cross-sections, and processing computer or other data.

### **Payment**

**623.07** The accepted quantities will be paid at the contract price per unit of measurement for the Section 623 pay item listed in the bid schedule. Payment will be full compensation for the work prescribed in this section. See Subsection 109.05.

## **Section 625. — TURF ESTABLISHMENT**

### **Construction Requirements**

**625.03 General.** Delete the first paragraph and substitute the following:

Do not perform revegetation work when the ground is excessively wet, frozen (below 32°F), snow covered, extremely dry, cobby, hard pan, or not friable. Do not perform revegetation work when winds exceed fifteen miles per hour, as measured with a wind meter by the inspector. The anticipated seeding window will be mid-March through end of October.

### **Measurement**

**625.11** Delete the second sentence and substitute the following:

When measuring turf establishment and supplemental applications by the acre (hectare) or square yard (square meter), measure on the ground surface.

## **Section 629. — ROLLED EROSION CONTROL PRODUCTS AND CELLULAR CONFINEMENT SYSTEMS**

### **Description**

**629.01** Add the following:



This work also consists of placing permanent rolled erosion control products on slopes with a finish grade of 1:2 (rise:run) or steeper.

### **Construction Requirements**

**629.05 (a) Slope Installations.** Delete the text and substitute the following:

**(a) Slope Installations.** At the top of the slope, anchor the RECP by using an anchor trench.

**(1) Anchor trench.** Construct a 6- by 6-inch trench. Extend the upslope terminal end of the RECP 36 inches past the trench. Use staples on 12-inch centers to fasten the RECP into the trench. Backfill the trench and compact the soil. Secure the terminal end with a single row of staples on 12-inch centers and cover the end with soil. Apply turf establishment to trench.

Securely fasten all RECP to the soil by installing staples according to the manufacturer's recommendations.

## **Section 633. — PERMANENT TRAFFIC CONTROL**

### **Description**

**633.01** Add the following:

This work also consists of installing Government furnished sign panels and sign systems. Sign systems furnished by the Government may be picked up at the Glenwood Ranger District Station.

## **Section 634. — PERMANENT PAVEMENT MARKINGS**

### **Construction Requirements**

**634.05 Waterborne Traffic Paint (Type B and C).** Delete the Subsection and substitute the following:

Apply paint when the pavement and air temperature are at 50°F (10°C) and rising.

**(a) Type B.** Do not heat the paint above 120°F (49°C). Apply paint at a rate of 100 square feet per gallon (2.5 square meters per liter).

Apply Type 1 glass beads on the paint at a rate of 6 pounds per gallon (0.72 kilograms per liter) of paint.

Apply two applications of paint and glass beads. Apply the second coat in the opposite direction of the first application. Apply the second application after the first is tack free.

**Measurement****634.12** Add the following after the first paragraph:

When two applications of paint are required, measure each application.

Delete the second paragraph and substitute the following:

When pavement markings are measured by the linear foot (meter), measure the length of line applied along the centerline of each line applied regardless of color or line width. Measure broken or dotted pavement lines from end to end of the line including gaps. Measure solid pavement lines from end to end of each continuous line. For wide lines (12 inches (300 millimeters) in width or greater), adjust the measured length of line in the ratio of the required width to 4 inches (100 millimeters).

**Section 635. — TEMPORARY TRAFFIC CONTROL****Description****635.01** Delete the second paragraph and substitute the following:

Arrow board, portable changeable message sign, barricade, and warning light types are designated in the MUTCD.

**Material****635.02** Delete the Subsection and substitute the following:**635.02** Conform to the MUTCD and the following Sections and Subsections:

Concrete barrier (temporary)	618
Delineator and object marker retroreflectors	718.08
Guardrail (temporary)	617
Retroreflective sheeting	718.01
Sign panels	718.03
Sign posts	718.04
Sign hardware	718.06
Temporary plastic fence	710.11
Temporary pavement markings	718.16

**Construction Requirements****635.07 Construction Signs.** Delete the first paragraph and substitute the following:

Fabricate and install sign panels according to Subsection 633.05. Use Type III, IV, VIII, IX, or XI prismatic retroreflective sheeting. Use fluorescent sheeting for orange signs. For roll-up signs, use fluorescent Type VI retroreflective sheeting.

Add the following:

Provide the same type of sheeting on all post-mounted construction signs that pertain to the project.

Use crashworthy posts within the traversable area adjacent to traffic.

**635.09 Flaggers.** Add the following:

Perform the work described under MUTCD Part 6. Use fluorescent retroreflective sheeting on the “SLOW” side of the flagger paddle.

**635.13 Temporary Pavement Markings and Delineation.** Add the following:

For seasonal suspensions, apply the permanent pavement marking pattern with temporary traffic paint.

**(d) Delineation for Unmarked Pavements with Vehicle Positioning Guides.** For unmarked pavements, install signing and vehicle positioning guides as indicated in the plans. Use vehicle positioning guides that meet the requirements of Subsection 718.16(b), pavement markers.

Remove all vehicle positioning guides before placing additional pavement layers. Remove all vehicle positioning guides from the surface course before placing permanent pavement markings.

**635.13 Temporary Pavement Markings and Delineation.** Add the following to the last paragraph:

If permanent pavement markings are not placed within 14 days, provide, at no cost to the contract, additional temporary delineation equivalent to the permanent pavement marking pattern required by the contract.

### Measurement

**635.24**Add the following:

Measure flaggers, for each hour a person is actually performing the work. Do not measure time required to set up and take down required signage.

Delete the second paragraph and substitute the following:

When measuring temporary traffic control pay items, measure only one time even if relocated or replaced.

Delete the first four sentences in the sixth paragraph and substitute the following:

Measure temporary pavement markings by the mile along the centerline of the roadway. Measure temporary pavement markings as a single measurement, inclusive of all markings, from end to end regardless of color, material type, or number of lines. Do not deduct for standard gaps between stripes. Measure temporary pavement markings once, regardless of the number of applications required.

Add the following:

Measure vehicle positioning guides used at the option of the Contractor in lieu of temporary markings as equivalent temporary pavement markings. When vehicle positioning guides exceed the period of use stated in the plans, provide additional temporary or permanent pavement markings at no cost to the Government. Measure vehicle positioning guides by the mile along the centerline of the roadway. Measure as a single measurement, inclusive of all markings, from end to end regardless of material type, gaps or number of lines. Measure only one application of vehicle positioning guides per lift. “DO NOT PASS”, “PASS WITH CARE”, and “NO CENTER STRIPE” signs required to be used with vehicle positioning guides are subsidiary to the temporary pavement marking item. Do not measure these signs as construction signs.

### **Section 637. — FACILITIES AND SERVICES**

Delete the Section and insert the following:

### **Section 637. — FACILITIES AND SERVICES**

#### **Description**

**637.01** This work consists of furnishing, installing, maintaining, and removing facilities and services.

#### **Construction Requirements**

**637.02 General.** Provide the facilities and services beginning 14 days before project work begins and ending 21 days after final acceptance. Locate the Government field office within 10 miles of the project site and where high speed internet is available. Obtain approval from the CO before delivery of the field office and any rental agreements are signed.

Facilities and services are for the exclusive use of Government personnel and are subject to approval.

Conform to applicable ordinances, safety codes, and regulations.

If facilities or services become defective, are stolen, or for other reasons do not function as intended; repair or provide a replacement. Repair or replace facilities and services within 8 hours after being notified by the CO. Repairs and replacements are subject to approval.

Remove facilities and services when directed by the CO.

## CATWALK ACCESS ROAD

**637.03 Facilities.** Perform site work to accommodate facilities and restore to its original condition upon removal. Furnish safe, sanitary, weatherproof buildings or trailers in good condition. Suitable commercial or private facilities located near the project may be provided.

(a) **Field office.** Furnish and maintain a field office according to Table 637-1.

**Table 637-1**

**Minimum Requirements for Field Facilities and Associated Service**

<b>Property</b>	<b>Field Office</b>
Floor space, square feet	400
Locking outside door, deadbolt with keys	1
Steps with slip-proof tread and handrails	(1)
Windows with locks	2
Total window area, square feet	8
Ceiling height, 7 feet	✓
Rooms including toilet room	3
Room size, except toilet room, square feet	80
Shelves, 12-inch (300-millimeter) depth, square feet	6
Electrical lighting	✓
Heat and air conditioning, maintain temperature of 72±7 °F	✓
Adequate electrical outlets	✓
Surge protectors	✓
Adequate electricity (120 and 240 V, 60 cycle as applicable)	✓
Adequate potable water supply	✓
Drinking water cooler with water supply	✓
Parking for two vehicles on gravel or stable surface	✓
Table, 30-inch wide x 6-foot long x 30-inch high	1
File cabinet, 4-drawer, metal	1
Desk, 12-square feet <sup>(1)</sup>	2
Desk lamp <sup>(1)</sup>	2
Desk chair <sup>(1)</sup>	4
Fire extinguisher	1

<sup>(1)</sup> Meet accepted industry standards for ergonomics.

**637.04 Services.**

**(a) Facilities.** Furnish electrical service, potable water supply, toilet accommodations and waste disposal services. Pay bills associated with facilities by the payment due date.

**(b) Communications.** Provide internet of the latest available technology. Pay bills from the service provider by the payment due date.

**637.05 Acceptance.** Facilities and services will be evaluated under Subsections 106.02 and 106.04.

**Measurement**

**637.06** Measure the Section 637 pay items listed in the bid schedule according to Subsection 109.02.

**Payment**

**637.07** The accepted quantities will be paid at the contract price per unit of measurement for the Section 637 pay items listed in the bid schedule. Payment will be full compensation for the work prescribed in this Section. See Subsection 109.05.

Progress payments for facilities and services will be paid as follows:

**(a)** 60 percent of the pay item amount will be paid upon installation and acceptance for occupancy.

**(b)** Payment of the remaining 40 percent of the pay item amount will be paid after final acceptance or when the CO orders the removal of the facilities and services.

**Section 702. — ASPHALT MATERIAL**

**702.01 Asphalt Binder.** Delete the Subsection and add the following:

**702.01 Asphalt Binder.** Conform to M 320, Table 1.

In AASHTO M 320, Table 1 replace footnote g with the following:

<sup>g</sup> If the creep stiffness is below 300 MPa, the direct tension test is not required. If the creep stiffness is between 301 and 600 MPa, the creep stiffness value shall be used. The *m*-value requirement must be satisfied in both cases.

**Section 703. — AGGREGATE**

**703.01** Delete the subsection and insert the following:

**703.01 Fine Aggregate for Concrete.** Furnish sand conforming to AASHTO M 6, Class B, except as amended or supplemented by the following:

<b>(a)</b> Material passing No. 200 (75- $\mu$ m) sieve, AASHTO T 11	3.0 percent max.
---	------------------

**(b)** Alkali-silica reactivity. Test the aggregate for alkali silica reaction and conform to one of the following (1) through (5):

- |  |   |
|--|---|
| <b>(1)</b> Alkali-silica reactivity, ASTM C1260, performed within 1 year of submittal  | ≤ 0.10 percent at 16 days after casting               |
| <b>(2)</b> Alkali-silica reactivity, ASTM C1260, performed within 1 year of submittal  | 0.11 percent to 0.20 percent at 16 days after casting |
| And one of the following examinations:   |   |
| <i>(a)</i> Petrographic examination of aggregates, ASTM C295, performed within 1 year from time of submittal   | Favorable report for use                              |
| <i>(b)</i> Petrographic examination of hardened concrete, ASTM C856, performed on ASTM C1260 specimens after test  | Favorable report for use                              |
| <b>(3)</b> Alkali-silica reactivity with cementitious material, ASTM C1567, performed on approved mix design mass percent combinations within 1 year of submittal. Do not use lithium compounds as mitigation measures | ≤ 0.10 percent at 16 days after casting               |
| <b>(4)</b> Alkali silica reaction, ASTM C1293, performed within 1 year from time of submittal  | < 0.04 percent at 12 months                           |
| <b>(5)</b> Alkali-silica reaction with cementitious material, ASTM C1293, performed on approved mix design mass percent combinations within 1 year of submittal  | < 0.04 percent at 24 months                           |
| <b>(c)</b> Sand equivalent value, AASHTO T 176, Alternate Method No. 2   | 75 min.   |

For lightweight fine aggregate, conform to AASHTO M 195.

**703.02 Coarse Aggregate for Concrete.** Delete the subsection and insert the following:

**703.02 Coarse Aggregate for Concrete.** Conform to AASHTO M 80, Class A, except as amended or supplemented by the following:+

- |  |  |
|--|--|
| <b>(a)</b> Los Angeles abrasion, AASHTO T 96 | 40 percent max.                        |
| <b>(b)</b> Grading, AASHTO M 43              | All sizes, except Size Numbers 9 or 10 |
| <b>(c)</b> Alkali-silica reactivity          | See Subsection 703.01(b)               |

For bridge decks or surface courses, do not use aggregates known to polish or carbonate aggregates containing less than 25 percent by mass of insoluble residue as determined by ASTM D3042.

For lightweight coarse aggregate, conform to AASHTO M 195.

**703.06 Crushed Aggregate.** Add the following to the end of the paragraph:

When aggregate is used as a surface course, furnish an aggregate with a Plasticity index (AASHTO T 90) conforming to Table 703-3a.

**Table 703-3a**  
**Surface Course Gradation and Plasticity Index**

Sieve Size	Percent by Mass Passing Designated Sieve (AASHTO T 27 and T 11)
$\frac{3}{4}$ inch (19 mm)	100
No. 4 (4.75 mm)	41-71
No. 40 (425 $\mu$ m)	12-28
No. 200 (75 $\mu$ m)	5-20
Plasticity Index (PI)	4-12

## **Section 704. – SOIL**

**704.04 Structural Backfill.** Delete line (c) and add the following:

- |   |         |
|---|---------|
| (c) Plastic index, AASHTO R 58 and T 90 | 6 max.  |
| (d) Liquid limit, AASHTO R 58 and T 89  | 30 max. |

**704.07 Select Borrow.** Delete line (b) and add the following:

- |   |         |
|---|---------|
| (b) Liquid limit, AASHTO R 58 and T 89  | 30 max. |
| (c) Plastic index, AASHTO R 58 and T 90 | 6 max.  |

## **Section 705. — ROCK**

**705.01 Gabion and Revet Mattress Rock.** Delete the Subsection and substitute the following:

**705.01 Gabion and Revet Mattress Rock.** Furnish angular stone from a rock quarry or cut that is hard, durable, free of organic and spoil material, and resistant to weathering and water action. Do not use crushed river rock or rock with rounded surfaces. Conform to the following:

- |   |   |
|---|---|
| (a) Density of a filled basket  | 100 lb/ft <sup>3</sup> (1600 kg/m <sup>3</sup> ) min. |
| (b) Gradation. Furnish rock with breadth and thickness at least one-third its length. |   |



(1) Baskets greater than 1 foot (300 millimeters) in the vertical dimension.

(a) Maximum dimension 8 in (200 mm)

(b) Minimum dimension 4 in (100 mm)

(2) Baskets 1 foot (300 millimeters) or less in the vertical dimension.

(a) Maximum dimension 6 in (150 mm)

(b) Minimum dimension 3 in (75 mm)

(c) Los Angeles abrasion, AASHTO T 96 50 percent max.

**705.02 Riprap.** Delete Table 705-1 and Insert the following:

**Table 705-1**  
**Gradation Requirements for Riprap<sup>(1)</sup>**

Class	% of Rock Equal or Smaller by Count, D <sub>x</sub>	Range of Intermediate Dimensions, <sup>(2)</sup> inches (millimeters)	Range of Rock Mass, <sup>(3)</sup> pounds (kilograms)
<b>1</b>	100	9 – 15 (230 – 380)	59 – 270 (27 – 120)
	85	7 – 11 (180 – 280)	28 – 110 (13 – 50)
	50	5 – 8 (130 – 200)	10 – 42 (5 – 19)
	15	3 – 6 (80 – 150)	2 – 18 (1 – 8)
<b>2</b>	100	15 – 21 (380 – 530)	270 – 750 (120 – 340)
	85	11 – 15 (280 – 380)	110 – 270 (50 – 120)
	50	8 – 11 (200 – 280)	42 – 110 (19 – 50)
	15	6 – 8 (130 – 200)	10 – 42 (6 – 19)
<b>3</b>	100	21 – 27 (530 – 690)	750 – 1600 (340 – 730)
	85	15 – 19 (380 – 480)	270 – 560 (120 – 250)
	50	11 – 14 (280 – 360)	110 – 220 (50 – 100)
	15	8 – 10 (200 – 250)	42 – 81 (19 – 37)
<b>4</b>	100	27 – 33 (690 – 840)	1600 – 2900 (730 – 1300)
	85	19 – 23 (480 – 580)	560 – 990 (250 – 450)
	50	14 – 17 (360 – 430)	220 – 400 (100 – 180)
	15	9 – 12 (230 – 300)	59 – 140 (27 – 64)
<b>5</b>	100	33 – 39 (840 – 990)	2900 – 4850 (1300 – 2200)
	85	23 – 28 (580 – 710)	990 – 1800 (450 – 820)
	50	17 – 20 (430 – 510)	400 – 650 (180 – 290)
	15	11 – 15 (280 – 380)	110 – 270 (50 – 120)
<b>5G</b>	100	33 – 39	2900 – 4850
	50	25 – 30	1300 – 2200
	0	17 – 20	400 – 650
<b>7</b>	100	45 – 54 (1140 – 1370)	7400 – 12,800 (3350 – 5800)
	85	32 – 38 (810 – 970)	2650 – 4450 (1200 – 2000)
	50	23 – 28 (580 – 710)	990 – 1800 (450 – 820)
	15	15 – 20 (380 – 510)	270 – 650 (120 – 290)
<b>8</b>	100	54 – 66 (1370 – 1680)	12,800 – 23,400 (5800 – 10,600)
	85	38 – 47 (970 – 1190)	4450 – 8450 (2000 – 3850)
	50	28 – 35 (710 – 890)	1800 – 3500 (820 – 1600)

	15	19 – 25 (480 – 640)	560 – 250 (250 – 570)
9	100	66 – 78 (1680 – 1980)	23,400 – 38,600 (10,600 – 17,500)
	85	47 – 55 (1190 – 1400)	8450 – 13,500 (3850 – 6100)
	50	35 – 41 (890 – 1040)	3500 – 5600 (1600 – 2550)
	15	22 – 30 (560 – 760)	870 – 2200 (390 – 1000)
10	100	78 – 90 (1980 – 2290)	38,600 – 59,300 (17,500 – 26,900)
	85	55 – 64 (1400 – 1630)	13,500 – 21,300 (6100 – 9650)
	50	41 – 48 (1040 – 1220)	5600 – 9000 (2550 – 4100)
	15	26 – 36 (660 – 910)	1450 – 3800 (660 – 1700)

- (1) Gradation includes spalls and rock fragments to provide a stable, dense mass.
- (2) The intermediate dimension is the longest straight-line distance across the rock that is perpendicular to the rock's longest axis on the rock face with the largest projection plane.
- (3) Rock mass is based on a specific gravity of 2.65 and 85 percent of the cubic volume as calculated using the intermediate dimension.

### Section 713. — ROADSIDE IMPROVEMENT MATERIAL

#### 713.04 Seed. Add the following:

Use the following seed mix:

**Table 713-1A**  
**Seed Mixture**

Common Name	Botanical Name	lb. PLS/sqft
<b>Annual Quick-Cover Grasses</b>		
Oats	Avena sativa	5
Sterile tritcale	Triticum aestivum X Secale cereale 'Quickguard'	5
<b>Cool Season Grasses</b>		
Bottlebrush squirreltail	Elymus elymoides	5
<b>Warm Season Grasses</b>		
Alkali sacaton	Sporobolus airoides	5
Sideoats grama	Bouteloua curtipendula var. Vaughn**	5
<b>Pure Live Seed (PLS)/sqft Total</b>		<b>25</b>
** Local, wild-sourced genotypes preferred. Provide specified registered variety only if wild-sourced seed is unavailable.		

### Section 718. — TRAFFIC SIGNING AND MARKING MATERIAL

#### 718.01 Retroreflective Sheeting. Add the following:

Furnish fluorescent type sheeting for all signs and all devices specifying an orange or a yellow background.

**Section 725. — MISCELLANEOUS MATERIAL**

**725.04 Pozzolans.** Delete line (a) and substitute the following:

**(a) Fly ash.** Conform to AASHTO M 295

4.5 percent max

Class C or Class F.

When used to mitigate alkali-silica reactivity,  
also available alkalies as equivalent  $\text{Na}_2\text{O}$

## **APPENDIX A**

### **401 and 404 PERMITS**



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT  
200 EAST GRIGGS AVE.  
LAS CRUCES, NM  
88001

January 9, 2023

Regulatory Division

SUBJECT: Nationwide Permit (NWP) Verification – Action No. SPA-2022-00398,  
Catwalk Access Road/NM 174 Improvement Project

Federal Highway Administration, Attn: Justin Henwood  
12300 West Dakota Avenue  
Lakewood, CO 80228  
Justin.Henwood@dot.gov

Dear Mr. Henwood:

This letter responds to your pre-construction notification for the proposed Catwalk Access Road/NM 174 Improvement project located at approximately latitude 33.320736, longitude -108.882992, in Catron County, New Mexico. The work, as described in your letter, will consist of improvements to the existing NM 174/Catwalk Road. The roadway crosses Whitewater Creek in two locations via low water crossings, one at milepost 1.2 and another at milepost 4.8. The project will repair these structures to provide for a more robust system that could include a partially grouted riprap, articulating concrete block systems, and/or energy dissipation systems. We have assigned Action No. SPA-2022-00398 to this project. Please reference this number in all future correspondence concerning the project.

Specifically, this U.S. Army Corps of Engineers (Corps) Clean Water Act, Section 404 verification authorizes the permanent discharge of fill material into approximately 0.046 acres of perennial stream, specifically Whitewater Creek, for the purpose of roadway improvements to protect the roadway from long-term degradation.

Based on the information provided, we have determined that the project is authorized by NWP 14. A summary of this permit and the New Mexico Regional Conditions are available on our website at [www.spa.usace.army.mil/reg/nwp](http://www.spa.usace.army.mil/reg/nwp). Clean Water Act (CWA), Section 401, requires applicants of federal permits to obtain certification of compliance, or waiver thereof, with applicable water quality standards from the appropriate certifying authority. Please refer to our website at <http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Water-Quality-Certification/> and the attached spreadsheet for information regarding CWA Section 401 water quality certification (WQC). The permittee must ensure that the work complies with the terms and conditions of the NWP(s), including New Mexico Regional Conditions and the special conditions listed below.

1. You must comply with the conservation measures, within the Corps control and responsibility for the endangered loach minnow (*Tiaroga cobitis*) and its designated critical habitat, and the threatened narrow-headed garter snake (*Thamnophis eques* megaops) and its proposed critical habitat. These measures including avoidance and minimization measures, status surveys, biological and compliance monitoring, and reporting measures are incorporated herein by reference as reasonable and prudent measures. The Corps control and responsibility is limited to activities that require Department of the Army authorization and the direct and indirect effects of those activities. The USFWS is the appropriate authority to determine compliance with the Endangered Species Act.

Our review of this project addressed its effects on threatened and endangered species in accordance with general conditions 18. Based on the information provided, we have determined that this project may affect, not likely to adversely affect the endangered loach minnow (*Tiaroga cobitis*) and its designated critical habitat, or the threatened narrow-headed garter snake (*Thamnophis eques* megaops) and its proposed critical habitat. Please refer to special condition 1 referenced above. However, please note that the permittee is responsible for meeting the requirements of general condition 18 on endangered species

Our review of this project also addressed its effects on historic properties in accordance with general conditions 20. Based on the information provided, we have determined that this project will no effect to historic properties listed, or eligible for listing, in the National Register of Historic Places. However, please note that the permittee is responsible for meeting the requirements of general condition 20 on historic properties.

This letter does not constitute approval of the project design features, nor does it imply that the construction is adequate for its intended purpose. This permit does not authorize any injury to property or invasion of rights or any infringement of federal, state or local laws or regulations. The permittee and/or any contractors acting on behalf of the permittee must possess the authority and any other approvals required by law, including property rights, in order to undertake the proposed work.

This permit verification is valid until March 18, 2026 (33 CFR 330.6), unless the NWP is modified, suspended, revoked or reissued prior to that date. Continued confirmation that an activity complies with the terms and conditions, and any changes to the NWP, is the responsibility of the permittee. Activities that have commenced, or are

under contract to commence, in reliance on a NWP will remain authorized provided the activity is completed within 12 months of the date of the NWPs expiration, modification, or revocation.

Within 30 days of project completion, the permittee must fill out the enclosed Certification of Compliance form and return it to our office. The landowner must allow Corps representatives to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been, accomplished in accordance with the terms and conditions of the NWP.

If you have any questions, please contact me at (575) 652-4574 or by e-mail at Justin.C.Riggs@usace.army.mil. At your convenience, please complete a Customer Service Survey on-line available at <https://regulatory.ops.usace.army.mil/customer-service-survey/>

Sincerely,

A handwritten signature in black ink that reads "Justin Riggs". The signature is written in a cursive, flowing style.

Justin Riggs  
Regulatory Manager for  
Southern New Mexico and West Texas

**Certification of Compliance  
with Department of the Army Nationwide Permit**

Action Number: SPA-2022-00398

Name of Permittee: Justin Henwood

Nationwide Permit: 14

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

Justin Riggs  
Albuquerque District, U.S. Army Corps of Engineers

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

Please enclose photographs showing the completed project (if available).

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Date Work Started \_\_\_\_\_

Date Work Completed \_\_\_\_\_

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date



## **DECISION DOCUMENT NATIONWIDE PERMIT 14**

This document discusses the factors considered by the Corps of Engineers (Corps) during the issuance process for this Nationwide Permit (NWP). This document contains: (1) the public interest review required by Corps regulations at 33 CFR 320.4(a)(1) and (2); (2) a discussion of the environmental considerations necessary to comply with the National Environmental Policy Act; and (3) the impact analysis specified in Subparts C through F of the 404(b)(1) Guidelines (40 CFR Part 230). This evaluation of the NWP includes a discussion of compliance with applicable laws, consideration of public comments, an alternatives analysis, and a general assessment of individual and cumulative effects, including the general potential effects on each of the public interest factors specified at 33 CFR 320.4(a).

### **1.0 Text of the Nationwide Permit**

Linear Transportation Projects. Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, driveways, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge of dredged or fill material in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges of dredged or fill material for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

**General Conditions:** The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not

been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid

construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

**22. Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

**23. Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or

maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWP, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.



(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

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(Transferee)

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(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the

requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is

large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for

mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

In accordance with the U.S. Environmental Protection Agency's (EPA's) current water quality certification (WQC) regulations at 40 Code of Federal Regulations (CFR) Part 121, the Albuquerque District has reviewed Clean Water Act Section (CWA) 401 WQC decisions received from certifying authorities. The Albuquerque District has determined that all accepted granted and denied WQC decisions in New Mexico satisfied the requirements set forth in 40 CFR 121.7. For a list of WQC decisions in New Mexico see the summary spreadsheet attached to this public notice.

If a permittee conducts activities under the terms and conditions of a NWP, the permittee must also comply with any applicable regional conditions. In New Mexico, the following regional conditions apply to the 41 NWPs listed above:

## **REGIONAL CONDITIONS APPLICABLE TO ALL NATIONWIDE PERMITS WITHIN THE STATE OF NEW MEXICO**

1. All Activities Conducted Under Nationwide Permits (NWPs): In accordance with 33 Code of Federal Regulations (CFR) § 330.4(c), the Corps hereby incorporates the current conditions of Clean Water Act (CWA) Section 401 water quality certifications as conditions of the Section 404 Nationwide Permits in New Mexico. Water quality certifications are available at: <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/WaterQualityCertification.aspx>.

2. Dredge and Fill Activities in Lakes, Intermittent and Perennial Streams, and Special Aquatic Sites: For all activities subject to regulation under the CWA Section 404 in lakes, intermittent and perennial streams, and special aquatic sites (including wetlands, riffle and pool complexes, and sanctuaries and refuges), Pre-Construction Notification to the District Engineer is required in accordance with general condition (GC) 32.

3. Individual Water Quality Certification and Pre-Construction Notification (PCN): For all activities subject to regulation under the CWA Section 404 where Section 401 individual water quality certification is required, the applicant must provide a PCN to the District Engineer in accordance with GC 32 at the same time a request for water quality certification is submitted to the water quality certifying authority. A copy of the individual 401 water quality certification must be provided to the District Engineer prior to commencing the regulated activity. The activity may not commence until the Corps has completed post-certification with U.S. Environmental Protection Agency (EPA), Region 6 in accordance with CWA Sec. 401(a)(2). A list of state agencies and tribes with Section 401 authority is on our website available at: <http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Water-Quality-Certification/>

4. Peatlands: The use of the NWPs for the discharge of dredged or fill material into peatlands is prohibited. The term peatland includes fens and bogs. For the purposes of this regional condition, a peatland is defined as a wetland with organic soil that is classified as a histosol in the Natural Resources Conservation Service (NRCS) guidance document entitled Field Indicators of Hydric Soils in the United States (Version 8.0, 2016). A copy of the document can be obtained from the NRCS at: <https://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/use/hydric/>.

5. Temporary Fills and Impacts: Temporary fills and/or impacts to waters of the U.S. shall be removed in their entirety and the affected areas returned to pre-construction elevations in the shortest time frame practicable, not to exceed six months unless otherwise approved by the District Engineer. Site restoration of temporarily filled or impacted areas shall include returning the area to pre-project ground surface contours. The permittee shall appropriately revegetate temporarily filled or impacted areas with

native, noninvasive herbs, shrubs, and/or tree species sufficient in number, spacing, and diversity to replace affected aquatic functions. Temporary erosion and sediment control measures must be removed as soon as the area has established vegetation sufficient to control erosion and sediment.

6. Suitable Fill: Use of broken concrete as fill or bank stabilization material is prohibited unless the applicant demonstrates that its use is the only practicable material (with respect to cost, existing technology, and logistics). Any applicant who wishes to use broken concrete as bank stabilization must provide notification to the District Engineer in accordance with General Condition 32 (Pre-Construction Notification) along with justification for such use. Use of broken concrete with rebar, used tires (loose or formed into bales), or car bodies is prohibited in all waters of the United States.

7. Timing and Dewatering: Unless determined to be not practicable by the Corps, no dredged and/or fill material shall be discharged within standing or flowing waters. For perennial or intermittent drainages (e.g., natural or relocated streams, creeks, rivers), this may be accomplished through construction during periods of low flow (winter months) or during the dry season.

When work is required to occur in flowing water, a dewatering plan is required to constitute a complete PCN. All dewatering structures and/or fills shall be removed within 30 days following completion of construction activities in waters of the U.S.

(a) For all dewatering activities that propose structures or fill in waters of the U.S. a dewatering plan must contain the following:

- 1) Information on why it is not practicable to conduct construction activities during periods of low flow or during the dry season;
- 2) The proposed methods for dewatering;
- 3) The equipment that would be used to conduct the dewatering;
- 4) The length of time the area is proposed to be dewatered;
- 5) The area (in acres) and length (in linear feet) and locations of all structure(s) and/or fill in waters of the U.S.;
- 6) The expected extent of temporary impacts to downstream waters;
- 7) The method for removal of the structures and/or fill;
- 8) The method for how the proposed work shall be conducted to allow safe fish and wildlife passage during construction; and
- 9) The method for restoration of the waters of the U.S. affected by the structure or fill following construction.

## **REGIONAL CONDITIONS APPLICABLE TO SPECIFIC NATIONWIDE PERMITS WITHIN THE STATE OF NEW MEXICO**

8. NWP 13 – Bank Stabilization: For bank stabilization activities in intermittent or perennial streams that average less than 20 feet in width (measured between the ordinary high water marks on each bank), the placement of fill is limited to no more than one cubic yard of suitable fill\* material per running foot below the plane of the ordinary high water mark, unless the District Engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects. \*See Note 1 under Additional Information regarding suitable fill.

9. NWP 23 – Approved Categorical Exclusions: Pre-Construction Notification to the District Engineer in accordance with GC 32 is required for all proposed activities under NWP 23.

10. NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities: For all proposed activities under NWP 27 that require PCN, a monitoring plan commensurate with the scale of the proposed restoration project and the potential for risk to the aquatic environment must be submitted to the Corps. (See “NWP 27 Guidelines” at <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits/NWP.aspx>).

### ADDITIONAL INFORMATION

The following provides additional information regarding minimization of impacts and compliance with existing general conditions:

1. Permittees are reminded of **GC 6**, which prohibits the use of unsuitable material. Organic debris, building waste, asphalt, car bodies, individual tires, concrete jersey barriers, and trash are **not** suitable fill material.
2. **GC 12** requires appropriate erosion and sediment controls (i.e., all fills must be permanently stabilized to prevent erosion and siltation into water and/or wetlands at the earliest practicable date). Streambed material or other small aggregate material placed along a bank as stabilization will not meet GC 12.





October 14, 2021

Kelly Allen  
Chief, Regulatory Division  
U.S. Army Corps of Engineers, Albuquerque District  
4101 Jefferson Plaza NE  
Albuquerque, New Mexico 87109-3434  
[Kelly.E.Allen@usace.army.mil](mailto:Kelly.E.Allen@usace.army.mil)

Re: Clean Water Act Section 401 Water Quality Certification  
United States Army Corps of Engineers 2021 Nationwide Permits

Dear Kelly Allen,

The Cabinet Secretary of the New Mexico Environment Department (NMED) delegated signatory authority for state certifications of federal Clean Water Act (CWA) permits to the Surface Water Quality Bureau (SWQB) Chief. NMED examined the September 15, 2020 Proposal to Reissue and Modify Nationwide Permits (NWP) under Section 404 of the CWA and Section 10 of the Harbors and Rivers Act, issued by the U.S. Army Corps of Engineers (Corps) (see 85 FR 57298) and the September 24, 2020 Albuquerque Corps District's public notice of the proposed NWPs. Pursuant to State regulations for permit Certification at 20.6.2.2002 NMAC, NMED issued a public notice of this activity and announced a public comment period, printed in the Albuquerque Journal on November 1, 2020 and posted on the SWQB's web site: <https://www.env.nm.gov/surface-water-quality/public-notices/> on November 2, 2020. The public comment period ended on November 30, 2020. NMED received comments from Amigos Bravos and the New Mexico Mining Association, which were considered in NMED's CWA Section 401 Certification sent to the Corps on December 14, 2020.

As a result of this effort, the Corps reissued 16 NWPs, which became effective on March 15, 2021. Subsequently, on June 11, 2021, the Corps submitted a draft final rule for the remaining 41 NWPs for review by the Office of Management and Budget (OMB). There were no material changes from the original proposal published in the Federal Register on September 15, 2020. On August 20, 2021 the Corps notified NMED that certifying authorities would be provided an extended opportunity to revise or reconsider their Certification decision for the 41 proposed NWPs that are in the draft final rule that was submitted to OMB on June 11, 2021. Because there were no material changes from the original proposal published in September 2020 and noticed in November 2020, and consistent with the State's certification regulations at 20.6.2.2002 NMAC, NMED considered all pertinent comments received during the 401 Certification public comment period in this revised Certification.

**Applicable Water Quality Regulations:**

The water quality standards and regulations cited herein as codified in the New Mexico Administrative Code (i.e., 20.6.2 NMAC, 20.6.4 NMAC) were adopted by the New Mexico Water Quality Control Commission pursuant to the authority provided in the New Mexico Water Quality Act, NMSA 1978, Section 74-6-4, and promulgated in accordance with the New Mexico State Rules Act, NMSA 1978, Sections 14-4-1 to -11. For projects that discharge dredged or fill material into surface waters of the state, NMED relies on conditions included in the Certification to ensure compliance with State water quality regulations and standards at 20.6.2 NMAC and 20.6.4 NMAC and the State of New Mexico Water Quality Management Plan and Continuing Planning Process (WQMP/CPP), including Total Maximum Daily Loads (TMDLs) and the State's Antidegradation Policy. Certification is also required to comply with General Condition 25 (Water Quality) and General Condition 27 (Regional and Case-By-Case Conditions) of the NWPs.

The State of New Mexico hereby certifies that the permitted activities will comply with applicable provisions of the CWA Sections 301, 302, 303, 306, and 307 and with appropriate requirements of State law, including the New Mexico Water Quality Act (NMSA 1978, Sections 74-6-1 to -17), 20.6.2 NMAC, and 20.6.4 NMAC, upon inclusion of NMED's conditions in the final NWP. Projects that are unable to comply with the conditions of this Certification are denied Certification without prejudice and the Project Proponent must apply to NMED for an Individual Certification pursuant to 20.6.2.2002 NMAC. The conditional Certification, and denials, for the Nationwide Permits are attached.

Sincerely,

Shelly Lemon, Chief  
Surface Water Quality Bureau

xc: Chris Parrish, Regulatory Branch Chief, USACE Albuquerque District – Christopher.M.Parrish@usace.army.mil  
Curry Jones, Enforcement and Compliance Assurance Division, USEPA Region 6 – Jones.Curry@epa.gov  
Brianna Wadley, Water Division, USEPA Region 6 – Wadley.Brianna@epa.gov  
Mathew Wunder, Chief, Ecological & Environmental Planning, New Mexico Department of Game and Fish – Mathew.Wunder@state.nm.us  
Debra Hill, Large River Restoration Branch Supervisor, NM Ecological Services Field Office, U.S. Fish and Wildlife Service – Debra\_Hill@fws.gov  
John Rhoderick, Acting Water Protection Division Director, NMED (john.rhoderick@state.nm.us)  
Abe Franklin, Watershed Protection Program Manager, SWQB-NMED (abraham.franklin@state.nm.us)  
Alan Klatt, Implementation & Restoration Team Supervisor, SWQB-NMED (alan.klatt@state.nm.us)  
401 Certification File, NMED-SWQB

**State of New Mexico**  
**CWA Section 401 Certification Conditions on the**  
**41 Proposed Nationwide Permits (NWP)s**  
**October 14, 2021**

**General Conditions of Certification:**

The following conditions apply to all uses of the 41 Nationwide Permits (NWP)s within the State of New Mexico Clean Water Act (CWA) Section 401 area or region of certification authority.

***General Condition 1. Inspection***

Prior to the initial operation of a certified project, the New Mexico Environment Department (NMED) shall be afforded the opportunity to inspect the facility or activity for the purpose of determining whether the discharge from the certified project will violate the certification (40 C.F.R. §121.11). To facilitate an inspection, the Project Proponent shall submit a copy of the Pre-Construction (PCN) to NMED when a PCN is required by the Corps. PCNs should be emailed to:

[wpsprogram.manager@state.nm.us](mailto:wpsprogram.manager@state.nm.us)

Watershed Protection Program Manager, Surface Water Quality Bureau, NMED

Or mailed to (email is preferred):

Program Manager, Watershed Protection Section

Surface Water Quality Bureau

PO BOX 5469

Santa Fe, NM 87502

***General Condition 2. Impaired Water Bodies***

If a proposed activity will result in fill material in water bodies listed as impaired under Section 303(d) of the CWA, the Project Proponent shall select and implement specific measures or Best Management Practices (BMPs) to prevent further degradation of the water quality. The current EPA-approved New Mexico list of impaired waters is available at <https://www.env.nm.gov/surface-water-quality/303d-305b/> - see the most current summary spreadsheet "All Impairments (Category 4 or 5)" or contact NMED's Surface Water Quality Bureau if you have any questions or need assistance.

***General Condition 3. Best Management Practices (BMPs)***

Project Proponents shall select and implement all practicable and reasonable BMPs that are appropriate for their project. Practicable and reasonable BMPs for New Mexico surface waters include but are not limited to:

**Scheduling** – Project activities must avoid times of predictable flooding to avoid working in high water (seasonal monsoons, snowmelt, or releases from dams).

**Crossings** – Limit stream and wetland crossings to a single, narrow location that is perpendicular to the stream (or along a contour of a wetland).

**Diversions** – Flowing water that is diverted around the work area must remain within the existing channel and provide for aquatic life movement. Diversions must be non-erodible, such as sandbags, water bladders, concrete barriers, or channel lined with geotextile or plastic sheeting. Dirt cofferdams or unlined ditches are not acceptable diversion structures.

**Heavy equipment –**

- Pressure wash and/or steam clean before the start of the project and inspect daily for leaks (to remove contaminants and to avoid introducing invasive species).
- Complete a written log of inspections and maintenance throughout the project period.
- Do not use leaking equipment in or near surface water(s).
- Do not park or leave equipment stored within the stream channel or wetland.
- Operate from the bank or work platforms whenever possible. Avoid heavy equipment operation in flowing water.

**Fuel –**

- Store fuel, oil, hydraulic fluid, lubricants, and other petrochemicals outside of the 100-year floodplain within a secondary containment system capable of containing twice the volume of the product.
- Refuel equipment at least 100 feet from surface water.

**Construction materials –**

- Use appropriate fill material – broken concrete, tires, tire bales, treated lumber, and other refuse material shall not be used as fill material.
- All asphalt, concrete, drilling fluids and other construction materials must be properly handled and contained to prevent releases to surface water. Poured concrete must be fully contained in mortar-tight forms and/or placed behind non-erodible cofferdams to prevent contact with surface or ground waters. Appropriate measures must be used to prevent wastewater from concrete batching, vehicle and equipment wash-down, or aggregate processing from impacting surface waters and aquatic resources.

**Demolition, repair, and cleaning activities –** Materials associated with demolition, repair, and cleaning activities of bridges or associated structures must be kept out of the channel. Generally, impermeable containment material (e.g., plastic sheet, canvas, tarpaulins or other catchment devices) must be secured under the structure to capture falling debris. Sandblasting must include vacuum systems, or the structures must be completely bagged to collect all paint and concrete debris. Any debris that falls onto the containment area or channel must be properly disposed of in accordance with the New Mexico Solid Waste Regulations (20.9.1 NMAC). Applicable Safety Data Sheets of water repellants and surface finish treatments must be maintained at the project area and such products must follow safety procedures for use near open water.

**Trenching –**

- Excavated trenches shall be backfilled and compacted to match the adjacent undisturbed soil and topography.
- Excavated trenches shall not result in draining any surface water including wetlands.
- Excavated trenches shall include escape ramps for wildlife.
- Use planning and construction practices to minimize the length and duration of open trenches.

**Dewatering discharges –** Dewatering discharges shall not contain contaminants, including excessive turbidity and other contaminants associated with the discharge, in concentrations that exceed surface water or groundwater standards at 20.6.4 NMAC and 20.6.2 NMAC. Appropriate dewatering BMPs include discharging to a sediment basin within an uplands area behind a vegetative buffer, using fabric, biobag, or hay-bale corrals, or using geotextile filter bags.

**Dust control –** Water used in dust suppression shall not contain contaminants in concentrations that exceed surface water or groundwater standards at 20.6.4 NMAC and 20.6.2 NMAC.

**Erosion control –**

- Avoid disturbance to vegetation and minimize bare ground.
- Establish and maintain upland buffers between upland construction and all surface waters, including streams, arroyos and wetlands.
- Silt fences, seed-free straw mulch, hydro-mulch, biodegradable straw wattles, erosion control fabrics and other techniques must be employed as appropriate to protect waters from sedimentation and other pollutants.
- Avoid using jute netting or placing woven wire in contact with the stream. These materials have been known to trap and kill fish and wildlife near streams or rivers.

**Wetlands –**

- Avoid working in wetlands whenever possible.

- Flag or otherwise mark wetland boundaries so construction crews can avoid them.
- When wetlands must be crossed by heavy equipment, schedule work when wetland soils are frozen whenever possible.
- Avoid working in wetlands when soils are too saturated to support heavy machinery.
- Avoid permanent impacts to wetlands such as draining, filling, or other hydro-modifications.
- Install permeable fills to allow natural seepage flows.
- Use the smallest machinery that can handle the job – preferably non-mechanized equipment.
- Use wide tires, tracks, wooden mats, or board roads to disperse weight and minimize soil compaction when heavy machinery is required.
- Avoid turning wheels when the vehicle is stationary to prevent digging and damage to vegetation.
- Minimize wetland impacts by stockpiling vegetation and hydric soils to be reused during post-construction stabilization.

**Post-construction stabilization –**

- The Project Proponent and their contractors shall take necessary steps to minimize channel and bank erosion during and after construction. Where applicable, banks must be reseeded or replanted with native vegetation.
- Disturbed areas outside stream channels that are not otherwise physically protected from erosion must be reseeded or planted with native vegetation so that species regrowth is functionally equivalent to the pre-disturbed site or a reference site. Stabilization measures including vegetation are required at the earliest practicable date, but by the end of the first full growing season following construction. Native woody riparian and/or wetland species must be used in areas that support such vegetation. The Corps will determine the requirements for post-construction monitoring on a case-by-case basis.

***General Condition 4. Fills Within Floodplains***

The authorized dredge and fill activity shall comply with Executive Order 11988 (Floodplain Management).

***General Condition 5. Low Impact Development***

When the discharge of fill material results in the replacement of wetlands or waters of the U.S. with impervious surfaces, the Project Proponent shall select and implement low impact development practices (e.g. native landscaping, bioretention and infiltration techniques, and constructed green spaces) to the extent practicable. More information including low impact concepts and definitions is available at: <https://www.epa.gov/nps/urban-runoff-low-impact-development>.

***General Condition 6. Spills***

Appropriate spill clean-up materials such as absorbent pads must be available on-site at all times during construction. The Project Proponent shall report all spills immediately to NMED as required by the New Mexico Water Quality Control Commission Regulations (20.6.2.1203 NMAC). For non-emergencies during normal business hours, call 505-428-2500. For non-emergencies after hours, call 866-428-6535. For emergencies only, call 505-827-9329 twenty-four hours a day (New Mexico Department of Public Safety).

***General Condition 7. Posting***

The Project Proponent shall provide all contractors and subcontractors a copy of this Certification and make all contractors and subcontractors aware of the certification conditions prior to initial operation. A copy of this Certification must be kept at the project site during all phases of construction.

**Specific Conditions for Nationwide Permits:**

Subject to the General Conditions above, NMED certifies the following NWPs without permit-specific conditions: 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 28, 30, 32, 33, 34, 35, 36, 37, 38, 45, 46, 49, 53, 54, and 59.

***Specific Condition for NWP-03 Maintenance –***

NMED certifies this NWP subject to the General Conditions above and with the following permit-specific conditions:

If the maintenance activity is needed to repair a failed structure, the Project Proponent shall select and implement measures to prevent failure in the future.

***Specific Condition for NWP-14 Linear Transportation Projects –***

NMED certifies this NWP subject to the General Conditions above and with the following permit-specific conditions:

Structures and culverts at stream crossings must allow for the passage of sediment, bedload, woody debris, aquatic life, and prevent erosion problems such as headcuts, incision, bank erosion, and the diversion of the stream from its natural channel during flood events. The Project Proponent shall consider options that minimize disturbance and allow for uninterrupted flow such as low water crossings instead of culverts (for low standard rural roads), bottomless arch culverts, and spans that preserve bank full geometry, depending on site characteristics and level of service needs.

***Specific Condition for NWP-31 Maintenance of Existing Flood Control Facilities –***

NMED certifies this NWP subject to the General Conditions above and with the following permit-specific conditions:

If the maintenance activity is needed to repair a failed structure, the Project Proponent shall select and implement measures to prevent failure in the future. Dredged material shall not be sidecast into waters of the U.S. and should be stabilized so that the material will not be transported into waters of the U.S.

***Specific Condition for NWP-41 Reshaping Existing Drainage Ditches –***

NMED certifies this NWP subject to the General Conditions above and with the following permit-specific conditions:

Dredged material shall not be sidecast into waters of the U.S. and should be stabilized so that the material will not be transported into waters of the U.S.

**Specific Denials of Specific Nationwide Permits:**

***Specific Denial for NWP-13 Bank Stabilization –***

NMED denies Certification for bank stabilization projects that use concrete, soil cement, or other materials to line channels either partially or wholly with impervious surfaces. In these cases, the Project Proponent must apply to NMED for an Individual Certification pursuant to 20.6.2.2002 NMAC. NMED strongly recommends that all bank stabilization projects involve either the sole use of native vegetation or other bioengineered design techniques (e.g., willow plantings, root wads, large woody debris, etc.) or alternatively, a combination of hard-armoring (e.g., rock) and native vegetation or bioengineered design techniques.

***Specific Denial for NWP-27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities –***

NMED denies Certification for sediment releases from reservoirs. In these cases, the Project Proponent must apply to NMED for an Individual Certification pursuant to 20.6.2.2002 NMAC.

***Specific Denial for Outstanding National Resource Waters –***

For proposed activities in Outstanding National Resource Waters (ONRWs), NMED denies Certification of all

NWPs except NWP-27. NMED certifies NWP-27 subject to the General Conditions above, with the exception of the Specific Denial for NWP-27 related to sediment releases from reservoirs. For all other activities located within ONRWs, the Project Proponent must apply to NMED for an Individual Certification pursuant to 20.6.2.2002 NMAC.

**Table 1: 40 C.F.R. §121.7(d)(2) Action on a Certification request.**

<b>General &amp; Specific Conditions</b>	<b>Why the condition is necessary to assure that the proposed project will comply with water quality requirements</b>	<b>A citation that authorizes the condition</b>
<b>General Condition 1</b>	This condition is necessary to protect water quality, because it supports the purpose of determining whether the discharge from the certified project will violate the water quality requirements included in this Certification.	40 C.F.R. §121.11 Enforcement of and compliance with Certification conditions.
<b>General Condition 2</b>	Impaired water bodies are protected as Tier 1 waters under New Mexico's Antidegradation Policy and Implementation Procedure ("no further degradation is permitted"). This condition is necessary to protect water quality, because the installation and implementation of Best Management Practices (BMPs) is the primary tool for preventing and limiting the discharge of pollutants from dredge and fill activities to a watercourse. It is necessary to ensure that water quality is not further degraded, and that the chemical, physical, and biological integrity of New Mexico's waters are not negatively impacted by potential discharges.	20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan; Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP) – Appendix A, Antidegradation Policy Implementation Procedure for Regulated Activities; 40 C.F.R. §131.12 Antidegradation policy and implementation methods; 40 C.F.R. §230.10 Restrictions on discharge; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74 Actions related to technology; 40 C.F.R. §230.75 Actions affecting plant and animal populations.
<b>General Condition 3</b>	This condition is necessary to protect water quality, because the installation and implementation of Best Management Practices (BMPs) is the primary tool for preventing and limiting the discharge of pollutants from dredge and fill activities to a watercourse. It is necessary to ensure that water quality is not degraded, and that the chemical, physical, and biological integrity of the National waters are not negatively impacted by potential discharges.	20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan; 40 C.F.R. §131.12 Antidegradation policy and implementation methods; 40 C.F.R. §230.10 Restrictions on discharge; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74 Actions related to technology; 40 C.F.R. §230.75 Actions affecting plant and animal populations.
<b>General Condition 4</b>	This condition is necessary to protect water quality because proper functioning floodplains provide natural riparian buffers along streams that filter sediment and pollutants from runoff and promote uptake of nutrients and chemical reactions in the soil and water column that improve water quality <sup>1</sup> . Land-use changes have the potential to disrupt floodplain function, limiting the natural ability of floodplain ecosystems to assimilate pollutants.	Executive Order 11988 – Floodplain management; 20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan; 40 C.F.R. §131.12 Antidegradation policy and implementation methods; 40 C.F.R. §230.10 Restrictions on discharge; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74

<sup>1</sup> [https://www.epa.gov/sites/production/files/201508/documents/a\\_function\\_based\\_framework\\_for\\_stream\\_assessment\\_3.pdf](https://www.epa.gov/sites/production/files/201508/documents/a_function_based_framework_for_stream_assessment_3.pdf)



	Executive Order 11988 requires the avoidance of long- and short-term adverse impacts associated with the occupancy and modification of floodplains and the avoidance of direct or indirect support of floodplain development wherever there is a practicable alternative. It is necessary to ensure that water quality is not degraded, and that the chemical, physical, and biological integrity of the National waters are not negatively impacted by potential discharges.	Actions related to technology; 40 C.F.R. §230.75 Actions affecting plant and animal populations.
<b>General Condition 5</b>	This condition is necessary to protect water quality, because impervious surfaces, buildings, and land developments are documented as probable sources of water quality impairments (CWA Section 303(d)(1), State of New Mexico Total Maximum Daily Loads <sup>2</sup> ). The installation and implementation of Best Management Practices (BMPs) is the primary tool for preventing and limiting the discharge of pollutants from dredge and fill activities to a watercourse. It is necessary to ensure that water quality is not degraded, and that the chemical, physical, and biological integrity of the National waters are not negatively impacted by potential discharges.	20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan; 40 C.F.R. §131.12 Antidegradation policy and implementation methods; 40 C.F.R. §230.10 Restrictions on discharge; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74 Actions related to technology; 40 C.F.R. §230.75 Actions affecting plant and animal populations.
<b>General Condition 6</b>	This condition is necessary to protect water quality, because requiring clean-up materials on-site and timely spill reporting ensures compliance with all water quality requirements in the event of a spill of toxic pollutants or other contaminants.	20.6.4.13 NMAC General Criteria; 20.6.2.1203 NMAC Notification of Discharge-Removal; 40 C.F.R. §230.74 Actions related to technology.
<b>General Condition 7</b>	This condition is necessary to protect water quality, because providing all contractors and subcontractors with the terms and conditions of this Certification will help prevent noncompliance with the State water quality regulations by supporting adequate training and working procedures.	NMSA 1978, Sections 74-6-1 to -17; 20.6.2 NMAC Ground and Surface Water Protection; 20.6.4 NMAC Standards for Interstate and Intrastate Surface Waters. 40 C.F.R. §230.74 Actions related to technology.
<b>Specific Condition for NWP 3</b>	This condition is necessary to protect water quality, because structures that require avoidable maintenance create recurring disturbances that have the potential to adversely affect water quality each time maintenance is conducted. It is necessary to ensure that water quality is not degraded, and that the chemical, physical, and biological integrity of New Mexico's waters are not negatively impacted by potential discharges.	20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan; 40 C.F.R. §131.12 Antidegradation policy and implementation methods; 40 C.F.R. §230.10 Restrictions on discharge; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74 Actions related to technology; 40 C.F.R. §230.75 Actions affecting plant and animal populations.
<b>Specific Condition for NWP 14</b>	This condition is necessary to protect water quality, because structures that do not support the passage of aquatic life, sediment, and woody debris, and structures that accelerate erosion contribute to	20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan; 40 C.F.R. §131.12 Antidegradation policy and

<sup>2</sup> <https://www.env.nm.gov/surface-water-quality/tmdl/>



	degraded water quality. Bridges with span lengths and clearance heights or bottomless arch culverts that allow for uninterrupted flows are preferred. It is necessary to ensure that water quality is not degraded, and that the chemical, physical, and biological integrity of the National waters are not negatively impacted by potential discharges.	implementation methods; 40 C.F.R. §230.10 Restrictions on discharge; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74 Actions related to technology; 40 C.F.R. §230.75 Actions affecting plant and animal populations.
<b>Specific Condition for NWP 31</b>	This condition is necessary to protect water quality, because facilities that require avoidable maintenance create recurring disturbances that have the potential to adversely affect water quality each time maintenance is conducted. It is necessary to ensure that water quality is not degraded, and that the chemical, physical, and biological integrity of the National waters are not negatively impacted by potential discharges.	20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan; 40 C.F.R. §131.12 Antidegradation policy and implementation methods; 40 C.F.R. §230.10 Restrictions on discharge; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74 Actions related to technology; 40 C.F.R. §230.75 Actions affecting plant and animal populations.
<b>Specific Condition for NWP 41</b>	This condition is necessary to protect water quality, because dredged material that is not properly handled and disposed has the potential to adversely affect water quality. It is necessary to ensure that water quality is not degraded, and that the chemical, physical, and biological integrity of the National waters are not negatively impacted by potential discharges.	20.6.4.13 NMAC General Criteria; 40 C.F.R. §230.72 Actions controlling the material after discharge; 40 C.F.R. §230.74

**Table 2: 40 C.F.R. §121.7(e)(2) For denial of certification for issuance of a general license or permit**

<b>Denials</b>	<b>(i) The specific water quality requirements with which discharges that could be authorized by the general license or permit will not comply;</b>	<b>(ii) A statement explaining why discharges that could be authorized by the general license or permit will not comply with the identified water quality requirements; and</b>	<b>(iii) If the denial is due to insufficient information, the denial must describe the types of water quality data or information, if any, that would be needed to assure that the range of discharges from potential projects will comply with water quality requirements.</b>
<b>Specific Denial for NWP-13</b>	20.6.4 NMAC Standards for Interstate and Intrastate Surface Waters; 20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan.	The use of concrete, soil cement, or other methods to partially or wholly line channels reduces infiltration, disrupts bank formation processes, and contributes to significant individual or cumulative adverse environmental impacts. Streambank modification, streambank destabilization, and loss of riparian habitat are	

		documented as probable sources of water quality impairments (CWA Section 303(d)(1), State of New Mexico Total Maximum Daily Loads <sup>3</sup> ).	
<b>Specific Denial for NWP-27</b>	20.6.4.12 NMAC Compliance With Water Quality Standards; 20.6.4.13 NMAC General Criteria; 20.6.4.8 NMAC Antidegradation Policy and Implementation Plan.		Appropriate study and modeling are required to release sediment from reservoirs to ensure compliance with State water quality standards. The volume of reservoir sediment relative to the stream's mean annual sediment load and concentration of any contaminants relative to background levels are key parameters for determining downstream environmental impacts.
<b>Specific Denial for ONRWs</b>	20.6.4.8(4)(a) NMAC Antidegradation Policy and Implementation Plan; 40 C.F.R. §131.12 Antidegradation policy and implementation methods; 20.6.4.9 NMAC Outstanding National Resource Waters.	Outstanding National Resource Waters (ONRWs) are Tier 3 streams, lakes, and wetlands that receive special protection against degradation. No degradation shall be allowed in waters designated by the Water Quality Control Commission as ONRWs, except as provided in 20.6.4.8 NMAC.	

<sup>3</sup> <https://www.env.nm.gov/surface-water-quality/tmdl/>

**Comments that are not Conditions of Certification:**

NMED comments on the proposed NWPs were submitted to Docket ID # COE-2020-0002 via the Regulations.gov website on November 16, 2020. See 85 FR 57298 (September 15, 2020).

***Other permits that may be required in addition to CWA Section 404 permits –***

- Dewatering discharges may be subject to NMED Discharge Permits. Regulations for ground and surface water protection at 20.6.2.1201 NMAC require any person intending to make a new water contaminant discharge to file a notice of intent to discharge with the Ground Water Quality Bureau (<https://www.env.nm.gov/gwqb/>) for discharges that may affect groundwater and/or with the Surface Water Quality Bureau (<https://www.env.nm.gov/swqb/>) for discharges that may affect surface water. Based on the information provided in the notice of intent, the appropriate Bureau will notify the Project Proponent if a discharge permit is required.
- Activities that disturb one (1) acre or more may require a National Pollutant Discharge Elimination System (NPDES) permit from the U.S. Environmental Protection Agency (EPA) under Section 402 of the Clean Water Act. The permittee should submit the appropriate application to EPA 14 days prior to initiating construction. In the case of emergency operations, operators must apply no later than 30 days after the start of construction and are considered provisionally covered under the terms and conditions of the EPA-issued general permit immediately, and fully covered 14 calendar days after EPA has acknowledged receipt of the application (Notice of Intent, or NOI), unless EPA notifies the permittee that the authorization has been delayed or denied. For additional information, contact:

EPA Region 6  
1201 Elm St.  
Dallas, Texas 75202  
Ph: 800-887-6063 or 214-665-2760 if calling from outside Region 6

## **APPENDIX B**

### **GILA NATIONAL FOREST**

#### **INDUSTRIAL FIRE PRECAUTIONS PLAN GUIDELINES**

**GILA NATIONAL FOREST  
INDUSTRIAL FIRE PRECAUTIONS PLAN GUIDELINES  
For  
AUTHORIZED USERS**

**Purpose**

The purpose of fire restrictions and industrial fire precautions is to reduce the risk of human-caused fires. The Industrial Fire Precautions Plan Guidelines and its associated fire precautionary measures must be followed year round. The intent of this guide is to provide authorized users with the information they need to ensure their operations conform to the standards and requirements outlined within this document. For the purpose of this plan, authorized users include any permit holder, lease, contractor, subcontractor and other user, engaged in permitted operations on the Gila National Forest lands.

When operating on Gila National Forest lands, it is necessary for the permitted user to know the current Emergency Fire Precautions Schedule and to take the appropriate actions to meet the mitigation measures in these guidelines. In addition, it is also incumbent on the authorized user to inform any and all of their subordinates (contractors and sub-contractors, etc) of these precautions and to ensure that all requirements are being met.

At all times, users shall have a plan of action which briefly states what preventative measures will be taken to mitigate fire occurrence. Users should clearly designate a fireguard (spotter) and what actions will be taken should a fire occur, including the notification process.

**General Fire Precautionary Measures**

**Communications**

Authorized users shall ensure a cell phone or radio communication system is available to provide prompt and reliable communications between the authorized user's operations and the Gila National Forest. In the event of a wildland fire ignition, users shall contact Gila National Forest Dispatch at 575-538-5371

**Fire Tools**

Authorized users shall furnish and maintain in good working order fire tools to be used only for suppressing wildland fires. Each operation shall be provided with one firefighting tool per person to equip all personnel engaged in operations. Approved firefighting tools may include the following: Pulaski, McLeod, long-handled shovel. These tools are separate from those required to be mounted on equipment.

### **Fire Tools on Equipment**

Passenger vehicles, including light pickup trucks and all-terrain vehicles, shall be equipped with a minimum of 1 long-handled shovel and 1 ABC dry chemical fire extinguisher not less than 2.5 lb. capacity. Each internal combustion fuel piece of equipment (dump truck, dozer, excavator, backhoe, etc) shall be equipped with one long-handled shovel and one 5 lb capacity ABC dry chemical fire extinguisher. Shovels and fire extinguishers shall be mounted and readily reached from the ground.

### **Spark Arrestors and Mufflers**

Authorized user will ensure that each internal combustion engine shall be equipped with a spark arrestor qualified and rated under latest revision of Society of Automotive Engineers "medium size engine, SAE recommended practice J350" unless:

- a) Equipped with a turbine-driven exhaust supercharger such as the turbocharger. There shall be no bypass.
- b) A multi-position engine, such as power saws purchased after 1977, which must meet the performance levels set forth in the Society of Automotive Engineers "multi-positioned small engine exhaust fire ignition standard, SAE recommended practice J335B as now or hereafter amended. Those purchased prior to the above date shall be equipped with an approved spark arrestor/muffler containing a 0.023 inch mesh screen in good condition.
- c) A passenger vehicle or light truck, or medium truck up to 40,000 GVW, used on roads and equipped with a factory designed muffler and an exhaust system in good working condition.
- d) A heavy duty truck, such as a dump truck, or other vehicle used for commercial hauling, used only on roads and equipped with a factory designed muffler and a vertical stack exhaust system extending above the cab.

Exhaust equipment described in this section, including spark arrestors and mufflers, shall be properly installed and constantly maintained in serviceable condition and not modified in any manner.

### **Powered Hand Tools**

During periods of use, each powered handtool operator shall have readily available for use, one long-handled shovel and one chemical-pressurized ABC dry chemical fire extinguisher of 1 lb. capacity by weight. Muffler, extinguisher, and shovel shall be maintained in good working order at all times. Fueling or refueling of a powered handtool shall be done in an area which has been completely cleared of material which will carry fire.

Powered handtools shall be moved at least 10 feet from the place of fueling or refueling prior to starting.

### **Gas Oil Storage and Service Areas**

The location of equipment service areas and gas and oil storage areas shall be approved in writing by the permit administrator. All areas shall be cleared of brush, litter, grass or other flammable debris for a radius of 50 feet.

### **Burning of Refuse**

No slash or other debris shall be burned without the written consent of the Gila National Forest.

### **Blasting**

Use of fuses in blasting shall not be permitted. A long-handled shovel and at least 5 gallons of water for firefighting purposes shall be available at all times. A fire guard must remain on the blasting site for a minimum of 1 hour after blasting operations have concluded.

### **Welding**

An area of sufficient size but not less than a 10-foot radius shall be cleared down to mineral soil before welding operations are started. Prior to welding, authorized users shall have available a long-handled shovel, a minimum of 5 gallons of water, and a 5 lb ABC dry chemical extinguisher at each welding site. A fire guard must remain on the welding site for a minimum of 1 hour after welding operations have ended.

### **Specific Fire Precautionary Measures**

Restriction Stage Levels	Industrial Fire Precaution Plan
<b>No restrictions</b>	A
<b>Stage 1</b>	B
<b>Stage 2</b>	C
<b>Partial/Forest Closure*</b>	D
<b>Red Flag Warning (Natl. Weather Service)</b>	D

#### **\*Partial Forest Closure:**

Project areas which are outside the boundaries of the partial forest closure may continue to operate under Industrial Fire Precaution Plan "C" operating criteria as agreed upon between the Permit Administrator and Permittee in writing.

Project areas within the boundaries of the proclaimed partial forest closure area are to operate under Industrial Fire Precaution Plan "D".

Staged restriction levels are determined by the appropriate Forest Line Officer in consultation with the Forest Fire Management Officer and Permit Administrator. The appropriate Forest Line Officer may adjust the predicted Industrial Fire Precaution Plan for local weather conditions within a project area. Changes in the predicted Industrial Fire Precaution Plan shall be agreed to in writing.

### **Industrial Fire Precaution Plan – Description**

Authorized user will restrict operations in accordance with the attached Emergency Fire Precaution Schedule:

**A** - Normal Fire Precautions – No fire guard required except for welding and blasting operations.

**B** – Normal Fire Precautions – Authorized user will provide fire guard.

**C** – All power equipment use as well as blasting and welding operations will shut down from 9:00 AM until 8:00 PM Mountain Daylight Time. Operations on mineral soil involving activities such as road excavation, watering, grading, surfacing, rock crushing, and/or other equipment maintenance may continue. Authorized user will provide fire guard.

**D** – Shutdown all operations; except operations on mineral soil involving road excavation, watering, grading, gravel surfacing, and rock crushing may continue with special Forest Service permit.

### **Fire Guards**

To prevent, detect, and suppress wildland fire, authorized users shall provide a fire guard at each operating area where power-driven equipment and tools have been operated during the day. The fire guards shall constantly perform their duties during operating hours and for 3 hours after the work stops for the day, when the Fire Precaution Plan is Plan “B”, “C”, or “D”.

A fire guard on one operating area shall satisfy the requirement on adjacent areas if the travel time with available transportation is not in excess of 10 minutes to any of the other areas requiring such service and provided the fire guard patrols all areas where authorized user’s activities occurred.

Each fire guard shall be vigilant, able and prepared to take actions to prevent, detect, and report on wildland fires and to promptly and efficiently take suppression action with available required firefighting equipment and personnel on any wildland fire that starts within the project area. Each fire guard shall be equipped with a vehicle and a fire tool cache consisting of a variety of fire tools maintained and in serviceable condition. Approved firefighting tools may include a Pulaski, long handled shovels, McLeods, and combination tools. The fire guard will also carry at least 25 gallons of water for firefighting purposes.



## **Red Flag Warning**

A red flag warning is issued when the combination of dry fuels and weather conditions support extreme fire danger. Red flag warnings are issued by the National Weather Service for land and fire managers to highlight the increased fire danger. Red flag warnings are issued if conditions are occurring or will occur within the next 24 hours that would support extreme fire danger.

When a Red Flag Warning is issued by the National Weather Service, all authorized user operations will adhere to Industrial Fire Precaution Plan “D” and will shut down operations until the Red Flag Warning is rescinded.

## **APPENDIX C**

### **Small Business**

#### **Subcontracting Plan**

## ATTACHMENT 1 – FHWA SUBCONTRACTING PLAN

### 1. INSTRUCTIONS:

- Where subcontracting opportunities will not exist for the solicitation, the bidder/offeree shall submit a response outlining the rationale for making this determination with its proposal/bid. The statement shall be signed by an official authorized to make decisions on behalf of the firm.
- The following information shall be provided in the bidder/offeree subcontracting plan submission and shall be expressed in terms of goal percentages of the total planned subcontracting dollars.
- Text lines may be added to this template as needed.

**Note to the CS/CO:** Per APM 025, where a subcontracting plan is required, the complete solicitation shall be sent to the Small Business Specialist (SBS) for review/approval along with **Attachment 3, Combined Subcontracting Plan Routing Sheet**. Prior to award, completed Subcontracting Plan(s) shall be sent to the SBS for review/approval along with the previously signed routing sheet.

SUBCONTRACTING GOALS – BASE YEAR		
Total prime contract amount – Base Year:	\$ [insert amount]	
Total planned subcontracted amount (regardless of firm/entity size status) – Base Year:	\$ [insert amount]	
Total planned subcontracts to “other than small business” concerns (i.e., large, non-profit, university, etc.)	\$[insert amount]	[insert #]% <sup>1</sup>
Total planned subcontracts to Small Business concerns:	\$[insert amount]	[insert #]% <sup>2</sup>
• Total planned subcontracts to Veteran Owned Small Business concerns (VOSB) <sup>3</sup> :	\$[insert amount]	[insert #]%
○ Total planned subcontracts to Service-Disabled Veteran Owned Small Business (SDVOSB) concerns:	\$[insert amount]	[insert #]%
• Total planned subcontracts to Historically Underutilized Business Zones (HUBZones):	\$[insert amount]	[insert #]%
• Total planned subcontracts to Small Disadvantaged Business (SDB) concerns (includes 8(a), Alaska Native Corporations (ANC), and Indian Tribes):	\$[insert amount]	[insert #]%
• Total planned subcontract awards to Women-Owned Small Business concerns (WOSB) <sup>4</sup> concerns:	\$[insert amount]	[insert #]%

*\*insert and complete additional tables if the contract includes option year(s).*

<sup>1</sup> Percentage = (subcontracted amount in the category/total planned subcontracted amount)

<sup>2</sup> Planned subcontracts to “other than small business” concerns + subcontracts to Small Business concerns = 100%

<sup>3</sup> SDVOSB is a subcategory of VOSB. Any dollar amount applied to SDVOSB also applies to VOSB.

<sup>4</sup> In this document, the term WOSB includes Economically Disadvantaged WOSB (EDWOSB) concerns.

1.1 Rationale if establishing a goal lower than 3% for VOSB:

1.2 Rationale if establishing a goal lower than 3% for SDVOSB:

1.3 Rationale if establishing a goal lower than 3% for HUBZone:

1.4 Rationale if establishing a goal lower than 5% for SDB:

1.5 Rationale if establishing a goal lower than 5% for WOSB:

1.6 Rationale if establishing a goal lower than the current [DOT subcontracting goal](#):

2. The following principal types of supplies and/or services are planned to be subcontracted under this contract. **[Add additional rows if more space is needed.]**

Type of Supply/Service to be Subcontracted	Company/Firm Name	Subcontracted Amount	Subcontractor Size Standard (Other Than SB, SB, VOSB, SDVOSB, HUBZone, SDB, WOSB) <sup>5</sup>

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<sup>5</sup> List all applicable size standards for each proposed subcontractor.

3. The following methods were used to develop the subcontract percentage goals:

--

4. The following methods were used to identify potential subcontract sources for solicitation purposes. (i.e. source lists used and organizations contacted to identify potential SB concerns, such as the System for Award Management ([www.SAM.gov](http://www.SAM.gov)), Dynamic Small Business Search ([www.DSBS.sba.gov](http://www.DSBS.sba.gov)), trade associations, industry conferences/fairs, etc.)

--

5. **[Select appropriate option.]** Indirect costs [**were/were not**] included in establishing the subcontracting goals specified in the table above.

6. If indirect costs were included, the following method was used to determine the proportionate share of indirect costs to be incurred with SB, VOSB, SDVOSB, HUBZone, SDB and WOSB subcontractors:

--

7. The following individual will administer the subcontracting program:

Name:	
Title:	
Address:	
Telephone:	
E-mail:	

This individual's specific duties, as they relate to the subcontracting program, are as follows:

--

8. The following efforts will be taken to ensure that SB, SDB, VOSB, SDVOSB, HUBZone, and WOSB subcontractors will have an equitable opportunity to compete for subcontracts:

--

☐ [initial] It is agreed that FAR Clause 52.219-8, Utilization of Small Business Concerns, will be included in all subcontracts, which offer further subcontracting opportunities. It is further agreed that all subcontractors (except small business concerns) at all tiers below the prime contractor who receive subcontracts in excess of \$700,000 (\$1.5M for construction of any public facility with further subcontracting possibilities) will be required to adopt and comply with a subcontracting plan in accordance with FAR Clause 52.219-9.

9. The following types of records will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan (i.e., establishment of source lists, guides and other data that identify SB, VOSB, SDVOSB, HUBZone, SDB and WOSB concerns; a description of the offeror's efforts to locate SB, VOSB, SDVOSB, HUBZone, SDB and WOSB concerns and to award subcontracts to them, etc.) and shall be maintained through completion of the contract:

10. In accordance with FAR Subpart 19.704(a)(10) through (15), the Contractor further agrees to:

[Initial each line]

- ☐ Cooperate in any studies or surveys as may be required;
- ☐ Submit periodic reports as may be required so that the Government can determine the extent of compliance by the Contractor with the subcontracting plan;
- ☐ After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts intended for use by multiple agencies;
- ☐ Submit the Individual Subcontract Report (ISR), and the Summary Subcontract Report (SSR) using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov/> within the timeframes identified at FAR Subpart 19.704(a)(10)(iv);
- ☐ Ensure that other than small business subcontractors with subcontracting plans agree to submit eSRS documents online as required;
- ☐ Provide its prime contract number and its unique entity identifier, and the e-mail address of the offeror's official responsible for acknowledging receipt of or rejecting the ISRs to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs;
- ☐ Require that each subcontractor with a subcontracting plan provide the prime contract number, its own unique entity identifier, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans;
- ☐ Make a good faith effort to acquire articles, equipment, supplies, services, or

materials, or obtain the performance of construction work from the small business concerns that the offeror used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal;

☐ Provide the contracting officer with a written explanation if the contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in FAR 19.704(a)(12) of this section. This written explanation will be submitted to the contracting officer within 30 days of contract completion;

☐ Will not prohibit a subcontractor from discussing with the contracting officer any material matter pertaining to payment to or utilization of a subcontractor; and

☐ Pay its small business subcontractors on time and in accordance with the terms and conditions of the subcontract, and notify the contracting officer if the offeror pays a reduced or an untimely payment to a small business subcontractor (see FAR [52.242-5](#)).

**Submitted by:**

POC Name:	
Title:	
Email Address:	
Company Name:	
DUNS/CAGE:	
Mailing Address:	

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Signature