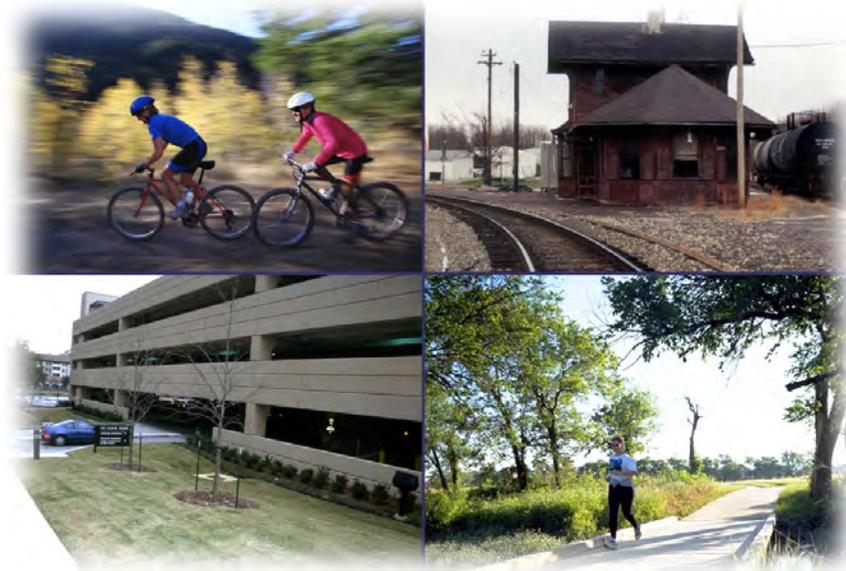


# Local Public Agency Manual

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State of Nevada

Jim Gibbons, Governor

Department of Transportation

Susan G. Martinovich, P.E., Director

Design Division

Daryl James, P.E., Chief Design Engineer

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# CHAPTER 1 - Local Public Agency (LPA) Projects

## 1.1 Introduction

The Nevada Division of the Federal Highway Administration (FHWA) is charged with the stewardship of the Federal Highway Program for the state of Nevada. Stewardship, as defined by FHWA, means the efficient and effective management of the public funds that have been entrusted to FHWA. In 1999 the Nevada Department of Transportation (NDOT) and FHWA entered into a Stewardship Plan, which was later replaced by a Stewardship Agreement in 2008, allowing NDOT to assume the responsibilities of the FHWA under Title 23 of the United States Code for the design, plans, specifications, estimates, contract awards and inspection of projects. The Stewardship Agreement further allows NDOT to delegate project review and administration to capable local public agencies. A capable local public agency is one that has mechanisms in place to assure project actions will be carried out in accordance with applicable laws, regulations, and policies. Under the Stewardship Agreement, the FHWA requires NDOT to administer Federal-Aid Highway funds available to a local public agency and to retain oversight responsibilities on projects. Oversight is defined as the act of ensuring the Federal Highway Program is delivered consistent with laws, regulations and policies.

The Local Public Agency (LPA) Program as established under the Stewardship Agreement allows for the delegation of project review, oversight, and administration for projects involving federal funds that are not located on the National Highway System (NHS). Examples of projects that can be completed under the LPA Program include bicycle facilities, landscaping, lighting, sidewalks, and capacity projects. In addition to traditional transportation projects, transportation projects involving programs, equipment or services may be completed under the LPA Program if federally funded.

NDOT has further expanded the LPA Program to include state-funded projects selected under the Landscape and Aesthetics Community Match Program. These projects are treated similarly as the federally funded projects in the LPA Program. The federal requirements associated with a LPA project are not required on the Landscape and Aesthetics Community Match Program unless the local public agency is using Federal Enhancement Funds as the required match to the Community Match Funds.

Each project completed under the LPA Program is done through an agreement between NDOT and the local public agency. The design (including the development of plans, specifications, and estimates), advertising, awarding and construction monitoring of a contract is delegated to the local public agency. The local public agency is also responsible for completing the surveys and permits required for compliance with the National Environmental Policy Act (NEPA.) NDOT retains the responsibility for providing FHWA with certification the project was completed in conformance with applicable federal laws and regulations.

## 1.2 Definition

The LPA Program is not a funding program nor is it a mechanism for creating a project. It is, however, a method for completing an approved funded project and works on a reimbursement basis. Federal-Aid funds are **NOT GRANTS**. Unlike grants, Federal-Aid funds require extensive oversight.

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The main objective of NDOT's LPA Program is to assist local public agencies in completing each project successfully with as little administrative oversight as possible, while ensuring federal and state requirements are fulfilled. This delegation is documented in this manual by defining the procedures NDOT and the local public agency must follow to comply with the intent of the Stewardship Agreement. A project completed under the LPA Program is referred to as a LPA Project.

The LPA Program, which allows the local public agency to design and administer construction with the oversight of NDOT, is available for numerous types of Federal-Aid funding. Some of the funding categories eligible for the LPA Program are:

- Surface Transportation Program (STP)
- Congestion Mitigation and Air Quality (CMAQ)
- STP Enhancement
- Highway Bridge Program (HBP)
- Highway Safety Improvement Program (HSIP)

### **1.3 Project Eligibility**

Generally, to be eligible for the LPA Program, two basic conditions must be met:

- The project must be partially funded with Federal-Aid funds.
- The local public agency must be responsible for the design of the plans, advertising, awarding and administering the construction of the project.

Federally funded projects on the National Highway System (NHS) are normally not eligible for the LPA Program. For capacity-type projects such as those that add more lanes or for new or modified interchanges on the NHS, the Principal Road Design Engineer over LPA Program, with the concurrence of the Director's office, may request an exception from the FHWA to administer the project under the LPA Program. On minor projects such as adding bike lanes or landscaping along the NHS, the Principal Road Design Engineer over LPA Program may request an exception directly to the FHWA without concurrence from the front office.

For Intelligent Transportation Systems (ITS) LPA Projects, NDOT's ITS section may request approval from the FHWA to complete the project under the LPA Program. However, for ITS LPA Projects, the FHWA retains full oversight during design and construction. This means the FHWA will be involved in the review and oversight of project development and administration. In addition, a member of NDOT's Maintenance & Operations Division will coordinate the project instead of the LPA Coordinator.

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## CHAPTER 2 - PROJECT SCOPING

### 2.1 Introduction

This manual is not intended to set out procedures for applying for project funding. However, prior to applying for federal funds, a local public agency should, at a minimum, consider the following key aspects of the proposed project:

- Environmental impacts, especially archeology and historic architecture issues
- Project-related costs:
  - Environmental studies
  - Public information
  - Design and development
  - Right-of-way & Utilities
  - Railroads
  - Local Public Agency contract administration/inspection
  - NDOT's project development oversight
  - NDOT's construction oversight
  - Construction
  - Construction of environmental mitigations
  - Contingencies
- Right-of-way requirements
- Traffic impacts
- Hydraulic (drainage) issues
- Structural requirements
- Pavement design and typical sections
- Availability of materials
- Ongoing maintenance and operating responsibilities
- Pedestrian/bicycle accommodation
- Safety
- Landscape and Aesthetics

Project scoping is an ongoing process that will be refined up to and through the preliminary design field study.

The above aspects may impact project schedules more than budgets, especially in the environmental arena. For planning purposes, the following are estimates of the length of time it takes to accomplish various aspects of a LPA Project. Some activities may overlap. These time estimates vary greatly depending on the size and complexity of the project.

- |  |                  |
|--|------------------|
| • Submittal of LPA data sheet  | Initiate process |
| • Establishment of kick-off meeting  | 1 month          |
| • Generation of agreement  | 1-6 months       |
| • Fully executed agreement and notice to proceed with design   | 1-2 months       |
| • National Environmental Policy Act of 1969 (NEPA) <ul style="list-style-type: none"><li>○ Categorical Exclusion</li></ul> | 3-9 months       |

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- Environmental Assessment 6-18 months
  - Environmental Impact Statement 24-36 months
  - Design 6-18 months
  - Right-of-way processes and utility identification, adjustment and/or relocation 6-36 months
  - Review times for plans submittals 3 weeks per submittal
  - Notice to proceed with construction 6-8 weeks from approval of final submittal & required local agency certifications
  - Construction 6-36 months

## 2.2 Environmental Impacts

When preparing the project application, the local public agency must consider impacts to the natural and social environment both from the aspect of the requirements of NEPA and from the implications of the project construction. By definition, LPA Projects involve federal funding and must complete the NEPA process. For more information see Chapter 5.

## 2.3 Right-of-Way Requirements and Utility Conflicts

Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, commonly called the Uniform Act, must be followed. It applies when federal funds are utilized in any phase of the project and applies even when federal funds are not used specifically for property acquisition or relocation activities, but are used elsewhere in the project, such as design, planning, environmental studies or construction. Borrow pits, detours and staging areas must be included in right-of-way considerations.

For additional information, refer to the [Real Estate Acquisition Guide for Local Public Agencies](#), available from FHWA. Also refer to the NDOT Right-of-Way Manual, which includes forms and agreement shells.

Types of Right-of-Way requirements are as follows:

- Temporary Easements
- Permanent Easements
- Fee Simple
- Permissions to construct (agreement to construct outside of right-of-way)
- Relocations
- Replacement Utility easements

Changes of access to properties, even if not related to right-of-way actions, can cause major impacts to project costs, schedules and designs. Also similar to right-of-way actions are adjustments or relocations of utilities. (See Title 23 of the Code of Federal Regulations (CFR) Part 645 Utilities and Nevada Administrative Code (NAC) 408 Highways and Roads (Installation and Relocation of Facilities))

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For utilities occupying NDOT's right-of-way by permit, NDOT will invoke its authority under Nevada Revised Statutes (NRS) 408.210 (4) to require relocation or adjustment of encroachments including utility facilities needed to accommodate the construction of the project. NDOT will exercise final approval over utility adjustments within NDOT's right-of-way and will have full authority to inspect said utility relocations.

The local public agency, when the terms of the franchise agreement allow, will require those utility companies having franchise agreements with the local public agency to relocate their facilities to accommodate the project improvements at no cost to the project or local public agency.

## **2.4 Railroad Requirements**

Work on or near railroads requires very early contact with the Railroad Owner because of the timeframes needed to obtain plan reviews and approvals. (See section 6.5.)

## **2.5 Structural Requirements**

For projects containing walls, bridges, multiple pipe installations, sign structures and boxes for drainage, pedestrians, bicycles and vehicles; state or other bridge design standards and specifications may be used depending on certain situations. The design of structures within NDOT right-of-way will be to NDOT standards. This includes on- and off-system bridges (off-system meaning not located on the Federal Aid System, which is based on the functional classification of the road the bridge carries). In addition, on-system bridges not within NDOT right-of-way must be designed to state standards. Off-system bridges not within NDOT right-of-way can be designed to standards other than NDOT's, but they need to be consistent with the roadway in regard to loadings and width when considering 20-year traffic projections. For on and off-system bridges over waterways, the bridge foundations must be designed according to NDOT standards.

NDOT has adopted the American Association of State Highway and Transportation Officials (AASHTO) Load and Resistance Factor Design (LRFD) design method for its bridge projects.

For projects containing bridges, it is important that an individual experienced in bridge structural design be in responsible charge of the design. The design must include a type selection report showing the structure geometry, clearances, construction staging, and alignment. A brief description of the alternatives considered must be provided along with justification of the preferred alternative (see NDOT's Bridge Design and Procedures Manual). The individual responsible for the structural design of the structures must be retained for construction support. This includes but is not limited to reviewing and approving items such as structural steel drawings, pre-stressing shop drawings, bearings, expansion joints, false work review, and rebar placement. In addition, they must respond to Requests for Information (RFIs), be available during the advertising period and prepare any necessary supplemental documentation.

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## **2.6 Drainage Requirements**

Drainage facilities in NDOT right-of-way must be designed to NDOT standards. The submittal requirements in the NDOT Drainage Manual shall be followed. Local public agencies must also follow, at a minimum, NDOT'S standards as outlined in the Water Quality Manuals. Any design exceptions will require prior, written approval from the Chief Hydraulics Engineer.

Drainage facilities outside of NDOT right-of-way may be designed to meet local design criteria and submittal requirements.

## **2.7 NDOT Design and Construction Oversight**

The local public agency shall include NDOT's administrative costs in the project's initial cost estimate. The NDOT design costs can be estimated as the higher of 0.25% of the construction cost or \$5,000.00. For construction oversight, NDOT's administrative costs can be estimated as the higher of 0.50% of the construction costs or \$5,000.00. NDOT may have additional costs if right-of-way or utility adjustments will be required for the project.

## **2.8 Contingencies**

The local public agency should include contingencies in the initial cost estimate. Contingencies will allow for increased project costs. The initial cost estimate is used to establish the budget for a project. Increases in the available funding may not be approved. Contingencies should be higher for the initial cost estimate because of the many unknowns, especially when little to no design has been completed. Depending on the potential for unknowns, contingencies should range from 3 percent to 15 percent. As the design progresses and there are less unknowns, lower contingency percentages can be used with each progressive engineer's estimate. By the time the design is ready for advertisement and construction, 3 percent should be used for possible construction change orders.

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## CHAPTER 3 - PROJECT DEVELOPMENT

### 3.1 Project Initiation

Upon deciding to administer a project under the LPA Program, the local public agency completes the LPA Project Data form ([Appendix A](#)). The local public agency submits the completed form to the Principal Road Design Engineer over LPA Program in the Road Design Division at 1263 S. Stewart Street, Carson City, NV 89712. If the Principal Road Design Engineer determines the project is appropriate for the LPA Program, the project is assigned to a LPA Coordinator.

### 3.2 Preliminary Cooperative (Local Public Agency) Agreement

Projects completed under the LPA Program require an agreement between NDOT and the local public agency before reimbursable work can begin. A Cooperative (Local Public Agency) Agreement defines the project scope, project responsibilities and requirements, the cost estimate, funding and payment obligations. The agreement defines the financial responsibilities of both parties. It includes the total amount payable to reimburse the local public agency for eligible costs, which is usually equal to the Federal-Aid amount minus NDOT direct project charges (dependent on match responsibility). NDOT direct project charges are costs for work performed by NDOT staff for project development and construction administration. The local public agency is financially responsible for costs that exceed the agreement amount.

The LPA Coordinator completes the following:

- Develops the Project Workbook.
- Completes and submits Request for Budget Approval ([2A Form](#)).
- Completes and submits the scheduling and programming form ([Scheduling/Programming Form](#)). At this time, only scheduling of the project is completed.
- Develops a draft agreement using information supplied in the LPA Project Form. The LPA coordinator contacts the Contract Compliance section to establish the Disadvantaged Business Enterprise (DBE) goal for the construction project.
- Completes the agreement summary form([Agreement Summary Form](#))

### 3.3 Kick-Off Meeting

The LPA Coordinator completes the following:

- Sets date, time and location of kick-off meeting.
  - Sends meeting invitation to local public agency with two (2) copies of the draft agreement at least three (3) weeks prior to the kick-off meeting date.
    - The local public agency's Project Manager shall attend, and local public agency personnel as deemed necessary may also attend.
  - Sends meeting invitation to affected divisions within NDOT and to FHWA's Field Operations Team Leader and Transportation Engineer. The

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invitations include a copy of the draft agreement, the LPA Form and the project application, if applicable.

- The following NDOT personnel are invited to attend:
  - Principal Road Design Engineer over LPA Program
  - Federal-Aid Manager
  - Administrative Services representatives
  - Right-of-Way Division representatives
  - District Permits representative, if needed
  - Environmental Services Division representatives
  - Construction Division representative
  - District Engineer
  - Contract Compliance Division representative
  - Other NDOT representatives as deemed necessary such as staff from Hydraulics, Bridge, and Traffic/Safety
- Conducts kick-off meeting. Discussions at the kick-off meeting may address:
  - Overview of project
    - Scope: The local public agency explains the scope of the project. This will give NDOT a feel for what level of involvement will be required.
    - Consultant selection procedures
      - If consultants will be used, consultant selection procedures must be submitted to NDOT for review and approval to ensure compliance with federal requirements (see Appendix B).
      - The local public agency may hire a consultant to design and/or administer the construction of its project using NDOT's consultant selection process.
      - The local public agency may be allowed to use NDOT's on-call procedure for consultant services.
  - Right-of -way issues
    - Verification of ownership
    - Right-of-way needs
    - Relocation needs
    - Utility impacts
    - Certification
      - Letter and documentation
  - Potential Environmental impacts and documentation required
    - What are the potential environmental issues and the level of the NEPA action?
  - Maintenance responsibilities:
    - Bridge maintenance should be discussed. For example, a bridge crossing over NDOT's facility, even though it may be off-system, may will be owned and maintained by NDOT between both ends of the approach slabs. The local public agency will perform trash

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removal, graffiti removal, and other minor maintenance on the bridge riding surface, sidewalks, and inside face of barrier rail. Graffiti on the outside surfaces, piers and abutments will be the responsibility of NDOT.

- The project budget, schedule and bidding requirements
  - How the match will be provided
  - Estimated timeframe for project completion (design & construction)
  - Federal requirements necessary for the project
    - Bidder preference not allowed
    - Contractor and sub-contractor licensing not required until before the award of the contract
    - Preferential hiring of local laborers is not allowed except for Tribal Employment Rights Office (TERO)
    - Federal wage rates
    - DBE goals
    - Affidavits of non-collusion
    - Affidavits for anti-lobbying
    - 49 CFR, Part 18 (Common Rule)
- Reimbursement billing and accounting procedures
- Comments on the draft agreement

### **3.4 Final Cooperative (Local Public Agency) Agreement**

The LPA Coordinator completes the following:

- Revises draft agreement based on comments received.
- Acquires necessary signatures on Agreement Summary Sheet.
- Sends revised agreement to Agreement Services Section. Includes the original signed Agreement Summary and the Request for Budget Approval.
  - Agreement Services Section reviews draft agreement.
  - Agreement Services Section sends agreement to Legal for review.
  - Agreement Services Section returns draft agreement to the LPA Coordinator.
- Finalizes agreement.
  - Revises agreement based on comments from Agreement Services Section and Legal.
  - Sends letter to local public agency with two (2) copies of the final agreement for signatures.
    - The local public agency shall not fill in the date or the agreement number, as the Agreement Services Section will complete this.

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- The local public agency shall not modify the format of the agreement. (Note: requested changes will require further reviews with no guarantee of approval of requests).
  - The local public agency shall sign the required federal affidavits (Affidavit of non-collusion, Restrictions of Lobbying Using Federal Funds and Disclosure of Lobbying Activities).
- Once the local public agency has returned both copies of the signed agreement to the LPA Coordinator, the coordinator forwards both signed copies to the Agreement Services Section for remaining NDOT signatures and final execution.

### **3.5 Funding Authorization**

After receiving the signed agreement from the local public agency, the LPA Coordinator completes and submits the request for scheduling and programming. Financial Management secures funding authorization from FHWA, for the appropriate phase of work.

Before work on a Federal-Aid project can be initiated, the work must be authorized by the FHWA. These project authorizations are as follows:

- Authorization to proceed with design
- Authorization to proceed with appraisal and acquisition of right-of-way and relocation of utilities after NEPA clearance
- Authorization to proceed with construction

The NDOT LPA Coordinator is responsible for the preparation and submittal of the requests to program each project phase with the review and approval from the Principal Road Design Engineer over LPA Program and the submission of the request to NDOT's Financial Management Division.

***Work performed on LPA Projects prior to authorization for each phase of work for the project is not eligible for federal and/or state participation.***

### **3.6 Notice to Proceed with Design**

The LPA Coordinator can issue a verbal notice to proceed after receiving authorization from the FHWA for design and after the agreement has been executed. The Principal Road Design Engineer over LPA Program provides the local public agency with a written notice to proceed with design, citing the date of the verbal notice, along with the copy of the executed agreement.

### **3.7 Information Requests**

#### **Bicycle checklist**

Once the authorization for design has been received, the LPA Coordinator fills out and submits the bicycle checklist form. The Bicycle Coordinator reviews the impacts of the proposed project on pedestrians and bicycles, especially with respect to impacts to bike

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routes on the State of Nevada Bicycle Plan, and makes recommendations for the proposed project, if applicable. This checklist is located on NDOT's Sharepoint.

### **Alignment checks**

For projects on roads owned and maintained by NDOT, the LPA Coordinator will request the existing roadway alignment information from NDOT's location engineer and forwards that information to the local public agency.

### **Right-of-way**

For projects within or abutting NDOT right-of-way, the LPA Coordinator will request verification of NDOT's right-of-way limits and forwards that information to the local public agency. In addition, the LPA Coordinator will request copies of NDOT occupancy permits within the project area if the project is located within NDOT right-of-way. Copies of the permits will be forwarded to the local public agency and the NDOT Right-of-Way Division.

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## CHAPTER 4 - PRELIMINARY DESIGN

### 4.1 Standards

#### 4.1.1 Design Standards

NDOT design standards will be used on capacity LPA Projects located on the NHS. NDOT standards will also be used when improvements are located on NDOT right-of-way and will be maintained by NDOT. Local Public Agency standards may be used on projects located within NDOT right-of-way if the local public agency is going to maintain the improvements. However, asphalt and concrete specifications for improvements within NDOT right-of-way must meet NDOT requirements. The local public agency may use its standards on projects located outside of NDOT right-of-way. If the local public agency does not have standards, NDOT standards must be used. The decision of which standards will be used will be made during the development of the agreement.

The local public agency may follow its access management policies on their facilities. On NDOT owned and maintained highways, NDOT's "Access Management System and Standards" (<http://www.nevadadot.com/business/forms/>) shall be followed. Exceptions to the standards must be approved by the appropriate district or NDOT's Maintenance & Operations Division.

Structures located on a federal-aid highway (public highways other than those functionally classified as local roads or rural minor collectors) must be designed to NDOT standards. Other structures may be designed to standards less than NDOT's. The design must be consistent with the roadway the structure carries with respect to loadings and width when considering 20-year traffic projections. For bridges over waterways, the bridge foundations must be designed to NDOT standards.

For capacity LPA Projects within NDOT right-of-way, three percent (3%) of the construction costs shall be applied towards landscape and aesthetics. Landscaping and/or aesthetic treatments shall comply with the Department's Landscape and Aesthetic Master Plan, A Pattern and Palette of Place, and the appropriate Landscape and Aesthetic Corridor Plans. Materials shall be regionally appropriate and plantings shall be drought tolerant.

The following is a list of acceptable design references. It is the responsibility of the local public agency to use the most current version of these references, when applicable.

#### **NDOT Manuals, Policies, Guides and Procedures**

- Road Design Division: [Standard Specifications for Road and Bridge Construction](#)
- Road Design Division: [Standard Plans for Road and Bridge Construction, English](#)
- Road Design Division: [CADD Standards Manual](#) (computer-aided design and drafting )
- Road Design Division: [Road Design Guide](#)
- Hydraulics Section: [Drainage Manual](#)
- Hydraulics Section: [Storm Water Quality Manuals](#)
  - Planning & Design Guide
  - Construction Site Best Management Practices

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- Structural Division: [Structures Manual – Structural Design Policies and Practices](#)
  - Construction Division: [Documentation & Construction Manual](#)
  - Right-Of-Way Division: Right-of-Way Manual
  - Safety & Traffic Division: [Work Zone Safety & Mobility Implementation Guide](#)
  - Safety & Traffic Division: [Nevada Sign Supplement](#) to the Standard Highway Signs Manual
  - Maintenance & Operations Division: [Access Management System and Standards](#)
  - District: [Terms and Conditions Relating to Right-Of-Way Occupancy Permits](#) for NDOT Revocable Encroachment Permits
  - [Landscape & Aesthetics Master Plan](#): Pattern and Palette of Place - A Landscape and Aesthetics Master Plan for the Nevada State Highway System
  - [Landscape and Aesthetics Corridor Plans](#)

### **Other Manuals, Policies, Guides, and Procedures**

- [NAC Chapter 408 Highways and Roads](#) – Installation and Relocation of Facilities
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### **Environmental Guidance**

- Environmental Services: [Procedures Guide](#)
- NDOT/FHWA Stewardship Agreement
- FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents
- FHPM 7-7-3 - Procedures for the Abatement of Highway Traffic Noise and Construction Noise
- AASHTO Environmental Practitioner's Handbooks (<http://environment.transportation.org/>)

### **AASHTO Publications**

- A Policy on Geometric Design of Highways and Streets - "Green Book"
- Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals
- AASHTO LRFD Bridge Design Specification, latest edition with interim revisions
- AASHTO Standard Specification for Highway Bridges, latest edition with interim revisions
- Roadside Design Guide
- An Informational Guide for Roadway Lighting
- AASHTO Drainage Guidelines
- Manual on Subsurface Investigations, Publication No. S99-MSI
- Guide for the Development of Bicycle Facilities
- Guide for Planning, Design and Operation of Pedestrian Facilities

### **FHWA Publications**

- Contract Administration Core Curriculum Participant's Manual and Reference Guide: <http://www.fhwa.dot.gov/programadmin/contracts/cacc.pdf>
- Manual on Uniform Traffic Control Devices
- Standards and Guides for Traffic Control for Street and Highway Construction, Maintenance, Utility, and Incident Management Operation
- Standard Highway Signs and Markings

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## **Transportation Research Board (TRB)**

- TRB Special Report 209 - Highway Capacity Manual

## **Illuminating Engineering Society of North America**

- American National Standard Practice for Roadway Lighting (EIS - RP8)

### **4.2 30% submittal (ITS and Bridges)**

30% submittals are required for ITS projects and projects involving bridges.

#### **4.2.1 Structure Requirements**

For projects involving new bridges, the following steps shall be addressed during the 30% design phase:

- A Type Selection Report showing structure geometry, clearances, construction staging, and alignment shall be prepared. A brief description of the alternatives considered and a cost estimate for each will be provided along with justification on the preferred plan (see the NDOT Bridge Design and Procedures Manual).
- The methods of analysis and software proposed for use on the major structural components of the bridge must be indicated. For example: superstructure design will use finite element methods using the SAP 2000 software, or columns will use elastic analysis using RECOL software.
- A QA/QC program for the design of the structure must be submitted for approval. Requirements for this are provided in NDOT's Bridge Design and Procedures Manual.
- Proposed design parameters including live loads, seismic loads, wind loads and temperature variations used must be stated.
- Right-of-way, construction staging and utility conflicts need to be considered.
- Preliminary bridge scour analysis for bridges over waterways.

#### **4.2.2 ITS Requirements**

On ITS projects, a representative of the Maintenance and Operations Division will be the Project Coordinator in lieu of the LPA Coordinator. On ITS projects, FHWA retains full oversight of the project. FHWA is invited to meetings involving NDOT and will review submittals. The Project Coordinator will work with the local public agency to determine the requirements for the 30% submittal.

### **4.3 Design Reimbursement Process**

During the design phase, the local public agency will invoice NDOT through the LPA Coordinator in accordance with the Cooperative (Local Public Agency) agreement. The local public agency submits an invoice to the LPA Coordinator for one hundred (100) percent of eligible costs, noting the percentage of the local funding share. In addition, the invoice shall include the following information:

- 
- The name of the local public agency submitting the invoice.
  - The name of a contact person within that local public agency, in case of questions.
  - The address of the local public agency.
  - The name of the contact person within NDOT.
  - The division of the contact person.
  - NDOT's project number provided in the "Notice to Proceed."
  - The federal project number provided in the "Notice to Proceed."
  - The agreement number provided in the "Notice to Proceed."
  - A brief description of the project, i.e. installing lighting on U.S. 50.
  - The time period the invoice covers beginning to end.
  - The total eligible costs of the project for that time period.
  - A description of the work, i.e. preliminary design, construction engineering and/or construction.
  - Auditable support documentation such as copies of local public agency's employee time sheets or consultant invoices.

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## CHAPTER 5 - ENVIRONMENTAL

### 5.1 Introduction

The National Environmental Policy Act of 1969 (NEPA) established a national environmental policy focused on balancing the needs of the current and future generations with the impacts to the natural and human environments. Before transportation-related projects involving federal funds or a federal action can be moved forward, the project proponent must address and comply with environmental laws, regulations and executive orders. These cover social, economic, and environmental impacts.

The FHWA NEPA process considers alternatives, examines environmental impacts and mitigations, and provides interagency coordination and public involvement and written documentation of decisions. The environmental process beyond NEPA covers compliance with environmental laws, regulations and executive orders, including, but not limited to, the following:

- Sections 401, 402 and 404 of the Clean Water Act
- Section 4(f) of the Department of Transportation Act of 1966
- Section 6(f) of the Land and Water Conservation Fund Act of 1965
- Section 106 of the National Historic Preservation Act of 1966
- Section 7 of the Endangered Species Act
- Executive Order 11990, Protection of Wetlands, May 24, 1977
- Executive Order 11988, Protection of Floodplains, May 24, 1977
- Farmland Protection Policy Act, 2000
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, February 11, 1994
- U.S. Environmental Protection Agency, National Pollutant Discharge Elimination System
- Migratory Bird Treaty Act of 1918
- Title 1 of the Clean Air Act
- 23 CFR 771, 772, 774, and 777, FHWA Environmental Regulations

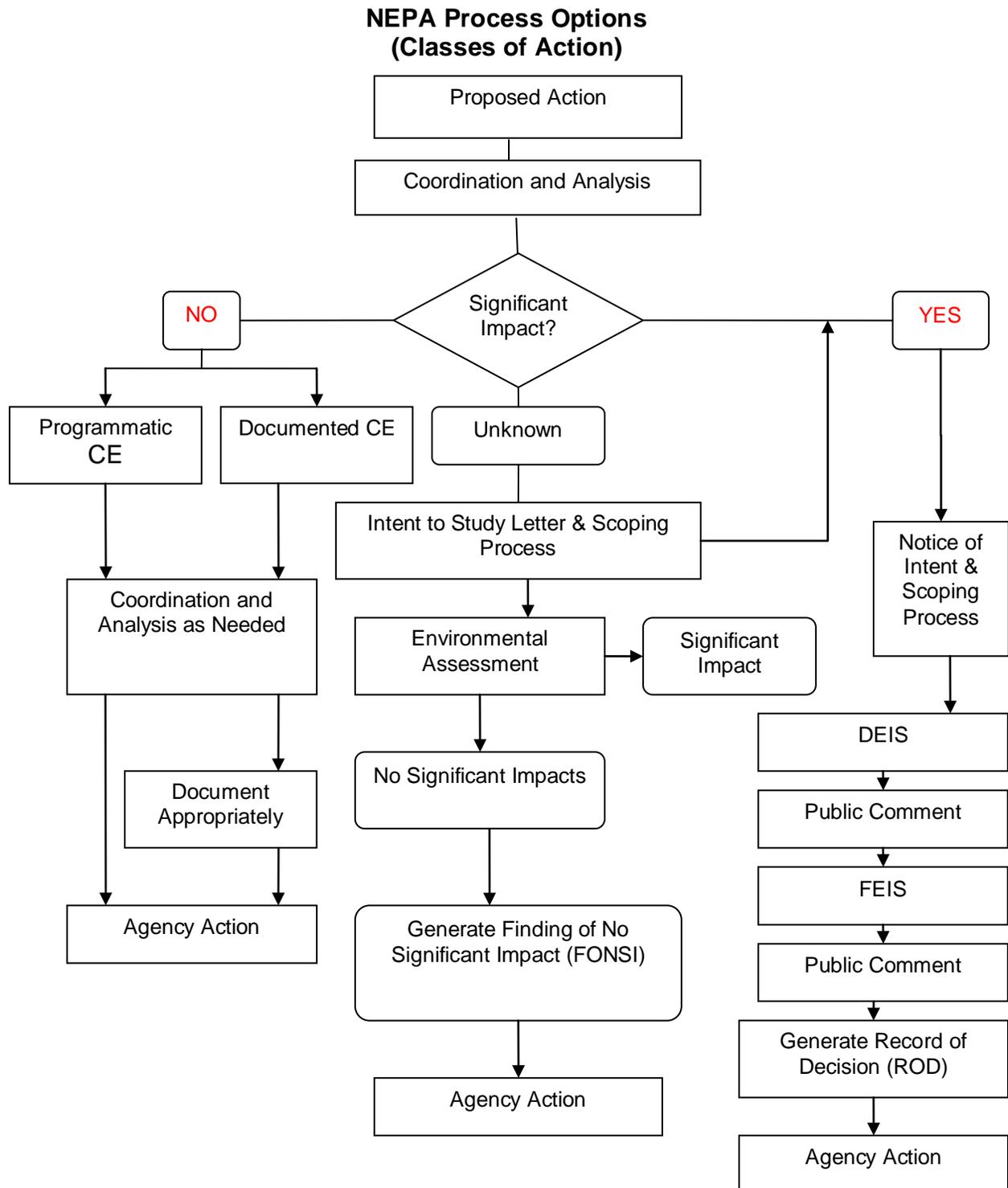
### 5.2 Environmental Actions

To account for the variability of project impacts, three types of environmental actions have been established. The three types of environmental actions, in order of increasing complexity, are:

- A Categorical Exclusion (CE) is issued for actions that do not individually or cumulatively have a significant effect on the environment.
- An Environmental Assessment (EA) is prepared for actions for which the significance of the environmental impact is not clearly established or that have no significant impacts on the quality of the environment; a Finding of No Significant Impact (FONSI) is issued.

- An Environmental Impact Statement (EIS) is prepared for projects where it is known that the action will have a significant effect on the environment; a Record of Decision (ROD) is issued.

The general NEPA process used to determine the type of environmental action is outlined below:



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Non-capacity transportation-related projects may be processed using a CE, which may take up to six months to complete. For capacity improvements, the project may require an EA or an EIS depending on the significance of the environmental impacts. The EA or EIS process is more time consuming. An EA may take eighteen to twenty-four months to complete, while an EIS can take up to three years or longer. Early coordination between the local public agency, NDOT and FHWA will determine which type of action will be involved.

If the project involves right-of-way from a federal agency such as Bureau of Land Management (BLM), Bureau of Reclamation (BOR), Bureau of Indian Affairs (BIA), or the Forest Service (USFS), the project will also require coordination with these agencies. These agencies may require a separate NEPA action or request “Cooperating Agency” status. In this case, these agencies must be involved from the beginning.

### **5.3 Environmental Procedures**

As noted earlier, the environmental impact a transportation-related project has varies greatly from project to project. It is impossible to delineate one procedure to complete the NEPA process. Each project must be examined to determine what the scope of work is, the area impacted and the possible environmental impacts.

The local public agency must contact NDOT’s Environmental Services Division in the beginning phase of the project. The first point of contact with NDOT’s Environmental Services Division is the Environmental Services Division Chief, who can be reached at 775-888-7013. Using the project information provided by the local public agency, NDOT, in cooperation with FHWA, will determine what procedures will satisfy the NEPA process. The Environmental Services Division can provide tentative timetables for the environmental actions.

Once the type of action required is determined and the procedures outlined, the work must be completed by qualified personnel. If the local public agency does not have staff capable or qualified to complete the work, qualified consultants must be hired. NDOT’s Environmental Services Division can provide a list of qualified consultants.

Additional guidance can be found in [Appendix C](#).

### **5.4 CE Process (23 CFR 771.117)**

A CE will be processed when the project or actions taken, based on past experience with similar projects or actions, do not involve significant environmental impacts. The CE may be processed as a programmatic CE or a documented CE. A programmatic CE is an action included on the list of actions that meet the criteria for a CE and normally require no further FHWA approvals and is set forth in 23 CFR 771.117(c). The list of actions is as follows:

- Activities that do not involve or lead directly to construction, such as planning and technical studies.
- Approval of utility installations along or across a transportation facility.
- Construction of bicycle and pedestrian lanes, paths, and facilities.

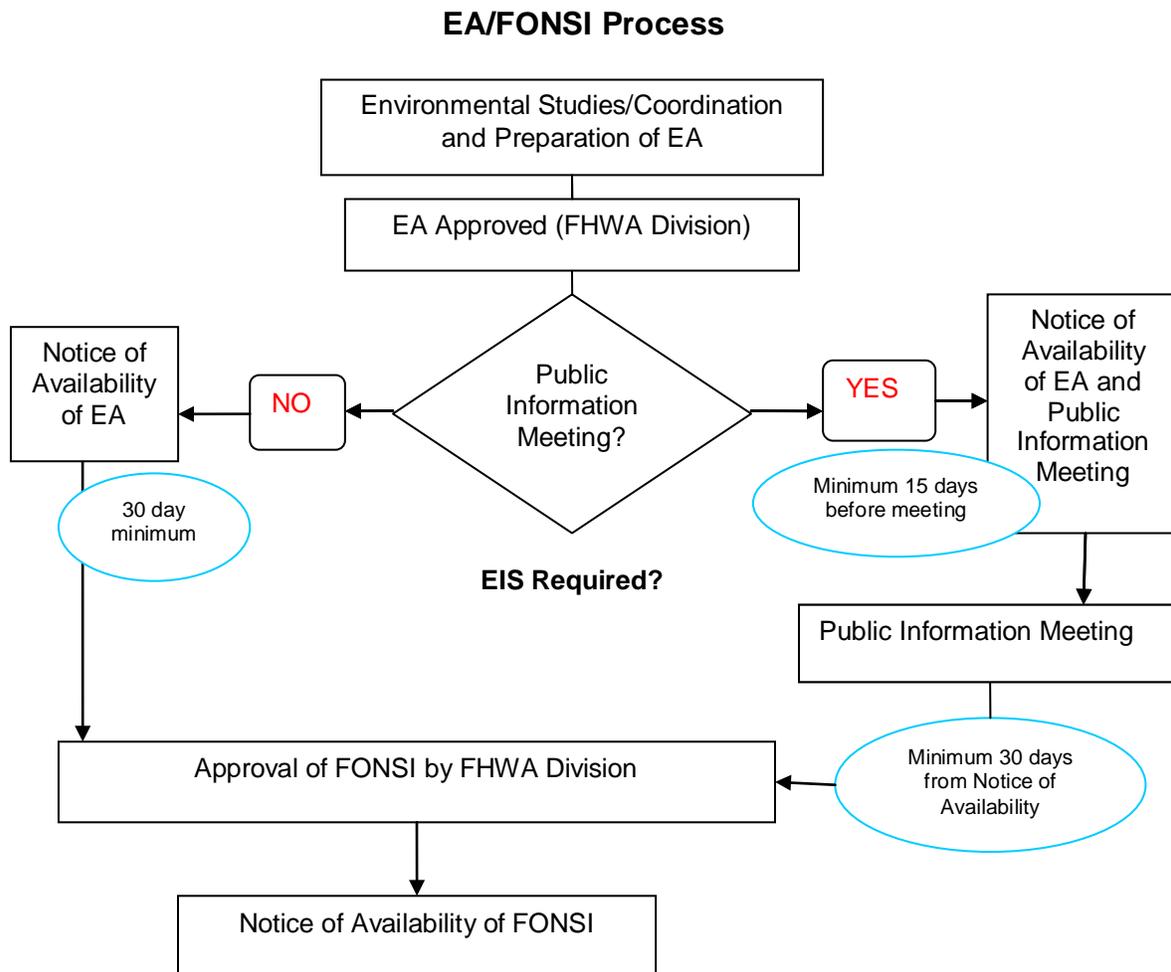
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- Activities included in the State's highway safety plan under 23 USC 402.
  - Transfer of Federal lands pursuant to 23 USC 317 when the subsequent action is not an FHWA action.
  - The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
  - Landscaping.
  - Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
  - Emergency repairs under USC 125.
  - Acquisitions of scenic easements.
  - Determination of payback under 23 CFR part 480 for property previously acquired with Federal-aid participation.
  - Improvements to existing rest areas and truck weigh stations.
  - Ridesharing activities
  - Bus and rail car rehabilitation
  - Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
  - Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
  - The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
  - Track and rail bed maintenance and improvements when carried out within the existing right-of-way.
  - Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site,
  - Promulgation of rules, regulations and directives.

Other projects, as specified under 23 CFR 771.117(d), may also qualify as a documented CE if appropriately analyzed and documented showing it will not have significant environmental impacts. Approval by the FHWA Division office is required.

### **5.5 EA Process (23 CFR 771.119 & 23 CFR 771.121)**

An EA is prepared when a project or action is not a CE and does not clearly require the preparation of an EIS, or when it is believed that an EA would assist in determining the need for an EIS. If environmental analysis and interagency review during the EA process determines a project would have no significant impacts on the environment, a FONSI will be issued.

The overall process is outlined below:



The EA process starts with consultations with interested agencies and public information meeting(s) with others to advise them of the scope of the project; to determine the potential social, economic, and environmental impacts; to identify potential alternatives and measures which will mitigate adverse impacts; and identify environmental review and consultation requirements which must be performed concurrently with the EA.

The EA provides a summary of the public involvement and includes the results of agency coordination. In addition, the EA provides the evidence and analysis to support the findings of the document.

The EA is reviewed and approved for circulation by NDOT and FHWA prior to being made available to the public. Upon approval, a notice of availability of the EA along with the schedule of a public hearing is published in the local adjudicated newspaper(s). Copies of the EA are circulated to public officials and agencies, interest groups, the statewide clearinghouse and members of the public who request it. A notice of availability must precede the public information meeting by a minimum of fifteen days.

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The minimum thirty-day comment period for the EA begins when the notice of availability is published.

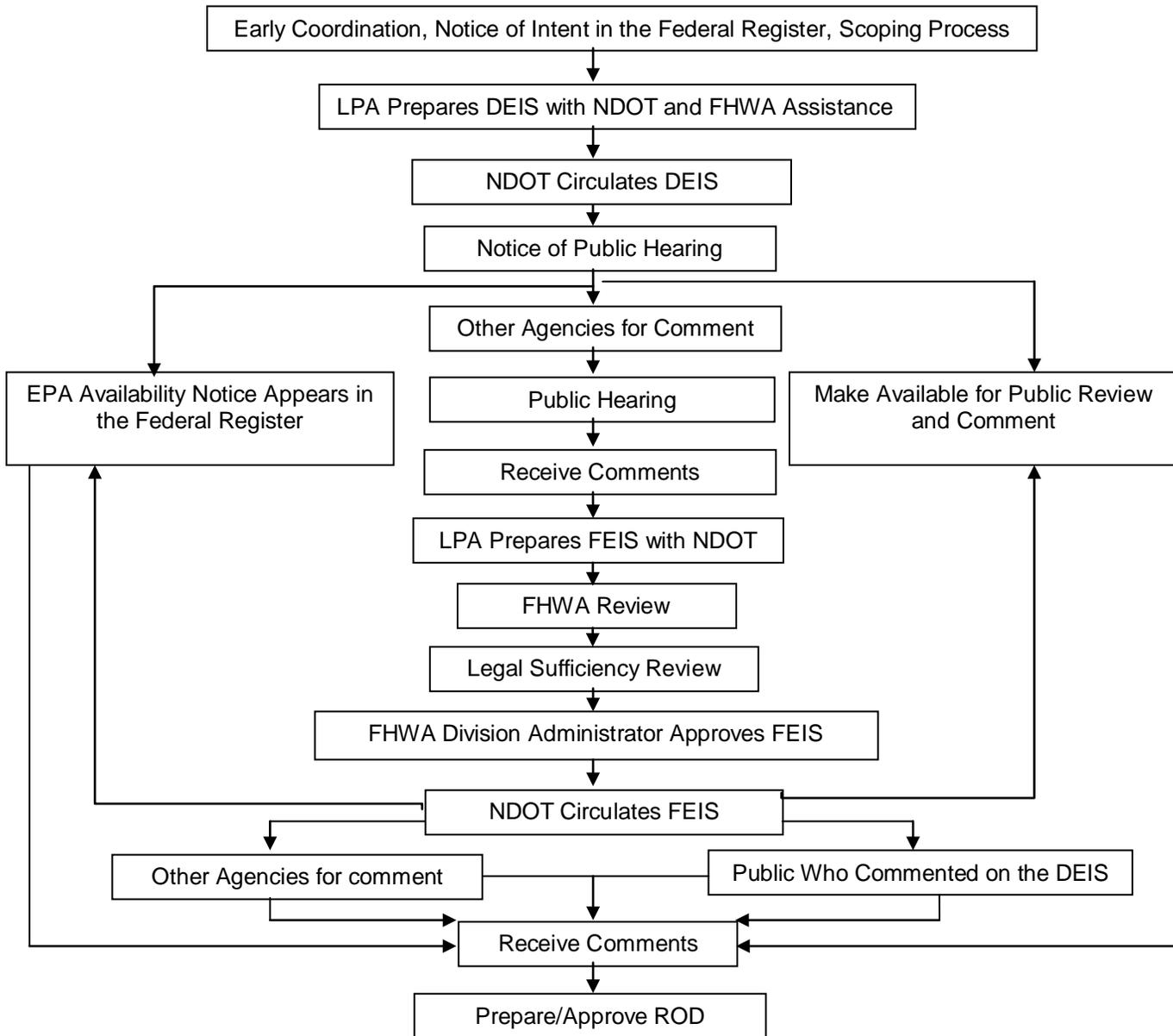
A FONSI is issued if it can be documented that the proposed project or action has no significant impacts. It must include and reference the environmental assessment. It must also be approved by the FHWA, but needs not be circulated. As with the EA, a notice of availability of the FONSI must be published in the same local newspaper(s) that published the notice of availability of the EA. In addition, the notice must indicate the project and its approval. The notice of availability of the FONSI must be sent to the affected agencies and the statewide clearinghouse.

If a FONSI cannot be issued, the environmental process proceeds with an EIS. At any time in the process, if it is determined that the project will have significant impacts, the environmental process must change to an EIS or the project scope must be adjusted to avoid significant impacts.

## **5.6 EIS Process (23 CFR 771.123, 23 CFR 771.125 & 23 CFR 771.127)**

An EIS is prepared when a proposed project or action is likely to cause significant impacts on the environment. An EIS is a full disclosure document that details the process through which a transportation project was developed, includes consideration of a range of reasonable alternatives, analyzes the potential impacts resulting from the alternatives, and demonstrates compliance with environmental laws and executive orders. The process begins with a Notice of Intent (NOI), continues with the creation of a draft EIS (DEIS) and a final EIS (FEIS) and is completed with the issuance of a Record of Decision (ROD), as outlined on the following page:

## DEIS/FEIS Process



The EIS process begins with the issuance by FHWA of a Notice of Intent (NOI) published in the Federal Register. The NOI announces the intent to prepare an EIS in association with a proposed project or action. The LPA is responsible for preparing the NOI.

The EIS is a public document that evaluates all reasonable alternatives to the proposed action and includes a discussion of why other alternatives, which may have been considered, were eliminated from the detailed study. The document includes a summary, a purpose and need statement, outlines the alternatives, the existing setting, the consequences of the proposed project or action and possible mitigations, public and agency comments and coordination efforts.

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The DEIS is reviewed and approved for circulation by NDOT and FHWA. Copies of the DEIS are circulated to public officials and agencies, interest groups and members of the public. A public hearing is required. The DEIS shall be available a minimum fifteen days prior to the public hearing. It shall also be available for review at the public hearing.

A draft FEIS is prepared after the DEIS has been circulated and comments received. The draft FEIS is circulated to public officials and agencies, interest groups and members of the public. A period of not less than forty-five days is required for the return of comments on the DEIS. The FEIS identifies the preferred alternative and evaluates all reasonable alternatives considered. It addresses substantive comments received on the draft, and includes the responses to the comments and summarizes the public involvement. The document contains the mitigation measures to be incorporated into the proposed project or action.

After the FEIS is reviewed and approved by NDOT and FHWA, it is distributed to everyone who received a copy of the DEIS as well as to any persons, organizations or agencies that made substantive comments on the DEIS or requested a copy. The FEIS is also made available to the general public. The FHWA publishes the availability of the FEIS in the Federal Register.

The FHWA will complete and sign a ROD no sooner than thirty days after publication of the FEIS notice in the Federal Register or 90 days after publication of a notice for the DEIS, whichever is later. The ROD summarizes mitigation requirements that must be included in the project. Until the ROD is signed, no further federal approvals may be given.

## 5.7 Environmental Impacts

The following list includes general areas of potential impacts but is not intended to be all inclusive:

- **Air quality** – Under the Federal Clean Air Act, transportation activities in air quality nonattainment or maintenance areas that receive federal funding or approval must be fully consistent with the plan developed to meet federal clean air standards, known as the State Implementation Plan (SIP).
- **Noise** – The Federal-Aid Highway Act of 1970 and associated implementing regulations (23 CFR 772) require that potential impacts to noise sensitive areas such as residences, businesses, schools, parks, etc. be identified and mitigation considered during project planning and design. The regulations contain noise abatement criteria (NAC) that are used to determine when a noise impact would occur.
- **Environmental Justice** – Projects involving a federal action must comply with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. This Executive Order directs federal agencies to identify and address disproportionate effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.
- **Cultural resources** – Potential impacts to archaeological, traditional, and built environment resources, including but not limited to buildings, structures, objects,

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districts, and sites must be addressed under Section 106 of the National Historic Preservation Act and implementing regulations at 36 CFR 800.

- **Native American Consultation** – Meaningful and timely discussion with tribal governments is required during the project development that may significantly or uniquely affect federally recognized American Indian tribes and their governments. Tribes are sovereign entities and must be approached on a Government to Government basis directly through FHWA with the assistance of NDOT Cultural Resources staff.
- **Paleontological resources** – Paleontological resources include fossil plants and animals used to study life in past geologic time. A number of federal statutes, including the Antiquities Act of 1906 and the Federal-Aid Highway Act of 1935, address paleontological resources, their treatment, and funding for mitigation as a part of federally authorized or funded projects.
- **Water Quality** – Under Section 402 of the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program regulates the discharge of pollutants from point sources to waters of the United States. A NPDES permit is required for construction sites that disturb one acre or more, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared to minimize water and wind erosion and the discharge of pollutants from construction sites.
- **Wetlands and other Waters of the United States** – Section 404 of the Clean Water Act requires a permit from the U.S. Army Corp of Engineers (USACE) for the discharge of dredged or fill material into the waters of the U.S. including tributaries to navigable waters, interstate wetlands, wetlands which could affect interstate or foreign commerce, and wetlands adjacent to other waters of the U.S. Wetlands are areas that meet specific criteria for hydrophytic vegetation, hydric soils, and wetland hydrology. A Section 401 Water Quality Certification from the State of Nevada is also required when a federal Section 404 permit is issued.
- **Floodplains** – Executive Order 11988 (Floodplain Management) directs all federal agencies to refrain from conducting, supporting, or allowing actions in floodplains unless it is the only practicable alternative. Local, state and federal water resources and floodplain management agencies must be consulted if a proposed action encroaches on a 100-year base floodplain. FHWA requirements for compliance are outlined in 23 CFR 650.
- **Threatened and Endangered Species** – Under the Endangered Species Act, potential impacts to federally-listed threatened, endangered, proposed, or candidate species and designated or proposed critical habitat must be addressed through consultation with the U.S. Fish and Wildlife Service (USFWS).
- **Migratory Birds** – The Migratory Bird Treaty Act of 1918, administered by the USFWS, makes it unlawful to take, import, export, possess, sell, purchase, or barter any migratory bird, with the exception of the taking of game birds during established hunting seasons. This law is of particular concern when birds nest on bridges or other transportation infrastructure or in vegetation to be cleared for project construction.
- **Section 4(f) Properties** – Under the Department of Transportation Act of 1966, a Section 4(f) evaluation is required for any project that uses Section 4(f) property including publicly owned parks, recreation areas, and wildlife or waterfowl refuges, or any publicly or privately owned historic site that is listed or eligible for listing on the National Register of Historic Places.

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- **Section 6(f) Properties** – Projects that convert any outdoor recreation property acquired or developed with funding from the Land and Water Conservation Fund to a use other than outdoor recreation, are subject to Section 6(f) of the Land and Water Conservation Fund Act.
  - **Farmland** – The Farmland Protection Policy Act requires federal agencies to coordinate with the Natural Resources Conservation Service (NRCS) if proposed activities may irreversibly convert farmland (directly or indirectly) to nonagricultural use. Farmland protection applies to “prime” farmland, “unique” farmland, and farmland of statewide or local importance.
  - **Hazardous Materials / Wastes** – Hazardous materials and hazardous wastes are regulated by many state and federal laws. Potentially contaminated property should be identified as early as possible in the project development process.

## 5.8 NEPA Documentation/Environmental Certification

The local public agency completes the majority of the work needed to comply with NEPA and other environmental permits and clearances and provides NDOT with copies of letters, applications, reports and/or permits to document compliance.

Certain activities, including Section 7 consultation under the Endangered Species Act, Section 106 consultation under the National Historic Preservation Act, and tribal consultation, must be carried out by the FHWA with assistance from NDOT. NDOT acts as FHWA’s nonfederal representative for informal consultation under Section 7 of the Endangered Species Act. NDOT Cultural Resources staff works with the FHWA Environmental Program Manager to carry out Section 106 consultation with the State or Tribal Historic Preservation Officer (SHPO/THPO) and to assist with tribal consultation activities.

NDOT’s Environmental Services Division must certify the project to complete the construction programming and/or to begin right-of-way activities. The certification is dependent on information supplied by the local public agency.

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## CHAPTER 6 - RIGHT-OF-WAY AND UTILITIES

### 6.1 Introduction

NDOT has a responsibility to FHWA for the acquisition of right-of-way on federal transportation projects in the state. Transportation projects that use federal funds or require a federal action are considered a federal transportation project. A project that impacts the interstate is considered a federal transportation project. Right-of-way needed for a federal transportation project must be acquired in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Prior to commencing right-of-way activities, the following must be completed: LPA agreement executed, NEPA completed, and a NTP for right-of-way activities received.

NDOT must certify the right-of-way needed to construct the project is in legal and/or physical possession and utility relocation and railroad work has been completed or arrangements have been made to coordinate the efforts with the construction of the project, before any federally funded construction project can be authorized by FHWA for advertisement.

### 6.2 Projects without Right-of-Way Acquisition

#### 6.2.1 Projects within NDOT Right-of-Way

When a LPA Project is located within or adjacent to NDOT right-of-way the LPA Coordinator requests a right-of-way verification and a search of the permits from the NDOT Right-of-Way Division. The LPA Coordinator will provide that information to the local public agency. The local public agency will verify the project and its appurtenances stay within the right-of-way limits. In addition, the local public agency shall make the LPA Coordinator aware of impacts to permits within the project limits. The local public agency shall display the right-of-way limits on the plan sheets.

If it appears the improvements or the construction operations and equipment will extend beyond the right-of-way limits, the local public agency must notify the LPA Coordinator and work with NDOT to acquire the necessary right-of-way.

#### 6.2.2 Projects within Local Public Agency Right-of-Way

The local public agency must provide the LPA Coordinator with documentation on the local public agency's right-of-way limits on the project. The documentation of the existing right-of-way limits may consist of copies of deeds, plat maps dedication acceptance by the local public agency, record of survey showing acceptance by the local public agency or a town plat. **Copies of assessor's maps are not acceptable.** Right-of-Way Division determines if the documentation provided by the local public agency properly identifies its ownership of the right-of-way and whether it has the legal right to occupy the right-of-way. The local public agency shall display the right-of-way limits on the plan sheets.

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### 6.3 Projects with Right-of-Way Acquisition

Not all projects can be constructed within the limits of the existing right-of-way owned by either the local public agency or NDOT. In those cases, right-of-way must be acquired to accommodate the project. In determining the right-of-way requirements for a project, ADA guidelines must be considered. NDOT normally is responsible for acquiring additional right-of-way. Costs associated with acquiring the right-of-way will be considered a project cost.

NDOT may delegate responsibility for completing portions or all of the work needed to acquire the right-of-way to a qualified local public agency. For a local public agency to be considered qualified for right-of-way acquisition, the local public agency must submit the following information to NDOT:

1. A listing of positions performing the functions of appraisal, appraisal review, negotiations, relocation assistance and property management, in compliance with the Uniform Act.
2. An organizational chart indicating both positions and names of staff.
3. The qualifications and experience of the right-of-way staff and/or consultant staff who will be performing right-of-way services, including the number of years of experiencing working with or utilizing the Uniform Act.
4. A statement detailing the local public agency's process for;
  - a. Approval of administrative and legal settlements
  - b. Reviewing relocation assistance appeals
5. Identification of the agency official with responsibility for appraisal, appraisal review, negotiations, relocation assistance and property management.
6. A description of any right-of-way procedures proposed as alternatives to NDOT right-of-way processing.
7. A description of the right-of-way activities required for the project which may include:
  - a. A set of right-of-way maps
  - b. The number of parcels needed for the project, categorized by use, such as residential, commercial, industrial, etc.
  - c. The type of right-of-way acquisition, such as fee acquisitions, permanent easements, temporary easements, etc.
  - d. A description of known issues or complexities affecting the right-of-way acquisition.
  - e. An engineer's final take-off of project costs associated with right-of-way, including, but not limited to:
    1. staff costs
    2. consultant costs
    3. relocation assistance costs
    4. acquisition cost per parcel
    5. fees and costs for agency legal staff
    6. utility relocation costs

Qualification of a local public agency to perform right-of-way acquisition is provided on a project by project basis. Qualification will be determined by NDOT's Right-of-Way Division based on the specific requirements of the project, and the local public agency's ability to perform the right-of-way activities. In the event that the local public agency is

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qualified for a specific project, the local public agency shall work with NDOT's right-of-way staff to ensure compliance with federal and state laws.

Right-of-way acquisitions, regardless of who acquires, shall be completed in accordance with the NDOT Right-of-Way Manual and the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended.

### **6.3.1 Initial Right-of-Way Setting**

An initial right-of-way setting meeting shall be held once the NEPA process has been completed and the local public agency has identified the right-of-way needed for the project. The purpose of the meeting is to discuss the right-of-way needed for the finished design and additional needs for the construction of the project. Impacts to existing utilities and the possible resolutions to those impacts are discussed at the meeting.

The LPA Coordinator arranges the initial right-of-way setting meeting with representatives from the local public agency and NDOT. The LPA Coordinator will invite the appropriate NDOT Right-of-Way staff including the Supervisory Right-of-Way Agent for Negotiations, the Supervisory Right-of-Way Agent for Utilities, the Manager for R/W Engineering, the Right-of-Way Staff Specialists, Chief Counsel from NDOT's Legal Division, members of NDOT's Environmental Services Division, and FHWA's Field Operations Team Leader and Transportation Engineer to attend.

The local public agency must be prepared to discuss why the right-of-way is needed and possible alternatives to avoid or minimize the right-of-way required. The local public agency must provide an exhibit showing the limits of the existing right-of-way and the limits of the additional right-of-way needed for the project. The limits of the proposed right-of-way must be delineated with stations and offsets to the construction centerline. The exhibit must also identify the type of acquisition needed.

The acquisition types are as follows:

- **Fee Simple**  
Fee Simple is the acquisition of the total property interest.
- **Permanent easement**  
A permanent easement is defined as an area required for the construction of a highway-related feature that is permanent in nature or requires ongoing maintenance. This type of easement requires the purchase of a less than fee interest in the land. Examples of permanent easements include ingress/egress, maintenance, slope and drainage.
- **Temporary/construction easement**  
A temporary easement is defined as an area outside the right-of-way limits required to allow the construction of a highway feature. The compensation to the property owner as a result of the granting of the temporary easement will vary according to the length of time the easement is needed, the use to which the temporary easement is to be placed, and the type of property being valued, etc.

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- Control of access  
The valuation and acquisition of access rights to a public facility is measured by the loss in value, if any, of the remaining parcel measured on a before and after basis.
  - Permissions to construct (agreement to construct outside of right-of-way)  
This is used when the contractor needs to enter private lands to reconstruct a feature for the use and benefit of the landowner. Examples would be an area required to rebuild an owner's approach or to construct an irrigation ditch belonging to the landowner that is not associated with highway drainage. If the owner does not give a permission to construct, it does not impact the ability to build the project. In that case, the parcel and work is removed from the construction plans and right-of-way maps.

The local public agency must be prepared to discuss utilities impacted by the project. The discussion must include how the utilities are impacted, who will do the adjustments/relocations, and who is responsible for the costs. Only those utilities with a documented prior right can be reimbursed for design costs, replacement easements, and adjustment/relocation costs. The local public agency, working with the utility companies, must provide documentation to support the utility's claim of prior rights. The supporting documentation may consist of copies of deeds or easements, or franchise agreements.

### **6.3.2 Final Right-of-Way Setting**

It is determined at the conclusion of the initial right-of-way setting if another meeting is required. If there are no or only minor changes to the additional right-of-way limits needed for the project, a second meeting may not be required and the initial setting will act as the final. Otherwise additional meetings may be required to set the final right-of-way needs for the project.

### **6.3.3 Right-of-Way Setting Memo**

Once the right-of-way needs are set, the LPA Coordinator, with input from the local public agency, prepares a Right-of-Way Setting Memo. This memo documents the discussions at the right-of-way setting meetings. The memo must include:

- An exhibit that identifies and displays the areas and parcels to be acquired. The exhibit shows the limits and type of acquisitions and includes offsets to the project alignment at parcel breaks (Project alignments for NDOT highways must be approved by NDOT's Location Engineer).
- The county the project is located.
- The ultimate titleholder.
- Number and type of acquisition (See Section 6.3.1 for types)
- Alternatives explored including the justification for the take versus the alternative
- Recommendation approval signature blocks for the following:
  - Chief Design Engineer
  - Chief Hydraulics Engineer
  - Chief Environmental Services Engineer

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- Chief Right-of-Way Agent
  - An approval block for the Assistant Director of Engineering

An example of a Right-of-Way Setting Memo can be found in [Appendix D](#).

Changes from the information outlined in the Right-of-Way Setting Memo, such as the deletion of a parcel, requires an amended Right-of-Way Setting Memo.

### **6.3.4 Authorization for Right-of-Way Acquisition**

After the Right-of-Way Setting Memo is approved, the LPA Coordinator completes a Scope/Budget Change and Programming /STIP Revision Request. This document is used to request funding be authorized for the right-of-way acquisition, relocation and utility relocations/adjustments. The request will be based on estimates provided by the local public agency and verified by the NDOT Right-of-Way Division.

Once the funding authorization from FHWA has been received, the right-of-way phase of the project can begin. When the local public agency is delegated the authority to acquire right-of-way for the project, the LPA Coordinator will issue a Notice to Proceed with the right-of-way engineering, appraisal and appraisal review. NDOT must establish the just compensation for the parcels before the local public agency can begin making offers to the property owners.

### **6.3.5 Right-of-Way Acquisition**

#### **6.3.5.1 Local Public Agency Appraisal**

Appraisals shall be performed by state licensed appraisers under contract with the local public agency. Contract appraisers must be on the NDOT Approved Appraiser List maintained by the NDOT Right-of-Way Staff Specialist for Appraisals. Appraisals for property must follow the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisition (Yellow Book). When differences occur between the two standards the Yellow Book shall be considered the prevailing authority.

Where property acquisition is uncomplicated and value is estimated to be less than \$10,000 the local public agency may prepare a Waiver Valuation according to the guidelines found in the NDOT Right-of-Way Manual. Appraisals and Waiver Valuations are commenced by the invitation to the owner to accompany the appraiser on their field review as required under 49 CFR 24.102.

Appraisals shall be reviewed by appraisers on the NDOT Approved Appraisers List. The NDOT Right-of-Way Division will review the appraisal reports and set just compensation before the local public agency can begin making offers to the property owners.

#### **6.3.5.2 NDOT Acquisition**

When NDOT acquires the right-of-way, NDOT's Right-of-Way Division will prepare the title reports, right-of-way maps, appraisals, appraisal reviews and property transfer

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documents in accordance with NDOT procedures. The right-of-way will be acquired in the name of the State. If the Cooperative (Local Public Agency) Agreement establishes or perpetuates NDOT maintenance responsibilities the acquired right-of-way will be retained by NDOT. The NDOT may, by Resolution of Relinquishment, recommend to the Transportation Board the disposal of or transfer of property to the local public agency.

#### **6.3.5.3 Local Public Agency Acquisition**

If the local public agency acquires the right-of-way for a project, the local public agency shall follow the NDOT Right-of-Way Manual and the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended. The NDOT Right-of-Way Manual has been approved by FHWA and ensures compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. The local public agency shall work closely with the LPA Coordinator and NDOT's Right-of-Way Division during the acquisition process, to assure federal and state requirements are met. The Right-of-Way Division shall review products prepared by the local public agency for the project.

The local public agency shall submit legal descriptions, right-of-way plans, title reports, appraisal reports, appraisal reviews, a relocation plan (if applicable), and cost estimates to the Right-of-Way Division for review and approval. Right-of-way plans must meet NDOT's right-of-way standards. (See NDOT Right-of-Way Manual) An NDOT approved independent appraiser must be used to create the appraisal reports for the local public agency. In addition, an NDOT approved independent appraiser must review the appraisal report. The local public agency shall obtain a copy of the approved appraiser list from the NDOT Staff Specialist for Appraisals.

The Right-of-Way Division will review the appraisal reports and set just compensation before the local public agency can begin making offers. (See Negotiations Section in the NDOT Right-of-Way Manual) The Right-of-Way Division reviews the local public agency's negotiations for property settlements with the affected property owners.

#### **6.3.5.4 Dedications and Donations**

NDOT cannot accept right-of-way by direct dedication. There must be a deed transferring ownership to NDOT. The local public agency may accept, as part of a federal or federally assisted project, a parcel that a developer has dedicated or proposes to dedicate. Dedication is the process of reserving a parcel of land for future public use. A dedication is usually made as part of the subdivision or zoning approval process. The local public agency may accept land dedicated pursuant to the local planning process or at the request of the property owner for land use concessions that are consistent with the local and federal regulations and environmental regulations.

Real property obtained through normal zoning or through subdivision procedures requiring dedication of strips of land in the normal exercise of police power is not considered to be a taking in the constitutional sense. Therefore, it does not call for payment of just compensation or compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended. Property and property rights acquired in this manner may be incorporated into a federally assisted project

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without jeopardizing federal participation in other project costs. However, dedication undertaken to circumvent federal requirements is unacceptable.

Property owners whose real property is to be acquired for a project may make a gift or donation of the land to the acquiring agency, for any part of it, or of any of the compensation paid for it. The owner-donors must be informed of their right to receive just compensation for the acquisition of the property if it is desired. The owners must also be informed that they are entitled to have an appraisal made of the property along with an offer of just compensation. The owner(s) may release the local public agency from these obligations and waive the appraisal and compensation. This release must be in writing and comply with the NDOT Right-of-Way Manual. The complete donation process is explained under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended and within the NDOT Right-of-Way Manual.

### **6.3.5.5 Monumentation**

Final monumentation is done after the right-of-way is purchased. A sufficient amount of control monuments shall be placed within the R/W (or in centerline survey wells) to allow for the establishment, re-establishment or retracement of the acquisition centerline and in accordance with the NRS. All work performed in monumenting the centerline control shall be performed under the direct supervision of a professional land surveyor licensed in the State of Nevada.

## **6.4 Utilities**

It is the local public agency's responsibility to determine which utilities will be impacted by the project. Impacts include adjustments to grade (such as valves and manhole covers) as well as relocations. The local public agency must coordinate with utility companies to identify facilities, determine conflicts, and determine relocation requirements and payment terms. The local public agency must coordinate with the Utilities Section of NDOT's Right-of-Way Division.

Utilities requiring adjustment must be adjusted prior to the start of construction unless it is more cost effective to make adjustments during construction. If utilities are to be adjusted during construction, the project special provisions must spell out the utility coordination and construction sequencing. Costs incurred due to delays in the construction schedule because of utility adjustments are not eligible for reimbursement and do not count towards the required match.

The local public agency must:

- Identify, verify and locate known utilities and conflicts within project limits.
- Obtain copies of documentation showing utilities' rights to be in a specific location.
- Coordinate necessary utility relocations and negotiate the agreements and/or permits.
- Coordinate necessary power sources, telephone and line extension agreements to facilitate the highway and its appurtenances.

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- Draft project utility specifications, and ensure existing utility lines and relocation requirements are shown and/or reflected in the project plans, specifications and estimates.
  - Issue Notice to Proceed to utility company for relocation of their facility.
  - Process utility billings.

The NDOT Right-of-Way Division shall assign a Utility Agent to provide guidance and oversight to the local public agency and ensure the relocation/adjustments of the utilities is performed in accordance with the applicable State and Federal regulations, including but not limited to NAC Chapter 408 and 23 CFR Part 645.

For utilities occupying NDOT's right-of-way by permit, NDOT will invoke its authority under Nevada Revised Statutes (NRS) 408.210 (4) to require relocation or adjustment of encroachments including utility facilities needed to accommodate the construction of the project. NDOT will exercise final approval over utility adjustments within NDOT's right-of-way and will have authority to inspect said utility relocations.

The local public agency in a similar manner, when the terms of the franchise agreement allow, will require those utility companies having franchise agreements with the local public agency to relocate their facilities to accommodate the project improvements at no cost to the project or local public agency.

Utilities with documented prior rights shall receive a replacement property right, be relocated and reimbursed in accordance with applicable State and Federal regulations, including but not limited to NAC Chapter 408 and 23 CFR Part 645.

## **6.5 Railroads**

The local public agency may encounter railroad involvement in one of two contexts:

- On projects specifically for the installation of safety devices at highway/railway at grade crossings; or
- When the transportation project will encroach upon railroad property and/or impact railroad facilities. A project does not have to physically touch the railroad facility to be considered an encroachment.

On LPA projects with railroad involvement, an agreement between the railroad and the local public agency is required. An application may need to be submitted to and approved by the Nevada Public Utilities Commission. The NDOT railroad coordinator in the Safety and Traffic and Safety Engineering Division can offer guidance and support at the local public agency's request. The railroad operator must be contacted very early in the project due to the timeframes required for railroad coordination.

In addition, the local public agency will be required to enter into a preliminary engineering agreement with the railroad for plans review and a Flagging agreement for flagging costs on the project. The NDOT utility agent can provide guidance and support at the local public agency's request.

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During preliminary design field surveys a right-of-entry permit from the railroad will be required. The application for right-of-entry can be found at <http://www.uprr.com/reus/tempuse/index.shtml#tempprocedures>.

The local public agency's contractor must secure Protective Liability Insurance when there is work within the railroad right-of-way. In addition, the local public agency's contractor must secure a railroad flagger during construction and obtain a right-of-entry from the railroad. This flagger will be in communication with oncoming trains and with the contractor's flagger to ensure coordination. The railroad flagger must know the crossing number and the railroad milepost. This information can be obtained from NDOT's railroad coordinator in the Traffic and Safety Engineering Division. Particular attention must be paid to the possible back up of traffic onto the tracks due to the project.

The local public agency's utility inspector shall document the railroad's flagging hours using format provided by the NDOT Staff Specialist for Utilities.

## **6.6 Right-of-Way and Utility Certifications**

Authorization to advertise a construction project for bids cannot be issued until several requirements have been met. One requirement is that FHWA receives a letter from NDOT that right-of-way is acquired and cleared, relocations are completed if applicable, and that all utility and railroad work has been completed, or arrangements have been made to coordinate the work with the project, as defined in the executed utility agreement. NDOT's Right-of-Way Division provides a letter of certification based on the information supplied by the local public agency. The local public agency must provide the required certifications to the NDOT Right-Of-Way Division through the LPA Coordinator a minimum 60 days prior to the proposed advertisement date of the project to allow the NDOT Right-Of-Way Division time to confirm the information.

### **6.6.1 NDOT**

If the project is located within right-of-way owned by NDOT, NDOT will provide a right-of-way verification and certify the project based on information provided by the local public agency.

If additional right-of-way was required and NDOT acquired the right-of-way for the project, NDOT will certify the right-of-way acquired for the project as well as existing NDOT right-of-way used for the project. For NDOT to certify the right-of-way for the project, the local public agency must provide plans showing the limits of the improvements and removals as well as the limits of the existing right-of-way. The limits of the right-of-way shown on the plans must include offsets from the centerline.

### **6.6.2 Local Public Agency**

If the project is not located within right-of-way owned by NDOT, the local public agency must certify to NDOT it has the right-of-way required to complete the project. The certification is submitted through the LPA Coordinator.

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If additional right-of-way was required and the local public agency acquired the right-of-way for the project, the local public agency must provide a written letter certifying the right-of-way was acquired in accordance with the Uniform Act. If NDOT acquired additional right-of-way for the project, the local public agency is responsible for providing the right-of-way certification for the property owned by the local public agency.

The head of the local public agency's right-of-way section, the attorney for the local public agency, the County Surveyor, licensed in the State of Nevada or the individual who signed the LPA Agreement must sign the right-of-way certification. In addition to the letter certifying the right-of-way, the local public agency must provide supporting documentation. The supporting documentation may consist of copies of deeds, plat maps showing dedication acceptance by the local public agency, record of survey showing acceptance by the local public agency or a town plat. **Copies of assessor's maps are not acceptable.** For more information or additional guidance, please contact NDOT's Right-of-Way Division, (775) 888-7480. (See [Appendix D](#) for examples of right-of-way certifications)

### 6.6.3 Utility Certifications

In addition to the required Right-of-Way certification, the local public agency must provide a letter certifying the utility impacts. This certification may be combined with the Right-of-Way letter. If no utilities are being impacted on the project, the local public agency must provide a written statement to that effect. If utilities are being impacted, the local public agency must provide written certification with the following information:

- The name and type of utilities being impacted
- The type and number of impacts
- Who will be doing the adjustment
- When will the adjustment be completed
- Who is responsible for the costs of the adjustments
- Copies of all fully executed agreements with the utility companies

The utility certification may come from the head of the local public agency's utility section, the attorney for the local public agency or the project manager/engineer. If the work is to be done under the local public agency's contract, the local public agency must provide documentation showing the affected utility companies have granted permission to the local public agency to adjust their facilities, including valve and manhole covers and who is responsible for the costs of those adjustments. Only utilities that have a documented prior right are eligible for federal reimbursement of relocations/adjustments. (See [Appendix D](#) for examples of utility certifications)

### 6.7 Right-of-Way Reimbursement Process

If the local public agency was delegated authority to acquire the right-of-way for a project, the local public agency will invoice NDOT through the LPA Coordinator in accordance with the Cooperative (Local Public Agency) Agreement. The local public agency submits an invoice to the LPA Coordinator for one hundred (100) percent of eligible costs, noting the percentage of the local funding share. In addition, the invoice should have the following information:

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- The name of the local public agency submitting the invoice.
  - The name of a contact person within that local public agency.
  - The address of the local public agency.
  - The name of the contact person within NDOT.
  - The division of the contact person.
  - NDOT's project number provided in the "Notice to Proceed."
  - The agreement number provided in the "Notice to Proceed."
  - A brief description of the project, i.e. installing lighting on U.S. 50.
  - The time period the invoice covers.
  - The eligible costs of the project for that time period.
  - A description of the work, i.e. preliminary design, construction engineering and/or construction.
  - Auditable support documentation such as copies of local public agency's employee time sheets or consultant invoices and sales deed.

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## CHAPTER 7 - PERMITS

### 7.1 General

A Right-of-Way Occupancy Permit issued by NDOT is required when encroachments are made onto NDOT highway right-of-way. The permit is issued pursuant to the provisions of NRS 408.423, NRS 408.210 and NAC 408.

It is the local public agency's responsibility to obtain the permit prior to advertising the project. The local public agency is responsible for ensuring NDOT's Terms and Conditions relating to Right-of-Way Occupancy Permits are included in the contract specifications. On LPA Projects, a District Permits representative will be involved in the review of plan submittals. The LPA Coordinator is responsible for providing copies of the plan submittals to the District Permits Office. When the encroachment permit is submitted by the local public agency, the NDOT permit processor that completed the previous plan reviews will complete the review of the permit.

The local public agency will follow the permitting process, including the desk audit. The permitting processor should be requested to determine what procedures would apply for the project either at the review meetings or well prior to the actual submission of the permit. The occupancy permit fee will be waived for LPA Projects.

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## CHAPTER 8 - FINAL DESIGN

### 8.1 60% Design

At the time of the 60% Design submittal, the construction limits must be known. The limits of right-of-way required to construct the proposed improvements must be established. Adjustments to utilities within the construction limits must be known as well. If the project requires right-of-way, a right-of-way setting is held at this point.

Preliminary Engineering is complete and significant changes are not anticipated beyond this submittal. The following shall be incorporated into the design and reflected in the plans:

- Pedestrian and ADA accommodations or facilities (Design Division: Compliance)
- Bicycle master plan facilities (Planning Division: Intermodal Planning)
- Aesthetic criteria and landscape requirements (Design Division: LA)
- Materials recommendations (Materials Division)
- The traffic analysis report (Traffic Division)
- The final structural section design recommendations (Materials Division)
- The drainage design (Design Division: Hydraulics)
- Right-of-way benefit/cost analysis (Right-Of-Way Division)
- Utility adjustments and power sources (Right-Of-Way Division: Utilities)

At this stage, the local public agency must provide a written request including justification for any design exceptions to AASHTO and NDOT, (if applicable) design standards. The local public agency must document important decisions, economic analysis and safety information when minimum design standards cannot be met. NDOT can approve design exceptions to AASHTO and NDOT design standards when appropriate.

The 60% Design review submittal shall include a cost estimate and shall include, but not be limited to, the following:

#### **Title/Location Sketch**

- Federal Project Number on every sheet
- Limits of project, limits of construction and proposed control of access.
- Location sketch

#### **Typical Sections**

- Cross section details
- Typical as-constructed and proposed improvement sections
- Structural section design and material application data
- Roadway widths and width transitions
- Roadside designs (slopes, curbs, gutters, dikes, traffic barriers, etc.)

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## **Plans**

- Sound and retaining wall details and locations
- Pedestrian improvement details and locations
- Beginning and ending stationing limits of each feature
- Horizontal alignments (stationing, curve data, bearings and distances) for all roadways
- Locations for curbs, gutters, dikes, driveways, sidewalk and curb ramps.
- Cut and fill slope limits.
- Lane arrangements (turn lanes, storage lengths, acceleration lanes, deceleration lanes, special use lanes, etc.).
- Intersection and local street modification layouts.
- R/W limits with dimensions to centerline.
- Location of existing and proposed utilities.
- Geometrics Details (channeling islands, curb returns, turn lanes, etc.)
- Removal details
- Proposed roadside objects (traffic barriers, crash cushions, overhead sign structures, utility poles, bridge piers, etc.)
- Avoidance areas as determined by the NEPA process.
- Special details (Same as plan details)
- Completed drawings and notes for non-standard construction details
- Construction detail sheets with materials and finish schedules
- Pavement Markings
- North Arrow
- Scale

## **Landscape and Aesthetics Design**

- Landscape layout
- Landscape grading
- Revegetation plans
- Hardscape design including structural treatments, rock mulch, fencing, etc
- Landscape art/aesthetic features and details
- Irrigation layout, calculations, water source
- Planting and irrigation detail sheets

## **Hydraulic Details**

- Intermediate design layout of onsite storm drain system including inlets, laterals trunk lines, ditches, etc.
- Cross drainage features and appurtenances including culverts, channels, berms, energy dissipaters, headwalls, etc. including sizes, types, and locations.
- General construction notes.
- Detention basin grading.
- Final easements and right-of-way (temporary and permanent).
- Schematic plan of temporary and permanent erosion control plans.
- Profile view details of storm drains and cross culverts
- Completed profiles for cross drainage features including culverts, channels, major storm drain trunk lines, etc.

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- Preliminary storm drain laterals.
  - Special Details
  - Final bridge opening size and anticipated scour depth. (Report)
  - Final scour and river training designs.
  - Final temporary and permanent erosion control plans for bridges.
  - Final “temporary river diversion plan”

### **Structural Design**

- Bridge repair details
- Retaining wall and sound wall details
- Sign and signal bridge details
- Horizontal and vertical alignments
- Structure width
- Vertical clearance

### **Traffic**

- Guide sign layouts for removals and proposed installations (including sign bridges, sign islands, sign structures, etc.) and preliminary sign summaries
- Signal and lighting plans (including railroad-crossing arms, flashing lights, dynamic message signs, ITS, etc.) are complete.
- Summary and status of electrical and communication service acquisitions
- Conduit runs.
- Pull box locations.

### **Utilities**

- Utility relocation plans
- Utility Agreement and/or letters required for certification.

### **Right-of-Way**

- Plan sheets showing the right-of-way limits and the areas the project will impact, may be shown on the roadway plan sheets if there is sufficient room otherwise additional plan sheets may be required.

### **Report**

- Drainage report as per the Drainage Design Manual

The local public agency provides multiple copies of the plan submittal to the LPA Coordinator. The LPA Coordinator will circulate the submittal within NDOT. The LPA Coordinator will review and make comments on the submittal and collect and review comments from NDOT divisions. The LPA Coordinator will combine the comments and provide written comments within the time frame specified in the agreement, usually not less than three weeks from receipt of the submittal.

## **8.2 90% Review Submittal**

The 90% Review submittal shall include plans, specifications, a cost estimate and an anticipated advertisement date and shall include, but not be limited to, the following:

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## **Structural Design**

- Front sheet - plan, elevation, and typical sections
- Geometric sheet - foundation plan, pile notes, false work details, staging diagrams, removal limits, general notes, and list of bid items
- Abutment and wing wall details - foundations, plan, elevation and section
- Pier and columns details - foundations, piers, columns, bearings
- Superstructure sheets - deck, girder, diaphragms
- Pre-stressing details and notes - concrete classification
- Structural steel sheets - structural steel details
- Camber sheets
- Approach slab sheets
- Barrier rails, expansion joints, pedestrian rail, and sidewalk sheets
- Special detail sheets - signals, signs, lighting, utilities, architectural treatments
- Retaining wall and sound wall sheets
- Bent bar sheets
- Bill of materials sheets
- Boring logs sheets and boring log maps
- Reference drawings

## **Right-of-Way**

- Right-of-way sheets are required for LPA Projects that involve acquisition of right-of-way.

## **Title Sheet**

- Title block will have the following: approval date (date when drawing is completed), project description as shown in the programming documents, scale, and number of sheets

## **Interior Sheets**

- R/W monument indications (all R/W breaks and PCs and PTs) do not place on TE parcels. Monument PCs and PTs radially and towards inside of curve when practical
- Access ticks (when applicable)
- Access Control openings with width and station at center of opening. If not practical, monument each side of opening.
- Label R/W (at least twice for each R/W line on each sheet).
- Show curve data on R/W where R/W line is not concentric to centerline
- Milepost parcel numbers with last name and initial on root parcel number only
- Metes and bounds information reading clockwise for each fee taking or easement parcel, with exception for centerline description or lots and blocks. Note: The purpose for TE and PE parcels will be stated in the “remarks” column of the property schedule.
- Control of access acquisition parcels get a milepost parcel number if that is the only involvement with the property
- Station, offset and tie for the point of beginning for each fee or easement parcel. P.O.B. s are to be on the R/W line except centerline descriptions and parcels lying wholly within R/W and not adjacent to either R/W line
- Traffic movement statement.
- Property schedule will include: parcel number, owner’s name (last name and

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initial with et al. et ux as applicable), gross area, previously acquired if applicable, net area, remainders left and right, and areas less than 2 acres will be shown in square feet.

- Excess land area.
- Remarks pertinent to a particular parcel such as federal application number, total take acreage, drainage easements, etc.

### **8.2.1 Documentation Procedures and Quality Control**

At the time of the 90% Review submittal the local public agency must submit to the NDOT's LPA Coordinator quantity documentation and materials testing procedures to be used on the project for approval by NDOT. The LPA Coordinator will submit those procedures to the NDOT Construction office for review and approval. The documentation and quality control procedures, are not limited to, but must address the following:

- Procedures for documenting the pay quantities for bid items. The contractor's quantities cannot be accepted without verification.
- Quality control procedures (QC): testing requirements including who will be doing the testing and the testing frequencies.
- Independent quality assurance procedures (IA), including who will be responsible for conducting it.

The testers must be certified (i.e. WAQTC/NAQTC) for work maintained by NDOT and for work completed on the NHS.

### **8.2.2 DBE Goals Establishment**

Currently Nevada is a race neutral state, and therefore DBE goal establishment does not apply.

### **8.2.3 Set On-the-Job Training Goals**

The LPA Coordinator will request the training goals from the Contract Compliance Division. Training goals are established by NDOT on selected Federal-Aid construction contracts. The goals are set based on the dollar amount of the project and the type and amount of work to be completed. The project bid documents shall include the goals.

## **8.3 Justify Force Account Work by the Local Public Agency**

Project construction is performed under a contract awarded to the lowest responsible bidder. However, under limited circumstances, it may be in the public interest for a local public agency to construct a portion of a project on a force account basis. In this context, the term "force account" means the direct performance of project work by the local public agency using labor, equipment and materials furnished by it and used under its direct control. It may be found in the public interest and cost effective for a local public agency to undertake a construction project by force account when a situation exists in which the rights and responsibilities of the community at large are so affected as to require a special course of action.

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In these situations, a public interest finding will be required. Situations considered in support of a request for a public interest finding include:

- The local public agency, through a cost comparison, demonstrates that it is more cost effective to do the work itself rather than bidding all or part of the project.
- An insufficient number of qualified contractors in the area that could be reasonably expected to submit bids.
- Special construction conditions indicating that bids submitted would be unreasonably high.
- Special situations where time does not allow for completion of the process leading to bid contract award. Considerations might be safety.

The local public agency generates the request for the public interest finding. The Principal Road Design Engineer over LPA Program will review and recommend approval. NDOT's Chief Road Design Engineer has the authority to approve the local public agency's request.

NDOT must approve the public interest finding before a local public agency is authorized to perform force account work on a project.

Force account work proposed by a local public agency as part of their required match for Enhancement or Community Match funded projects is exempt from a public interest finding requirement.

#### **8.4 Justify Furnished Materials**

FHWA policy requires that the contractor furnish all materials to use in the contract. The contractor also must be allowed to select the sources from which the materials are to be supplied. Exceptions to these requirements may be made when it is shown to be in the best interest of the public for the local public agency to supply materials or designate material sources.

- Local public agency supplied materials – When approved through the public interest finding process, such material must be made mandatory. Manufactured materials supplied by the local public agency must have been acquired through a competitive bid process. Use of such material may not be made optional.
- Local public agency owned or controlled natural materials – A local public agency may designate a borrow pit or stockpile of salvaged pavement material that it owns or controls for use by the contractor. Use of the material may be either optional or mandatory. Mandatory use will require an approved public interest finding.

The local public agency generates the request for the public interest finding. The Principal Road Design Engineer over the LPA Program will review and recommend approval. NDOT's Chief Road Design Engineer has the authority to approve the local public agency's request.

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## 8.5 Justify Proprietary Items

When the use of a patented or proprietary (trade name) item is essential for a project, a public interest finding must be prepared to document that no equally suitable alternative exists. Situations when a proprietary item may be specified include:

1. Obtained through competitive bidding.
2. Certification that an item is necessary for “synchronization with existing highway facilities, or that no equally suitable alternative exists.”
3. Product used for research or distinctive type of construction.

The local public agency generates the request for the public interest finding. The Principal Road Design Engineer over LPA Program will review and recommend approval. NDOT’s Chief Road Design Engineer has the authority to approve the local public agency’s request.

For NDOT maintained improvements, the proprietary item must be listed on NDOT’s Qualified Products List (QPL), which can be located on NDOT’s website: [http://www.nevadadot.com/reports\\_pubs/](http://www.nevadadot.com/reports_pubs/).

## 8.6 Federal Requirements

### 8.6.1 Equal Employment Opportunity

Local public agencies administering Federal-Aid projects are required to adhere to Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) statutes and regulations.

Federal policy requires that Federal-Aid Construction Contracts include specific requirements to implement the Title VI program, related civil rights laws, and regulations. These requirements are included in FHWA Form 1273 (Required Contract Provisions Federal-Aid Construction Contract Provisions) and apply to contractors, subcontractors and suppliers.

NDOT is responsible for administering the EEO program for Federal-Aid projects and construction contracts and will monitor the local public agency and its contractors for compliance as part of normal project management reviews. Guidelines are included in the NDOT Construction Manual.

### 8.6.2 Disadvantaged Business Enterprises

It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises, as defined in Title 49 CFR Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs Part 26, have an equal opportunity to participate in the performance of federally financed contracts or subcontracts. To accomplish this goal, agencies involved in the development of Federal-Aid projects must take appropriate measures to ensure DBE firms are encouraged to compete for construction contracts, procurement contracts, grants, services, financial aid, or other benefits, and that DBE firms have access to these opportunities.

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Actions to ensure compliance with this policy must be approved by the FHWA and cannot be delegated to the state or local public agency. The NDOT DBE program, approved by the FHWA, establishes procedures for complying with state and federal policies, and applies to Federal-Aid projects. NDOT's Contract Compliance Division administers the program and its implementation. Businesses must be certified as eligible DBE firms by the Nevada Unified Certification Program (UCP) to compete as DBE firms on these projects. Applications are processed through the Contract Compliance Division and presented to the Nevada UCP for approval. These firms must be owned and controlled by socially and economically disadvantaged individuals as defined by Title 49 CFR Part 26. A current list of DBEs can be found at:

[http://www.nevadadb.com/html/dbe\\_vendors.phtml](http://www.nevadadb.com/html/dbe_vendors.phtml)

### **8.6.3 Davis-Bacon Act**

The Davis-Bacon Act dictates that mechanics and laborers working on the site of Federal-Aid construction projects must be paid according to the wage decision that is part of the standard special provisions for the project. The Department of Labor (DOL) defines mechanics and laborers as those employees who perform manual labor on the site of work. The Davis-Bacon Act provisions are required on LPA Projects located on the Federal-aid system. As soon as the local public agency establishes the project bid opening date and is ready to advertise the project for bidding, its project manager must check with the NDOT Contract Compliance Division to ensure the latest modification of the wage decision is in the bid documents. In addition, the DOL requires that an amendment for a general wage rate be included into a Federal-aid contract if notification of the change is published in the Federal Register 10 days or more prior to the opening of the bids. The local public agency is responsible for checking for changes in the wage rates.

### **8.6.4 Buy America**

Buy America is a requirement applied to Federal-aid construction projects. Projects located on highways classified as local roads and rural minor collectors; transportation enhancement projects; and non-highway construction are also covered by these requirements. The regulations require use of domestic steel and iron in federally funded construction projects. The steel or iron product must be permanently incorporated into the project. Example language that can be used in the contract can be found in Appendix E.

Buy America provisions apply to steel and iron materials to be permanently incorporated in a Federal-aid project, even if an item is rendered as a "donated material" in accordance with 23 U.S.C. 323 - Donations and Credits. While States and local governments may receive a credit for donated material, this material must comply with Buy America requirements. It does not apply to temporary steel items, e.g., temporary sheet piling, temporary bridges, steel scaffolding and falsework, etc. Further, Buy America does not apply to materials that remain in place at the contractor's convenience.

Under Buy America requirements, manufacturing processes must take place domestically. Manufacturing begins with the initial melting and mixing, and continues

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through the coating stage. Processes that modify the chemical content, the physical size or shape, or the final finish are considered manufacturing processes. These processes include rolling, extruding, machining, bending, grinding, drilling and coating. "Coating" includes epoxy coating, galvanizing, painting, or any other coating that protects or enhances the value of the material.

The manufacturing process for a steel/iron product is considered complete when the product is ready for use as an item (e.g., fencing, posts, girders, pipe, manhole cover, etc.) or could be incorporated as a component of a more complex product through a further manufacturing process (e.g., the case for a traffic signal head). The final assembly process does not need to be accomplished domestically so long as the steel/iron component is only installed and no manufacturing process is performed on the steel/iron component.

Buy America does not apply to raw materials (iron ore and alloys), scrap, pig iron, or processed, pelletized, and reduced iron ore.

Buy America does not apply to minimal use of iron/steel materials provided the total cost of all foreign source items used in the project, as delivered to the project site, is less than \$2500 or does not exceed one-tenth-of-one-percent of the total contract amount, whichever is greater.

## **8.7 Contracting Language**

### **8.7.1 Bid Document Requirements**

The following bidding and advertising documents must be included in the local public agency's bidding documents for federally funded projects (See [Appendix E](#)):

- State and Federal wage rates for the County or County's where the project is being constructed
- FHWA Required Contract Provisions Federal-Aid Construction Contracts (Form 1273)
- Additional Contract Provisions - Supplement to the Weekly Certified Payrolls
- Standard Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)
- Additional Contract Provisions Specific Equal Employment Opportunity Responsibilities
- Additional Contract Provisions Minority Business Enterprise in Federal-Aid Highway construction
- Affidavit Required Under Section 112(c) - Non-Collusion, Debarment and Suspension Affidavit
- Certification Required by Section 1352 of Title 31 United States Code - Restrictions of Lobbying Using Appropriated Federal Funds
- NDOT Bidder - DBE (MBE/WBE) Information
- Subcontractors - DBE Status

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## 8.7.2 Federal Language

The specifications or bidding procedures must not provide preference to local contractors or local laborers, therefore the contract may not contain bid preference clauses. Nor may the language restrict contractor competition by requiring a state license at the time of the bid award. NDOT's standard language can be found in [Appendix E](#).

The specifications or bidding documents must include language about female participation in federal aid contracts over \$10,000.00. NDOT's standard language can be found in [Appendix E](#).

Every federally funded project must contain changed condition clauses in the contracting language or specifications. The required language can be found in [Appendix E](#). In lieu of NDOT's language, the local public agency may copy standardized changed condition clauses in 23 U.S.C. 112(e) **verbatim**.

## 8.7.3 State Language

The specifications must name NDOT as an "additional insured" on its general liability and automobile liability policies.

The specifications must also address the finding of archeological and paleontological objects during construction. Sample language can be found in [Appendix E](#).

## 8.8 Certification Requirements

At the time of the 90% Review submittal, the local public agency shall submit the required right-of-way and utility certifications to the LPA Coordinator. (See Sections 6.6.1, 6.6.2 and 6.6.3) In addition, the local public agency must provide copies of letters, applications, reports and permits and documentation of NEPA compliance. Mitigations as a result of the NEPA process must be incorporated into the project design and specifications.

## 8.9 Final Plan, Specifications and Construction Cost Estimate Submittal

The local public agency shall submit copies of the complete bid package to the LPA Coordinator for a final review. The complete package shall include plans, project specifications, contracting language and construction cost estimate, which includes construction engineering.

The local public agency shall provide the LPA Coordinator with letters certifying the project has been designed to the relevant standards including NDOT Standards, Drainage Manual, Water Quality Manuals as well as MUTCD, AASHTO, and local standards as determined at the kick-off meeting and included in the agreement.

## 8.10 Processing Memorandum

Once the final submittal has been approved by the LPA Coordinator and the LPA has provided the required certifications, the Principal Road Design Engineer over LPA

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Program works with the Road Design Administrative Assistant to prepare and initiate the Processing Memo. The Processing Memo sets the date for submittal of the Agreement Estimate Memo to the Financial Management Division, the date NDOT certifications of conformance with environmental and right-of-way requirements are to be completed and the date of release of the project to the local public agency for advertisement. It also requests the assignment of a NDOT Resident Engineer to oversee the construction management of the project for NDOT. The Principal Road Design Engineer over LPA Program will receive the project certifications. Typically, the NTP for advertisement is 6 weeks after the issuance of the Processing Memo.

On ITS projects, the Assistant Chief of Operations Engineer works with the Road Design Administrative Assistant to prepare and initiate the Processing Memo. The ITS Processing Memo sets the time for the submittal of a complete PS&E package to the FHWA. The Processing Memo should be generated 6 to 8 weeks prior to the project release to the local public agency (see [Appendix A](#)). The Assistant Chief of Operations Engineer will receive the project certifications.

### **8.11 Agreement Estimate Memo**

The LPA Coordinator will prepare the Agreement Estimate Memo (See [Appendix A](#)), using the estimate provided by the local public agency. The Principal Road Design Engineer over LPA Program will review and approve the memo before it is sent to Financial Management. Financial Management will program the construction phase of the project and seek authorization from FHWA.

On ITS projects, the Assistant Chief of Operations Engineer will perform the duties of the Principal Road Design Engineer over LPA Program.

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## CHAPTER 9 - ADVERTISEMENT / AWARD

### 9.1 Notice to Proceed with Advertisement

Upon approving the bid package and receiving FHWA's authorization for construction, the Principal Road Design Engineer over the LPA Program confirms the necessary documentation has been acquired, and authorizes the LPA Coordinator to issue a notice to proceed via e-mail. This is followed by a formal written notice to proceed, issued by the Principal Road Design Engineer. Once the notice to proceed has been issued, the local public agency may proceed with the advertisement of the contract. The local public agency shall not advertise the project before receiving the notice to proceed.

### 9.2 Advertising Process

The local public agency may follow its local advertising procedures. However, the minimum advertising period is three (3) weeks. The local public agency must provide a copy of the advertisements to the LPA Coordinator NDOT.

If there are DBE goals required on the project, the local public agency must advertise in a minority status newspaper. NDOT's Administrative Services Division can provide a list of minority status newspapers.

### 9.3 Current Wage Rates

The wage rates for the contract shall be those in effect at ten (10) days prior to the bid opening. A supplemental to the bid documents should be made if there are changes in wage rates in the time period between the advertise date and ten (10) days prior to the bid opening.

### 9.4 Contract Award

The local public agency may follow its standard procedures for awarding a contract, as long as those procedures are modified to comply with Federal requirements, when applicable. Contractors or subcontractors are not required to be licensed in the state of Nevada until the time of execution of the contract.

On projects with DBE goals, the contractor must include, with the bid submitted, how he will meet the goal or include documentation of a good faith effort. It is recommended NDOT's form 052-050 be included in the Special Provisions and be filled out prior to or with the submission of bids. This form shows the percentage of minority and women-owned business enterprises. The local public agency should contact the Contract Compliance Officer with questions about the contractor meeting the goal or for assistance in evaluating the good faith effort documentation. The contract shall be awarded to the lowest responsive contractor that meets the DBE goal or makes an approved good faith effort.

Unless noted in the agreement, the local public agency doesn't need concurrence in the award from NDOT. NDOT may provide advice to the local public agency for the determination of the lowest responsive and responsible bidder.

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## **9.5 Bid Documents**

The local public agency will provide NDOT with a minimum of three copies of the advertised bid documents. The LPA Coordinator will forward two copies to the NDOT Resident Engineer assigned to the project. In addition to the bid documents, the LPA Coordinator will provide the NDOT Resident Engineer a copy of the Cooperative (Local Public Agency) Agreement and amendments.

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## CHAPTER 10 - INTELLIGENT TRANSPORTATION SYSTEMS (ITS)

### 10.1 Introduction

The process for Intelligent Transportation System (ITS) LPA Projects follows that of other LPA Projects with the following exceptions:

- A member of the ITS section will assume the responsibilities of the LPA Coordinator
- The Assistant Chief Operations Engineer will assume the responsibilities of the Principal Road Design Engineer over LPA Program
- The definition of LPA Project is based on the FHWA delegating much of its authority for project oversight to the state and then on to the local entities. This basic definition of LPA Project is violated as the FHWA will retain a full oversight role on ITS-type projects where the local public agency will be designing and administering construction. Therefore, if there are federal funds involved in ITS projects and if the local public agency is administering design and construction, the LPA Project basic process will be used and the FHWA will retain full oversight.
- When Intelligent Transportation System (ITS) projects are done by the LPA, the FHWA must be given the opportunity to attend meetings and review submittals. For the foreseeable future, ITS projects will be under the full oversight of the FHWA.
- Preliminary Design submittals will apply for ITS projects.
- The Processing Memo for ITS projects will include an additional week for the submittal and review of a Plans, Specifications and Estimates (PS&E) submittal to the FHWA. (See [Appendix A](#))
- On ITS projects, the FHWA must review and approve all change orders prior to being implemented.

### 10.2 Requirements

NDOT reviews the bid package to ensure federal requirements are met. On ITS projects, the FHWA must review and approve a complete Plans Specifications and Estimates (PS&E) set prior to issuing an authorization to proceed with construction.

NDOT has developed a regional architecture for northern and southern Nevada to be used on ITS projects so new installations will work and communicate with the existing infrastructure.

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## **CHAPTER 11 - CONSTRUCTION MANAGEMENT**

### **11.1 Introduction**

The local public agency has the option of performing construction oversight using NDOT's guidelines as spelled out in the NDOT Construction Manual and Documentation Manual or in accordance with their adopted and documented practices. The inspection, testing and documentation may follow LPA guidelines, provided they are defined and implemented by the local public agency on their projects. The local public agency must submit to the LPA Coordinator their procedures for inspection, sampling, testing and documentation for review and approval by NDOT prior to project advertisement.

A Professional Engineer registered in Nevada must be "in responsible charge of construction supervision" when work is being done within NDOT right-of-way.

### **11.2 Requirements for Contract Administration**

#### **11.2.1 Coordination Efforts**

The local public agency shall designate a Project Manager who shall stay in contact with NDOT's Resident Engineer on a weekly basis beginning at advertisement and keep him informed of the project status, change orders and/or changes to the contracts prior to implementation and direct any questions about the federal requirements to the NDOT Resident Engineer.

#### **11.2.2 Notice to Proceed to the Contractor**

The local public agency shall issue the Notice to Proceed to the contractor. The local public agency must provide the NDOT Resident Engineer with a copy of the contractor's notice to proceed within 7 calendar days of issuance.

#### **11.2.3 Conferences**

##### **11.2.3.1 Construction Coordination Meeting**

The LPA Coordinator will arrange a construction coordination meeting after the NTP for advertisement and prior to the Award of the contract. The local public agency Project Manager, associated construction staff, and the NDOT Resident Engineer shall attend. The meeting agenda should include a review of the agreement, coordination of responsibilities, required construction documentation and processing, the project close out process, and the construction cost estimate.

##### **11.2.3.2 Preconstruction Conference**

The local public agency Project Manager shall conduct a preconstruction conference no later than one week prior to beginning construction. The local public agency Project Manager must invite NDOT's Resident Engineer and the Contractors Personnel to the preconstruction conference. Notification of the preconstruction conference shall be

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made to the Department and Contractor personnel no later than 2 weeks prior to the conference. If the project is a full ITS, or a project with full oversight by FHWA, FHWA must be invited to the preconstruction conference meeting and given a copy of the agenda and minutes.

NDOT's agenda may be used for the preconstruction meeting. A copy of the shell for the agenda is located in **Appendix F, Attach I**. Following the conference, a copy of the agenda and minutes must be sent to each invitee within one week of the meeting.

### **11.2.3.3 Other Conferences**

The local public agency Project Manager shall coordinate with NDOT's Resident Engineer and the Contractor to determine which of the following conferences will be necessary based on the nature of the project:

- Preliminary survey – Discussion shall include verification of Right of Way, preservation of control monuments and benchmarks
- Construction staking – Discussion shall include survey stakeout of roadway alignment, drainage facilities and structural items based on plan sheet data or CADD renderings
- Environmental – Discussion shall include dust control, preparation and implementation of the Storm Water Pollution Protection Plan, biological concerns, avoidance areas and reporting requirements
- Concrete pavement pre-pave – follow NDOT's Pre-activity checklist
- Structural concrete pre-pour – follow NDOT's Pre-activity checklist
- Plantmix pavement pre-pave – follow NDOT's Pre-activity checklist
- Outside Permitting such as water well waivers, dust permits, use of private property by the contractor including any environmental requirements, etc.

### **11.2.4 Construction Oversight**

NDOT assigns a NDOT Resident Engineer to the project for construction oversight. The LPA Coordinator shall provide NDOT's Resident Engineer with copies of the Cooperative (local public agency) Agreement, amendments to said document and copies of the plans, specifications and bid documents no later than the advertise date.

During the construction period, NDOT's Resident Engineer may review test results, project documentation and Independent Assurance Testing results. NDOT's Construction Manual provides information on Independent Assurance Testing plans based on the application, quantities and testing frequencies of construction materials.

The local public agency Project Manager is required to notify NDOT's Resident Engineer two weeks prior to when construction will begin. The contractor is not permitted to begin additional or change order work without written confirmation from the NDOT Resident Engineer.

The NDOT Resident Engineer has the authority to shut down the project within NDOT's Right of Way. If the terms of the Cooperative Agreement and policies and procedures as defined by NDOT are not followed, it is within the NDOT Resident Engineer's authority to enforce compliance.

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### **11.3 Local Public Agency Requirements**

The local public agency must provide competent, experienced staff that certifies the contract work is constructed in accordance with the plans and specifications. Although the local public agency may employ a consultant to provide construction engineering services, such as inspection or survey work on a project, the local public agency shall provide a Project Manager who is a full-time agency employee to be in responsible charge of the project. This local public agency Project Manager will be identified with contact information provided during the preconstruction conference.

#### **11.3.1 Inspection and Testing**

The local public agency must utilize NDOT's Construction Manual or the other NDOT approved methods (as required above) to ensure compliance with federal requirements. The local public agency must hire a qualified testing firm or have sufficient staff to implement the established testing methods and frequencies.

Prior to advertising, the local public agency must develop Independent Assurance (IA) procedures based on the quantities and testing frequencies. The local public agency's is responsible for implementing IA procedures. NDOT's Construction Manual Section 5-600 defines the requirements. The IA procedures must be reviewed and approved by NDOT's Construction Division before the project is advertised.

The local public agency Project Manager is responsible for providing certification of the inspection and documentation of the contractor's work. Testing frequencies and documentation must follow NDOT's Construction and Documentation Manuals or the local public agency may use their own NDOT approved procedures. The local public agency Project Manager must maintain a summary of the material tests which passed and failed and, in the case of failure, mitigation measures taken (ex. liquidated damages, remove and replace, etc.). Test failures shall be brought to the attention of the NDOT Resident Engineer on a weekly basis and test reports made available for NDOT.

The local public agency personnel and consultants involved in testing and sampling must be qualified/certified by the Western Alliance for Quality Transportation Construction (WAQTC)/Nevada Alliance for Quality Transportation Construction (NAQTC) for projects which fall within the NDOT Right of Way and those projects located on the National Highway System.

#### **11.3.2 Asphalt Concrete and Cement Mix Designs**

NDOT's Materials Division will review and approve asphalt concrete and cement concrete mix designs for LOCAL PUBLIC AGENCY Projects within the NDOT's Right of Way. If needed, the Materials Division can provide mix design assistance to the LOCAL PUBLIC AGENCY.

#### **11.3.3 Determination and Documentation of Pay Quantities**

The documentation of pay quantities must follow NDOT's Documentation Manual or the local public agency's NDOT approved process. An example of an acceptable format is

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located in Appendix F, Attach C. Quantities which over or under run by 10% and/or \$25,000 must be justified in writing. The local public agency Project Manager shall inform the NDOT Resident Engineer when quantities approach this threshold during their weekly discussion.

It is the responsibility of the local public agency Project Manager to certify the quantities and associated payments. It is not NDOT's responsibility to ensure that correct payments have been made. The approval will be the responsibility of the local public agency. However, if proper documentation is not supplied, the NDOT Resident Engineer will not forward the invoice to the LPA Coordinator for processing.

#### **11.3.4 Documentation**

Documentation must follow NDOT's Documentation Manual or the local public agency's NDOT approved process and should consider the requirements mandated by the Federal Highway Administration. The local public agency Project Manager shall certify the accuracy of documentation provided to NDOT. It is the local public agency's responsibility to comply with federal requirements.

#### **11.3.5 Role of the Local Public Agency Project Manager**

The local public agency must designate a Project Manager who will be in responsible charge of the project and the key contact person to interface with NDOT's Resident Engineer. The local public agency Project Manager will be familiar with the day to day operations and must keep daily diaries of activities on the project. The local public agency Project Manager is responsible for certifying the project has been constructed and documented according to Federal Requirements.

#### **11.3.6 Change Order Process**

Change orders are required for specification changes, design changes, changes in the typical section, and for work inadvertently left out of the contract documents. Refer to the NDOT Construction Manual for detailed information on change orders. A signature line for review by NDOT's Resident Engineer must be included on the change order. The change order must include the following statement in the body of the change order:

"Should federal funds not be available to cover these additional costs, or the FHWA decide not to participate in these costs, the local public agency agrees to provide the required funds."

Concurrence by the NDOT Resident Engineer must be obtained prior to commencing work completed under the change order, regardless of federal participation.

The local public agency Project Manager must discuss the proposed change order work with the NDOT Resident Engineer prior to submitting the change order. Once the NDOT Resident Engineer concurs with the work, the local public agency and the contractor shall execute a change order addressing the reason for the change order with supporting documentation including who, what, why, when and how the change order work is necessary and include impacts to environmental commitments made on

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the project. Change orders will be reviewed and signed “Reviewed By:” by the NDOT Resident Engineer for concurrence with the scope of work. The change order will be certified and signed by the local public agency Project Manager.

The FHWA must review and approve change orders on ITS projects or full oversight projects.

A change in scope of work cannot be done via the change order process. For a change in scope, NDOT’s Director or Deputy Director must request approval from the FHWA. Change orders that require additional NEPA clearances or work outside the right-of-way certified for the project will not be allowed.

### **11.3.7 Traffic Control**

Methods of handling traffic must be reviewed and approved by the local public agency’s Project Manager prior to implementation. For projects located within NDOT right-of-way, additional review and approval of the traffic control plan must be done by NDOT’s District Traffic Engineer prior to implementing any work. The local public agency must verify traffic control is in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and contract requirements.

The local public agency’s Project Manager must make traffic control reviews on a regular basis. Issues arising from traffic control are the responsibility of the local public agency. NDOT’s Resident Engineer will provide guidance if requested by the local public agency.

The Federal Highway Administration (FHWA) published the Work Zone Safety and Mobility Rule (the Rule) on September 9, 2004 in the Federal Register (69 FR 54562). This Rule updates and renames the former regulation on “Traffic Safety in Highway and Street Work Zones” in 23 CFR 630, Subpart J. State and local governments that receive Federal-aid highway funding are required to comply with the Rule.

### **11.3.8 Shop Drawings**

Shop Drawings are specific details that consist of working plans that show how items not included in the contract plan documents will be constructed. The contractor prepares shop drawings (also known as working drawings) that supplement the plans to show the means and methods proposed to complete the work. This should include the details of construction, specifications, design notes and materials necessary to complete the work. Some examples are: drawings, diagrams, illustrations, samples, schedules, calculations, structural steel drawings, pre-stressing shop drawings, bearings, expansion joints, false work review, rebar placement and data that provide details of the construction of the work and details to be used for inspection.

Shop drawings are submitted by the contractor for formal review by the local public agency Project Manager and returned for action. For any construction within NDOT right-of-way, shop drawings shall also be submitted to NDOT for review and concurrence. The local public agency’s Design Engineer who performed the structural design shall review and provide feedback on whether they are acceptable or need revisions. The Design Engineer shall mark the shop drawings “reviewed,” “reviewed as

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noted” or “resubmit” as appropriate. Work shall not be performed until the shop drawings are approved by the local public agency’s Design Engineer. Documents and drawings shall be available for review by the NDOT Structural Division and copies of material certifications shall be sent to the LPA Coordinator.

### **11.3.9 Reporting**

Every month, the local public agency Project Manager must prepare and submit to the NDOT Resident Engineer an update of the status of the project construction. The update shall include a summary of the work performed over the past month, the percent of work and time completed, the time charged, and the projected completion date. This report shall include quantities paid to date, test reports highlighting test failures with the associated remediation, status of change orders, and pertinent information the NDOT’s Resident Engineer needs to know.

### **11.3.10 Monitoring Forms**

The following is a list of Monitoring Forms that shall be used for LPA Projects, which can be found at [www.nevadadbe.com](http://www.nevadadbe.com):

- Affirmative Action Program Form
- Certified Payroll Form
- Annual Federal Labor Survey, Annual Federal Labor Survey, FHWA 1391
  - In accordance with 23 CFR Part 230.119, the contractor or subcontractor for each federal project covering the last payroll period for the month of July is required to complete form FHWA 1391. It is the responsibility of the local public agency to collect these forms and provide them to NDOT’s Resident Engineer by August 20 of each year. (Appendix F, Attach E)
  - NDOT’s Resident Engineer will forward this form to the NDOT Contract Compliance Division by August 26 of each year.
  - If a contractor does not provide this form, it is in breach of the contract and may have money withheld or pay a penalty for failing to provide required documentation.
  - If the local public agency does not provide this form, future reimbursement requests will be held until such time as the form is provided.
- Fringe Benefit Statement
- Wage Compliance Form (The contractor must have on hand; it is the local public agency responsibility to investigate compliance.)
- Request to Sublet
- Changing Subcontractors (NRS 338.141 & 338.1387,1389)
- Form showing the prime contractor is doing fifty (50) percent of the work
- Request to utilize a Service Provider (This is for the use of a contractor other than a subcontractor that is listed for the project, usually for rush work or work not necessarily for a specific bid item).
- Subcontractor Payment Form (monthly as per 49 CFR Part 26) (Appendix F, Attach H)

It is the local public agency’s responsibility to check payrolls to ensure compliance with the prevailing wage rates. If the local public agency’s investigation shows violations, it

shall write a determination. The written determination must be provided to NDOT's Contract Compliance Division for approval.

## 11.4 The Role of the NDOT Resident Engineer

NDOT is responsible for ensuring the local public agency's adherence to applicable federal laws and requirements. NDOT does this by performing periodic onsite reviews, reviewing proposed change orders, reviewing and forwarding invoices for construction payments, answering questions and being aware of the status of the project. The matrix below gives some guidelines to be used in determining the frequency of onsite reviews. The NDOT Resident Engineer is responsible for participating in the final inspection and generating the project acceptance by NDOT.

The NDOT Resident Engineer receives and reviews the invoices for construction engineering and construction costs and forwards them to the LPA Coordinator for processing the payment. The relationship between the NDOT Resident Engineer and the District in the oversight of LPA Projects is the same as with other NDOT projects.

**NDOT Resident Engineer Involvement Matrix**

	Major Projects		
Maintained by NDOT	Interchange Mod. Or New Interchange maintained by NDOT  I	Capacity Projects Major Intersection Projects not maintained by NDOT  II	Not Maintained by NDOT
	Bike Path, Landscaping, Safety Improvements maintained by NDOT  II	Bike Paths, Pedestrian Facilities, Landscaping, etc. not maintained by NDOT  III	
	Minor Projects		

- I. Once a week plus project milestones
- II. Bi-Weekly
- III. Once a month

The highest level represented by the upper left corner may entail a level of involvement from three (3) to four (4) hours per week by phone with another two (2) hours of face-to-face meetings every week plus review of all submittals and shop drawings. The lowest oversight may entail a once a month drive through and a 5-minute phone call every month. This matrix is based more on project types than construction dollars.

### 11.4.1 Site Visits

NDOT's Resident Engineer shall make periodic site visits to document the progress of the work, oversee contract compliance and check quality of work. An inspection report shall be completed by the NDOT Resident Engineer for each site visit (Appendix F,

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Attach D). A copy of these reports should be forwarded to the LPA Coordinator and District in a timely manner. The NDOT Resident Engineer will conduct the final inspection in the company of the local public agency and complete the final inspection report (Appendix F, Attach F). The NDOT Resident Engineer is responsible for generating the final acceptance letter (Appendix F, Attach G) and forwarding said letter to the local public agency Project Manager. The NDOT Resident Engineer sends the final inspection report, the project acceptance letter and the project closeout documents shown in Appendix F to the LPA Coordinator.

### **11.4.2 Traffic Control**

Traffic control plans will be reviewed through the permitting process by NDOT District Traffic Engineer. NDOT's Resident Engineer reviews traffic control set-ups during construction on state-maintained highways at a frequency commensurate with the complexity of the project. NDOT's Resident Engineer may recommend changes to the traffic control plans and set-up to address any issues observed. NDOT is not responsible for issues arising from an improper traffic control setup by the contractor.

## **11.5 Construction Reimbursement Process**

### **11.5.1 Local Public Agency**

The LPA Program is a reimbursement program. Local public agencies must first expend the money and then request reimbursement from NDOT. The local public agency pays the contractor and is reimbursed by NDOT. NDOT will not pay the contract directly. Invoices must have documentation attached supporting the costs incurred by the local public agency.

The local public agency's Project Manager certifies on each contractor estimate or billing that the work has been completed in conformity with the plans and specifications. The local public agency is responsible for estimate payments to the contractor. The local public agency must review quantities with the contractor, and the billing must address required retention or securities.

During construction, the local public agency will invoice NDOT through NDOT's Resident Engineer per the timing established in the Cooperative (Local Public Agency) Agreement. The local public agency must bill for one hundred (100) percent of eligible project costs, noting the required percentage of the local match. Invoices must have attached the Invoice Transmittal Form (Appendix G, Attach H) completed by the local public agency.

The costs that can be invoiced by the local public agency include the construction engineering and the construction costs associated with the project. There shall be an itemized list of miscellaneous project charges; i.e., utility relocation or construction engineering. Supporting documentation must be provided to substantiate these costs.

In addition, the invoice should have the following information:

- The name of the local public agency submitting the invoice.
- The name of a contact person within that local public agency.

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- The address of the local public agency.
  - The name of the contact person within NDOT.
  - The division of the contact person.
  - NDOT's project number provided in the "Notice to Proceed."
  - The Federal project number provided in the "Notice to Proceed."
  - The agreement number provided in the "Notice to Proceed."
  - A brief description of the project, i.e. installing lighting on U.S. 50.
  - The time period the invoice covers with begin and end dates.
  - The total eligible costs of the project for that time period.
  - A description of the work, i.e. preliminary design, construction engineering and/or construction.
  - Auditable support documentation such as copies of local public agency's employee time sheets, consultant invoices and contractor pay requests including a list of bid items, pay quantities, time period of work.
  - Contractor payments must include a list of bid items, installation locations, date of installation, associated quantities and time period of work.
  - The local public agency Project Manager must certify through signature the invoice is correct and has the proper back up to support the payment.

### **11.5.2 NDOT**

The NDOT Resident Engineer reviews the local public agency's invoice to assure the quantities and items billed seem reasonable for the amount and type of work completed during that billing cycle. The NDOT Resident Engineer forwards the invoice and the local public agency's invoice Submittal Form with a recommendation for payment to the LPA Coordinator. If the proper documentation and/or the required information have not been provided to the NDOT Resident Engineer, the invoice will not be forwarded for payment. The final invoice will not be processed until the project has been accepted by NDOT and the required close out documentation has been received from the local public agency.

## **11.6 Final Acceptance Process**

### **11.6.1 Final Inspection**

Upon completion of the project, the NDOT Resident Engineer in conjunction with the local public agency Project Manager performs a final inspection and develops a punch list for remaining items of work or areas within the project limits requiring clean up.

### **11.6.2 NDOT Closeout Documentation**

Once the punch list is completed, the NDOT Resident Engineer completes the following documents:

- Final Acceptance Report (Appendix F, Attachment F)
- Final Acceptance Letter (Appendix F, Attachment G)

---

The NDOT Resident Engineer collects the required closeout documentation from the local public agency Project Manager and forwards them with NDOT's closeout documents to the LPA Coordinator.

### **11.6.3 Local Public Agency Closeout Documentation**

Upon acceptance of the project, the local public agency Project Manager submits a project acceptance letter to the contractor and sends a copy to the NDOT Resident Engineer. Standard requirements for the acceptance letter can be found in NDOT's Construction Manual. The letter shall identify documents to be submitted by the contractor.

The local public agency Project Manager prepares As-Constructed plans in accordance with the NDOT Construction Manual and submits one copy of the As-Constructed plans to NDOT's Resident Engineer. If the project is within NDOT's Right of Way, the local public agency must submit two half-size (11" x 17") sets of the As-Constructed plans to the NDOT Resident Engineer. The As-Constructed plans must be received prior to the final acceptance of the project and prior to payment of the final invoice.

The local public agency Project Manager will complete and certify the following closeout documentation and provide them to NDOT's Resident Engineer:

- Contract compliance checklist (Appendix F, Attachment A)
- Final Material Acceptance Test summary (Appendix F, Attachment B)
- Final Quantity Report (Appendix F, Attachment C)

### **11.7 Resolve Contractor Claims/Disputes**

The local public agency must follow the claims procedure contained in the federal regulations (23 CFR 635.124).

The NDOT/FHWA Stewardship Agreement delegates claim approval for projects on the NHS to NDOT without regard to who provides the contract administration. On these projects, NDOT has responsibility for reviewing all claims and ensuring they meet FHWA regulations (23 CFR 635.124). A release of claims shall be provided prior to close out of the construction contract.

For projects off the NHS, local public agencies have been delegated the responsibility to approve or deny claims. NDOT approval is not required but adherence to federal regulations is still required. LPA Projects are subject to process reviews by the FHWA, which determines if regulations are being met. Projects with federal funding are subject to review and must meet the requirements of 23CFR. Funds over and above the amount in the agreement required to settle claims are the sole responsibility of the local public agency.

Claim settlements made must be documented on a properly executed change order, following the change order process as shown in Section 11.3.6.

---

## CHAPTER 12 - PROJECT COMPLETION

### 12.1 Project Completion Steps

The LPA Coordinator will process the final invoice and generate a letter to the local public agency detailing the project costs and reimbursement and notifying the local public agency that an audit will be conducted. At this point, the Internal Audit and Accounting Divisions are notified to initiate their reviews. NDOT's Internal Audit Division will audit LPA agreements upon completion. Records must be retained for three (3) years after the completion of the audit.

Internal Audit will audit the payable portion of the agreement. Following this audit, the Accounting Division will tabulate final costs and bill the local public agency or issue payment for the balance of the project. NDOT's Accounting Division will generate and submit to the FHWA the final voucher.

NDOT's Accounting Division will generate the request to close the agreement and forward it to the Assistant Chief Road Design Engineer for approval. Once the Assistant Chief Road Design Engineer has approved and returned the form, the Accounting Division will forward the request to Administrative Services for processing.

The LPA Coordinator will archive the workbooks and the construction documents in accordance with NDOT's Road Design Guide.

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## APPENDIX A - LPA FORMS AND SHELLS

- [LPA Project Data](#)
- [Kick Off Agenda](#)
- [Processing Memo](#)
- ITS Processing Memo
- [Estimate Memo](#)
- [Final Payment](#)

**Local Public Agency Project Data**

**1. General Information:**

Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
Agency Name: \_\_\_\_\_  
Agency Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

**2. Project Information:**

Location: \_\_\_\_\_  
Limits: \_\_\_\_\_  
Description/Scope: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. Agreement Information:**

Provide a copy or sample of the required signature lines to be included with the agreement:

**4. Time Frame:**

Estimated completion date:

Advertise: \_\_\_\_\_ Construction: \_\_\_\_\_

**5. Estimate:**

**1. Preliminary Engineering costs:**

NDOT: \$5,000.00 (Equals 0.25% construction costs, minimum of \$5,000)  
Agency: \_\_\_\_\_

**2. Right of Way Costs :**

\_\_\_\_\_

**3. Construction Engineering costs:**

NDOT: \$5,000.00 (Equals 0.50% construction costs or \$5,000, whichever is greater)  
Agency: \_\_\_\_\_

**4. Estimated Construction costs:**

\_\_\_\_\_

**Total Costs:** \_\_\_\_\_

**5. Attach a copy of the detailed preliminary cost estimate.**

---

**6. Funding:**

Is the project listed on the STIP?  Yes  No

Federal Amount: \_\_\_\_\_

Type: \_\_\_\_\_

(Enhancement, CMAQ, STP)

Match:  Cash

Required Match Amount: \_\_\_\_\_

Source: \_\_\_\_\_

Total Funding: \_\_\_\_\_

**7 Right of Way:**

Is an acquisition needed?  Yes  No

Are utility adjustments or relocations needed?  Yes  No

If yes please clarify: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8. Design:**

In House  Consultant

If consultant please provide a copy of the consultant selection procedures.

**9. Payment**

Invoice Schedule:  Monthly  Quarterly

PROJECT NAME  
KICKOFF MEETING AGENDA  
Date

1. Introductions
2. Project Description
3. Summarize Responsibilities
  - 3.1. Preliminary Design
  - 3.2. Construction Management
4. Right-of-Way needs and Utility Impacts
  - 4.1. Right-of-Way acquisitions
  - 4.2. Utility Adjustments
  - 4.3. Certifications
    - 4.3.1. Right-of-Way
    - 4.3.2. Utilities
5. CE/EA/EIS requirements
  - 5.1. Lead Agency
6. Estimate
  - 6.1.1. Total estimated project cost –
  - 6.1.2. Preliminary Engineering
    - 6.1.2.1. Department Costs - \$5,000.00
    - 6.1.2.2. RTC Costs -
  - 6.1.3. Right of Way Costs
  - 6.1.4. Construction Engineering
    - 6.1.4.1. Department Engineering - \$5,000.00
    - 6.1.4.2. RTC Costs -
  - 6.1.5. Construction Costs -
  - 6.2. Federal Funding -
  - 6.3. Required Match -
7. Time frame
  - 7.1. Agreement
  - 7.2. Design
  - 7.3. Advertisement
  - 7.4. Construction
8. STIP
9. Other issues
  - 9.1. Copy of latest Audit of Financial Statements
  - 9.2. Notices to Proceed
  - 9.3. Reimbursement Program
10. Draft Agreement

**STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
MEMORANDUM**

Date

**To:** , Principal Road Design Engineer

**From:** , Assistant Director - Engineering

**Subject:** Project No. and EA  
Description  
PCEMS info

The project will be processed in accordance with the Stewardship Agreement.

The project was approved by the Director on.(date of this memo)

The Estimate Memo is to be submitted to Financial Management on or before (2 weeks prior to release or advertising date-same date cert's are due).

R/W and Environmental certifications are to be completed and forwarded to you on or before (2 weeks prior to release or advertising date).

The project will be a locally awarded contract.

Construction is to designate a NDOT Resident Engineer by release date.

The project will be released on or before (date).

cc:



**STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
M E M O R A N D U M**

**Date**

**To:** , Assistant Chief Operations Engineer

**From:** , Assistant Director - Engineering

**Subject:** Project No. and EA  
Description  
PCEMS info

The project will be processed in accordance with the Stewardship Agreement.

**PS&E documents** for this project will be processed through the FHWA and hand carried to them on (normally 2 weeks prior to release) Necessary contract documents for PS&E are to be in your office on or before (the day before PS&E to Feds). Construction is to designate a NDOT Resident Engineer by the release date.

The project was approved by the Director on (date of this memo)

The Estimate Memo is to be submitted to Financial Management on or before (3 weeks prior to release date) and should be forwarded to FHWA by Programs on or before (two weeks prior to release)

R/W and Environmental certifications are to be completed on or before (3 weeks prior to release date).

The project will be a locally awarded contract.

The project will be released on or before (date). (There will be a pre-bid on (Wed. mid-point between advertising & bid opening - normally 6 week advertising with a pre-bid) (May not be required)

cc:



1263 South Stewart Street  
Carson City, Nevada 89712  
Phone: (775) 888-7490  
Fax: (775) 888-7401

MEMORANDUM

Date

TO: \_\_\_\_\_, Chief Financial Management  
FROM: \_\_\_\_\_, Senior Road Design Engineer  
SUBJECT: Agreement Estimate Memo  
Location – Off System  
Project Description  
Project Id.: \_\_\_\_\_  
Project #: \_\_\_\_\_

The above-mentioned project is being done under the LPA Program. The required certifications will be completed on or before Date. Please program the construction phase of the project. The Agency is constructing the project under Agreement No.. Please program the construction using the following information.

Breakout 01 CONSTRUCTION CODE TYPE

PRIMARY AMOUNT: FUNDING TYPE CODE AT (95%)	\$
MATCHING AMOUNT: AGENCY (CODE)	\$ _____
TOTAL	\$

Breakout C0 Construction Engineering (State Forces)

PRIMARY AMOUNT: FUNDING TYPE (CODE) AT (95%)	\$
MATCHING AMOUNT: AGENCY (CODE)	\$ _____
TOTAL	\$

Breakout C1 Construction Engineering (Consultant - AGENCY)

PRIMARY AMOUNT: FUNDING TYPE (CODE) AT (95%)	\$
MATCHING AMOUNT: AGENCY (CODE)	\$ _____
TOTAL	\$

REVIEWED AND APPROVED

By: \_\_\_\_\_  
Principal Road Design Engineer

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

Date

Name, P.E.  
Local Public Agency  
Public Works  
P.O.Box 1900  
Reno, NV 89505

RE: Project Description \_\_\_\_\_ - Payment  
Federal Project No.: \_\_\_\_\_  
Design Project No.: \_\_\_\_\_

Dear \_\_\_\_\_:

As you know the construction of the above-mentioned project has been completed. The total costs associated with the project are \_\_\_\_\_ Dollars (\$\_\_\_\_\_), which include \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) of Estimated Department Project Costs.

Of the \_\_\_\_\_ Dollars (\$\_\_\_\_\_), \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) are federally reimbursable. After removing the Department's costs, the remaining amount for reimbursement to the Local Public Agency is \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

The Department's Internal Audit Division will conduct an audit of agreement. Any adjustments to the payment will be made after the audit is completed. If you have any questions, please feel free to contact me at \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
LPA Coordinator

cc: Elaine Martin, Accounting

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## APPENDIX B - CONSULTANT SELECTION PROCEDURES

The local public agency may hire a consultant to design and/or administer the construction of its project. To obtain federal reimbursement for the consultant's services or to use the cost of these services as an in-kind match, the local public agency must either use NDOT's consultant procurement procedures or follow its own procedures in procuring services.

If the local public agency opts to use its own procedures, they must be approved by NDOT's Agreement Services section to ensure compliance with Title 23 CFR Part 172. Title 23 CFR Part 172, Administration of Engineering and Design Related Service Contracts states: "When Federal-Aid Highway funds participate in the contract, a local public agency shall use the same procedures as used by the state to administer contracts." The Agreements Services section can be contacted for assistance in selecting consultants who must be chosen competitively based on the firm's qualifications. The steps to obtain consultant services should follow the format of the CFR. The following is an example:

1. The contracting local public agency documents the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting local public agency develops a detailed scope of work and a list of evaluation factors and their relative importance, along with a detailed cost estimate to be used during negotiations.
3. The request for proposals (RFP) must include the scope of work, the evaluation factors and their relative importance, the method of payment for services, and the goal (if any) for Disadvantaged Business Enterprise (DBE) participation set by NDOT. The local public agency must submit to the LPA coordinator the scope of work, services to be provided, and estimated cost of the services to be performed by the agency's consultant. The RFP for consultant services must contain a goal in order to be advertised, even if the Contract Compliance section establishes a goal of zero percent. The NDOT LPA coordinator will contact NDOT's Contract Compliance section for the DBE requirements.
4. A consultant is selected based on the following evaluation factors:
  - Professional excellence - demonstrated competence in the service to be provided
  - Capacity - demonstrate adequate staffing levels considering the firm's workload, which will result in the firm's ability to meet schedules.
  - Consultant's abilities - describe the qualifications of key personnel and the education and experience of the project manager.
  - Past performance - previous performance in meeting schedules, staying within budget and producing quality work.
  - Location of consultant - location with respect to the project site and knowledge of the project area.
  - Project approach - the consultant's approach in performing the project design as detailed in the scope of services.

- 
5. A qualified local public agency employee is responsible for and in charge of the project to ensure that the work being done is complete, accurate, and consistent with the terms, conditions, and specifications of the consultant/local public agency contract.

Cost or estimated hours to complete the project are not considered a factor in the evaluation of professional consultant services.

The local public agency may utilize NDOT's on-call process for the selection of a consultant. If the local public agency decides to use this option, it must contact the LPA Coordinator. The LPA Coordinator and the Principal Road Design Engineer over LPA Program will determine if this is appropriate and guide the local public agency through the process.

After a consultant is selected, the local public agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work.

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## APPENDIX C - ENVIRONMENTAL GUIDANCE

### Environmental Guidance Project Compliance and Certification

#### Historic Properties and Cultural Resource Compliance

This information and the attached outlines are provided as guidance for compliance with Section 106 of the National Historic Preservation Act for Transportation Enhancement and LPA Projects. Each federal project is required to complete NHPA Section 106 as a requirement for funding.

This guide has proven to be an effective method and process for successfully completing LPA Projects through NDOT and FHWA.

The first step in this process is to develop a firm scope for the project. For the purpose of this process, project scope means the 3-dimensional footprint (i.e., how wide, long, high and deep). For projects involving structures in historic areas, the shape, color and texture of the structure and other appurtenances are important in the compliance process. If the scope of the project changes in the middle of this process, then much of the Section 106 compliance work completed to that date becomes wasted time, money and effort.

Once a firm scope for the project is developed, contact the Manager of the Cultural Resource Section (MCRS) Environmental Services Division, NDOT, for a review of the project's compliance needs. The MCRS will need the scope of the project for review, which must include the following exhibits:

1. A parcel map, available from the County Assessor's Office.
2. A written description of the scope of the project,
3. If the project is in an urban area, the following maps are required:
  - a) A general area map showing the street names and network around the project area. A standard city map works well for this purpose.
  - b) A small-scale map showing the specific footprint of the project.
  - c) Aerial photographs, if available, are very helpful.
  - d) Any other maps or plans specific to the project that are available at the time would be helpful.
4. If the project is outside of an urban area, the following maps are required:
  - a) On a 1:100,000 scale topographic map (USGS 30x60 Minute Quadrangle) a general area map showing the location of the project.
  - b) On a 7.5-minute USGS topographic map, the specific footprint of the project.
  - c) Aerial photographs, if available, are very helpful.
  - d) Any other available maps or plans specific to the project are also be helpful.

After reviewing the project's scope, the MCRS will notify of the type and level of cultural resource review, inventory and/or evaluation that will be required to certify the project for federal funding through the enhancement or LPA program. Depending on the scope and potential impacts of the project, the following may need to be completed:

1. Cultural Resource Site Inventory and/or Evaluation,

- 
2. Native American Consultation,
  3. Historic Structure/Architectural Survey and/or Evaluation.

Once notified of the types of inventory and/or evaluations needed, acquire the services of an archaeologist, a cultural anthropologist/ethnographer, and/or an architectural historian either from existing staff or through a consultant agreement. The various inventories and evaluations must be conducted by, or under the direction of, an individual who qualifies under the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61, Appendix B or the most recent publication of the Standards has been in the Federal Register, Vol. 62, No. 119, June 20, 1997, Pages 33, 708-33, 723).

As these individuals are hired, have them contact the MCRS to consult on the range of work that will be needed from their particular discipline for the project. At this time, the Area of Potential Effects (APE) is established for each of the inventory types.

Generally, the APE for cultural resource site inventory will be the right-of-way or footprint of the project itself. This includes existing and new right-of-way, construction easements and utility easements necessary for the project, construction staging areas and non-commercial material sources. The APE for a Native American consultation is normally the valley that the project is in. The APE for a historic structure/architectural survey is the project's functional view shed, sometimes this can encompass a substantial area.

It is at this stage of the process that the specific inventories, etc. needed for the project should be conducted. Information for each of those processes is attached to this introduction of the overall process.

When the results of the specific inventories are known, consult with the MCRS to determine the format and number of copies of the reports, maps, photographs, etc. that are needed.

Once the reports are in solid draft form, forward them to the MCRS for review. The MCRS will review the reports and ask for any revision that will be necessary to submit the report through the FHWA to the State Historic Preservation Office (SHPO) for review and comment.

If the project also involves reports for a federal land management agency (BLM, USFS, etc.) it would be at this point that how to accomplish this would be determined.

After any necessary revisions are completed on the reports, forward the required number of reports to the MCRS for assembly of the Section 106 review package for the project. Formal review and certification by the NDOT/FHWA and the State Historic Preservation Office can take 60 to 90 days, depending on NDOT and FHWA project load and priorities. Additionally, it is not uncommon for the SHPO to request more information after reviewing the submitted reports. After that information is developed and the reports are updated, they are resubmitted to the SHPO for review and concurrence.

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## Common Terms Used in the Compliance Process:

36 CFR 800 Regulations: Can be found at [www.achp.gov/regs.html](http://www.achp.gov/regs.html)

- MCRS: The Manager of the Cultural Resource Section, Environmental Services Division, at NDOT's Carson City offices
- EPM: The Environmental Program manager for the FHWA. This individual is the "agency official" referred to in the 36 CFR 800 regulations
- SHPO: The State Historic Preservation Office or officer also referred to in the 36 CFR 800 regulations
- APE: The Area of Potential Effects 36 CFR 800.16(d)

For additional information, contact: Environmental Services Division  
Nevada Department of Transportation  
1263 S. Stewart St.  
Carson City, NV 89712  
(775) 888-7013

## Process for Cultural Resource Site Inventory and Evaluation

This outline is provided for guidance on the process necessary to complete a cultural resource site inventory and/or evaluation for federal undertakings. This process is directed by the regulations (36 CFR 800) that implement the National Historic Preservation Act. Those regulations can be found at [www.achp.gov/regs.html](http://www.achp.gov/regs.html)

1. To initiate the inventory process, obtain the services of an archaeologist from staff or through a consultant agreement. The inventory must be conducted by, or under the direction of, an individual who qualifies as an archaeologist under the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61, Appendix B, or the most recent publication of the Standards has been in the Federal Register, Vol. 62, No. 119, June 20, 1997, Pages 33,708-723).
2. In consultation with the manager of the Cultural Resource section, NDOT (MCRS), establish what the project's APE will be for the site inventory. Generally, the APE for site inventory will be the right-of-way or footprint of the project itself. This includes existing and new right-of-way, construction easements, and utility easements necessary for the project, construction staging areas and non-commercial material sources.
3. Conduct appropriate background review to determine if the APE has been inventoried before and what are the expectations on what could be found in uninventoried areas.
4. Obtain all necessary permits to conduct a ground site inventory. This generally applies if lands are controlled by federal land management agencies.
5. Conduct a site inventory of uninventoried areas in the APE, record and evaluate all located cultural resource sites for eligibility for the National Register. Normally, all new site inventories will be done using Class III inventory procedures as defined in

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the Nevada BLM's Cultural Resources Inventory General Guidelines, and sites will be recorded using the Intermountain Antiquities Computer System (IMACS).

- a) For previously inventoried areas, relocate any sites within the present APE, update the existing site record to current standards (IMACS) and evaluate the site for eligibility to the National Register.
6. Produce an appropriate cultural resource site inventory report. This report must include:
    - a) Clear and concise maps clearly showing (i.e. labeled) the proposed project's boundary and the boundary of the APE.
    - b) A summary of findings and eligibility recommendations for all of the sites within the APE including those previously located by other inventories.
    - c) The body of the report should reflect the Nevada SHPO's guidelines for inventory and evaluation reports. This information can be found on the SHPO's Web site: <http://dmla.clan.lib.nv.us/docs/shpo/guide/guide-6.htm>
    - d) The project archaeologist should consult with the MCRS to determine the format and number of copies needed at each stage of review, comment and approval.
  7. The size, complexity and cost of site inventory and evaluation reports increase with the number and type of cultural resource sites located within the project's APE. As the complexity of a report increases, it is to the project proponent's advantage to ensure that its archaeologist is working closely with the MCRS and SHPO to ensure that the report they are producing will be adequate for the regulatory needs of the proposed project.
  8. Once the inventory and evaluation report is in a solid draft form, forward the report to the MCRS for review. The MCRS will review the report and ask for any revision that will be necessary to submit the report through the FHWA to the SHPO for review and comment.
  9. If there are cultural resource sites within the APE that are recommended as eligible to the National Register, then the criteria of adverse effect must be applied and analyzed (36 CFR 800.5).
  10. If the project reaches the point where it may result in adverse effect to an eligible historic site, consult at length with NDOT's project manager, the manager of the Cultural Resource section, and FHWA's Environmental Program manager regarding the practicality of the proposed project. Although projects are often completed when they have adverse effects to historic sites, the project's timeline and cost often increase beyond what is practical for enhancement or LPA Projects. For information on the complexity of projects proceeding under adverse effect, review 36 CFR 800.5 through 800.6.

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## **APPENDIX D – RIGHT-OF-WAY DOCUMENTS**

- Sample Right-of-Way Setting Memo
- Sample Utility Certification Letter (with New Right-of-Way)
- Sample Utility Certification Letter (without New Right-of-Way)
- Sample Utility Certification Letter (with No Impacts)
- Sample Utility Certification Letter (with Impacts)



1263 South Stewart Street  
Carson City, Nevada 89712  
Phone: (775) 888-7490  
Fax: (775) 888-7401

## MEMORANDUM

Date

TO: Asst. Director - Engineering  
FROM: Local Public Agency Coordinator  
SUBJECT: Right-of-way Setting  
Sparks Boulevard Widening from Shadow Lane to Disc Drive  
Project Number: 72988 Fund 1

A Right-of-way (R/W) Setting was held on October 19, 2004 to discuss the R/W requirements for the Washoe County RTC Sparks Boulevard widening project. The R/W set for the project includes all the required R/W for the entire length of the project from Shadow Lane to Disc Drive. The following personnel were in attendance:

### List of attendees

All personnel in attendance are in agreement with the R/W requirements for the proposed improvements. R/W will be required as follows:

The project will require four temporary easements on the west side of Sparks Boulevard for the construction of roadway slopes. A temporary easement also is required on the east side of Sparks Boulevard for the construction of roadway slopes. An additional temporary easement is required on the northeast corner of Sparks Boulevard and Shadow Lane to perpetuate an existing irrigation ditch that is being impacted by the roadway improvements. The last required temporary easement is located on the southeast corner of Satellite Drive and Sparks Boulevard. This easement is needed to construct a sound wall, which is a required mitigation measure. The location and limits of the temporary easements are depicted on the attached exhibits.

In addition to the temporary easements, the project will require four permanent easements for the construction of roadway slopes. Two are located on the west side of Sparks Boulevard, north of Vintage Hills Parkway, and two are on the east side Sparks Boulevard, across from Vintage Hills Parkway. The limits of the permanent easements are shown on the attached exhibits. A cost analysis comparing the cost of acquiring easements, fee takes or constructing retaining walls in these locations was completed. It was determined that a fee take or permanent easement was the most cost-effective alternative. The project also requires a permanent easement for drainage on the west side of Sparks Boulevard, north of Shadow Lane. The limits of the permanent easement are shown on the attached exhibits.

In addition to the above-mentioned permanent easements, the project will require three permanent easements for the relocation of utility facilities. The first permanent easement is located on the northeast corner of Sparks Boulevard and Shadow Lane. The second permanent easement is located on the west side of Sparks Boulevard, south of Satellite Drive. Sierra Pacific Power Company has good prior rights in these locations. The costs associated with the permanent easements and the utility relocations for these two locations are reimbursable. The power company does not, however, have prior rights for the power line located along the west side of Sparks Boulevard from Spanish Springs Road to the north end of the project. The Washoe County RTC has agreed to pay for the costs associated with the replacement easement needed for the power line relocation. Sierra Pacific Power Company will

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pay for the relocation costs. The limits of the permanent easements for the utility relocations are shown on the attached exhibits.

The project also will require eight fee takes. The first fee take is associated with adjustment to the radius return located on the northeast corner of Sparks Boulevard and Shadow Lane. Four fee takes are located on the west side of Sparks Boulevard between Vintage Hills Parkway and the north end of the project. These are required for the widening of the roadway as well as the relocation of the existing shared-used path. Two fee takes are located on the east side, across from Vintage Hills Parkway, to accommodate the widening. The remaining fee take is located on the southeast corner of Sparks Boulevard and Satellite Drive. This take is required for the placement of a sound wall that is required for mitigation. The location and limits of the fee takes are depicted on the attached exhibits.

All remaining improvements will be constructed within the City of Sparks' existing right-of-way. The City will apply to Sierra Pacific Power Company for service from an existing power source for the signals and streetlights.

I am requesting that the Washoe County RTC in conjunction with the City of Sparks and NDOT's Right-of-way Division be authorized to proceed with the necessary steps to gather the required right-of-way as outlined in this memo and the Environmental Division be authorized to proceed with the necessary steps to clear the right-of-way.

Recommend/Approve:

\_\_\_\_\_  
Chief Road Design Engineer

Recommend/Approve:

\_\_\_\_\_  
Chief Hydraulics Engineer

Recommend/Approve:

\_\_\_\_\_  
Chief of Environmental Services

Recommend/Approve:

\_\_\_\_\_  
Chief Right-of-way Agent

Approved:

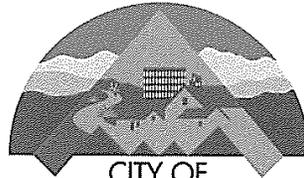
\_\_\_\_\_  
Assistant Director – Engineering

Cc: Chief Road Design Engineer, Design  
Chief Hydraulics Engineer, Design  
Chief Right-of-Way Agent, Right-of-Way  
Chief of Environmental Services, Environmental  
Right-of-Way Agent, Right-of-Way  
Utility Agent, Right-of-Way

Sample Right-of-Way Certification with New Right-of-Way

Mayor  
Michael L. Montandon

Council Members  
William E. Robinson  
Stephanie S. Smith  
Shari Buck  
Robert L. Eliason



CITY OF  
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**Public Works Department**  
**Engineering Services Division**

2288 Civic Center Drive • North Las Vegas, Nevada 89030  
Telephone: (702) 633-1206 • Fax: (702) 633-1158  
[www.cityofnorthlasvegas.com](http://www.cityofnorthlasvegas.com)

City Manager  
Kurt Fritsch

Assistant City Managers  
Gregory E. Rose  
Dan Tarwater

August 6, 2002

*MS* Kristena L. T. Shigenaga, P.E.  
3/R Special Projects Engineer  
Nevada Department of Transportation  
1263 S. Stewart Street  
Carson City, Nevada 89712

**RE: Martin Luther King Boulevard Widening Project, Phase I**  
**Federal Project No. STP - 0003 (062)**  
**Right-of-Way Certification**

Dear Ms. Shigenaga:

This letter is to certify that all of the right-of-way for the Martin Luther King Boulevard Widening Project, Carey Avenue to Cheyenne Avenue - Phase I, has been acquired in accordance with the "Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970," as amended. All other right-of-way for the subject project was in place prior to the Agreement.

If you have any questions or comments regarding this matter, please contact me or Louise E. Steeps at 633-1232 or 633-1226, respectively.

Sincerely,

Randal D. Cagle, SR/WA  
Manager, Real Property Services

LES/gw

cc: William Snyder - Stewardship Coordinator  
Brian D. Martin, P.E. - Principal Engineer/Engineering and Design  
Jeffrey B. Herrick, P.E. - Project Manager  
Louise E. Steeps, P.E. - Associate Engineer  
Jeanne M. Michel - Management Analyst  
File - 51266\FINDOT ROW Cert 080602

Sample Right-of-Way Certification without New Right-of-Way



August 24, 2004

Mr. Rick Oxoby, Northern Nevada Stewardship Coordinator  
Nevada Department of Transportation  
1263 S. Stewart Street  
Carson City, NV 89712

Subject: Verification of Right of Way Clearance for the North Truckee  
Drain Pollution Prevention Project  
Project No. 72922  
Federal Project No. STP-019 (055)

Dear Mr. Oxoby:

This is a letter of verification that the City of Sparks does have the dedicated right of way for the purposes of the planned improvements (storm water treatment devices) in the above named project. The improvements are designed to be installed in the dedicated right of way as shown on the copy of enclosed Dedication Tract Map No. 1923 for "The Extension of Sparks Boulevard & Springland Drive" recorded March 27, 1980 and a copy of Document No. 806597 recorded on July 26, 1982 describing dedication for that portion shown as "Existing Drainage Easement" to the City of Sparks from McClatchy Newspapers. This "Existing Drainage Easement" is shown on the previously described Dedication Tract Map No. 1923 and is replaced by the deed Document No. 806597.

The improvements in this project are to be located along the north-bound lanes of Sparks Boulevard between E. Prater Way and Springland Drive within the City of Sparks.

If you have further questions, please contact me at 353-2305.

Sincerely,

*Ray Martin*  
Ray Martin, PLS  
City Surveyor

Enclosure: Dedication Tract Map No. 1923, Washoe County Recorder  
Deed Document No. 806597, Washoe County Recorder

cc: Ross Soderstrom, PE – Public Works, w/ enclosure

Building	Community Development	Engineering
tel 775.353.2306	tel 775.353.2340	tel 775.353.2371
fax 775.353.2413	fax 775.353.1608	fax 775.353.7874

1675 East Prater Way | Suite 107 | Sparks, NV 89434



PUBLIC WORKS DEPARTMENT

August 18, 2004

Mr. Rick Oxoby, Northern Nevada Stewardship Coordinator  
Nevada Department of Transportation  
1263 S. Steward Street  
Carson City, NV 89712

Subject: Certificate of Utility Clearance for the North Truckee Drain Pollution  
Prevention Project  
Project No. 72922  
Federal Project No. STP-0191(055)

Dear Mr. Oxoby:

This letter certifies that there are no new utility installations nor relocations or adjustments planned in the above named project. The work of this project consists of installing storm water treatment devices in existing storm drain facilities along the north-bound lanes of Sparks Boulevard between E. Prater Way and Springland Drive in Sparks, Nevada.

If you have any questions, please contact me at 353-2212.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Ross Soderstrom". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ross Soderstrom, P.E.  
Civil Engineer

NTDPPL11UtilClearance.doc

City Hall • 431 Prater Way • P.O. Box 857 • Sparks, Nevada 89432-0857 • (775) 353-2300 • FAX (775) 353-1635



LAS VEGAS CITY COUNCIL

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DOUGLAS A. SELBY  
CITY MANAGER

HARLES KAJKOWSKI, JR.  
PUBLIC WORKS DIRECTOR

November 16, 2006

Jason Tyrrell  
NEVADA DEPARTMENT OF TRANSPORTATION  
123 East Washington Avenue  
Las Vegas, Nevada 89101

Dear Mr. Tyrrell:

**RE: FREMONT STREET PEDESTRIAN IMPROVEMENTS,  
LAS VEGAS BOULEVARD TO 8<sup>TH</sup> STREET - HANSEN #06-11359  
UTILITY ADJUSTMENT CERTIFICATION**

The City of Las Vegas has finalized Federally Funded Project STP-0170(091), City Drawing Number 107V 45681, which calls for the removal and reconstruction of existing pavement and sidewalk and adding street beautification signs and landscape elements on Fremont Street between Las Vegas Boulevard and 8<sup>th</sup> Street. The project also includes replacing existing streetlights, signals, and adding a new signal on Fremont Street and 8<sup>th</sup> Street intersection, construction of a new storm drain between Las Vegas Boulevard and 7<sup>th</sup> Street, and replacing an existing sewer pipe between 7<sup>th</sup> Street and 8<sup>th</sup> Street.

The only privately owned utility requiring an adjustment is the lowering of approximately 35 feet of 12 inch DIP water line that is owned by the Las Vegas Valley Water District (LVVWD). The line is being adjusted by our contractor and, per the franchise agreement, the City of Las Vegas is paying for the required adjustment. The City also owns six sanitary sewer manholes that require adjustment and are included as part of the work in this project.

Should you have any questions or require further information, please contact me at (702) 229-2324, or Khalil Amrikani of Kimley-Horn and Associates, Inc. (the City's consultant) at (702) 862-3619.

Sincerely,

DAVID BOWERS, P.E.  
Program Manager – Engineering  
Department of Public Works

DB:jas

DEPARTMENT OF PUBLIC WORKS  
CITY OF LAS VEGAS  
400 STEWART AVENUE  
LAS VEGAS, NEVADA 89101  
OFFICE 702.229.6276  
FAX 702.382.0848  
TTY 702.386.9108  
www.lasvegasnevada.gov

15101-001b-01-06



## APPENDIX E - BID PROPOSAL DOCUMENTS

The following checklist is provided as a guide to help ensure the appropriate language is included in federal-aid bid documents:

### RECOVERY ACT BID DOCUMENT CHECKLIST

Reference LPA doc1, LPA doc2 and LPA doc3 provided by NDOT when completing checklist

Federal-Aid Project Number:

NDOT Project Identification Number:

Project Location:

Project Description:

Completed by :  Date:

#### Required Bid Submittal Documents:

Must be completed and submitted by Contractor at time of bid

- Affidavit Required Under Section 112 (c) of Title 23 United States Code, Act of August 27, 1958 ...
- Certification Required by Section 1352 of Title 31, United States Code - Restrictions of Lobbying Using Appropriated Federal Funds
- Bidder Subcontractor Information for Subcontractors Exceeding 5%

Must be completed and submitted by the three lowest bidders

- Bidder Subcontractor Information for Subcontractors Exceeding 1%
- List of Subcontractors and Suppliers Bidding (shows DBE information)

#### Required Contract Provisions:

Must be included per verbatim

- Required Contract Provisions, Federal-Aid Construction Contracts
- Additional Contract Provisions, Supplement to the Weekly Payrolls
- Standard Federal Equal Employment Opportunity Construction Contract Specifications, Executive Order 11246
- Additional Contract Provisions Specific Equal Employment Opportunity Responsibilities
- Additional Contract Provisions Minority Business Enterprise in Federal-Aid Highway Construction

#### Required Recovery Act Language:

Must be included per verbatim

- Section 902 Statement
- Section 1515(a) Statement
- Monthly Employee Reporting Requirement

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**Notice to Contractor Required Language:**

Some may be addressed using the local agency standard language

- Identification as a Federal-Aid Contract
- Proposal Guaranty Statement
- Pre-qualification Statement
- Required Submittals to Be Considered Responsive List
- Employment List Statement
- Affirmative Action and Non-discrimination Language
- Notice of Requirement for Affirmative Action (Executive Order 11246) with Goals
- Air Quality Statement
- MSDS Statement
- Buy America Language (Required if Steel is to be used on the project)
- Section 401 and 404 Language (If Applicable)

**Additional Specifications:**

Some may be addressed using the local agency standard language

- Differing Site Conditions Clause
- Suspensions of Work Ordered by the Engineer
- Material Changes In the Scope of Work
- Subcontractor Information
- Liability Insurance (must cover NDOT, its officers, officials, employees, and consultants)
- Subletting of Contract, including reference to 29 CFR Part 1926, and the requirement to include the Required Contract Provisions and other labor provisions in subcontracts.
- Wage Rates, including reference to 29 CFR Part 1926
- Training (If Applicable)

**Additional Requirements:**

Verify the following

- Will advertise for minimum of 3 weeks in statewide publication prior to bid opening
- No Bidder or Employment Preference Provided
- No Proprietary or Sole Source Products Specified **OR**  Public Interest Finding Approved by NDOT (Attach Copy)
- No Agency Provided Materials **OR**  Public Interest Finding Approved by NDOT (Attach Copy)
- Wage Rates are included (Contact NDOT's Contract Compliance Office for the appropriate wage rates, 775-888-7229) (The accuracy of the wage rates must be verified 2 weeks prior to award. If there are changes, a supplemental with revised wage rates must be issued)

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

	Page	
I. General.....	1	a. discriminate against labor from any other State, possession, or territory of the United States (except for
II. Nondiscrimination.....	1	employment preference for Appalachian contracts, when
III. Nonsegregated Facilities.....	3	applicable, as specified in Attachment A), or
IV. Payment of Predetermined Minimum Wage.....	3	
V. Statements and Payrolls.....	5	b. employ convict labor for any purpose within the
VI. Record of Materials, Supplies, and Labor.....	6	limits of the project unless it is labor performed by convicts who
VII. Subletting or Assigning the Contract.....	6	are on parole, supervised release, or probation.
VIII. Safety: Accident Prevention.....	6	
IX. False Statements Concerning Highway Projects.....	6	<b>II. NONDISCRIMINATION</b>
X. Implementation of Clean Air Act and Federal		(Applicable to all Federal-aid construction contracts and to
Water Pollution Control Act.....	7	all related subcontracts of \$10,000 or more.)
XI. Certification Regarding Debarment, Suspension,		
Ineligibility, and Voluntary Exclusion.....	7	1. <b>Equal Employment Opportunity:</b> Equal employment
XII. Certification Regarding Use of Contract Funds for		opportunity (EEO) requirements not to discriminate and to take
Lobbying.....	8	affirmative action to assure equal opportunity as set forth under

**ATTACHMENTS**

A. Employment Preference for Appalachian Contracts  
(included in Appalachian contracts only)

**I. GENERAL**

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or

b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

**II. NONDISCRIMINATION**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time

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the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

**8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

**9. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This

information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

### IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

#### 1. General:

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of

Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

## 2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

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

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

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

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of

the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

## 3. Payment of Fringe Benefits:

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

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

### a. Apprentices:

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's

level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any

worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

**5. Apprentices and Trainees (Programs of the U.S. DOT):**

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

**6. Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**7. Overtime Requirements:**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**8. Violation:**

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

**9. Withholding for Unpaid Wages and Liquidated Damages:**

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

## V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

### 1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

### 2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the

information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

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

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

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

## VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

## VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

## VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

## IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

### NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

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

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

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

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

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

## **X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

## **XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

### **1. Instructions for Certification - Primary Covered Transactions:**

(Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification

or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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**2. Instructions for Certification - Lower Tier Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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**XII.CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person

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for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-

LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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## ADDITIONAL CONTRACT PROVISIONS

### SUPPLEMENT TO THE WEEKLY CERTIFIED PAYROLLS

In addition to the required payroll data as enumerated in Section V, Part 2 of the Form FHWA-1273, "Required Contract Provisions, Federal-Aid Construction Contracts (Exclusive of Appalachian Contracts)", the Department is requiring that the employers insert, for their employees, an ethnic code and Male/Female identifier on each weekly certified payroll.

For standardization purposes the Department has established the following identification codes:

- #1 Native Americans: Persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- #2 Black Americans: Persons having origins in any of the Black racial groups of Africa.
- #3 Asian-Pacific Americans: Persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas and/or which includes persons whose origin are from India, Pakistan, and Bangladesh.
- #4 Hispanic Americans: Persons of Spanish or Portuguese ancestry whose culture is rooted in South America, Central America, Mexico, Puerto Rico, Cuba, the Caribbean Islands or the Iberian Peninsula, including Portugal, regardless of race.
- #5 None of These: Persons not otherwise included in the above designations.

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STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION  
CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:
  - a. "Covered Area" means the geographical area described in the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)", of these special provisions.
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (ii) Hispanic (all persons of Spanish or Portuguese ancestry whose culture is rooted in South America, Central America, Mexico, Puerto Rico, Cuba, the Caribbean Islands or the Iberian Peninsula, including Portugal, regardless of race);
    - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the **solicitations from which this contract resulted.**
3. **If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.**

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4. **The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.**
  5. **Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.**
  6. **In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.**
  7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
    - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
    - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
    - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the

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union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

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- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory affect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non- segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's non-compliance.
  9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
  10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
  11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

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12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
  13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
  14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
  15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirement for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
  16. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Department of Transportation and the Federal Highway Administration.
  17. FHWA 1409 (Federal-Aid Highway Construction Contractors Semiannual report).

(INSTRUCTIONS: This report is to be completed by the Contractor semiannually for each individual employed on this contract (including any subcontracts under it) who has received training during the reporting period under the training special provisions (Attachment 2 FHPM 6-4-1.2). The report is to be submitted by the 20th of the month following the reporting period (July 20 and January 20). The original of this report is to be furnished to the trainee and two copies submitted to the Nevada Department of Transportation.)

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18. Required Reports: Form PR-1391 (Federal-Aid Highway Construction Contractors Annual EEO Reports).

This report should be submitted to the Nevada Department of Transportation by each Contractor and covered subcontractor for the month of July. Subcontractors should report contract and employment data pertaining to their subcontract work only. The staffing figures to be reported under employment data should represent the project work force on board in whole or in part for the last payroll period preceding the end of the month.

The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on-the-job trainees. Staffing figures to be reported in Tables B and C should only include apprentices and on-the-job trainees as indicated.

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ADDITIONAL CONTRACT PROVISIONS  
SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. General

- a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form FHWA-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, USC, as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.
- b. The contractor will work with the Nevada Department of Transportation and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.
- c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy

The Contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training.

3. Equal Employment Opportunity Officer

The Contractor will designate and make known to the Nevada Department of Transportation contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

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#### 4. Dissemination of Policy

- a. All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To insure that the above agreement will be met, the following actions will be taken as a minimum:
  - (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the Contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
  - (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the Contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the Contractor.
  - (3) All personnel who are engaged in directed recruitment for the project will be instructed by the EEO Officer or appropriate company official in the Contractor's procedures for locating and hiring minority group employees.
- b. In order to make the Contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the Contractor will take the following actions:
  - (1) Notices and posters setting forth the Contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
  - (2) The Contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

#### 5. Recruitment

- a. When advertising for employees, the Contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer". All such advertisements will be published in newspapers or other publications, having a large circulation among minority groups in the area from which the project work force would normally be derived.
- b. The Contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Contractor will, through this EEO

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Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the Contractor for employment consideration.

In the event the Contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the Contractor's compliance with equal employment opportunity contract provisions. (The U. S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Contractor to do the same, such implementation violates Executive Order 11246, as amended.)

- c. The Contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

## 6. Personnel Actions

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

- a. The Contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The Contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The Contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The Contractor will promptly investigate all complaints of alleged discrimination made to the Contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Contractor will inform every complainant of all his avenues of appeal.

## 7. Training and Promotion

- a. The Contractor will assist in locating, qualifying and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the Contractor's work force requirements and as permissible under Federal and State regulations, the Contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprentice-

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ship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in said Training Special Provisions.

- c. The Contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The Contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

## 8. Unions

If the Contractor relies in whole or in part upon unions as a source of employees, the Contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the Contractor either directly or through a Contractor's association acting as agent will include the procedures set forth below:

- a. The Contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- b. The Contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- c. The Contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Contractor, the Contractor shall so certify to the Nevada Department of Transportation and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the Contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such Contractor shall immediately notify the Nevada Department of Transportation.

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9. Subcontracting

- a. The Contractor will use his best efforts to solicit bids from and to utilize Disadvantaged Business firms (minority and women-owned businesses) as subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of Disadvantaged Business Enterprise firms from the Contract Compliance Office of the Nevada Department of Transportation.
- b. The Contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports

- a. The Contractor will keep such records as are necessary to determine compliance with the Contractor's equal employment opportunity obligations. The records kept by the Contractor will be designed to indicate.
  - (1) The number of minority and non-minority group members and women in each work classification on the project.
  - (2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Contractors who rely in whole or in part on unions as a source of their work force),
  - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees and,
  - (4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
- b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Nevada Department of Transportation and the Federal Highway Administration.

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ADDITIONAL CONTRACT PROVISIONS  
MINORITY BUSINESS ENTERPRISE  
IN FEDERAL-AID HIGHWAY CONSTRUCTION

MINORITY BUSINESS ENTERPRISE. This project is subject to TITLE 49, Part 26, Federal Regulations entitled "Participation by Minority Business Enterprise in Department of Transportation Programs."

Policy. It is the policy of the Department of Transportation that disadvantaged business enterprise as defined in 49 CFR Part 26 shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently the DBE requirements of 49 CFR Part 26 apply to this agreement.

Obligation. (i) The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that minority business enterprise have an equal opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, sex or handicap in the award and performance of NDOT assisted contracts.

1. "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is;
  - a. Black (a person having origins in any of the black racial groups of Africa);
  - b. Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Carribean Islands, regardless of race);
  - c. Asian American (a person having origins in any of the original peoples of the Far East. Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
  - d. American Indian and Alaskan Native (a person having origins in any of the original peoples of North America);
  - e. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act as amended (15 U.S.C. 637(a)).
2. Bidders shall be fully informed respecting the requirements of the Regulations; particular attention is directed to the following matters:
  - a. A Disadvantaged Business Enterprise (DBE) must be a small business concern as defined pursuant to 49 CFR Part 26.1.
    - (a) "Disadvantaged Business" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the social-ly and economically disadvantaged individuals who own it.
3. The Contractor shall designate and make known to the Engineer a liaison officer to administer the Contractor's minority business enterprise program.

**AFFIDAVIT REQUIRED UNDER SECTION 112(c)**  
**of Title 23 United States Code, Act of August 27, 1958**  
**and**  
**Part 29 of Title 49, Code of Federal Regulations,**  
**November 17, 1987.**

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

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

} SS

I, \_\_\_\_\_ (Name of party signing this  
affidavit and the Proposal Form) \_\_\_\_\_ (title).

being duly sworn do depose and say: That \_\_\_\_\_

(name of person, firm, association, or corporation) has not, either directly or indirectly, entered into agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this contract; and further that, except as noted below to the best of knowledge, the above named and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(Insert Exceptions, attach additional sheets)

The above exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility and whether or not the Department will enter into contract with the party. For any exception noted, indicate on an attached sheet to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. The failure to furnish this affidavit and required exceptions if any shall disqualify the party.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Title*

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Notary Public, Judge or other Official*

(SEAL)

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**CERTIFICATION REQUIRED BY SECTION 1352 OF TITLE 31, UNITED STATES CODE**

**RESTRICTIONS OF LOBBYING USING APPROPRIATED FEDERAL FUNDS**

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriate funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Name (please type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

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

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

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

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.
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**BIDDER SUBCONTRACTOR INFORMATION**  
 (For subcontractors exceeding five (5) percent of bid amount)

CONTRACT NO. \_\_\_\_\_

CONTRACTOR \_\_\_\_\_

PROJECT NO. (S). \_\_\_\_\_

ADDRESS \_\_\_\_\_

BID AMOUNT \$ \_\_\_\_\_

*This information must be submitted with your bid proposal. The bidder shall enter "NONE" under "NAME OF SUBCONTRACTOR" if not utilizing subcontractors exceeding this amount.*

NAME OF SUBCONTRACTOR	CONTRACT ITEM NO(S).	NEVADA CONTRACTOR LICENSE AND LICENSE LIMIT	DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED

\_\_\_\_\_  
 CONTRACTOR'S SIGNATURE

\_\_\_\_\_  
 DATE

TELEPHONE NO. ( ) \_\_\_\_\_

**BIDDER SUBCONTRACTOR INFORMATION**  
 (For subcontractors exceeding one (1) percent of bid amount or \$50,000, whichever is greater)

CONTRACT NO. \_\_\_\_\_

CONTRACTOR \_\_\_\_\_

PROJECT NO. (S). \_\_\_\_\_

ADDRESS \_\_\_\_\_

BID AMOUNT \$ \_\_\_\_\_

*This information must be submitted by the three lowest bidders within two (2) hours after the completion of the opening of the bids. The bidder may elect to submit this information with the bid proposal and, in that case, the bidder will be considered as having submitted this information within the above two (2) hours.*

NAME OF SUBCONTRACTOR	CONTRACT ITEM NO(S).	NEVADA CONTRACTOR LICENSE AND LICENSE LIMIT	DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED

CONTRACTOR'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

TELEPHONE NO. (     ) \_\_\_\_\_

## LIST OF SUBCONTRACTORS AND SUPPLIERS BIDDING

CONTRACT NO.: \_\_\_\_\_

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

Subcontractor Name	Phone:	SUPPLIER	Used	DBE Certified
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No
	(    ) _____ - _____	Yes    No	Yes    No	Yes    No

**NOTICE:** SUBMIT THIS FORM BY 5:00 P.M. THE NEXT WORKING DAY AFTER THE OPENING OF BIDS. YOU MAY MAKE COPIES OF THIS FORM. LIST ALL COMPANIES BIDDING WITH YOUR FIRM ON THIS CONTRACT. FIRMS THAT ARE LISTED WILL BE SENT A CONTRACTORS REGISTRATION FORM BY NDOT THAT WILL BE UPDATED ANNUALLY. RETURN THIS DOCUMENT TO \_\_\_\_\_ AND TO NDOT'S CONTRACT COMPLIANCE SECTION FAX TO (775) 888-7235. FAILURE TO SUBMIT THIS FORM WITHIN THE REQUIRED TIME WILL DEEM THE BID NON-RESPONSIVE.

Revised December 2, 1993 per HFO-NV (420.25)

**NOTICE TO CONTRACTORS**

(1) This is a Federal-aid contract and the requirements for such shall apply. On a Federal –aid contract, any Contractor otherwise qualified by the State of Nevada to perform such work is not required to be licensed nor to submit application for license in advance of submitting a bid or having such bid considered, provided, however, that such exception does not constitute a waiver of the State’s right under its license laws to require a Contractor, determined to be a successful bidder, to be licensed to do business in the State of Nevada in connection with the award of the contract to him.

(2) Proposals will not be considered unless accompanied by a proposal guaranty, in the amount equal to 5% of the Contractor's bid made unconditionally payable to the *local agency*. The guaranty may be cash, cashier's check, certified check, postal money order, bank money order, express money order, bank draft, or an undertaking executed by a corporate surety company authorized to do business in the State of Nevada or any other guaranty that may be especially approved by the *local agency*. Such proposal guaranty is to be forfeited to the *local agency* should the bidder to whom the contract is awarded fail to enter into the contract within 20 days after the award.

(3) Contractors desiring to bid on this work, if not already qualified under the State Law, shall file with the *local agency*, not later than 5 days prior to the date of opening of bids, a complete application for qualification on forms furnished by the *local agency*.

(4) The following signed certification is required of the person, firm, association or corporation in order for the bid to be considered responsive:

1. Anti-Collusion Affidavit; Form is appended to the Special Provisions.
2. Subcontractors Bidding on NDOT Contracts; Form is appended to the Special Provisions. *[Can use local agency’s form]*
3. Restrictions on Lobbying Using Appropriated Federal Funds; Form is appended to the Special Provisions.

(5) Employment lists may be obtained from the local office of the Nevada Employment Security Department at \_\_\_\_\_.

Insert nearest location:

- 1929 North Carson Street, Carson City, NV, 89701 (775) 687-4560
- 172 Sixth Street, Elko, NV, 89801 (775) 738-7146
- 480 Campton, Ely, NV, 89301 (775) 289-1616
- 121 Industrial Way, Fallon, NV, 89406 (775) 423-5115
- 401 Bridge Street, Winnemucca, NV, 89445 (775) 623-6520
- 4001 S. Virginia, Suite H, Reno, NV, 89520 (775) 834-1970
- 2010 Oddie Boulevard, Sparks, NV, 89431 (775) 688-1145
- 135 South Eighth Street, Las Vegas, NV, 89101 (775) 486-3300
- 119 Water Street, Henderson, 89015 (775) 486-6710
- 2827 Las Vegas Boulevard North, North Las Vegas, NV, 89030 (775) 486-5600

(6) The *local agency* hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

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The *local agency* hereby notifies all bidders that it will not discriminate in the award of this contract on the basis of race, color, national origin, religion, sex or handicap.

The *local agency* will on its own initiative, take affirmative action, including the imposition of contract sanctions and the initiation of appropriate legal proceedings under any applicable State or Federal law to achieve equal employment opportunity on Federal-aid Highway Projects and will actively cooperate with the Federal Highway Administration in all investigations and enforcement actions undertaken by the Federal Highway Administration. In conjunction with the above statement, the *local agency* will not issue plans to an irresponsible bidder. Subsection (B) of Section 112 of Title 23 United States Code has been amended by adding at the end thereof, the following: "Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility."

The *local agency* will, in addition to the other Equal Employment Opportunity provisions which are enumerated elsewhere in the Special Provisions, require an affirmative action program from each Contractor who holds an individual contract or subcontract in excess of \$10,000.00. This program, which included certain specific items relative to this project, can be submitted on the form.

(7) The following requirements apply to the person, firm, association or corporation in order for the bid to be considered.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE  
ACTION TO ENSURE EQUAL EMPLOYMENT  
OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The following goal for female utilization shall be included in all Federal and federally assisted construction contracts and subcontracts in excess of \$10,000. The goal is applicable to the Contractor's aggregate on-site construction work force whether or not part of that work force is performing work on a Federal or Federally assisted construction contract or subcontract.

FEMALE PARTICIPATION STATEWIDE

<b>Time Period</b>	<b>Goal</b>
Until further notice .....	6.9%

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or Federally assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographical areas. The goals are applicable to each non-exempt Contractor's total on-site construction work force, regardless of whether or not part of that work force is performing work on a Federal, Federally assisted or non-Federally related project, contract or subcontract.

Construction Contractors which are participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such Contractors are required to comply with the applicable Standard Metropolitan Statistical Area (SMSA) or Economic Area (EA) goal contained herein.

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## NEVADA ECONOMIC AREA

SMSA Counties, NV Clark.....	13.9%
163 Las Vegas, NV	
4120 Las Vegas, NV	
Non-SMSA Counties, NV Esmeralda, NV Lincoln, NV Nye.....	12.8%
SMSA Counties, NV Washoe .....	8.2%
164 Reno, NV	
6720 Reno, NV	
Non-SMSA Counties, NV Churchill, NV Douglas, .....	9.2%
NV Elko, NV Eureka, NV Humboldt, NV Lander,	
NV Lyon, NV Mineral, NV Pershing, NV Storey,	
NV White Pine, NV Carson City	

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

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

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

### **[USE APPLICABLE PARAGRAPH]**

(8a) This project is located in Clark County, Nevada. The bidder shall contact the Clark County Department of Air Quality Management regarding special considerations concerning air quality requirements in the county and requirements for obtaining a Dust Control Permit for construction activity within the county.

(8b) This project is located in Washoe County, Nevada. The bidder shall contact the Washoe County District Health Department (Air Quality Division) regarding special considerations concerning air quality requirements in the county.

(8c) This project is located in an attainment area for air quality. The bidder shall contact the Nevada Department of Conservation and Natural Resources (Division of Environmental

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Protection), phone (775) 687-4670, regarding special considerations concerning air quality requirements of the basin in which this project is located.

Compliance with all rules, regulations, special stipulations, and laws pertaining to air quality shall be the responsibility of the Contractor and the cost of said compliance will be measured and paid for as specified in *local agency defines how this is paid*. Contractor penalties associated with non-compliance of these rules, regulations, special stipulations and laws shall not be sufficient cause for increases in costs or time to the contract.

(9) In compliance with the multi-employer worksite provisions of the Occupational Safety and Health Administration's (OSHA) Hazard Communication Standard 29 CFR Part 1910.1200 (e) (2) the Contractor is required to provide current Material Safety Data Sheets (MSDS) for all hazardous chemicals [as defined in 29 CFR Part 1910.1200 (c)] to be used by the Contractor in this contract.

It will be the Contractor's responsibility to submit a list of all hazardous chemicals to be used on this contract 7 days in advance of the pre-construction conference. MSDS must be submitted prior to the beginning of any phase of work which requires the use of the hazardous chemical. An MSDS shall be submitted prior to use of the hazardous chemical on the contract, for any additional hazardous material not covered by the original list.

(10) The 1982 Surface Transportation Assistance Act provides that on Federal-aid projects, the "Buy America" portion of the Act shall apply to certain products incorporated in the finished work. Steel materials of foreign origin, from outside the United States, may be used at the Contractor's option, subject to the following requirements. "Steel," as used in this subsection, includes steel and iron materials, and the application of a coating to either steel or iron material.

Steel materials to be permanently incorporated into the work on Federal-aid projects are subject to the following requirements:

All steel products or manufacturing processes of the steel material in a product (i.e., smelting, and any subsequent process which alters the steel material's physical form or shape or changes its chemical composition) must occur within the United States. This includes processes such as rolling, extruding, machining, bending, grinding and drilling.

Minimal use of foreign steel materials will be permitted provided the cost of said materials does not exceed one-tenth (0.1) of one (1) percent of the total contract cost or twenty-five hundred (\$2,500.00) dollars, whichever is greater. Should foreign materials be used, as provided above, the Contractor shall provide cost documentation satisfactory to the Engineer at no additional cost to the contract.

All Certificates of Compliance for steel materials shall include a statement that they conform to the above requirements.

The Contractor certifies, by the signing and submitting of the bid or proposal, that he shall comply with the requirements of this subsection.

***[IF APPLICABLE]***

(11) The bidder's attention is directed to Sections 401 and 404 of the Clean Water Act (CWA). This contract must be constructed under a United States Army Corps of Engineers nationwide permit obtained by the *local agency* subject to conditions outlined in *local agency*. This contract must be constructed pursuant to the Nevada Division of Environmental Protection's 401 Water Quality Certification obtained by the *local agency* subject to conditions outlined in *local agency determines section where this information is shown, for NDOT it's in*

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*section 637 of our standards.* Compliance with all rules, regulations, special stipulations and laws pertaining to the CWA shall be the responsibility of the Contractor and the cost of said compliance shall not be measured or paid for directly, but the cost thereof shall be considered in the contract unit price bid for other items of work.

If, during the life of this contract, any change from the project described in the contract documents, plans and Special Provisions is considered, the party proposing the change shall be responsible for (1) insuring that the project continues in compliance with Sections 401 and 404 of the CWA and (2) any resultant delays and/or increased costs.

### **Contractor Licensure**

On Federal-aid projects, Contractor's pre-qualified by the Nevada Department of Transportation, and their subcontractors, are not required to be licensed in advance of submitting a bid or having such bid considered. Both Contractors and their subcontractors shall have obtained a valid Contractor's license, in accordance with the provisions of NRS Chapter 624, as of the award date of the contract. If a subcontractor is unable to obtain proper licensure prior to the award date, the Contractor may substitute a subcontractor with proper licensure after opening of the bid and prior to the award date. Failure to comply with these licensing requirements by a Contractor or its subcontractor as of the award date will result in the Contractor's bid becoming null and void. Execution of the contract by the Contractor shall be deemed a certification that the licensing requirements have been met. Contractor and subcontractor are encouraged to submit application for licensure to the Nevada State Contractor's Board in advance of contract advertisement.

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## Additional Federal Aid Provisions

(a) Work Subject to Inspection and Approval of Federal Agency. When the United States Government pays all or any portion of the cost of the work, observe the Federal laws authorizing such participation and the rules and regulations made pursuant to such laws. Subject the work to the inspection of the authorized representatives of such Federal agencies as are created for the administration of these laws, but such inspection will in no sense make the Federal Government a party to the contract and will in no way interfere with the right of either party hereunder.

(b) Fair Labor Standards Act. The Wage and Hour Division, U.S. Department of Labor requires that contractors or subcontractors engaged in highway construction work meet the provisions of the Fair Labor Standards Act of 1938 (52 Stat. 1060) or as amended. (Title 29, United States Code, Section 201, et seq.).

(c) Cargo Preference Act. Contractors or subcontractors engaged in transoceanic shipment of any equipment, material, or commodities pursuant to this contract, are required to meet the provisions of the Cargo Preference Act of 1954 (46 CFR 381, paragraph 7b) or as amended.

(d) Nondiscrimination Assurance. The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

### **Archeological and Paleontological Findings**

The contract is responsible for the preservation of archeological and paleontological objects, including all ruins, sites, buildings, artifacts, fossils, or other objects of antiquity encountered during construction. When such objects are encountered, immediately cease operations and give notification that such objects exist. The Engineer will notify the Manager of the Cultural Resource Section of the Department of Transportation. Reschedule construction operations to avoid the section until given written notification to proceed with operations.

Extension of contract time will be allowed for any delay due to preservation of archeological and paleontological objects.

## SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS

**102.03 Contents of Proposal Forms.** Upon request, the *local agency* will furnish the prospective bidder with a proposal form. This form will state the location and description of the contemplated construction and will show the approximate estimate of the various quantities and kinds of work to be performed or materials to be furnished, and will have a schedule of items for which unit bid prices are invited. The proposal form will state the time in which the work must be completed, the amount of the proposal guaranty, and the date, time, and place of the opening of proposals. The form will also include any special provisions or requirements which vary from or are not contained in the standard specifications.

All papers bound with or attached to the proposal form are considered a part thereof and do not detach or alter them when submitting the proposal.

The plans, specifications, supplemental notices to contractors and other documents designated in the proposal form will be considered a part of the proposal whether attached or not.

Pay the *local agency* the sum stated in the advertisement and "Notice to Contractors" for each copy of proposal form and each set of plans. The contract documents are nonreturnable and no refund will be made. Make checks in payment for plans and specifications payable to the *local agency*.

The *local agency* will maintain a bidders information list, consisting of information about all firms that bid or quote *local agency* contracts.

(a) Subcontractor Information for Federal-aid Contracts. Comply with the following requirements:

1. Provide the name of each subcontractor who will be paid an amount exceeding 5% of the total bid and indicate whether the subcontractor is licensed pursuant to Chapter 624 of the NRS. Within 2 hours after the completion of the opening of bids, the 3 apparent lowest bidders must submit a list of the names of each subcontractor who will be paid an amount exceeding 1% of the total bid or \$50,000.00, whichever is greater, and indicate whether the subcontractor is licensed pursuant to Chapter 624 of the NRS. Failure to submit such lists within the required time will deem the bid non-responsive.
2. Also include a description of the portion of the work or improvement which each subcontractor named in the bid will complete.
3. A subcontractor named by the bidder who is not properly licensed for that portion of the work will be deemed unacceptable. If the subcontractor is deemed unacceptable, provide an acceptable subcontractor before the award of the contract.

Complete and sign the "Federal Aid Project NDOT Bidder Subcontractor Information" forms, which are appended to the Special Provisions, concerning the above requirements.

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Submit a list of the names of all subcontractors submitting bids on the form "Subcontractors Bidding on NDOT Contracts," which is appended to the Special Provisions. The form information includes the name of subcontractors, if the subcontractor's bid was accepted, and their DBE/non-DBE status. Complete and submit the form by 5:00 p.m. the next working day after the opening of the bids. The form may be copied if necessary and must be submitted to the *local agency*. Faxes of the form are acceptable to *local agency* at Fax No. *local agency*. Failure to submit this form within the required time will deem the bid non-responsive.

## SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

**107.01 Laws to be Observed.** Keep fully informed of all Federal and State laws, all local bylaws, ordinances and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. Observe and comply with all such laws, bylaws, ordinances, regulations, orders and decrees, and protect and indemnify the State and its representatives against any claim or liability arising from or based on the violation of any such law, bylaws, ordinances, regulations, orders or decrees, whether by yourself or your employees. If the Department suffers any fines or penalties because of the failure to comply with said laws or regulations, the Department may deduct the amount of said fine or penalty from any monies due.

The Contractor and subcontractors compliance with Title 29, subtitle A, 3.3, Code of Federal Regulations and NRS 338 will be required on this contract. These regulations require submittal of a tally of weekly payroll and statement of compliance with respect to each employee engaged in work on the project. Submit these payrolls and statement of compliance to the Nevada Department of Transportation and the State of Nevada Labor Commissioner.

Any project related use of areas outside of the highway right of way are subject to all applicable Federal, State and local laws, regulations, ordinances and clearances (including but not limited to environmental and archaeological clearances), as well as the requirements and conditions as specified herein.

**107.09 Liability Insurance.** (a) Insurance Requirements for Contractors. Do not commence any work or allow any subcontractor to commence any work under this contract until obtaining all insurance and bonds as required. Maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

Consider full compensation for the cost of premiums on the insurance described herein as included in the prices paid for the various items of work to be performed under the contract, and no additional allowance will be made therefore or for additional premiums which may be required by extensions of the policies of insurance.

1. Minimum Scope of Insurance. Obtain and maintain in force for the full period of this contract:

- a. Worker's Compensation Insurance.
- b. Insurance Services Office Commercial General Liability Insurance Form or its equivalent.
- c. Auto Liability Insurance, code 1, "any auto."

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- d. Excess Liability Insurance (Umbrella Form or Following Form Excess where necessary to meet the required minimum amounts of coverage).
  - e. Whenever construction operations covered under said contract are to be performed upon or in proximity to railroad property, provide public liability and property damage insurance for limits of coverage not less than specified in the railroad protective insurance endorsement appended to the special provisions.

2. Minimum Limits of Insurance. Maintain limits no less than:

- a. Commercial General Liability. \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate for bodily injury, property damage, including but not limited to personal injury, sickness, disease or death or damage to or destruction of the property of persons arising directly or indirectly out of or in connection with the performance of work under this contract.
- b. Automobile Liability. \$1,000,000.00 combined single limit per accident for bodily injury and property damage.
- c. Worker's Compensation Insurance. Obtain worker's compensation insurance according to NRS Chapters 616 and 617 for employees engaged on or at the site of the project.

In the event any class of employee engaged in any work under this contract or at the site of the project is not protected under the State of Nevada Industrial Insurance Act, then provide and cause each subcontractor to provide adequate insurance coverage in a form and by an insurance carrier satisfactory to the State of Nevada for the protection of such employees. The insurance company shall agree to waive all rights of subrogation against the State of Nevada, its elected or appointed officers, officials, agents and employees for losses paid under the terms of this policy which arise from work performed by the named insured for the State of Nevada.

3. Deductibles and Self-Insured Retentions. Declare any deductibles or self-insured retentions to and receive approval by the State of Nevada. At the option of the State, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State of Nevada, Department of Transportation, its officers, officials and employees; or the Contractor shall procure a bond guaranteeing payment of losses and related investigation, claims administration and defense expenses.

4. Other Insurance Provisions. The policies are to contain or be endorsed to contain, the following provisions:

- a. General Liability and Automobile Liability Coverages:
  - (1) The *local agency* and the Nevada Department of Transportation, their officers, officials, employees, consultants, and volunteers are to be covered as additional insured's as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the *local agency* and the Nevada Department of Transportation, their officers, officials, employees, consultants, or volunteers.
  - (2) The Contractor's insurance coverage shall be primary insurance as respects the Agency, its officers, officials, employees and volunteers. Any

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insurance or self-insurance maintained by the *local agency* and the Nevada Department of Transportation, their officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

- (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the *local agency* and the Nevada Department of Transportation, their officers, officials, employees or volunteers.
- (4) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) The insurance companies shall immediately notify the *local agency* and the Nevada Department of Transportation if, at any time during the term of the contract, the limits of the General Liability, or Excess Liability, including Aggregate Limits, as described on the certificates, have been impaired by more than 10% of the limits indicated for each policy.
- (6) The insurance companies that provide Commercial General Liability coverage and/or Automobile Liability coverage shall waive their rights of subrogation against the additional insured.

b. All Coverages:

- (1) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days prior notice given to the *local agency* and the State of Nevada, Department of Transportation.
- (2) Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's total responsibility for payment of claims arising in whole or in part from the actions of a third party when such actions might be taken as a result of the Contractor's operations under this contract.
- (3) The *local agency* and the Nevada Department of Transportation are not liable for the payment of any deductibles or assessments on any insurance policies purchased by the Contractor.

5. Acceptability of Insurers. Insurance is to be placed with insurers with a rating from the current issue of Best's Key Rating Guide of no less than A<sup>+</sup> VII. The carrier shall have a home office in the United States. Lloyd's of London is the sole exception to the requirements of Best's Rating, financial size and home office location.

6. Instructions for Completions of Certificates of Insurance. At the time of executing this contract, deliver to the *local agency*, Attention: Labor Compliance Officer, a certificate of insurance evidencing coverage as specified.

- a. If having Commercial General Liability Coverage as provided under the 1986 Occurrence Form, use Standard Accord Certificate 25-S (3/93 Rev.) If having Comprehensive General Liability Coverage as provided under the 1973 Occurrence Form, use Standard Accord Certificate 25-N (3/93). Claims made coverage is not acceptable.

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- b. By separate endorsements the State of Nevada, show the *local agency* and the Department of Transportation to be an additional insured. Sign and attach the additional insured endorsement to the certificate. (It is understood that the certificates of worker's compensation insurance issued by Employers' Insurance Company of Nevada do not name additional insured).
  - c. Sign and attach the waiver of subrogation endorsements to the certificate.
  - d. If the General Liability is provided on an aggregate limit per project, Form #CG2503(11/85) or CB2501(11/85), the *local agency* shall waive the requirements that they be notified when limits have been impaired by more than 10% of the limits indicated. When the coverage is provided on an aggregate limit per project, attach a signed copy of the endorsement to the certificate.
  - e. Properly show the full legal operating names of the Contractor and insurance carrier on the certificate.
  - f. If the Contractor's Liability Coverage contains a deductible, show the amount of the deductible on the certificate. If there is no deductible, state it.
  - g. Amend the cancellation section of the certificate to amend to read as follows:
    - Should any of the above described policies be canceled or materially changed before the expiration date thereof the issuing company will mail 30 days written notice to the certificate holder named to the left."
  - h. All changes or alterations to the Certificate of Insurance as required by the State of Nevada shall be initialed by the authorized representative who signs the certificate.
  - i. The Certificate of Insurance must be countersigned by a resident agent in the State of Nevada according to NRS 680A.300.
  - j. The Certificate of Insurance must comply with all insurance requirements as set forth or the certificate will be rejected.

(b) Railroad Protective Insurance. In addition to any other form of insurance or bonds required under the terms of the contract and specifications, carry insurance of the kinds and in the amount hereinafter specified.

Such insurance shall be approved by the Railroad before any work is performed on or adjacent to Railroad property and shall be carried until all work required to be performed on or adjacent to the Railroad's property under the terms of the contract is satisfactorily completed as determined by the Engineer, and thereafter until all tools, equipment and materials have been removed from Railroad's property and such property is left in a clean and presentable condition.

Obtain the insurance herein required and furnish to the Engineer the original and certified copies of all policies as hereinafter specified.

Furnish the Engineer with one certified copy of each of the executed policies required below and, in addition, furnish the UPRR representative listed in the Special Provisions, one certified copy of each of the executed policies required below.

A certification on such copies of insurance shall guarantee that the policy required below will not be

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amended, altered, modified, or canceled insofar as the coverage contemplated hereunder is concerned, without at least 10 days notice mailed by registered mail to the Engineer and to the Railroad.

Full compensation for all premiums which the Contractor is required to pay on all the insurance described hereinafter shall be considered as included in the prices paid for the various items of work to be performed under the contract, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.

The approximate ratio of the estimated cost of the work over or under or within 50 ft (15 m) of Railroad's tracks to the total estimated contract cost will be shown in the Special Provisions.

During the life of the "CONTRACTORS RIGHT OF ENTRY AGREEMENT," procure and maintain the insurance coverages listed in the "UNION PACIFIC RAILROAD CONTRACT INSURANCE REQUIREMENTS" which is available on the Internet at [www.uprr.com](http://www.uprr.com).

(c) General. Furnish the [local agency](#) with one certified copy of all insurance required under subparagraph (a) of Subsection 107.09 and all copies and original(s) required under subparagraph (b) of Subsection 107.09. Send these copies and original(s) directly to the [local agency](#).

Delete Subparagraphs (b) and (c) directly above and use (b) below if no UPRR Xings

(b) General. Furnish the [local agency](#) with one certified copy of all insurance required under subparagraph (a) of Subsection 107.09 of the Standard Specifications. Send this copy directly to the [local agency](#).

## SECTION 108 - PROSECUTION AND PROGRESS

**108.01 Subletting of Contract.** Do not sublet, sell, transfer, assign, or otherwise dispose of the contract or contracts or any portion thereof or right, title or interest therein, without prior written consent of the Engineer and of the surety. The subcontractor or assignee shall not have any claim against the [local agency](#) by reason of the approval of the subcontract or assignment.

Submit requests for permission to sublet, assign, or otherwise dispose of any portion of the contract in writing and accompany with a letter showing that the organization which will perform the work is particularly experienced for such work.

Consent to sublet, assign, or otherwise dispose of any portion of the contract shall not be construed to relieve the Contractor of his liability under the contract and bonds. Without exception and before the performance of any work by a subcontractor, submit a request to sublet and 2 certified copies of a fully executed subcontract between the Contractor and the subcontractor. This also applies to lower tier subcontracts.

In preparing such copies the prices agreed upon for the work may be omitted, except as follows:

- (a) The type, amount, and price for partial items of work must be clearly indicated.
- (b) Subcontracts with DBE firms must clearly show the type, amount, and agreed price for the work.

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The subcontractors shall not begin work on the contract until after these documents have been reviewed and approved.

All subcontractors and assignees of the prime or general Contractor shall be required to comply with the provisions of NRS 408.373 in the same manner as the prime or general Contractor.

See the paragraph contained in Subsection 110.01 pertaining to Title 29, Code of Federal Regulations, Part 1926.

See Subsection 102.03 for subcontractor information required on the day of bid opening.

According to NRS 338.141 do not substitute any person for a subcontractor who is named in the bid, unless:

- (a) The *local agency* objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or
- (b) The substitution is approved by the *local agency* and:
  - 1. The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the Contractor which was offered to the subcontractor with the same terms that all other subcontractors on the project were offered;
  - 2. The named subcontractor files for bankruptcy or becomes insolvent; or
  - 3. The named subcontractor fails or refuses to perform his subcontract within a reasonable time.

Contract bid prices will prevail for purposes of computing the monetary value of all subcontracts.

Perform with own organization, work amounting to not less than 50% of the combined value of all items of the work covered by the contract except as follows:

- (a) If electing to furnish materials for work to be performed by an approved subcontractor and the materials are not obtained from the same firm that is to perform the work of incorporating said materials into the project, the cost of said materials, when set forth in a written statement accompanying the subcontract agreement or contained therein, will be excluded from amounts applicable to the subcontracted percentage.

When a firm both sells materials to a Contractor and performs the work of incorporating the materials into the project, these 2 phases of work must necessarily be considered in combination and, as in effect, constituting a single subcontract.

- (b) When performed by subcontract, any items that have been selected as "Specialty Items" for the contract will be excluded from amounts applicable to the subcontracted percentage. "Specialty Items" for the contract listed below:

The contract amount bid for "Specialty Items" so performed by subcontract will be deducted from the original total contract price before computing the amount of work required to be performed by the Contractor with his own organization.

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Roadside production of materials is construed to be the production of crushed stone, gravel, or other material with portable or semi-portable crushing, screening, or washing plants, established or reopened in the vicinity of the work for the purpose of supplying materials to be incorporated into the work. Roadside production of materials will be considered subcontracting if performed by other than the Contractor.

The *local agency* and the Contractor will not recognize any subcontractor on the work as a party to the contract. Nothing contained in any subcontract shall create any contractual relation between the subcontractor and the *local agency*. The Contractor will be held solely responsible for the progress of the work according to the progress required.

Insert in each subcontract all of the following contract provisions, copies of which are contained in the Special Provisions:

- (a) LABOR PROVISIONS: The "DESIGNATED HOURLY MINIMUM WAGE RATES" supplied by the United States Department of Labor and the Labor Commissioner of the State of Nevada.
- (b) FORM FHWA-1273: The "REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS (Exclusive of Appalachian Contracts)" AND "APPENDIX A."
- (c) The "ADDITIONAL CONTRACT PROVISIONS: SUPPLEMENT TO THE WEEKLY CERTIFIED PAYROLLS."
- (d) The "STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)."
- (e) The "ADDITIONAL CONTRACT PROVISIONS: SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES."
- (f) The "ADDITIONAL CONTRACT PROVISIONS: EQUAL EMPLOYMENT OPPORTUNITY Training Special Provisions."
- (g) The certification on "RESTRICTIONS ON LOBBYING USING APPROPRIATED FEDERAL FUNDS."

Delete (a) through (g) above and use (a) and (b) below if no federal funds

- (a) LABOR PROVISIONS: The "HOURLY MINIMUM WAGE RATES" as determined by the Labor Commissioner of the State of Nevada.
- (b) The "ADDITIONAL CONTRACT PROVISIONS - EQUAL EMPLOYMENT OPPORTUNITY PRACTICES."

Insert the following statements in each subcontract:

**"NON-DISCRIMINATION IN EMPLOYMENT  
AND CONTRACT LABOR PROVISIONS"**

"In connection with the performance of work under this contract, the CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, creed, color or National origin; and further agrees to insert the foregoing provisions in all subcontracts hereunder."

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**[IF FEDERALLY FUNDED]**

“Also included, and made a part of this subcontract agreement are the necessary Labor Provisions, including the “Designated Wages” as determined from wages supplied by the United States Department of Labor and the Labor Commissioner of the State of Nevada; Form FHWA-1273, the Required Contract Provisions, All Federal-aid Construction Contracts (Exclusive of Certification Acceptance and Appalachian Contracts)”; the “Contract Work Hours Standards Act: Overtime Compensation.”

**[IF STATE FUNDED]**

“Also included, and made part of this subcontract agreement are the necessary Labor Provisions, including the "Prevailing Wages" as determined by the Labor Commissioner of the State of Nevada.”

“Compliance with the Provisions of NRS 338.125 is mandatory insofar as it does not conflict with the above provisions of Title VI of the Civil Rights Act of 1964,” a pertinent portion is as follows:

“In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, age, color, national origin or sex. Such agreement shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.”

**“NOTICE TO PROSPECTIVE SUBCONTRACTORS AND  
MATERIAL SUPPLIERS OF REQUIREMENT FOR  
CERTIFICATION OF NONSEGREGATED FACILITIES”**

“A Certification of Nonsegregated Facilities as required by the May 9, 1967, Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, must be executed by each subcontractor and material supplier prior to the award of the subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds \$10,000 and is not exempt from the provisions of the Equal Opportunity Clause.”

“Subcontractors and material suppliers are cautioned as follows: By signing the subcontract or entering into a material supply agreement, the subcontractor or material supplier will be deemed to have signed and agreed to the provisions of the “Certification of Nonsegregated Facilities” in the subcontract or material supply agreement. This certification provides that the subcontractor or material supplier does not maintain or provide for his employees facilities which are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the subcontractor or material supplier will not maintain such segregated facilities.”

“Subcontractors or material suppliers receiving subcontract awards or material supply agreements exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.”

Also insert in each subcontract agreement, a clause requiring subcontractors to include the contract provisions mentioned herein in any lower tier subcontracts which they may enter into, together with a clause requiring the inclusion of these provisions in any further

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subcontracts that may in turn be made. The contract provisions shall in no instance be incorporated by reference.

A Disadvantaged Business Enterprise (DBE) is a firm certified by Nevada Department of Transportation under Title 49 Code of Federal Regulations Part 26 to participate in the Federal DBE program. The following shall apply to subcontracts with "DBE" firms:

*local agency* will require the prime Contractor to make good faith effort in replacing a defaulting DBE subcontractor that is unable to perform successfully, with another DBE subcontractor. *local agency* will approve all substitutions of subcontractors during contract performance in order to ensure that the substitute firms are eligible DBEs. In order to obtain a DBE replacement, it is possible that a prime Contractor will incur extra costs for recruitment or take extra time. *local agency* will compensate the prime Contractor for documented reasonable recruitment expenses and will allow additional time for documented delays in the overall completion of the contract.

When performed by subcontract, the following items of work, designated herein as "Specialty Items," are hereby exempted from the provisions that 50% of the value of the work be performed by the Contractor with his own organization, but are not exempted from the remaining provisions concerning subcontracting.

Specialty Items:

## SECTION 110 - WAGES AND CONDITIONS OF EMPLOYMENT

**110.01 Description.** The provisions pertaining to wages and conditions of employment shall apply to all work performed (on the contract) by the Contractor with his own organization and with the assistance of workmen under his immediate superintendence, and to all work performed on the contract by subcontractors.

Minimum wage rates determined by the Labor Commissioner of the State of Nevada and by the Secretary of Labor, if applicable, are set forth in the contract documents. Do not pay wage rates less than the minimum wage rates.

Forfeit, as a penalty to the *local agency*, the amount stipulated in NRS Chapter 338 when workmen are paid less than the minimum wage rate.

The laborers shall have access to the pertinent minimum wage schedules at all times. Provide and erect a weatherproof bulletin board at the job site and post all minimum wage schedules and other required information thereon. Construct the weatherproof bulletin board so that the material thereon is adequately protected from the elements.

It is a condition of the contract, and shall be made a condition of each subcontract entered into pursuant to the contract, that the Contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or

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under working conditions which are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926:published in the Federal Register on December 16, 1972, and subsequent revisions) promulgated by the United States Secretary of Labor, according to Section 107 of the Contract Work Hours and Safety Standards Act, (83 Stat. 96).

The minimum wage rates apply to workmen working upon the “site of the work.” The term “site of the work” is defined as follows:

The “site of the work” is defined as the physical place or places where work called for in the contract is performed by either the Contractor or the Contractor’s agents. Material sources controlled by the Department and staging areas set up to construct portions of the work are considered to be the “site of the work.” Not included in the “site of the work” are permanent home offices, batch plant establishments, fabrication plants, and tool yards of an employer whose locations and continuance in operation are determined without regard to the work. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, or other like locations of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids are not included in the “site of the work.”

**110.02 Laws Cited.** See the provisions and requirements of the following:

- (a) Wages, Hours and Employment on Public Works: NRS Chapter 338.
- (b) Nevada Industrial Insurance Act: NRS Chapter 616A. Furnish a certificate from the insurer as evidence of payment of all the premiums and percentages as required by the act, and furnish said certificate before any work is commenced.
- (c) Unemployment Compensation Law: NRS Chapter 612.
- (d) Highway Camp Sanitation: NRS 444.130, 444.200 and 444.210.
- (e) Highways and Roads Law: NRS Chapter 408.
- (f) Fair Labor Standards Act of 1938 (52 Stat. 1060).
- (g) Work Hours Act of 1962.
- (h) Any and all legislation, rules or regulations promulgated by the State of Nevada, or its agencies, covering any work performed by the Contractor.
- (i) Fraudulent and Discriminatory Employment Practices: NRS Chapter 613.

**[IF APPLICABLE]**

**110.03 Training Program.** The on-the-job training program shall apply as set forth in the Training Special Provisions when appended to the Special Provisions. Consider the Training Special Provisions as contained herein.

The number of trainees to be trained under this contract will be as indicated in the pay item.

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***[IF APPLICABLE]***

**110.05 Payment.** The accepted quantities of training, measured as specified above will be paid for at the price per hour as specified in the Training Special Provisions appended to the Special Provisions and indicated in the Proposal. Payment will be full compensation for the work prescribed in this Section.

Payment will be made under:

**Pay Item**

	<b>Pay Unit</b>
Training (* Trainees) .....	Hour

\*Number to be as shown on the estimate and proposal.

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## **APPENDIX F - CONSTRUCTION FORMS**

### **Nevada Department of Transportation LPA Program NDOT Resident Engineer Package**

The LPA Program was developed by the FHWA and the NDOT for Federal-aid project review, oversight and administration. The provisions of the Program are applicable to all Federal-aid funding sources. The laws and regulations applicable to the Program include:

- Title 23 United States Code
- Title 49 United States Code
- Title 23 Code of Federal Regulations (Highways - Parts 230, 630 & 635)
- Title 49 Code of Federal Regulations (Transportation)
- Nevada State Laws

In an effort to streamline the process in which the NDOT Resident Engineer oversees LPA Projects, the Construction Office has put together a LPA package for reference and is available upon request.

#### **Project Closeout**

Upon completion of the project, the NDOT Resident Engineer is responsible for the following documents:

1. Contract Compliance Checklist (From Local Agency-Attachment A)
2. Final Material Acceptance Test Summary(From Local Agency-Attachment B)
3. Final Quantity Report (From Local Agency-Attachment C)
4. All Interim Inspection Reports (From NDOT Resident Engineer-Attachment D)
5. FHWA Form 1391 (From Local Agency-Attachment E)
6. Final Acceptance Report (From NDOT Resident Engineer-Attachment F)
7. Final Acceptance Letter (From District Engineer-Attachment G)

These documents will be forwarded to the LPA coordinator in Road Design.

### Contract Compliance Checklist

This checklist must be filled out on any LPA project administered by the NDOT. The agency administering the contract is responsible to ensure that the provisions of Executive Order 11246 are followed. Any Violations or Complaints of EEO Provisions must be reported immediately to the Contract Compliance Division and a report detailing the complaint must be provided.

THE AGENCY ADMINISTERING THE CONTRACT INSURES THAT THE FOLLOWING INFORMATION WAS GATHERED.

#### THE FOLLOWING SUBCONTRACTOR INFORMATION IS AVAILABLE FOR EACH SUBCONTRACTOR.

	Yes	No	Date
Request to Sublets (All Subs) *DBE Firms must be noted	<input type="checkbox"/>	<input type="checkbox"/>	_____
Subcontract Agreements (list missing or incorrect info on separate sheet)	<input type="checkbox"/>	<input type="checkbox"/>	_____

	Yes	No	Date
<b>CERTIFIED PAYROLL</b>			
Were Certified Payroll requirements met for Prime Contractor and each Subcontractor?	<input type="checkbox"/>	<input type="checkbox"/>	_____

	Yes	No	Date
<b>EEO REQUIREMENTS</b>			
Are there employees working on the project during the last week of July?	<input type="checkbox"/>	<input type="checkbox"/>	_____
If yes, Prime and Subcontractor must provide completed FHWA 1391 forms by 2nd week in August and submit them to NDOT.	<input type="checkbox"/>	<input type="checkbox"/>	_____

	Yes	No	Date
<b>DBE MONITORING RESPONSIBILITIES</b>			
Are DBE firms working on the project?	<input type="checkbox"/>	<input type="checkbox"/>	_____
Was the DBE goal met?	<input type="checkbox"/>	<input type="checkbox"/>	_____
Did the Prime Contractor Provide Monthly Payment Reports for all subcontractors (DBE and non-DBE subs)	<input type="checkbox"/>	<input type="checkbox"/>	_____

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date

Mr./Ms. \_\_\_\_\_, P.E. Director  
Nevada Department of Transportation  
1263 South Stewart Street  
Carson City, Nevada 89712

Acceptance of  
Federal Aid No.

ATTN: \_\_\_\_\_, NDOT Resident Engineer

Dear Sir/Madam:

In reference to Federal Aid No. ....

***If no failures occur:***

As required by the plans and specifications:

1. All samples have been secured and tested.
2. All certificates of compliance have been secured and filed in our office.
3. All field tests have been taken and results filed in our office.
4. All material tested substantially meet plans and specification requirements.

**OR**

***If failures occur:***

As required by the plans and specifications:

1. All samples have been secured and tested.
2. All certificates of compliance have been secured and filed in our office.
3. All field tests have been taken and results filed in our office.
4. All materials tested substantially meet plans and specification requirements with the exception of those items listed below, that were accepted based on the following:
  - a. *List of materials including bid item numbers*
  - b. *List of material acceptance based on liquidated damages, dollar amount, change order number if applicable, etc.*

If you have any questions, please don't hesitate to give me a call at ...

Sincerely,  
Agency Representative



**NEVADA DEPARTMENT OF TRANSPORTATION  
INSPECTION REPORT FOR LPA PROJECTS**

<table border="1"> <tr> <th align="center" colspan="2">INSPECTION TYPE</th> </tr> <tr> <td><input type="checkbox"/> INTERIM</td> <td></td> </tr> <tr> <td><input type="checkbox"/> FINAL</td> <td></td> </tr> </table>			INSPECTION TYPE		<input type="checkbox"/> INTERIM		<input type="checkbox"/> FINAL	
INSPECTION TYPE								
<input type="checkbox"/> INTERIM								
<input type="checkbox"/> FINAL								
<b>PROJECT ID</b>	<b>FEDERAL AID NO</b>	<b>INSPECTION DATE</b>						
<b>PROJECT LOCATION</b>								
<b>INSPECTED BY</b>		<b>IN THE COMPANY OF</b>						

<b>QUALITY OF WORK</b>	<b>PROGRESS OF WORK</b>	<b>TIME ELAPSED</b>	<b>WORK COMPLETED</b>
<input type="checkbox"/> SATISFACTORY <input type="checkbox"/> UNSATISFACTORY	<input type="checkbox"/> SATISFACTORY <input type="checkbox"/> UNSATISFACTORY	%	%

<input type="checkbox"/> CHANGE ORDERS (Explain below)	<input type="checkbox"/> LIQUIDATED DAMAGES	<input type="checkbox"/> OVERRUNS	<input type="checkbox"/> UNDERRUNS
CHANGE ORDER NUMBERS:	TOTAL AMOUNT: \$	ITEMS:  TOTAL AMOUNT: \$	ITEMS:  TOTAL AMOUNT: \$

**SCOPE OF WORK:**

**WORK IN PROGRESS:**

**TRAFFIC CONTROL:**

**CHANGE ORDERS:**

**REMARKS:**

**SIGNATURE OF NDOT RESIDENT  
ENGINEER :**

**DATE:**

<b>FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT</b>														OMB NO. 2125-0018 Report For JULY _____ 19__					
1. CHECK APPROPRIATE BLOCK <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor		2. NAME AND ADDRESS OF FIRM				3. FEDERAL-AID PROJECT NUMBER				4. TYPE OF CONSTRUCTION									
5. COUNTY AND STATE				6. PERCENT COMPLETE		7. BEGINNING CONSTR. DATE		8. DOLLAR AMOUNT OF CONTRACT				9. ESTIMATED PEAK EMPLOYMENT Month and Year (a)      Number of Employees (b)							
10. EMPLOYMENT DATA																			
Table A														Table B					
JOB CATEGORIES	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK <i>Not of Hispanic Origin</i>		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE <i>Not of Hispanic Origin</i>		APPRENTICES		ON THE JOB TRAINEES		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
OFFICIALS ( <i>Managers</i> )																			
SUPERVISORS																			
FOREMEN / WOMEN																			
CLERICAL																			
EQUIPMENT OPERATORS																			
MECHANICS																			
TRUCK DRIVERS																			
IRONWORKERS																			
CARPENTERS																			
CEMENT MASONS																			
ELECTRICIANS																			
PIPEFITTERS, PLUMBERS																			
PAINTERS																			
LABORERS, SEMI-SKILLED																			
LABORERS, UNSKILLED																			
<b>TOTAL</b>																			
Table C																			
APPRENTICES																			
ON THE JOB TRAINEES																			
11. PREPARED BY: ( <i>Signature and Title of Contractors Representative</i> )						DATE		REVIEWED BY: ( <i>Signature and Title of State Highway Official</i> )						DATE					
<i>This report is required by law and regulation (23 U.S.C. 140a and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.</i>																			

**NEVADA DEPARTMENT OF TRANSPORTATION  
FINAL ACCEPTANCE FOR LPA PROJECTS**

PROJECT ID	FEDERAL AID NO	FINAL INSPECTION DATE

PROJECT LOCATION

DATE CONTRACT STARTED	DATE CONTRACT COMPLETED	DATE OF ACCEPTANCE BY CONTRACTING AGENCY

**SCOPE OF WORK:**

--

**REMARKS:**

**Procedures and controls were sufficient to assure that this project has been completed in conformance with the approved plans and specifications including authorized changes and extra work.**

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**SIGNATURE OF NDOT RESIDENT  
ENGINEER:**

**DATE:**

Local Public Agency  
Local Public Agency Address

Acceptance of  
Federal Aid No. \_\_\_\_\_

ATTN: \_\_\_\_\_, Project Engineer

Dear Sir/Madam:

In reference to Federal Aid No.: \_\_\_\_\_

A field inspection was conducted and all items of work were found to be acceptable and completed within reasonable compliance with the Contract Plans and Specifications. Therefore, the Nevada Department of Transportation accepts this Contract work.

If you have any questions, please don't hesitate to give me a call at .....

Sincerely,

NDOT Resident Engineer

cc: District Engineer  
Assistant Resident Engineer  
Chief Construction Engineer  
District Traffic Engineer  
LPA Coordinator



Date  
Pre-Construction Meeting Sample Agenda

**Project** \_\_\_\_\_  
**Description/Number** \_\_\_\_\_  
**Local Entity** \_\_\_\_\_  
Time: \_\_\_\_\_ AM/PM

I. Welcome

A. Project Description: description of work

B. Meeting is being recorded. (Copies are available on request.) Keep conversations to one at a \_\_\_\_\_ time. (Have every one introduce themselves)

C. Introductions

NDOT: Resident Engr – Contractor Name: .  
Asst Res Engr - Project Manager -  
Survey Party Chief – Project Engineer –  
Lead Inspector – Superintendent –  
Lead Tester –

D. Attendance roster (copies will be available at end of meeting).

II. Administration

A. Addresses and phone numbers:

NDOT, Crew 9__	Contractor
Address	Address
Phone _____ Fax _____	Phone _____ /Fax
Cells _____	Cells _____

All correspondence for contract goes through the LPA Project Manager and copies provided to the NDOT Resident Engineer.

B. Contractor's representative(s):

Authorized to sign change orders: Letter required. Received ( )

C. Contractor's 24 hour contacts and telephone numbers:

Phone Number: \_\_\_\_\_ Phone Number \_\_\_\_\_ Phone Number: \_\_\_\_\_

Contract Requirements:

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Other Business:

D. Contractor's Traffic Control Supervisor:

Name: \_\_\_\_\_ 24 hr phone: \_\_\_\_\_  
Confirm ATSSA certified? Have qualification been submitted?  
Employee of Whom?

E. Contractor's Water Pollution Control Manager

\_\_\_\_\_ 24hr. phone \_\_\_\_\_

III. Contract Compliance

IV. Public Out Reach

V. Standards

- A. Standard Specifications for Road and Bridge Construction, 2001 Edition.
- B. 2005 Standard Plans for Road and Bridge Construction (English).
- C. QPL – Date\_\_\_\_\_.

VI. Utilities and Municipalities (107.) (108.04)(List Utilities 107.17, contacts, and notification and concurrent work)

- A.
- B.
- C. Section 107.08 Relations with the Railroad.

(Ask if any concerns or comments from NDOT or utility representatives)

VII. Traffic Control

- A. Traffic Control Plans
  - 1. TC-1 to TC-\_\_\_\_\_ (or discuss lump sum Contractor submittal requirements)
  - 2. any questions
- B. Hourly limitations listed in 108.04.  
(discuss items in Special Provisions)  
Work will be suspended for unacceptable delays.  
(Ask if any questions about TC limitations)

C. Accommodations for Public Traffic (624):

Flagger requirements Clothing and timing devices.  
Initial deployment max. 24hrs prior to use  
Must have approval of Engineer prior to placement

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Keep work Zone within 1 mile of activity, remove speed reduction signs when no longer appropriate.

No activity for more than 7 days remove devices from roadway.

Do not remove guide post until final shouldering operation

Lane width restrictions/ work Zone length

Any questions on Accommodations for Public Traffic?

#### VIII. 2001 Specifications and Special Provisions

A. Supplemental Notices – ???. (Summarize each, ask if any questions)

B. Bid Items (see page \_\_\_).

C. Terms and Definitions (101) – Working Day.(if modified)

D. Scope of Work (104) – Special Maintenance.

E. Control of Work (105).

1. Construction Stakes, Lines and Grades.

2. Final Acceptance – Release of dust permit

F. Control of Material (106).

1. Informational process control testing. Provide test results (Crushing).

2. NAQTC / WAQTC requirements.(106.04)

3. Storage / Staging Areas/ Disposal areas – Environmental Clearances (106.08).

4. Environmental requirements for pits (106.02)

5. Asphalt Cement quality Management Plan (106.01)

6. Testing disputes procedures discussed in Standard Specifications

G. Legal Relationships and Responsibility to the Public (107).

1. Disposal Sites – Environmental Clearances (107.14).

2. Contacts.

3. Dust Control Permit. Required prior to beginning work

H. Prosecution and Progress (108):

1. Subletting of Contract (108.01) – Subcontractors not to work until subcontract

approved.

2. Notice to Proceed: . Working Days: . Milestones:

4. Prosecution and Progress (108.03).

a. Preliminary / Progress Schedule (monthly updates).

b. Weekly Meetings.

c. Submittal Register.

5. Limitation of Operations (108.04):

a. Working Days.

b. Construction Access / Ingress and egress for Haul Routes

c. Closure time limitations.

d. Night work in residential areas.

e. Property owner contacts.

f. R/W restrictions

5. Liquidated Damages (108.09):

a. Failure to complete on time - \$ /Working Day.

b. Failure to meet hourly restrictions - \$

- 
- c. Failure to clean track out - \$900/Day.
  - d. Failure to place permanent striping - \$600/Day/Lane Km.
  - e.
6. Partnering Workshop (108.14).
- I. Measurement and Payment (109):
- 1. Scale certification and software requirements (109.01)
  - 2. Indirect Tensile Strength – Demerit Schedule (109.02).
  - 3. Subs paid within 15 days of NDOT payment (109.08).
  - 4. Subcontractor Payment Form, NDOT Form 052-060 (109.08).
  - 5. Fuel escalation (109.05) Steel Escalation (109.09), must request activation.
- J. Wages and Conditions of Employment (110): Site of work.
- K. Engineering (200): Survey requirements.
- 1. Item only covers Changes and Plan Errors.
- L. Clearing and Grubbing (201) – Property owner contacts.
- M. Removal of Structures and Obstructions (202):
- 1. Salvage items
  - 2. Removals
- N. Excavation and Embankment (203) –
- 1. Geotextile
- O. Backfill (207) – Cold Millings may not be used for granular backfill.
- P. Watering (210).
- 1. Well waiver form at <http://water.nv.us>. Additional requirements
- Q. Erosion Control (211).
- R. Landscaping (212).
- S. Plantmix Bituminous Pavements – General (401).
- 1. Percent Air Voids.
  - 2. Demerit Schedule for Indirect Tensile Strength.
  - 3. Self propelled material transfer vehicle for main line paving.
- T. Plantmix Bituminous Surface (402) – Type A smoothness, Compaction Method B.
- U. Plantmix Bituminous Open-Graded Surface (403) – Type A smoothness.
- V. Tack Coat (405).
- W. Prime Coat (406) – 48 hour cure time.
- X. Bridge Deck Seal Concrete (496) – Polymer Concrete.
- Y. Portland Cement Concrete (501)
- 1. Minimum 20% pozzolan.
  - 2. Permeability requirements for bridge decks and approach slabs.
  - 3. Prequalify production and delivery equipment (501.03.01 ).
  - 4. Quality control plan for placement and curing (wet cure 501.03.09).
- Z. Concrete Structures (502):
- 1. Concrete Stain .
  - 2. Full size test panels
  - 3. Falsework
- AA. Reinforcing Steel (505):
- 1. Bending / cutting diagrams (505.03.01).
- BB. Steel Structures (506).
- CC. Drilled Shaft Foundations (509) – Concrete volume curve.
- DD. Corrugated Metal Pipe and Metal Arch Pipe (604) – Slotted drain.
- EE. Underdrains (607).
- FF. Catch Basins, Manholes and Inlets (609) – Sanitary Sewers (630 – Blue Book).
- GG. Coatings (612) – Documentation requirements for graffiti resistant coating.

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- HH. Guardrail (618). Need to have guardrail review prior to beginning installations
  - II. Signals, Lighting and Intelligent Traffic Systems (623).
  - JJ. Accommodations for Public Traffic (624).
    - 1. Required police / fire contacts.
    - 2. Uniformed Traffic Control Officer (624.03.07).
    - 3. Traffic Control Supervisor – Minimum 4 inspections per day (624.03.08).
  - KK. Construction Signs (625) –
  - LL. Permanent Signs (627) – review sign post lengths
  - MM. Time Related Overhead (629).
  - NN. Permanent Pavement Markings (632):
    - 1. Epoxy time limits (7-21 days).
    - 2. Reflectometer measurements (632.03.05).
  - OO. Temporary Painted Pavement Marking (636) – .
  - PP. Pollution Control (637) - Pollution Control

- 1. File NOI minimum 2 days prior to starting. Provide copy to RE
- 2. Where will SWPPP be available for review

- 3. NDOT Inspector in charge of weekly reviews  
\_\_\_\_\_. Contractor will be provide copy.
- 4. Copy of electronic photo's of areas prior to disturbance and post project stabilization.

- QQ. Biologist (680)
- RR. Bituminous Materials (703) – PG 76-22NV. Refinery test report.
- SS. Aggregates for Portland Cement Products (706) – AASHTO T 303 requirements.

IX. Conflict Resolution: See Conflict resolution ladder sheet attached

X. Open Discussion

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Bid Items

- 1. 110 Training Hours (Trainees) \_\_\_\_\_
- 2. 200 Survey Crew \_\_\_\_\_
- 3. 201 Urban Clearing \_\_\_\_\_
- 4. 202 Removal of Bridge / Footing / Foundation \_\_\_\_\_
- 5. 202 Removal Items (General) \_\_\_\_\_
- 6. 202 Removal Items (Striping) \_\_\_\_\_
- 7. 203 Roadway / Drainage Excavation / Borrow \_\_\_\_\_
- 8. 203 Geogrid / Geotextiles \_\_\_\_\_
- 9. 206 Structure Excavation \_\_\_\_\_
- 10. 207 Backfill / Granular Backfill \_\_\_\_\_
- 11. 209 Drain Backfill \_\_\_\_\_
- 12. 211 Soil Stabilizer \_\_\_\_\_
- 13. 302 Type 1 Class B Aggregate Base \_\_\_\_\_
- 14. 402 Plantmix Misc. Areas \_\_\_\_\_
- 15. 402 Plantmix Surfacing (Type 2 C) \_\_\_\_\_
- 16. 402 Asphalt Cement, Grade PG-76-22NV      Supplier \_\_\_\_\_
- 17. 403 Plantmix Open-Graded Surfacing \_\_\_\_\_
- 18. 405 Emulsified Asphalt, Type SS-1h (Diluted)      Supplier \_\_\_\_\_
- 19. 406 Liquid Asphalt, Type MC-70      Supplier \_\_\_\_\_
- 20. 407 Sand Blotter \_\_\_\_\_
- 21. 502 Concrete Superstructure Repair \_\_\_\_\_
- 22. 502 Class A Concrete (Island Paving) \_\_\_\_\_
- 23. 502 Class A Concrete, Modified (Major/Minor) \_\_\_\_\_
- 24. 502 Portable Precast Concrete Barrier Rail (F Shape) \_\_\_\_\_
- 25. 502 Concrete Barrier Rail (Type A, FA, B, FB, D, FD) \_\_\_\_\_
- 26. 502 Precast Concrete Box Culvert \_\_\_\_\_
- 27. 502 Concrete Stain \_\_\_\_\_
- 28. 502 Strip Seal Expansion Joint (75-mm movement) \_\_\_\_\_
- 29. 502 Groove Concrete Deck Slab \_\_\_\_\_
- 30. 502 Bridge Deck Curing Compound \_\_\_\_\_
- 31. 503 Prestressing Cast-In-Place Concrete \_\_\_\_\_
- 32. 505 Reinforcing Steel \_\_\_\_\_
- 33. 505 Mesh Reinforcing \_\_\_\_\_
- 34. 506 Approach Slab Restrainer Unit \_\_\_\_\_
- 35. 506 Structural Steel \_\_\_\_\_
- 36. 506 Bollards \_\_\_\_\_
- 37. 509 Drilled Shaft Foundations \_\_\_\_\_
- 38. 603 Reinforced Concrete Pipe \_\_\_\_\_
- 39. 604 Corr. / Slotted Corr. Metal Pipe \_\_\_\_\_
- 40. 607 PVC Pipe (Underdrains) \_\_\_\_\_
- 41. 608 Embankment Protector \_\_\_\_\_
- 42. 608 Downdrains \_\_\_\_\_
- 43. 609 Sanitary Sewer work \_\_\_\_\_
- 44. 609 Adjusting Covers \_\_\_\_\_
- 45. 609 Manholes \_\_\_\_\_
- 46. 609 Castings / Structural Steel Grates \_\_\_\_\_
- 47. 610 Riprap and Bedding \_\_\_\_\_
- 48. 611 Class A Concrete Slope Pavement \_\_\_\_\_
- 49. 612 Graffiti Resistant Coating \_\_\_\_\_
- 50. 613 Class A Concrete Curb, Gutter and Sidewalk \_\_\_\_\_

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51. 616 Fencing and Gates	_____
52. 618 Guardrail work	_____
53. 621 Perpetuate Survey Monuments	_____
54. 623 Electrical work	_____
55. 624 Flagger	_____
56. 624 Traffic Control Supervisor	_____
57. 625 Traffic Control Devices	_____
58. 625 Rent PPCBR	_____
59. 627 Permanent Signs	_____
60. 627 Overhead Sign Support Structures	_____
61. 628 Mobilization	_____
62. 629 Time Related overhead	_____
63. 632 Epoxy Pavement Striping	_____
64. 633 Pavement Markers	_____
65. 634 Permanent Pavement Marking Film	_____
66. 636 Temporary Painted Striping	_____
67. 637 Dust Control / Erosion Control	_____
68. 639 Steel Pipe	_____
69. 640 Access Doors	_____
70. 640 MSE Wall	_____
71. 640 Sound Barrier Wall	_____
72. 641 Impact Attenuator	_____
73. 644 Soil Nails	_____
74. 650 Cut and Plug Water Line	_____
75. 650 Water Pipe	_____
76. 660 Pneumatically Placed Concrete Mortar	_____
77. 665 Well Electric	_____

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# CONFLICT RESOLUTION LADDER

## CONTRACT

Contractor

NDOT

EXECUTIVE LEVEL  
10 W/DAYS

President

Rick Nelson  
Asst. Dir. Operations

MANAGEMENT  
LEVEL  
5 W/DAYS

Division Mgr.

Construction Division  
Assistant District Engineer

Project Engineer

Resident Engineer

Job Site Level  
24 hrs

Project Superintendent

Assistant Resident Engineer

Foremen

Inspector

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NEVADA DEPARTMENT OF TRANSPORTATION  
CONFLICT RESOLUTION FORM  
PROJECT NO.

This form is intended to be used in conjunction with the Conflict Resolution Ladder established at the Pre-Construction Conference. Issues will be escalated within the parameters shown on the Conflict Resolution Ladder.

Description of Problem or Conflict:

Conflict Declared at *Project Level* on (date) \_\_\_ / \_\_\_ / \_\_\_ at (time) \_\_\_\_\_ a.m. p.m. by:

\_\_\_\_\_  
(name/title - NDOT employee) (name/title - Contractor employee)  
Sent to *Project Management Level* on \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_\_\_ a.m. p.m.

Declared/Received at *Project Management Level* on \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_\_\_ a.m. p.m.

\_\_\_\_\_  
(name/title - NDOT employee) (name/title - Contractor employee)  
Sent to *District Level* on \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_\_\_ a.m. p.m. Received at *District Level* on \_\_\_ / \_\_\_ / \_\_\_

\_\_\_\_\_  
(name/title - NDOT employee) (name/title - Contractor employee)  
Sent to *Headquarters Level* on \_\_\_ / \_\_\_ / \_\_\_ Received at *Headquarters Level* on \_\_\_ / \_\_\_ / \_\_\_

\_\_\_\_\_  
(name/title - NDOT employee) (name/title - Contractor employee)  
Resolved at: *Project Management*  
*District* (circle one) - (date) \_\_\_ / \_\_\_ / \_\_\_ (time) \_\_\_\_\_ a.m. p.m.  
*Headquarters*

By: \_\_\_\_\_ (NDOT) \_\_\_\_\_ (Contractor)

Resolution: