



NEW MEXICO

Abandoned Mine Lands

Project Manual
Including Plans and Specifications
for Construction of

VPR - SWASTIKA MINE STREAM CROSSING MAINTENANCE PROJECT

Colfax County, New Mexico

PROJECT NO.
EMNRD-MMD-2014-01

AUTHORIZED BY:

ABANDONED MINE LAND PROGRAM
MINING and MINERALS DIVISION
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
STATE OF NEW MEXICO

(with reclamation fees paid by the New Mexico Coal Industry)

April 2014



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00004 - LIST OF DRAWINGS, TABLES, AND SCHEDULES

The following sections list the figures, statutes, and tables that are referenced in the Specifications and are incorporated herein by reference as if set out in their entirety.

I. FIGURES

The following figures may be found as an attachment:

- Figure 1: General Site Location Overview
- Figure 2: Low Water Crossing Overview
- Figure 3: Low Water Crossing Details
- Figure 4: Road Signs

II. STATUTES

The following statutes may be referenced in the text:

- NMSA 1978, §§ 13-1-28 through 199: Procurement Code
- NMSA 1978, §§ 13-4-1 through 30: Public Works Contracts
- NMSA 1978, §§ 13-4-31 through 43: Subcontractors Fair Practices Act
- NMSA 1978, §§ 41-4-1 through 27: Tort Claims Act
- NMSA 1978, §§ 52-1-1 through 70: Workers' Compensation Act
- NMSA 1978, §§ 69-25B-1 through 12: Abandoned Mine Reclamation Act
- NMSA 1978, §§ 74-13-1, *et seq.*: Recycling and Illegal Dumping Act
- NMSA 1978, §§ 76-10-11 through 22: New Mexico Seed Law

III. TABLES

The following tables are referenced in the text:

Table I: Seed Mix



PURCHASING DIVISION (GSD)
(Hand Deliver Only) 1100 S. Saint Francis Drive,
Room 2016
(Mail Only) PO Box 6850
Santa Fe, New Mexico 87502-6850
(505) 827-0472

BIDDER:

Name:
Address:

Phone:
Fax:
E-mail:

PROJECT:

VPR - SWASTIKA MINE STREAM
CROSSING MAINTENANCE PROJECT
RATON, NEW MEXICO
PROJECT NO.: EMNRD-MMD-2014-01

ARCHITECT/ENGINEER OF RECORD

Michael W. Tompson, P.E.
Telephone: (505) 476.3427
FAX: (505) 476.3402

OWNER: Abandoned Mine Land Program
Mining and Minerals Division
Energy, Minerals and Natural Resources
Department
State of New Mexico
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505

Telephone: (505) 476.3400

**INVITATION TO BID
CONSTRUCTION CONTRACT**

BID NUMBER: **40-521-14-05638**

Sealed bid opening: **Friday, June 13th, 2014**
@ 2:00 PM

NM STATE PURCHASING DIVISION
Procurement Specialist: Rose Moya
(505) 470-8084

IMPORTANT

FOR MAILED-IN BIDS: bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left hand side of the front of the envelope.

FOR UPLOADED BIDS VIA SCI-QUEST: such bids will be time-stamped in the system when Bidder clicks "OK" after "Review and Submit." You will receive a confirmation email of the submission for your records. Such electronic submissions will be considered sealed bids in conformance with statute. To register as a Supplier with the State of New Mexico, or to log in if already registered go to: <https://suppliers.sciquest.com/StateOfNewMexico>

SEALED BIDS WILL BE RECEIVED UNTIL THE ABOVE-SPECIFIED DATE AND LOCAL TIME, THEN PUBLICLY OPENED AT THE NEW MEXICO STATE PURCHASING DIVISION OFFICE AND READ ALOUD. HAND DELIVER OR MAIL BIDS TO THE STATE PURCHASING DIVISION, AT THE ADDRESSES STATED IN THE ABOVE LETTERHEAD.

THIS BID IS SUBJECT TO THE REQUIREMENTS OF THE BIDDING DOCUMENTS AS DEFINED IN THE "INSTRUCTIONS TO BIDDERS," SECTION 00100.

THE BID PROPOSAL FORM MUST BE ACCOMPANIED BY A SURETY BOND, SUBCONTRACTOR LISTING FORM, AND DOCUMENTS SPECIFIED IN THE "INSTRUCTIONS TO BIDDERS."

This mailing contains three pages

INVITATION TO BID page 2

PLEASE NOTE: All hand-delivered bids must be received at the State Purchasing Division Office and should be submitted at the front desk, Room 2016.

Bidding Documents may be obtained at the office of the Architect/ Engineer of Record upon payment of **\$NO CHARGE (LIMIT ONE)** for each complete set. CHECKS SHOULD BE MADE PAYABLE TO "N/A". Incomplete sets will not be issued. The successful Bidder will receive refund of his deposit, and any unsuccessful Bidder who returns the Bidding Documents in good and complete condition within fifteen (15) days of the Bid Opening will also receive refund of this deposit. No deposits will be returned after the fifteen-day period.

BIDDING DOCUMENTS MAY BE REVIEWED AT THE FOLLOWING LOCATIONS:

ARCHITECT/ENGINEER OF RECORD
1220 S. ST. FRANCIS DRIVE
SANTA FE, NM 87505
(505) 476.3430
MIKE.TOMPSON@STATE.NM.US

THE PLAN ROOM AT SUN
GLASS, INC.
650 WEST BROADWAY, SUITE B
FARMINGTON, NM 87401
1.800.748.2789 OR 505.327.0700
PLANROOM@SUNGLASSNM.COM

REED CONSTRUCTION DATA
3351 CANDELARIA, NE SUITE D
ALBUQUERQUE, NM 87107
(505) 881.8590

BUILDER'S NEWS AND PLAN ROOM
3435 PRINCETON DRIVE NE
ALBUQUERQUE, NEW MEXICO
87107
(505) 884.1752

DODGE REPORTS
1615 UNIVERSITY BOULEVARD NE
ALBUQUERQUE, NEW MEXICO
87102
(505) 243.2817

THE PLAN ROOM AT SUN GLASS
648 W. BROADWAY
FARMINGTON, NM 87401
(505) 327.0700
SUN4@DIGILNET

CONSTRUCTION REPORTER
1609 SECOND STREET NW
P.O. BOX 6116
ALBUQUERQUE, NM 87197
(505) 243.9793

ASSOCIATED GENERAL
CONTRACTORS OF EL PASO
1359 LOMA LAND, SUITE 106
EL PASO, TX 79935
915.585.1533
RBARRON@AGEELPASO.ORG

MARKET REPORTER II,
ISQFT PLAN ROOM
308 WEST FILLMORE STREET,
SUITE 101
COLORADO SPRINGS, CO 80907

Bids shall be presented in the form of a total Base Bid proposal under a Lump Sum Contract plus any additive or deductive alternates that are selected by the Owner. A bid must be submitted on all bid items and alternates; segregated bids will not be accepted. Plans and specifications are available from the Architect/Engineer of record.

NOTE: Base Bid price shall not include state gross receipts or local options taxes. Taxes will be included in the Contracted Amount at prevailing rates as a separate item to be paid by Owner.

In submitting this bid, each Bidder must satisfy all terms and conditions of the Bidding Documents.

All work covered by this Invitation to Bid shall be in accordance with applicable state laws and, if the bid amount is \$60,000 or more, is subject to the minimum wage rate determination issued by the New Mexico Department of Workforce Solutions, Labor and Industrial Division, for this project. If the bid amount of the contractor or any tier of subcontractor exceeds \$50,000, the contractor and subcontractor must comply with the registration requirements pursuant to the Public Works Minimum Wage Act.

INVITATION TO BID page 3

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

A 100% Performance Bond and a 100% Payment and Materials Bond for the total contract amount, including appropriate New Mexico Gross Receipts Tax, executed by a surety company authorized to do business in the State of New Mexico shall be required from the successful Bidder prior to award of contract. A subcontractor shall provide performance and payment bonds if the subcontractor's contract (to the Contractor) for work to be performed is \$125,000 or more. Failure of a subcontractor to provide the required bonds shall not subject owner to any increase in cost due to approved substitution of subcontractor.

A completed Subcontractor Listing Form must accompany each bid.

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

No Bidder may withdraw his bid for **45 DAYS** after the actual date of the opening thereof.

The Owner intends to award this Project to the lowest responsible Bidder. The Owner reserves the right to reject any and all bids, to waive technical irregularities, and to award the contract to the Bidder whose bid it deems to be in the best interest of the Owner.

Attention of the Bidder is particularly directed to the current requirements as to Resident Contractor's Preference per NMSA 1978, Section 13-4-3. The provisions of NMSA 1978, Sections 13-4-1 through 13-4-4 are not applicable to projects receiving federal aid or when the expenditure of federal funds designated for a specific contract is involved.

MANDATORY PRE-BID CONFERENCE

A Mandatory Pre-bid Conference will be held as follows:

DATE: **Wednesday, June 4th, 2014** TIME: **8:30 a.m.**

LOCATION: **Front parking lot of Best Western – Raton Hotel, 473 Clayton Road, Raton, NM 87740x**

END OF INVITATION TO BID

00100 – INSTRUCTIONS TO BIDDERS

Title IV of the federal Surface Mining Control and Reclamation Act (SMCRA) of 1977, 30 U.S.C. Section 1201, *et seq.*, provides for the reclamation of abandoned mine lands. All operators of coal mining operations subject to the provisions of the Act pay to the Secretary of the Interior Department, for deposit in the fund, a reclamation fee of 31.5 cents per ton of coal produced by surface coal mining and 13.5 cents per ton of coal produced by underground mining. Under SMCRA, individual states acquire federal funds from the Office of Surface Mining, Reclamation, and Enforcement (OSMRE) to administer an approved state reclamation program and to implement specific reclamation projects. The New Mexico Energy, Minerals and Natural Resources Department (EMNRD) administers the Abandoned Mine Land (AML) Program within New Mexico pursuant to a state approved plan and the requirements of the New Mexico Abandoned Mine Reclamation Act, NMSA 1978, § 69-25B-1, *et seq.* The supervision and coordination of work done under the AML Program are conducted by the Mining and Minerals Division (MMD) of EMNRD. Wherever the term Owner is used, it shall mean the MMD Director. EMNRD, MMD and Owner may be collectively referred to as “EMNRD.”

MMD has obtained 100% federal funds for this construction project. MMD is, by this Invitation to Bid (ITB), requesting bids from responsible, qualified Bidders for the construction project in accordance with the terms of this ITB. Bidders are advised that responsive bids are invited from both profit making and nonprofit organizations. EMNRD is an affirmative action and equal opportunity employer.

The deadline date for receipt of bids is no later than as listed in the Invitation to Bid. One each of the required bid documents, with original signature, must be received and stamped in at the State Purchasing Division of the General Services Department, Room 2016, Joseph M. Montoya Building, 1100 Saint Francis Drive, Santa Fe, New Mexico 87505 (1.505.827.0472). Bids in response to this ITB will be opened publicly at the State Purchasing Division, Joseph M. Montoya Building, 1100 Saint Francis Drive, Santa Fe, New Mexico 87503. The name of each Bidder, the lump sum of each bid, and the Bidder’s Contractor License Number will be announced.

The Contract Time for project completion shall be no later than 60 calendar days, including all Sundays, holidays, and non-work days, after the Contractor receives a Notice to Proceed via certified mail.

An abstract of the bids may be available for public inspection from the State Purchasing Division upon request. Those portions of any bid for which a Bidder has made a written request for confidentiality and for which the MMD Director has made a finding which concurs in that confidentiality shall be withheld from public inspection.

IMPORTANT - BIDS MUST BE SUBMITTED IN A SEALED ENVELOPE WITH THE INVITATION TO BID NUMBER AND OPENING DATE CLEARLY INDICATED ON THE BOTTOM LEFT-HAND SIDE OF THE FRONT OF THE ENVELOPE.

00120 – SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

The following shall be included with each responsive bid:

I. Information

A fully completed Vendor Information Form (see Section 00010, Pre-Bid Information), including the name, address, telephone number, Taxpayer Identification Numbers, and signature of the Bidder, or of an officer or employee who has the authority of the Bidder. Do not leave blanks. This signature shall signify that the matters stated or certified on the form are true and accurate to the best of the Bidder's knowledge.

II. Bid

A fully completed Bid Form (Section 00300), including the name, address, telephone number, New Mexico Contractor's License Number, Contractor and Subcontractor New Mexico Labor Enforcement Fund Registration Numbers for bids and subcontracts greater than \$50,000.00, and signature of the Bidder, or of an officer or employee who has the authority to bind the Bidder. Do not leave blanks. This signature shall signify that the matters stated or certified in the bid are true and accurate to the best of the Bidder's knowledge and that the bid was made without collusion or fraud.

III. Security

Bid security shall be required of Bidders for construction contracts procured by competitive sealed bid. A bid security shall be in the form of a negotiable Surety Bond (see an example in Section 00410), Cashier's Check, Certified Check, or Money Order in the amount of at least 5% of the total bid payable to the Energy, Minerals and Natural Resources Department. A letter of credit is not acceptable

IV. References

A list of the Bidder's general background including relevant resources, capabilities, experience, and references with telephone numbers (Section 00420). Do not leave blanks. The Bidder must have a minimum of five years of related construction experience to qualify.

V. Supplements

A complete listing of all subcontractors (Section 00430), if applicable, including for each subcontractor: the work to be performed; the subcontractor's name, address, telephone number, and New Mexico Contractor License Number, if applicable; and a complete listing of pertinent equipment (Section 00450) including for each piece of equipment: the type, manufacturer, model, capacity, and condition. Do not leave blanks.

If for any reason this ITB requires further amendment, such amendments shall be sent via addenda to all parties recorded by the Project Engineer as having received the Bidding Documents. Each Bidder shall be required to acknowledge the receipt of any addenda on the bid form. If such addenda become necessary, they will be distributed within a reasonable time to allow the Bidders to consider the amendment in preparation of their bid.

A responsive bid to the ITB shall be submitted as a sealed bid and shall include project costs for each work task on the Bid Form (Section 00300). Prices quoted in these sealed bids shall be firm fixed prices for both lump sum and/or unit prices as listed on the Bid Form. This ITB shall become a part of the final contract agreement.

The total bid amounts as read at the Bid Opening are tentative only and subject to verification of mathematical accuracy. Such verification may result in a change to the order of the bids. The Bidder with the lowest overall total bid price will be announced as the apparent low Bidder. The apparent low Bidder's bid will be carefully evaluated to insure that it complies with the evaluation criteria listed below and the other requirements of this ITB. The bid will be awarded with reasonable promptness by written Notice of Award via certified mail to the lowest responsible, qualified Bidder. If for any reason the apparent low Bidder does not meet all of the evaluation criteria listed below or comply with all of the requirements of this ITB, the next lowest Bidder will be evaluated and awarded the contract if the evaluation criteria are met.

The evaluation criteria include:

1. possession of a valid New Mexico Contractor License appropriate for the work;
2. proof of registration with Labor and Industrial Division of the New Mexico Department of Workforce Solutions for contractor and all subcontractors when Bidder submits a bid valued at more than \$50,000;
3. proven records of satisfactory work performance for both Bidder and listed subcontractors; and
4. a completed and signed employee pay equity form (PE 10-249 or PE250), or, for Bidders who fall within an exception to the Pay Equity Reporting Requirement, an indication on the bid form that Bidder is exempt and why.

This evaluation is not conducted to determine whether one Bidder's offering is superior to another Bidder's but only to determine that a Bidder's offering is acceptable as set forth in the ITB.

Each Bidder shall submit information sufficient to evaluate the bid based on documentation of the Bidder's proven ability to perform the required tasks. Failure to provide the information required to evaluate the bid shall result in rejection of the bid without further discussion.

All questions about the meaning or intent of the Bidding Documents shall be submitted to the Project Engineer in writing. Replies will be issued by Addenda mailed or delivered to all parties recorded by the Project Engineer as having received the Bidding Documents. Questions received less than 10 business days before the date for opening of Bids will not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without effect. Bidders or the Contractor shall promptly notify the Project Engineer of any ambiguity, inconsistency, or error which they may perceive upon examination of the Bidding Documents or of the site and local conditions.

Note: Because this project is 100% federally funded, neither the 5% New Mexico Resident Contractor's Preference nor the New Mexico Resident Veterans preference, apply to this procurement.

VI. New Mexico Employees Health Insurance

A. If Bidder has, or grows to, six or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six-month period during the term of any Agreement which may result from this RFP, Bidder agrees, by submitting a bid, to have in place, and agree to maintain for the Agreement's term, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Bidder and the state exceed \$250,000.

2. Bidder agrees to maintain a record of the number of employees who have:
 - 1) accepted health insurance;
 - 2) declined health insurance due to other health insurance coverage already in place; or
 - 3) declined health insurance for other reasons.

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

3. Bidder agrees to advise all employees of the availability of state publicly-financed health care coverage programs by providing each employee with, as a minimum, the following

web site link to additional information: <http://www.insurenewmexico.state.nm.us/default.aspx>.

VII. Employee Pay Equity Reporting

A. Bidder agrees if it has 10 or more New Mexico employees OR eight or more employees in the same job classification, at any time during the term of any Agreement that may result from this RFP, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one year in duration.

B. If Bidder has 250 or more employees, Bidder must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one year in duration.

C. For contracts that extend beyond one calendar year, or are extended beyond one calendar year, Bidder also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within 30 days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first.

D. Should Bidder not meet the size requirement for reporting at the time of contract award but subsequently grows such that Contractor meets or exceeds the size requirement for reporting, Bidder agrees to provide the required report within 90 days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

E. Bidder also agrees to levy the requirements of this Section VII on any subcontractor(s) performing more than 10% of the dollar value of this Agreement if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Bidder further agrees that, should one or more subcontractor not meet the size requirement for reporting at the time of contract award but subsequently grows such that the subcontractor meets or exceeds the size requirement for reporting, Bidder shall submit the required report, for each such subcontractor, within 90 days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal.

F. Bidder shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Bidder acknowledges that this subcontractor requirement applies even though Bidder itself may not meet the size requirement for reporting and be required to report itself.

VIII. Additional Pay Equity Reporting Information

A. For the purposes of complying with Section VII., Employee Pay Equity

Reporting:

1. “Job Classification” means an arrangement of tasks in an establishment or industry into a limited series of jobs or occupations, rated in terms of skill, responsibility, experience, training, and similar considerations, usually for wage setting purposes. This term, or job class, refers to a single cluster of jobs of approximately equal “worth.”

2. “New Mexico Employee” (also “Employee”) means a person working within the State of New Mexico at a New Mexico facility, regardless where the employee legally resides, and regardless of the origin of compensation checks.

3. "PE10-249 form" means the reporting form to be used by contractors that meet or exceed the minimum size thresholds for reporting but have less than 250 New Mexico employees.

4. "PE250 form" means the reporting form to be used by contractors that have 250 or more New Mexico employees.

5. "Solicitation" means an Invitation to Bid or a Request for Proposals.

B. The successful Bidder shall not be required to report more frequently than annually unless more than 180 calendar days has elapsed since submittal of the last report and the contract has reached completion. The requirement for reporting at contract completion shall not apply in the case of a one-time fulfillment of a purchase order.

C. Exceptions to the Pay Equity Reporting Requirement:

1. Subject to the subcontractor reporting requirement of Subsection VII.F., Bidders with fewer than 10 employees are exempt, unless they have at least eight employees in the same job classification.

2. Bidders receiving a contract resulting from an emergency procurement are exempt, unless they hold other contracts that would already subject them to the requirement.

D. Bidders who are subject to the Pay Equity Reporting Requirement shall complete and sign the applicable pay equity form (PE 10-249 or PE250) and submit the form with their bid. Bidders who fall within an exception to the Pay Equity Reporting Requirement shall submit an affirmative statement with their bid indicating they are not subject to the Pay Equity Reporting Requirement, and listing which exemption they fall under.

IX. Use of Brand Name Specifications

Use of any brand name herein is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

00125 – BID ASSURANCES

In addition to the requirements above, the Bidder must make, include, and agree to the following assurances as a part of the responsive bid submitted in response to this Invitation for Bids (ITB)

I. General

This ITB does not commit EMNRD to pay any costs incurred by any Bidder in the submission of a responsive bid, in making necessary studies and designs for the responsive bid, or in procuring or contracting for services or supplies for the preparation of the responsive bid.

Issuance of this ITB does not constitute an award commitment by EMNRD. An ITB may be canceled and any or all bids may be rejected in whole or in part, when it is in the best interest of the State of New Mexico. EMNRD may waive, in its sole discretion, technical irregularities that do not affect the contractual conditions, delivery, price, quality, or quantity of the construction, services, or items of tangible personal property that are bid. EMNRD specifically reserves the right to reject responsible, qualified bids from which EMNRD is not able to determine the true amount of the bid, and bids that exceed EMNRD's budgeted or available funds for the project. Final approval for funding is contingent upon approval from the Department of the Interior: Office of Surface Mining - Albuquerque Field Office.

II. Confidentiality

It is further understood that all bids shall become a part of the official file on this matter without obligation of EMNRD and shall be made available for public inspection, unless the Bidder specifies in writing that specific portions of the bid are confidential and are to be held confidential by EMNRD in accordance with NMSA 1978, § 71-2-8. All matter intended to be confidential shall be submitted in a sealed envelope marked "confidential" and each page of the material shall also be marked clearly with the word "confidential". EMNRD reserves the right to review information submitted as to confidentiality. For this purpose, confidential information includes, but is not limited to, matter that relates to trade secrets or which is privileged commercial or financial information that affects the competitive rights of the person, firm, or corporation that submits it.

III. Inspection

To assure EMNRD that the Bidder has the competence, equipment, facilities, and staff to furnish the services required under this contract, EMNRD shall be allowed to determine the adequacy of the competence, equipment, facilities, and staff of any Bidder considered for the contract award. For this purpose, if EMNRD deems it appropriate, the Bidder shall permit representatives of EMNRD to make an inspection of the Bidder's equipment and facilities.

IV. Samples

Bid samples or descriptive literature should not be submitted unless expressly requested. Regardless of any attempt by a Bidder to condition the bid, unsolicited bid samples or descriptive literature, which are submitted at the Bidder's risk, will not be examined or tested, and will not be deemed to vary any of the provisions of this ITB.

V. Cancellation

Failure by the successful Bidder to return the signed contract with acceptable contract bond and insurance within 10 business days after receipt via certified mail of the Notice of Award shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty which shall become the property of EMNRD, not as a penalty, but in liquidation of damages

sustained.

00130 – MANDATORY PRE-BID CONFERENCE

Prospective Bidders are required to attend the pre-bid conference in order to inspect the site where the work is to be conducted to familiarize themselves with the existing conditions that may affect the performance of the contract work. The work sites are located on private and BLM land. Subcontractors and suppliers are not required to attend the pre-bid conference; however, failure to inspect the site will not relieve subcontractors and suppliers from the responsibility of properly estimating the difficulty and cost of performing their portion of the work.

The mandatory pre-bid conference and site showing will be held at the project site to explain the work requirements. AML representatives will guide potential Bidders through the proposed work sites and will answer any questions. See the Invitation to Bid for date, location, and time.

Those wishing to attend are advised to be prompt.

The site showing is expected to take one to two hours. Access is across bumpy dirt roads and may require four-wheel drive vehicles (AML may transport some, but perhaps not all, prospective bidders in state vehicles). On-site roads are unimproved, and narrow. Access to some sites also requires walking across scrubby, sometimes steep and rocky terrain. AML advises attendees to bring food, water, and appropriate clothing and shoes.

NOTE: NOTHING STATED AT THE PRE-BID CONFERENCE SHALL CHANGE THIS INVITATION FOR BIDS UNLESS SUCH CHANGE IS MADE BY WRITTEN AMENDMENT.

00300 – BID FORMS

| BID ITEM | MATERIAL OR WORK DESCRIPTION | ESTIMATED QUANTITY¹ | BID AMOUNT² |
|---------------------|--|---------------------------------------|--------------------------------|
| 1. | Mobilization (Not to exceed 10% of TOTAL BASE BID) | For the lump sum of | |
| | | | _____ Dollars (\$ _____) |
| | (Written Whole Dollars and Zero Cents) | | |
| 2. | Removal of Existing Fill and Culverts | For the lump sum of | |
| | | | _____ Dollars (\$ _____) |
| | (Written Whole Dollars and Zero Cents) | | |
| 3. | Construction of Low Water Crossing | For the lump sum of | |
| | | | _____ Dollars (\$ _____) |
| | (Written Whole Dollars and Zero Cents) | | |
| 4. | Installation of Road Signs | For the lump sum of | |
| | | | _____ Dollars (\$ _____) |
| | (Written Whole Dollars and Zero Cents) | | |
| 5. | Allowance for Channel Clean Up | For the lump sum of | |
| | Seven thousand | | _____ Dollars (\$ 7,000 _____) |
| | (Written Whole Dollars and Zero Cents) | | |

¹ The estimated quantities of materials and work required to complete the project are approximations only and are given as a basis for calculation upon which the contract award will be determined.

² The bid amount shall exclude the applicable state gross receipts tax or applicable local option tax.

| <u>BID ITEM</u> | <u>MATERIAL OR WORK DESCRIPTION</u> | <u>ESTIMATED QUANTITY</u> ¹ | <u>BID AMOUNT</u> ² |
|------------------------|--|--|--|
| 6. | Seeding, Complete in Place | For the unit price of Dollars per Acre (\$ _____) PER AC | Dollars (\$ _____) |
| | (Written Whole Dollars and Zero Cents) | X 3.0 Acres = | (Written Whole Dollars and Zero Cents) |

TOTAL BASE BID³

Dollars (\$ _____)

(Written Whole Dollars and Zero Cents)

(Amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.)

¹ The estimated quantities of materials and work required to complete the project are approximations only and are given as a basis for calculation upon which the contract award will be determined.

² The bid amount shall exclude the applicable state gross receipts tax or applicable local option tax.

³ The bid amount shall exclude the applicable state gross receipts tax or applicable local option tax.

I agree to the assurances set out in the Invitation to Bid, all of which are incorporated and included in this Bid Form by reference. I certify that I have the authority to bind the Bidder. The matters stated in this bid are true and accurate to the best of the Bidder’s knowledge. This bid is made without collusion or fraud.

SIGNED: _____

TITLE: _____

DATE: _____

BIDDER’S NAME: _____

ADDRESS: _____

TELEPHONE NO.: _____

NEW MEXICO CONTRACTOR’S LICENSE NO: _____

LICENSE CATEGORIES: _____

CONTRACTOR NM LABOR ENFORCEMENT FUND REGISTRATION NO.:¹

SUBCONTRACTOR LABOR ENFORCEMENT FUND REGISTRATION NO.(S):¹

Pay Equity Compliance

Please mark the appropriate box below:

Bidder is subject to the Employee Pay Equity Reporting requirement and has provided a completed and signed employee pay equity form (PE 10-249 or PE250), along with this Bid Form.

¹ Required for bids and subcontracts valued at more than fifty thousand dollars (\$50,000).

Bidder is exempted from the Employee Pay Equity Reporting Requirement. (Bidders who have fewer than 10 employees, or fewer than eight employees in the same job classification, are exempt UNLESS they have at least eight employees in the same job classification.)

I (we) do hereby acknowledge receipt of the following addenda to the project documents:

Addendum No. _____ **Dated:** _____

Addendum No. _____ **Dated:** _____

Addendum No.: _____ **Dated:** _____

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00400 – SUPPLEMENTS TO BID FORMS

00410 - Bid Security Form

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, that we _____

(Insert full name and address or legal title of Contractor)

as Principal, hereinafter called the Principal, and _____

(Insert full name and address or legal title of Surety)

a corporation duly organized under the laws of the State of New Mexico as Surety, hereinafter called the Surety, are held and firmly bound unto the Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, as Obligee, hereinafter called the Obligee, in the sum of _____ Dollars (\$_____), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for the Project.

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract or give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

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

PRINCIPAL (Seal)

WITNESS

TITLE

SURETY (Seal)

WITNESS

TITLE

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00420 - BIDDER'S QUALIFICATION FORMS

CONTRACTOR'S QUALIFICATION STATEMENT

To be filled out by the Bidder and returned with the responsive Bid.

BIDDER: _____

I. Experience

List the major construction projects that your organization has completed in the past five (5) years, giving the name of the project, project owner, contract amount, date of completion, and percentage of the cost of the work performed with your own forces. Do not leave blanks.

1. Project Name: _____

Owner: _____

Contract Amount: \$ _____

Completion Date: _____ Percentage: _____

2. Project Name: _____

Owner: _____

Contract Amount: \$ _____

Completion Date: _____ Percentage: _____

3. Project Name: _____

Owner: _____

Contract Amount: \$ _____

Completion Date: _____ Percentage: _____

4. Project Name: _____

Owner: _____

Contract Amount: \$ _____

Completion Date: _____ Percentage: _____

5. Project Name: _____

Owner: _____

Contract Amount: \$ _____

Completion Date: _____ Percentage: _____

II. References

List references for the above projects including work performed, contact person, firm represented, mailing address, and phone number with area code. Do not leave blanks.

1. Work Performed: _____

Contact Name: _____

Firm Represented: _____

Mailing Address: _____

Phone Number: (_____) _____

2. Work Performed: _____

Contact Name: _____

Firm Represented: _____

Mailing Address: _____

Phone Number: (_____) _____

3. Work Performed: _____

Contact Name: _____

Firm Represented: _____

Mailing Address: _____

Phone Number: (_____) _____

4. Work Performed: _____

Contact Name: _____

Firm Represented: _____

Mailing Address: _____

Phone Number: (_____) _____

5. Work Performed: _____

Contact Name: _____

Firm Represented: _____

Mailing Address: _____

Phone Number: (_____) _____

LIST OF SUBCONTRACTORS AND EQUIPMENT

To be filled out by the Bidder and returned with the responsive Bid.

BIDDER: _____

00430 – SUBCONTRACTORS LIST

Any person submitting a bid shall in this bid set forth the name and location of the place of business of each subcontractor under subcontract to the Contractor who will perform work or labor or render service to the Contractor in or about the construction of the public works construction project and whose total contract will be in excess of \$5,000.00 and the nature of the work which will be done by each subcontractor under the New Mexico Subcontractors Fair Practices Act, NMSA 1978, § 13-4-34. The Contractor shall list only one subcontractor for each category as defined by the Contractor in this bid. Do not leave blanks. If no subcontractors, indicate such. The statute does not require listings of second tier subcontractors, material suppliers, and subcontractors whose contracts are less than \$5,000.

1. Work: _____

Firm Represented: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone No.: (____) _____ License No.: _____

2. Work: _____

Firm Represented: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone No.: (____) _____ License No.: _____

3. Work: _____

Firm Represented: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone No.: (____) _____ License No.: _____

4. Work: _____

Firm Represented: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone No.: (____) _____ License No.: _____

5. Work: _____

Firm Represented: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone No.: (____) _____ License No.: _____

6. Work: _____

Firm Represented: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone No.: (____) _____ License No.: _____

00450 – EQUIPMENT LIST

List all pertinent equipment proposed to be employed on the above Project as required by the bidding documents. Attach a list on a separate piece of paper if more space is needed.

- A.** Equipment Type: _____
Manufacturer: _____
Model: _____
Capacity: _____
Condition: _____
- B.** Equipment Type: _____
Manufacturer: _____
Model: _____
Capacity: _____
Condition: _____
- C.** Equipment Type: _____
Manufacturer: _____
Model: _____
Capacity: _____
Condition: _____
- D.** Equipment Type: _____
Manufacturer: _____
Model: _____
Capacity: _____
Condition: _____
- E.** Equipment Type: _____
Manufacturer: _____
Model: _____
Capacity: _____
Condition: _____

0500 – AGREEMENT FORMS

SHARE Contract No. xx-521-xxxx-xxxx**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT****CONSTRUCTION SERVICES CONTRACT**

THIS AGREEMENT is made and entered into by and between the State of New Mexico Energy, Minerals and Natural Resources Department (EMNRD), and _____, (Contractor). EMNRD's Director and staff of the Mining and Minerals Division (MMD) shall supervise and coordinate the work under this Construction Services Contract (Agreement).

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**I. Scope of Work**

A. The Contractor shall perform the work described in the Specifications for the VPR - Swastika Mine Stream Crossing Maintenance Project, Raton, New Mexico in the Project Manual which is part of Invitation to Bids (ITB) No. EMNRD-MMD-2014-01 which, together with the Project Manual, are incorporated herein by reference. The ITB was solicited by the General Services Department, State Purchasing Division ITB No. xx-xxx-xx-xxxxx. The Project Manual, Specifications, ITB, and Contractor's completed ITB are all incorporated into and made a part of this Agreement by reference. EMNRD shall have the sole authority to approve any changes to the Scope of Work and the Specifications and to approve the Contractor's final work product.

B. Upon receiving the written Notice to Proceed (NTP) via certified mail, the Contractor shall mobilize to the site and commence work within 10 business days of receiving the NTP. Prior to commencement of work, the Contractor shall obtain all necessary permits required for this work.

C. **BEFORE ANY WORK IS INITIATED**, the Contractor shall give notice to all utility companies that provide service to the contract site and inform the utility companies of the work to be performed. In the event that work performed in connection with this Agreement may disturb utilities, Contractor shall coordinate with utility companies to ensure that locations of overhead or buried utilities and appurtenances are marked and to provide advance notice of service disruption prior to any work taking place.

II. Compensation

A. Subject to additions or deductions pursuant to change orders, the total maximum

amount of this construction contract is _____ (\$_____), which includes the amount of the accepted bid and the appropriate New Mexico Gross Receipts Tax. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying EMNRD when the services provided under this Agreement reach the total compensation amount. In no event shall the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

B. The New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement shall be paid by the Contractor.

C. EMNRD shall make payment upon receipt of a detailed and certified Application for Payment (invoice), a copy of which is included herein at Section 00900 of the Project Manual, per bid item. One invoice may cover multiple bid items. EMNRD shall have 15 days from the date it receives written notice from Contractor requesting payment to certify that work completed or services for which payment is requested are accepted or rejected. If certified as accepted, EMNRD shall then make payment to Contractor within 21 days of EMNRD's certification of acceptance. EMNRD may make payment to Contractor by first class mailing, electronic funds transfer, or by hand-delivery of the undisputed amount of a pay request based on work completed. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. If EMNRD fails to pay Contractor within 21 days, EMNRD shall pay interest to Contractor beginning on the 22nd day after the payment was due, computed at 1.5 percent of the undisputed amount per month or fraction of a month until the payment is issued. If EMNRD receives an improperly completed invoice, EMNRD shall, within seven days of receiving the invoice, notify Contractor in what way the invoice is improperly completed, and EMNRD has no further duty to pay on the improperly completed invoice until Contractor submits it as complete. In the event work completed or services are rejected, Contractor shall promptly remedy all defects to EMNRD's satisfaction and resubmit its invoice. EMNRD shall have no obligation to make payment until Contractor submits a properly completed invoice.

Contractor shall comply with the Prompt Payment Act, NMSA 1978, § 57-28-5(C), in making prompt payments to its subcontractors and suppliers for amounts owed for work performed relating to this Agreement within seven days of receipt of payment from EMNRD.

D. **Final Payment:** After (i) the EMNRD Project Manager notifies the Project Engineer in writing that all deficiencies as described in Section 01700 have been remedied and (ii) Contractor completes full demobilization, the Contractor shall submit a final invoice. Twenty-one days after EMNRD approves the invoice, any undisputed amounts remaining due the Contractor or subcontractor under the terms of this contract shall be paid by EMNRD upon presentation of the following: a properly executed release and duly certified payment voucher; a release of all claims and claims of lien against EMNRD and the project site arising under and by

virtue of this Agreement; any and all subcontracts (if allowed pursuant to this Agreement); and proof of completion.

III. Term

This Agreement shall not become effective until it is executed by an authorized representative of Contractor and of EMNRD and when the Department of Finance and Administration (DFA) of the State of New Mexico encumbers funds for this Agreement. This Agreement shall terminate on December 31, 2015, unless terminated pursuant to Sections IV, Termination; IX, Appropriations; or XXIV, Disputes.

IV. Termination

A. For Reasons Beyond Contractor's Control

1. EMNRD may, by written order, terminate this Agreement or any portion thereof after determining that, for reasons beyond Contractor's control, the Contractor is prevented from proceeding with or completing the work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include, but need not be limited to, executive orders of the President relating to prosecution of war or national defense, acts of God, labor strikes, a national emergency which creates a serious shortage of materials, orders from duly constituted authorities relating to energy conservation, and restraining orders or injunctions obtained by third-party citizen action resulting from national, state or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

2. If EMNRD orders termination of this Agreement effective on a certain date, payment shall be made for the actual number of units or items of work completed at the contract unit price, or as mutually agreed for items of work partially completed.

3. Acceptable materials Contractor obtains for the work but which have not been incorporated therein, may, at EMNRD's option, be purchased from the Contractor at actual cost, delivered to a prescribed location, or otherwise disposed of as mutually agreed.

4. After receipt of EMNRD's notice of termination issued pursuant to this Section IV.A., the Contractor may submit a claim for costs not covered above or elsewhere in the Specifications. Such claim may include such cost items as reasonable idle equipment time, mobilization efforts, overhead expenses attributable to the project terminated, legal and accounting charges involved solely in preparing the claim for costs, subcontractor costs not otherwise paid for, actual idle labor costs if work is stopped in advance of termination date, and guaranteed payments for private land usage as part of the original contract. In no event, however, shall loss of anticipated profits be considered as part of any settlement.

5. The Contractor agrees to make all cost records available upon EMNRD's request.

6. Termination of a contract or portion thereof shall not relieve the Contractor of any contractual responsibilities for the work completed, nor shall it relieve the surety of its obligation for and concerning any just claim arising out of the work performed.

B. For Reasons Within Contractor's Control:

1. If the Contractor:

- a. fails to begin the work under the contract within the time specified in the Notice to Proceed;
- b. fails to perform the work with sufficient skilled workers and equipment or with sufficient proper materials to assure the prompt completion of said work;
- c. fails to comply with laws, ordinances, rules, regulations or orders of public authority having jurisdiction;
- d. performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable;
- e. discontinues the prosecution of the work;
- f. fails to resume work which has been discontinued within a reasonable time after notice to do so;
- g. becomes insolvent or files for bankruptcy or is placed into bankruptcy by creditors, or commits any acts of bankruptcy or insolvency;
- h. allows a final judgment, in a suit filed in connection with this contract, to stand against the Contractor unsatisfied for a period of 30 business days;
- i. makes an assignment, in connection with this contract, for the benefit of creditors;
- j. fails to carry on the work in an acceptable manner;
- k. otherwise has committed a material breach of the contract,

If EMNRD wishes to terminate this Agreement for any of the above reasons, EMNRD shall give notice in writing to Contractor and the surety of the occurrence(s) upon which EMNRD bases the termination, and the corrective measures to be taken (Default Notice), if any. Failure of EMNRD to provide a default notice or terminate this Agreement shall not operate as a waiver by EMNRD either at the time of such failure or in the future.

If the Contractor or surety, within a period of 10 business days after such notice, does not proceed in accordance therewith, then EMNRD shall, have full power and authority without violating this Agreement to take possession of the premises and of all materials thereon and finish the work by whatever method it may deem expedient. In such case, the Contractor shall

not be entitled to receive any further payment for the work that Contractor performed after the date of the Default Notice until the work is finished. EMNRD shall also have all remedies available to it at law and in equity.

V. Status of the Contractor

The Contractor and its agents and employees are independent Contractors performing construction services for EMNRD and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement.

VI. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of EMNRD.

VII. Subcontracting

The Contractor shall comply fully with the provisions of the New Mexico Subcontractors Fair Practices Act, NMSA 1978, §§ 13-4-31 through 13-4-42. The Contractor shall not subcontract any portion of the services to be performed under this Agreement or obligate itself in any manner to any third party, with respect to any rights or responsibilities under this Agreement, without the prior written approval of EMNRD.

VIII. Records and Audit

The Contractor shall maintain detailed time and expenditure records that show the date, time, nature and cost of services rendered under this Agreement and retain them until [insert date]. These records shall be maintained and available within the State of New Mexico if the Contractor has an office within the state; otherwise, Contractor shall make such records available to EMNRD within New Mexico within 10 business days upon EMNRD's request. The records shall be subject to inspection by EMNRD, DFA, the State Auditor and the U.S. Department of the Interior (DOI). Contractor further agrees to include in all subcontracts hereunder the same right of inspection and audit against all subcontractors. EMNRD shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose EMNRD's right to recover excessive or illegal payments. The periods of inspection and audit may be extended for records, which relate to litigation or settlement of claims arising out of performance of this Agreement and costs and expenses of this Agreement for which exception is under consideration by DOI or any authorized representative and shall continue until all potential litigation, appeals, claims or exceptions have expired or been resolved.

IX. Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico, the federal Congress, and the U.S. Department of the Interior for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate upon written notice being given by EMNRD to the Contractor. EMNRD's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

X. Release

The Contractor, upon final payment of the amount due under this Agreement, releases EMNRD, its officers and employees, and the State of New Mexico from all liabilities, claims, and obligations whatsoever arising from or under this Agreement. This release is self-executing upon such final payment. The Contractor agrees not to purport to bind the State of New Mexico to any obligation unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

XI. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of EMNRD.

XII. Amendment

This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto.

XIII. Scope of Agreement

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants, and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless expressly incorporated into this Agreement.

XIV. Civil and Criminal Liability Notice

The Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kick-backs.

XV. Equal Opportunity Compliance

Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

XVI. Applicable Law

This Agreement shall be governed by the laws of the State of New Mexico, without giving effect to its choice of law provisions. In any lawsuit filed that relates to or arises from this Agreement or any obligations hereunder, venue shall be only in the New Mexico State District Court in Santa Fe, New Mexico. By executing this Agreement, Contractor agrees and consents to the personal jurisdiction of the State Court of New Mexico over any and all lawsuits relating to or arising from this Agreement or any obligation hereunder.

XVII. Waiver

No waiver of any of the terms or conditions of this Agreement shall be valid or binding unless the waiver request is submitted in writing by the party making the request and then approved and signed by the party granting the waiver.

XVIII. Notices

A. Unless EMNRD specifies otherwise in a writing that is delivered pursuant to this Paragraph, notices and all other matters concerning the work to be performed hereunder shall be addressed to EMNRD as follows:

Project Engineer: Michael Tompson
Contracting Division: Mining and Minerals Division
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
1.505.476.3427

B. Unless the Contractor shall specify otherwise in a writing that is delivered pursuant to this Paragraph, notices and all other matters concerning the work to be performed hereunder

shall be addressed to the Contractor as follows:

Contractor Name
Contractor Address
Contractor Address
Contractor Phone Number

C. Any and all notices or other communications required or permitted by this Agreement or by law to be served or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given upon actual receipt by or three business days subsequent to certified mailing to the party to whom it is directed, whichever is earlier.

XIX. Indemnification

The Contractor shall defend, indemnify, and hold harmless EMNRD, and its officers, employees, agents and representatives, and the State of New Mexico from all actions, proceedings, claims, demands, costs, damages, attorneys' fees, and all other liabilities and expenses of any kind from any source that may arise out of this Agreement's performance, caused by the negligent or intentional act or failure to act of Contractor, its officers, employees, servants, subcontractors, consultants, clients, or agents, resulting in injury or damage to persons or property during the time when Contractor, its officers, agents, employees, servants, subcontractors, or consultants has or is performing services pursuant to this Agreement. In the event that any action, suit, or proceeding related to the services performed by Contractor, its officers, agents, employees, servants, subcontractors, clients, consultants under this Agreement is brought against Contractor, or any of its officers, agents, employees, servants, subcontractors or consultants, Contractor shall, as soon as practicable but no later than two days after it receives notice thereof, notify EMNRD's legal counsel and the Risk Management Division of the New Mexico General Services Department by certified mail. Nothing in this Agreement shall be deemed to be a waiver by the State of New Mexico of the provisions of the Tort Claims Act, NMSA 1978, §§ 41-4-1 *et seq.*

XX. Duty to Insure

A. In respect solely to the work occasioned by this Agreement, the Contractor shall obtain and maintain at all times during the term of this Agreement, and any extension thereof, insurance of the kind and in the amounts herein specified. Such insurance shall be provided by insurance companies authorized to do business in New Mexico and shall name the "State of New Mexico, EMNRD, MMD, and its agents and employees thereof" as either additional insured, co-insured, or principal beneficiary.

1. General Liability. Bodily injury liability and property damage liability insurance in the following minimum amounts: \$500,000.00 for damages to or destruction of property arising out of a single occurrence; \$1,000,000.00 to any person for any number of claims arising out of a single occurrence for all damages other than property damages, and \$1,000,000.00 for all claims

arising out of a single occurrence.

2. Automobile Liability. Automobile liability insurance covering the ownership, operation, and maintenance of owned, non-owned, and hired vehicles, in the following amounts:

Bodily injury liability –
 \$700,000.00 each person
 \$1,000,000.00 each occurrence;

Property damage liability--
 \$1,000,000.00 each occurrence.

3. Workers' Compensation. The Contractor shall comply fully with the provisions of the New Mexico Workers' Compensation Act, NMSA 1978, §§ 52-1-1 through 52-1-70.

B. The Contractor shall furnish EMNRD with certificates of insurance and such other proof of insurance as EMNRD may require, prior to commencing work under this Agreement, and shall not commence any work under this Agreement until the required insurance coverage is obtained. The insurance coverage shall not be changed, canceled, or allowed to lapse without giving EMNRD 30 business days' prior written notice.

XXI. New Mexico Employees Health Insurance

A. If Contractor has, or grows to, six or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six-month period during the term of this Agreement, Contractor certifies, by signing this Agreement, to have in place, and agree to maintain for this Agreement's term, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the state exceed \$250,000.

B. Contractor agrees to maintain a record of the number of employees who have:

- 1) accepted health insurance;
- 2) declined health insurance due to other health insurance coverage already in place; or
- 3) declined health insurance for other reasons.

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

C. Contractor agrees to advise all employees of the availability of state publicly-financed health care coverage programs by providing each employee with, as a

minimum, the following web site link to additional information:

<http://www.insurenewmexico.state.nm.us/default.aspx>

XXII. Employee Pay Equity Reporting

A. Contractor agrees if it has 10 or more New Mexico employees OR eight or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one year in duration.

B. If Contractor has 250 or more employees, Contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one year in duration.

C. For contracts that extend beyond one calendar year, or are extended beyond one calendar year, Contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within 30 days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first.

D. Should Contractor not meet the size requirement for reporting at contract award but subsequently grows such that Contractor meets or exceeds the size requirement for reporting, Contractor agrees to provide the required report within 90 days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

E. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this Agreement if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that the subcontractor meets or exceeds the size requirement for reporting, Contractor shall submit the required report, for each such subcontractor, within 90 days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal.

F. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though Contractor itself may not meet the size requirement for reporting and be required to report itself.

G. Notwithstanding the foregoing, if this Agreement was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying

Contractor's response to such solicitation, the report does not need to be re-submitted with this Agreement.

XXIII. Additional Pay Equity Reporting Information

A. For the purposes of complying with Section XXII, Employee Pay Equity Reporting Information:

1. "Job Classification" means an arrangement of tasks in an establishment or industry into a limited series of jobs or occupations, rated in terms of skill, responsibility, experience, training, and similar considerations, usually for wage setting purposes. This term, or job class, refers to a single cluster of jobs of approximately equal "worth."

2. "New Mexico Employee" (also "Employee") means a person working within the State of New Mexico at a New Mexico facility, regardless where the employee legally resides, and regardless of the origin of compensation checks.

3. "PE10-249 form" means the reporting form to be used by contractors that meet or exceed the minimum size thresholds for reporting but have less than 250 New Mexico employees.

4. "PE250 form" means the reporting form to be used by contractors that have 250 or more New Mexico employees.

5. "Solicitation" means an Invitation to Bid or a Request for Proposals.

B. Exceptions to the Pay Equity Reporting Requirement:

1. Contractors with fewer than 10 employees are exempt, unless they have at least eight employees in the same job classification.

2. Contractors receiving a contract resulting from an emergency procurement are exempt, unless they hold other contracts that would already subject them to the requirement.

XXIV. Disputes

Any dispute, other than the Contractor's acts set forth in Section IV, Termination, B., For Reasons Within Contractor's Control, concerning a question of fact arising under this Agreement, not disposed of by agreement, shall, first, be decided by the MMD Director, who shall reduce a decision to writing and furnish a signed copy to the Contractor. Such decision shall be final and conclusive unless, within 30 calendar days from the date of notification of the decision by certified mail, the Contractor mails or otherwise furnishes to the MMD Director, a written appeal, addressed to the EMNRD Secretary, to which MMD may respond in 10 business days. The Contractor shall be afforded an opportunity to be heard. The decision of the EMNRD

Secretary or the authorized representative thereof, shall be final and conclusive, unless within 30 calendar days from the date of notification of the Secretary's decision by certified mail the Contractor submits a written request to the Secretary that the dispute be submitted to binding arbitration in accordance with Section XXV, Arbitration. Pending final decision of a dispute hereunder, and unless otherwise notified by EMNRD, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the EMNRD Secretary's decision.

XXV. Arbitration

Any controversy or claim arising between the parties not resolved pursuant to Section XXIV, Disputes, shall be settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

XXVI. Suspension of Work

A Suspension of Work Notice may be issued by the Project Manager if the Project Manager believes that any action of the Contractor is contrary to the intent of this Agreement or that any health or safety standard is violated or that a threat to public health or safety exists. No work performed after issuance of a Suspension of Work Notice shall be eligible for payment while such notice is in effect. No work shall proceed until such notice is vacated, in writing, by the MMD Director.

XXVII. Compliance with Minimum Wage Rate Decision

This Agreement is within the scope of the Public Minimum Wage Act, NMSA 1978, §§ 13-4-11, et seq. The Minimum Wage Rate Decision No. "CO-14-0568A" of the New Mexico Labor and Industrial Division (1.505.841.4408) shall be complied with by the Contractor and any subcontractors. A copy of the Decision is included at Section 00830 of the Project Manual.

XXVIII. Required Bond for Public Works Contractor

This Agreement is within the scope of NMSA 1978, §§ 13-4-18 through 13-4-20. BEFORE BEGINNING ANY WORK UNDER THIS AGREEMENT, the Contractor shall furnish a performance bond (see example in Section 00610 of the Project Manual) and a payment bond (see example in Section 00620 of the Project Manual) both executed by the Contractor and issued by a surety authorized to do business in the State of New Mexico in an amount equal to 100% of the total Agreement price. Agreement price equals bid total plus gross receipts tax. A letter of credit is not acceptable.

The performance bond shall be conditioned upon the Contractor's performance and faithful completion of this Agreement, according to the terms, in compliance with all requirements of law. The payment bond shall guarantee payments of all just claims for the labor performed and for materials and supplies furnished, whether the labor and supplies are furnished to the prime Contractor or any subcontractors. These bonds shall be in the form approved by EMNRD. The surety shall be subject to the approval of EMNRD. The decision of EMNRD shall be accepted by the Contractor as final.

XXIX. Liquidated Damage for Inconvenience and Increased Administrative Cost

The parties agree that time for the performance of this Agreement is of the essence. Should the Contractor fail to perform the entire project within the Contract Time for project completion (see Section 00100 of the Project Manual), the Contractor agrees to the charge of \$300.00 per calendar day of liquidated damages representing inconvenience and increased administrative cost. Such damages shall begin to accrue on the calendar day following the last day for performance of work under this Agreement. The Contractor stipulates that EMNRD may withhold additional payments under this Agreement or attach the performance bond to cover the liquidated damages set forth above or to cover the cost of any duplicative work that is made necessary by Contractor's failure to perform as required by this Agreement. Liquidated damages shall continue until written notice of satisfactory completion is forwarded by the Project Manager to the Project Engineer. This provision is limited to damages for inconvenience and increased administrative cost, and shall not otherwise affect EMNRD's right to seek other remedies including other damages, at law or in equity.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written below.

**STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT**

By: _____ Date: _____
Cabinet Secretary or Designee

CONTRACTOR

Federal I.D. Number: _____

By: _____ Date: _____
Authorized Representative

Printed Name and Title

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

**STATE OF NEW MEXICO
TAXATION AND REVENUE
DEPARTMENT**

Contractor Name: _____

NM I.D. No.: _____

By: _____

Date: _____

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00600 – BONDS AND CERTIFICATES

00610 - Performance Bonds

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: that _____

(Insert full name and address or legal title of Contractor)

as Principal, hereinafter called Contractor, and, _____

(Insert full name and address or legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, as Obligee, hereinafter called the Owner, in the amount of _____ Dollars (\$ _____), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated _____, 20__, entered into a contract with Owner for the VPR - Swastika Mine Stream Crossing Maintenance Project, Project No. EMNRD-MMD-2014-01, Colfax County, New Mexico, in accordance with the enclosed Drawings and Specifications, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

Performance Bond

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly

- 1) Complete the Contract in accordance with its terms and conditions, or
- 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or

contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “balance of the contract price,” as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators, or successors of the Owner.

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

WITNESS

WITNESS

PRINCIPAL (Seal)

TITLE

SURETY (Seal)

TITLE

00620 - Payment Bonds

Bond No. _____

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT.

KNOW ALL MEN BY THESE PRESENTS: that _____

(Insert full name and address or legal title of Contractor)

as Principal, hereinafter called Contractor, and,

(Insert full name and address or legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, as Obligee, hereinafter called the Owner, in the amount of Dollars (\$_____), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated _____, 20____, entered into a contract with Owner for the VPR - Swastika Mine Stream Crossing Maintenance Project, Project No. EMNRD-MMD-2014-01, Colfax County, New Mexico, in accordance with the enclosed Drawings and Specifications, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

Labor and Material Payment Bond

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two (2) of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name

of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner, or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

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

PRINCIPAL (Seal)

WITNESS

TITLE

SURETY (Seal)

WITNESS

TITLE



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00700 – GENERAL CONDITIONS

00704 - Differing Site Conditions

During the progress of work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before they are disturbed and before the affected work is performed.

Upon written notification, the Project Engineer will investigate the conditions, and if the Project Engineer determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The Project Engineer will notify the Contractor of the determination whether or not an adjustment of the contract is warranted.

No contract adjustment that results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.

No contract adjustment will be allowed under this clause for any effects caused by unchanged work.

00713 – Warranty and Guarantee

The Contractor shall obtain and assign to EMNRD all manufacturers' and producers' guarantees or warranties which are normally provided as customary trade practice for items and materials incorporated into the work. In the absence of a manufacturer's or producer's guarantee, the Contractor warrants that equipment and material incorporated into the work is free from any defects or imperfections in workmanship and material for a period of one year after acceptance by EMNRD. The Contractor shall promptly, without cost to EMNRD, and in accordance with EMNRD's written instructions, either correct such defective work, or, if it has been rejected by EMNRD, remove it from the site and replace it with nondefective work. If the Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, EMNRD may have the defective work removed and replaced, and all direct, indirect, and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals) will be paid by the Contractor.

00720 - Duties, Responsibilities and Limitations of Authority of the Project Manager

A. General

The Project Manager is the EMNRD employee who monitors construction, who acts as directed by and under the supervision of the Project Engineer, and who will confer with the Project Engineer regarding his actions. The Project Manager's dealings in matters pertaining to the on-site work shall in general be only with the Project Engineer and the Contractor, and dealings with subcontractors shall only be through or with the full knowledge of the Contractor. Written communication with EMNRD will be through or as directed by the Project Engineer.

B. Duties and Responsibilities.

The Project Manager will:

1. Schedules: Review the progress schedule prepared by the Contractor and consult with the Project Engineer concerning acceptability.
2. Conferences: Attend preconstruction conferences, progress meetings, job conferences as required in consultation with the Project Engineer, and other project related meetings.
3. Liaison: Serve as the Project Engineer's liaison with the Contractor, working principally through the Contractor's superintendent and assist him in understanding the intent of the Contract Documents.
4. Shop Drawings and Samples:
 - a. Receive and record date of receipt of shop drawings and samples, receive samples that are furnished at the site by the Contractor, and notify the Project Engineer of their availability for examination.
 - b. Advise the Project Engineer and the Contractor or its superintendent immediately of the commencement of any work requiring a shop drawing or sample submission if the Project Engineer has not accepted the submission.
5. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the work in progress to assist the Project Engineer in determining if the work is proceeding in accordance with the Contract Documents, and that completed work will conform to the Contract Documents.
 - b. Report to the Project Engineer whenever he believes that any work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or

- does not meet the requirements of any inspections, tests or approvals required to be made, or has been damaged prior to final payment; and advise the Project Engineer when he believes work should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- c. Verify that tests, equipment and systems startups and operating and maintenance instructions are conducted as required by the Contract Documents and in presence of the required personnel, and that the Contractor maintains adequate records thereof; observe, record and report to the Project Engineer appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections and report to the Project Engineer.
6. Interpretation of Contract Documents: Transmit to Contractor the Project Engineer's clarifications and interpretations of the Contract Documents.
 7. Modifications: Consider and evaluate the Contractor's suggestions for modifications in drawings or Specifications and report them with recommendations to the Project Engineer.
 8. Records:
 - a. Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings and samples submissions, reproductions of original Contract Documents including all addenda, change orders, field orders, additional drawings issued subsequent to the execution of the Contract, the Project Engineer's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
 - b. Keep a diary or log book, recording hours on the job site, weather conditions, data relative to questions of extras or deductions, list of visiting officials and representatives of manufacturers, fabricators, suppliers and distributors, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures. Send copies to the Project Engineer.
 - c. Record names, addresses and telephone numbers of all the Contractors, subcontractors and major suppliers of materials and equipment.
 9. Reports:
 - a. Furnish the Project Engineer periodic reports as required of progress of the work and the Contractor's compliance with the approved progress schedule and schedule of shop drawing submissions.

- b. Consult with the Project Engineer in advance of scheduled major tests, inspections or start of important phases of the work.
 - c. Report immediately to the Project Engineer upon the occurrence of any accident.
10. Payment Requisitions: Review Applications for Payment with the Contractor for compliance with the established procedure for their submission and forward them with recommendations to the Project Engineer, noting particularly their relation to the schedule of values, work completed and materials and equipment delivered at the site but not incorporated in the work.
11. Certificates, Maintenance and Operation manuals: During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by the Contractor are applicable to the items actually installed; and deliver this material to the Project Engineer for his review prior to final acceptance of the work.
12. Completion:
- a. Before the Contractor issues written certification to the Project Engineer that the project is complete, submit to the Contractor a pre-final list of observed items requiring completion or correction.
 - b. Conduct final inspection in the company of the Project Engineer and the Contractor and prepare a final list of items to be completed or corrected.
 - c. Verify that all items on final list have been completed or corrected and make recommendations to the Project Engineer concerning acceptance.

C. Limitations of Authority.

Except upon written instructions of the Project Engineer and notification to the Contractor, the Project Manager:

- 1. Shall not authorize any deviation from the Contract Documents or approve any substitute materials or equipment.
- 2. Shall not exceed limitations on the Project Engineer's authority as set forth in the Contract Documents.
- 3. Shall not undertake any of the responsibilities of the Contractor, subcontractors or the Contractor's superintendent, or expedite the work.

4. Shall not issue directions relative to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents.
5. Shall not issue directions as to safety precautions and programs in connection with the work.
6. Shall not participate in specialized field or laboratory test, unless such is specifically called for in the Contract Documents.
7. Shall not receive any materials, supplies, equipment, etc. on behalf of the Contractor.

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00800 – SUPPLEMENTARY CONDITIONS

00825 – CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, DRUG-FREE WORKPLACE REQUIREMENTS AND LOBBYING

**U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement**

Certifications Regarding Debarment, Suspension and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying

Persons signing this form should refer to the regulations referenced below for complete instructions.

(See Appendix C of Subpart D of 43 CFR 12).
Certification Regarding Lobbying (See 43 CFR 18).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions (See Appendix B of Subpart D of 43 CFR 12).

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Office of Surface Mining determines to award the covered transaction, grant or cooperative agreement.

Certification Regarding Drug-Free Workplace Requirements (Grantees Other Than Individuals)

PART A: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

___ *CHECK IF THIS CERTIFICATION IS FOR A LOWER TIER COVERED TRANSACTION AND IS APPLICABLE.*

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.

PART B: Certification Regarding Drug Free Workplace Requirements

___ *CHECK IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS NOT AN INDIVIDUAL.*

1. The grantee certifies that it will or continue to provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee’s workplace and specifying the actions that will be taken against employees for violation of such prohibition;

- (b) Establishing an ongoing drug-free awareness program to inform employees about –
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee’s policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

I Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –
 - (1) Abide by the terms of the statement and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification numbers(s) of each affected grant;

- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted –
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

2. The grantee shall provide below the site(s) of the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

PART C: Certification Regarding Lobbying

— *CHECK IF CERTIFICATION IS FOR THE AWARD OF ANY OF THE FOLLOWING AND THE AMOUNT EXCEEDS \$100,000: A FEDERAL GRANT OR COOPERATIVE AGREEMENT; SUBCONTRACT OR SUBGRANT UNDER THE GRANT OR COOPERATIVE AGREEMENT.*

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress and 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.
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 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.

As the authorized certifying official, I hereby certify that the above specified certifications are true.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

NAME

DATE

TITLE

This form consolidates DI-1953, DI-1954, DI-1955, DI-1956 and DI-1963.

DI-2010 (March 1995)
Modified for AML Use

00826 – APPLICANT/VIOLATOR SYSTEM INFORMATION

Instructions for Completing AML Contractor Form OMB #1029-01191

Part A: General Information. Part A should be completed by the AML Contractor.

Part B: Legal Structure. Part B should be completed by the AML Contractor.

Part C: Certifying and updating information in the Applicant/Violator System (AVS). Part C should be completed by the AML Contractor, selecting the statement that best describes their situation.

If information is accurate, complete and up-to-date, then check the first statement and sign and date. Attach the Entity OFT printout to the OMB #1029-0119 form and submit the form and attachment to the AML Contracting Officer your business is working with.²

Upon reviewing an Entity OFT printout, if you discover the information contained in AVS is not accurate, complete and up-to-date, then check the second statement and complete Part D to provide missing or corrected information that needs reflected in AVS. Attach the Entity OFT printout to the OMB #1029-0119 form and submit the form and attachment to the AML Contracting Officer your business is working with.

If your business does not appear to have any information in AVS, then check the third statement and complete Part D. Submit the OMB #1029-0119 form to the AML Contracting Officer your business is working with.

Part D:

If current Entity OFT information for your business is incomplete, incorrect, or if you believe there is no information currently in the AVS for your business, you must complete Part D. Submit the OMB #1029-0119 form to the AML Contracting Officer your business is working with.

¹If you need any assistance completing OMB #1029-0119, please contact the AVS Office at 800.643.9748.

² You may obtain your business' Entity OFT for certification purposes two ways. One way is to contact the AVS Office at 800.643.9748 and request the information. The second way is to access the AVS from your personal computer by visiting <https://avss.osmre.gov>. Click "Access AVS", and then Login as Guest. Place your cursor on the "Entity" Module and "Click". Type your business name in search box and press enter key. If more than one entity record appears, select your company and then "Click" on the "relationship" tab to display your Entity OFT information. Print the Entity OFT from AVS.

**REQUEST FOR AN APPLICANT/VIOLATOR SYSTEM (AVS)
AML CONTRACTOR DATA EVALUATION**

An AVS data evaluation for AML contractors is required under the Federal rules at 30 CFR 874.16. Please provide the information requested below and send your request via postal mail, e-mail or FAX to:

Liz Cox
Office of Surface Mining
Applicant/Violator System Office
2679 Regency Road
Lexington, Kentucky 40503
Telephone: 800.643.9748 ext.472
FAX: 859.260.8418
E-mail: lcox@osmre.gov

Date _____

Requesting Office _____

Contact _____

Contact's Telephone _____

Preferred response method:

E-MAIL: _____

or

FAX: (_____) _____

Level of your request: Emergency _____

(Expect your response within 4 hrs if received before 3 PM Eastern)

Non-Emergency _____

(Expect your response with two business days)

Note to Evaluator:

AML CONTRACTOR INFORMATION FORM

You must complete this form for your AML contracting officer to request an eligibility evaluation from the Office of Surface Mining to determine if you are eligible to receive an AML contract. This requirement applies to contractors and their sub-contractors and is found under OSM's regulations at 30 CFR 874.16.

Part A: General Information

Business Name: _____ Tax Payer ID No.: _____
Address: _____
City: _____ State: _____ Zip Code: _____ Phone: _____
Fax No.: _____ E-mail address: _____

Part B: Legal Structure

Corporation Sole Proprietorship Partnership LLC
 Other (please specify) _____

Part C: Certifying and updating information in the Applicant/Violator System (AVS). Select only one of the following options, follow the instructions for that option, and sign below.

I, _____, have the express authority to certify that:
(print name)

1. _____ Information on the **attached** Entity Organizational Family Tree (OFT) from AVS is accurate, complete, and up-to-date. If you select this option, you **must** attach an Entity OFT from AVS to this form. Sign and date below and do not complete Part D.

2. _____ Part of the information on the **attached** Entity OFT from AVS is missing or incorrect and must be updated. If you select this option, you **must** attach an Entity OFT from AVS to this form. Use Part D to provide the missing or corrected information. Sign and date below and complete Part D.

3. _____ Our business currently has no information in AVS. If you select this option, you must provide all information required in Part D. Sign and date below and complete Part D.

Date Signature Title

IMPORTANT! In order to certify in Part C to the accuracy of existing information in AVS, you must obtain a copy of your business' Entity OFT. To obtain an Entity OFT, contact the AVS Office, toll-free, at 800-643-9748 or from the AVS website at <https://avss.osmre.gov>.

Part D.

Contractor Name: _____

If the current entity and Entity OFT information for your business is incomplete or incorrect in AVS, or if there is no information in AVS for your business, you must provide all of the following information as it applies to your business affiliations. Please make as many copies of this page as you require.

- Every officer (President, Vice President, Secretary, Treasurer, etc.);
- All Directors;
- All persons performing a function similar to a Director;
- Every person or business that owns 10% or more of the voting stock in your business;
- Every partner, if your business is a partnership;
- Every member and manager, if your business is a limited liability company; and
- Any other person(s) who has the ability to determine the manner in which the AML reclamation project is being conducted.

| | |
|-------------------|----------------------|
| Name _____ | Position/Title _____ |
| Address _____ | Telephone # _____ |
| _____ | % of Ownership _____ |
| Begin Date: _____ | Ending Date: _____ |

| | |
|-------------------|----------------------|
| Name _____ | Position/Title _____ |
| Address _____ | Telephone # _____ |
| _____ | % of Ownership _____ |
| Begin Date: _____ | Ending Date: _____ |

| | |
|-------------------|----------------------|
| Name _____ | Position/Title _____ |
| Address _____ | Telephone # _____ |
| _____ | % of Ownership _____ |
| Begin Date: _____ | Ending Date: _____ |

| | |
|-------------------|----------------------|
| Name _____ | Position/Title _____ |
| Address _____ | Telephone # _____ |
| _____ | % of Ownership _____ |
| Begin Date: _____ | Ending Date: _____ |

PAPERWORK REDUCTION STATEMENT

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires us to inform you that: federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This information is necessary for all successful bidders prior to the distribution of AML funds, and is required to obtain a benefit.

Public reporting burden for this form is estimated to average 45 minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, Room 210 SIB, Constitution Ave., NW, Washington, D.C. 20240.

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SUSANA MARTINEZ
GOVERNOR



CELINA BUSSEY
SECRETARY

JOHN SANCHEZ
LT. GOVERNOR

STATE OF NEW MEXICO
DEPARTMENT OF WORKFORCE SOLUTIONS
625 Silver Ave SW Suite 410
Albuquerque, NM 87102
Telephone (505) 841-4405
Fax (505) 841-4420

PUBLIC WORKS PROJECT REQUIREMENTS

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

Contracting Agency

- Ensure that all contractors/prime contractors wishing to bid on a Public Works project when the project is \$60,000 or more are actively registered with the Labor Relations Division, Labor Enforcement Fund (LEF) prior to bidding.
- Provide completed Notice of Award (NOA) and Sub-Contractor list to Labor Relations Division promptly after the project is awarded.
- Provide updates to the Sub-Contractor list to the Labor Relations Division

General Contractor

- Provide to the Contracting Agency within 3 (Three) days of award a complete sub-contractor list and Statements of Intent (SOI) to pay Prevailing Wages for each contractor.
- Ensure that all sub-contractors wishing to bid on a Public Works project when their portion is over \$60,000 are actively registered with the Labor Relations Division prior to bidding.
- Submit bi-weekly certified payrolls to the owner/contracting agency.
- Make certain NM Apprenticeship and Training Fund payments are to be paid either to an approved Apprenticeship program or to the Labor Relations Division.
- Confirm the Wage Rate poster, provided by the Labor Relations Division, is displayed at the job site in an easily accessible place.
- Make sure, when a project has been completed, the Affidavits of Wages Paid (AWP) is sent to the Contracting Agency.

Sub-Contractor

- Ensure that all sub-contractors wishing to bid on a Public Works project when their portion is over \$60,000 are actively registered with the Labor Relations Division prior to bidding.
- Submit bi-weekly certified payrolls to the General Contractor(s).
- Make certain NM Apprenticeship and Training Fund payments are to be paid either to an approved Apprenticeship program or to the Labor Relations Division.

"AN EQUAL OPPORTUNITY EMPLOYER"

Additional Information

Reference material and forms for these requirements are available through the following New Mexico Workforce Solutions Web Link.
www.dws.state.nm.us/new/Labor_Relations/publicworks.html.

Additional Information

Additional information, requirements, and documents on these topics can be found through the Public Works web pages.

- Labor Enforcement Fund (LEF)
- Weekly Certified Payroll
- Public Works Apprenticeship and Training Fund (PWAT)
- Forms: Statement of Intent (SOI), Affidavit of Wages Paid (AWP)
- Prevailing Wage Rates (Base Rates, Fringe, and Apprenticeship Contributions)

CONTACT INFORMATION

Contact us for any questions relating to Public Works Projects.

Kim Kew at kim.kew@state.nm.us or 505-841-4405
Otis Caddy LynnO.Caddy@state.nm.us 505-841-4406
Stacey Lowrey Stacey.Lowrey@state.nm.us 505-841-4412

VPR - SWASTIKA MINE STREAM CROSSING MAINTENANCE PROJECT: WAGE DECISION #: CO-14-0568 A
 blocked the stream. This project removes the culverts and moves the road to stream level. •Earthmoving to move the existing road crossing fill and rock to the final storage area as specified. •Removal and disposal of the existing culverts •Grading of the crossing as specified •Import and placement of rock at the crossing as shown in the drawings •Final grading of low water crossing and fill deposition areas •Seeding and mulching of all areas disturbed by construction •Seeding and mulching of areas in the previous phase of construction that show poor plant growth •Construction of three road/traffic signs

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

Effective January 1, 2014

| Trade Classification | Base Rate | Fringe Rate |
|----------------------------------|-----------|-------------|
| Bricklayer/Blocklayer/Stonemason | 17.74 | 0.26 |
| Carpenter/Lather | 15.99 | 0.44 |
| Cement Mason | 15.52 | 0.26 |
| Ironworker | 21.77 | 6.03 |
| Painter (Brush/Roller/Spray) | 17.56 | 0.44 |
| Electricians (outside) | | |
| Groundman | 26.79 | 11.03 |
| Equipment Operator | 29.61 | 11.03 |
| Lineman/Wireman or Tech | 30.20 | 11.03 |
| Cable Splicer | 31.38 | 11.03 |
| Plumber/Pipefitter | 28.30 | 4.07 |
| Laborers | | |
| Group I | 13.73 | 0.35 |
| Group II | 14.03 | 0.35 |
| Group III | 14.43 | 0.35 |
| Operators | | |
| Group I | 15.74 | 0.26 |
| Group II | 15.94 | 0.26 |
| Group III | 16.52 | 0.26 |
| Group IV | 16.54 | 0.26 |
| Group V | 16.53 | 0.26 |
| Group VI | 16.69 | 0.26 |
| Group VII | 16.74 | 0.26 |
| Group VIII | 16.89 | 0.26 |
| Group IX | 17.39 | 0.26 |
| Group X | 18.19 | 0.26 |
| Truck Drivers | | |
| Group I | 13.32 | 0.26 |
| Group II | 13.52 | 0.26 |
| Group III | 13.72 | 0.26 |
| Group IV | 13.92 | 0.26 |

NOTE: SUBSISTENCE AND INCENTIVE PAY DO NOT APPLY TO TYPE "A" CONSTRUCTION.

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00900 – APPLICATION FOR PAYMENT**APPLICATION FOR PAYMENT****VPR - Swastika Mine Stream Crossing Maintenance Project**

Raton, New Mexico

EMNRD-MMD-2014-01

Contract No. _____ Contractor: _____ Billing No. _____ Billing Date _____ Terminate _____

Mailing Address: _____ Billing represents work completed through (date) _____

| <u>ITEM NO.</u> | <u>MATERIAL OR WORK DESCRIPTION</u> | <u>ESTIMATED QUANTITY</u> | <u>CONTRACT AMOUNT</u> | <u>UNITS THIS BILLING</u> | <u>AMOUNTS THIS BILLING</u> | <u>UNITS PREVIOUS BILLINGS</u> | <u>AMOUNTS PREVIOUS BILLINGS</u> | <u>UNITS REMAINING</u> | <u>AMOUNTS REMAINING</u> |
|---|---|---------------------------|------------------------|---------------------------|-----------------------------|--------------------------------|----------------------------------|------------------------|--------------------------|
| 1. | Mobilization (not to exceed 10% of total base bid) | For the lump sum of | \$ _____ | | | | | | |
| 2. | Removal of Existing Fill and Culverts | For the lump sum of | \$ _____ | | | | | | |
| 3. | Construction of Low Water Crossing | For the lump sum of | \$ _____ | | | | | | |
| 4. | Installation of Road Signs | For the lump sum of | \$ _____ | | | | | | |
| 5. | Allowance for Channel Clean Up | For the lump sum of | \$ <u>7,000</u> | | | | | | |
| 6. | Seeding, Complete in Place | \$ _____ X | 3.0 Acres | | \$ _____ | | | | |
| Subtotal | | | \$ _____ | | | | | | |
| GROSS RECEIPTS TAX = LOCAL RATE (5.7500% through 6/30/14 x Subtotal | | | \$ _____ | | | | | | |
| TOTAL CONTRACT | | | \$ _____ | | | | | | |

CERTIFICATION

I do hereby certify that the work described herein has been performed and that no previous payment for the Total Amount Due this Statement, as shown above, has been received.

By: _____
Mining and Minerals Division DirectorBy: _____
ContractorBy: _____
AML Project Engineer

Date: _____

Date: _____

Date: _____

SPECIFICATIONS

Please Note – Use of Brand Name Specifications: Use of any brand name herein is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

DIVISION 1 - GENERAL REQUIREMENTS

The following sections describe the general requirements of this project.

01010 - SUMMARY OF WORK

The VPR - Swastika Mine Stream Crossing Maintenance Project is located about 4.5 miles northwest of Raton in Colfax County, New Mexico. The project area is on private land within the Maxwell Land Grant.

The focus of this project is to fix a culvert installation that was constructed as part of the Swastika Mine and Dutchman Canyon Reclamation Project in 2012. Heavy rains caused two 72"-diameter culverts to fail at a stream crossing. The culverts will now be removed and replaced with a low water crossing. The project includes the following work:

- Earthmoving to move the existing road crossing fill and rock to the final storage area as specified.
- Removal and disposal of the existing culverts
- Grading of the crossing as specified
- Import and placement of rock at the crossing as shown in the drawings
- Final grading of low water crossing and fill deposition areas
- Seeding and mulching of all areas disturbed by construction
- Seeding and mulching of areas in the previous phase of construction that show poor plant growth
- Construction of three road/traffic signs
- Sediment and erosion control measures, including monitoring and maintenance.

The Contractor shall leave all project areas in as good or better condition than before disturbance.

01011 - Summary of Project

The project site consists of an abandoned coal mine and community where two streams come together. A dirt road crosses one of the streams, giving access to an inholding ranch. The goal of the project is to change the manner of the stream crossing while protecting any known and unknown cultural resources.

01013 - Avoidance Areas for Preservation of Cultural and Biological Resources

The Contractor shall avoid all designated cultural and biological resources including those shown in the Drawings and those discovered during construction. The Contractor shall avoid these areas with all equipment, vehicles, foot traffic, and any other ground surface disturbing activities.

Avoidance areas extend up to 50 feet (15 meters) from the designated cultural and biological resources, unless otherwise indicated and except where these limits are logistically impracticable to complete construction activities. Where it is infeasible to complete construction activities, avoidance area distances and access may be adjusted, in coordination with a Project Manager, to accommodate construction activities. The Contractor shall also coordinate with the Project Manager for access routes to be taken around designated avoidance areas to construction work sites. Disturbance adjacent to and within designated avoidance areas shall be minimized as practicable.

The Project Manager or Project Engineer may designate additional avoidance areas as deemed necessary. No construction disturbances including excavation, fill and stockpiling of construction materials, staging, etc. shall take place within designated avoidance areas.

When the Contractor is working near designated avoidance areas and where construction access routes pass next to these locations, the Contractor shall place four-foot high, temporary, high-visibility barrier fencing (Hi-Vis, ADPI, or equivalent) around the features. Barrier fencing shall be removed upon completion of work.

The Contractor shall bear all direct, indirect, and consequential costs of mitigation or repairs due to unauthorized damage caused by his operations to cultural or biological resources within designated avoidance areas. These costs shall include but are not limited to fees and charges of engineers, attorneys, and other professionals, made necessary thereby.

The Contractor shall cooperate fully to preserve archaeological and historic artifacts and any threatened or endangered species found within the project area. Moving, removal or collecting of archaeological or historic materials or biological specimens from the project area or vicinity is prohibited. If the Contractor encounters a previously unidentified archaeological site, historic

site, artifacts, or species listed as or proposed to be listed as threatened or endangered, the Contractor shall terminate all operation in that immediate area (100 foot radius, 30 meters) until the archaeological or biological preservation agencies have been notified and had the opportunity to assess the discovery site. This termination shall not preclude continuation of work in other areas nor shall it entitle the Contractor to additional payment in any form, other than an extension of time, unless the Contractor is substantially precluded from working on the entire project.

01015 - Contractor's Use of the Premises

The Contractor shall take necessary and reasonable measures to avoid traffic conflicts between his vehicles, those of the Contractor's employees and private citizens and to avoid overloading of any driveways, roads, and streets. As necessary and reasonable, the Contractor shall limit the size, weight and frequency of access of equipment and trucks to the project site and provide protection for any improvements over which trucks and equipment must pass to reach the job site.

01025 - Measurement and Payment

The measurement for payment is as defined below. Payment shall be made based on the applicable unit or lump sum price bid therefor in the Bid Form (Section 00300). The estimated quantities of materials and work required to complete the project are approximations only and are given as a basis for calculation upon which the contract award will be determined. All estimated quantities could vary considerably and will depend on the actual conditions encountered at the time the work is performed. EMNRD reserves the right to decrease or increase any or all of the quantities of materials or work as may be deemed necessary during the project.

01027 - Applications for Payment

All Applications for Payment for work performed under this contract shall be submitted to:

Project Engineer
Mining and Minerals Division
Energy, Minerals, and Natural Resources Department
State of New Mexico
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
505.476.3402 fax

All Applications for Payment shall include appropriate backup, such as daily reports, load counts, and cross-sections.

01028 - Prices

The following subsections describe the lump sum and unit prices to be paid under this contract.

I. LUMP SUM PRICES

The basis of payment of lump sum prices as outlined in the Bid Form is as follows:

A. MOBILIZATION

Payment for Mobilization will be made at the lump sum prices bid therefor in the Bid Form but shall not exceed ten percent (10%) of the total base bid. It is the intent of this specification to provide for the Contractor to receive 100 percent of the mobilization bid item by the time he has completed ten percent of his total original contract amount less mobilization. Total original contract amount less mobilization shall mean the total amount bid as compensation for the contract, excluding gross receipts tax, less the amount bid for mobilization. For lesser amounts of work completed (less than 10%), the Contractor shall receive a prorated portion of the mobilization.

In addition, payment for Mobilization will not be made until the Project Engineer's approval of an adequate performance. An "adequate performance" will be satisfied when the Contractor has shown the ability to successfully perform the required tasks of this project as outlined in these Specifications to the satisfaction of the Project Engineer. In case of any weather delays, compensation for additional Mobilization will not be made.

Payment for Mobilization shall include all equipment, fees, fuel, insurance, labor, permits, personnel, supervision and transportation to assemble, drive, operate, place, position, provide security measures for, and transport equipment, field offices, fuel, implements, machinery, materials, and support facilities to and at the job site in conformance with the Project Manager's directives and these Specifications. This amount shall include complete Mobilization no matter how often equipment is transported to individual sites within the project area.

B. EXCAVATION OF EXISTING STREAM CROSSING

Payment for excavation of specified crossing will be made at the lump sum price bid therefor in the Bid Form. This price shall include all work necessary to excavate the existing rock and fill material, transport the rock and fill material to the specified location, grade the fill deposition area as specified, remove and dispose of the existing geotextile and culverts as specified; facilitate the relocation of the phone line; layout and survey control; excavation and filling; compaction; salvaging, stockpiling, and spreading of topsoil and subsoils as specified; finish grading; and all equipment, labor, materials and supervision cost necessary for complete installation.

C. CONSTRUCTION OF LOW WATER CROSSING

Payment for construction of the low water crossing will be made at the lump sum price bid therefor in the Bid Form. This price shall include all work necessary to grade the existing road to the indicated horizontal and vertical alignments indicated; to grade the low water crossing, including the road and side slopes, to the indicated final grades as specified, including site access; layout and survey control; excavation and filling; compaction; salvaging, stockpiling, and spreading of topsoil and subsoils as specified; finish grading; rock as specified; geotextile; and all equipment, labor, materials and supervision cost necessary for complete installation.

D. INSTALLATION OF ROAD SIGNS

Payment for installation road signs will be made at the lump sum price bid therefor in the Bid Form. This price shall include all work necessary to complete the procurement and installation of the specified road signs in accordance with the Drawings and specifications including all equipment, labor, material and supervision costs necessary to complete installation.

II. UNIT PRICES

The methods of measurement and the basis of payment of unit prices as outlined in the Bid Form are as follows:

A. SEEDING OF DISTURBED AND DESIGNATED AREAS

Payment for seeding will be made at the unit price bid therefor in the Bid form. This price shall include all work necessary to complete the seeding as specified, including site preparation, decompaction, site access; materials, including seed, engineered wood mulch; and all equipment, labor, materials and supervision cost necessary for complete installation.

III. ALLOWANCES

B. ALLOWANCE FOR CHANNEL CLEAN UP

Flooding that occurred in 2013 resulted in geotextile, wire cages, rebar etc. being washed away to different places in the channel. This material is now considered trash and needs to be cleaned up. The quantity, location and extent of this waste is not known at this time. The Contractor will be compensated to clean up and dispose of this waste on a time and materials basis. After the Contractor discusses with the Project Manager and Engineer the alternatives for accessing the waste and options for removing and disposing of the waste, the Contractor shall determine equipment, labor, and material requirements for cleanup.

The Contractor shall prepare a proposal for the Project Engineer's review outlining the requirements for construction equipment, labor and materials, associated hourly and unit prices,

and mobilization and demobilization costs, including final disposal. Work will not start on clean up until the Project Engineer's approval of the price proposal.

All equipment and labor work will be measured by the actual number of hours that the work is performed to the nearest one-quarter (0.25) hour. Down time and standby time, including starting and warm-up, daily maintenance, fueling, and lubrication, will not be measured for payment unless specifically approved by the Project Engineer.

The Contractor and Project Manager shall compare equipment and labor hours and production estimates on a daily basis and agree upon the total actual number of hours of acceptable work performed by each piece of equipment before the start of work the next day. Failure by the Contractor to provide equipment hours and production estimates on a daily basis may result in denial of payment.

The Project Manager will identify all areas where the waste is located and inform the Contractor when the work has been exhausted.

Payment for the accepted quantities of equipment and labor hours will be made at the accepted unit price per hour. The contract unit price per hour and payment shall include furnishing the specified and approved equipment on the project in completely operable condition, maintaining and operating the equipment, labor, establishing and maintaining any needed additional controls for performing the work, materials, equipment, tools, fuel, oil, lubricants, and all other incidentals necessary to complete the work. Quantities for progress payments will be based upon the actual quantity of hours each labor or piece of equipment has worked, prior to the date at which the progress payment is dated.

Prior to delivery of any materials, the Contractor, AML Program and supplier will mutually agree upon the method of measurement of the quantity as delivered to the site. The Contractor shall provide the AML Program with receipts, labels, or batch tickets for each

01030 - ALTERNATES

Whenever equipment or materials are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function, and quality required. Unless the name is followed by words indicating that no substitution is permitted, the Project Engineer may accept equipment or materials of other suppliers and manufacturers provided that sufficient information is submitted by the Contractor to allow for adequate determination that the equipment or materials proposed are equivalent or equal to that named.

01035 - Modification Procedures

The following section describes procedures for making modifications to the contract by change orders. Modifications may involve changes in contract sum, contract time, and scope.

01036 - Change Order Procedures

The Contractor shall submit a request for any changes in the work under this contract, in writing, to the Project Engineer. No changes in work or quantities shown shall be authorized until a properly executed Change Order has been issued by MMD. Any work performed outside the original quantities or scope of work, before the issuance of a properly executed Change Order, shall be at the Contractor's risk.

The Contract Time may only be changed with a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Engineer within fifteen business days of the occurrence of the event causing the claim. The extent of the claim with supporting data shall be included unless the Project Engineer allows additional time to ascertain more accurate data. The Project Engineer shall determine all claims for adjustment in the Contract Time. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if a claim is made therefore as provided above. Such delays shall include, but may not be restricted to, acts or neglect beyond the Contractor's control, epidemics, fires, floods, labor disputes, abnormal weather conditions, or acts of nature. In the event delays in construction occur due to weather, the conditions as outlined above will be in effect. If the Contractor leaves the project area due to a seasonal or weather delay, the Contractor shall be responsible for assuring that all areas are left in a clean and safe condition as approved and directed by the Project Manager. In case of any seasonal or weather delays, compensation for additional Mobilization or Demobilization will not be made.

01040 - COORDINATION

The following sections define the parties responsible for coordination of the contract work at the project and job site levels.

01041 - Project Coordination

The Project Engineer will send the Contractor the Notice to Proceed, Change Orders, other contract documents, and approvals on Applications for Payment. The Project Manager or Project Engineer may issue a Suspension of Work Notice if either has any reasonable basis to believe that the Contractor is violating any condition or term of the contract or specifications, or that violations of health and safety standards will occur unless such notice is issued. No work shall proceed until the Suspension of Work Notice has been vacated.

01042 - Mechanical and Electrical Coordination

The Contractor shall be responsible for the coordination of all mechanical and electrical aspects of the contract work. This includes overseeing of the general operation and maintenance of that equipment.

01043 - Job Site Administration

The Contractor shall be responsible for the administration of the contract work at the job site. This includes assuring that all equipment and materials used for the contract work meet the required specifications set forth and that all work is performed in a timely and orderly manner. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs concerning the work. The Contractor shall designate a full time on-site superintendent or authorized representative who shall be present or can be contacted readily during project business hours. This person shall represent the Contractor in dealing with the Project Manager and Project Engineer and shall insure adherence to these specifications and any other directives.

01050 - FIELD ENGINEERING

The Contractor shall be responsible for locating and avoiding all aboveground and underground utilities at the contract work site. If damage to the utilities occurs due to the Contractor's operations, the damage shall be repaired at the Contractor's expense.

The Contractor shall also be responsible for the proper setting of all construction staking. The Contractor shall provide engineering surveys for construction to establish reference points that are necessary to enable the Work to proceed. The Contractor shall be responsible for surveying and laying out the Work, shall protect and preserve any established reference points, and shall make no changes or relocations without the prior written approval of the Project Engineer. The Contractor shall report to the Project Engineer whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. The Contractor shall replace and accurately relocate all reference points so destroyed, lost, or moved. When it becomes necessary in the construction of public works, to remove or obliterate any triangulation station, bench mark, corner monument, stake, witness mark, or other reference mark, it shall be the duty of the Contractor in charge of the work to cause to be established by a New Mexico registered land surveyor one or more permanent reference marks which shall be plainly marked as witness corners or reference marks, as near as practicable to the original mark, and to record a map, field notes, or both, with the county clerk and county surveyor of the county wherein located, showing clearly the position of the marks established with reference to the position of the original work. The surveys or measurements made to connect the reference marks with the original mark shall be of at least the same order of precision as the original survey.

01060 - REGULATORY REQUIREMENTS

The Contractor shall keep fully informed of all federal and state laws, all local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any 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. The Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees and shall protect and indemnify the State and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or any employees. The Contractor shall procure all permits and licenses, pay all charges, fees, royalties, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

01090 - REFERENCES

Reference to standard specifications, manuals, or codes of any technical association, organization, or society, or to laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, laws, or regulation in effect at the time of opening of Bids, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual, or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of the Contractor.

01092 – Abbreviations

The following is an explanation of the abbreviations that may be used in the contract documents:

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| 1. AASHTO | American Association of State Highway and Transportation Officials |
| 2. ACI | American Concrete Institute |
| 3. AML | Abandoned Mine Land Bureau of MMD |
| 4. ANSI | American National Standards Institute |
| 5. ASTM | American Society for Testing and Materials |
| 6. AWS | American Welding Society |
| 7. CRSI | Concrete Reinforcing Steel Institute |
| 8. EMNRD | Energy, Minerals, and Natural Resources Department (state) |
| 9. MMD | Mining and Minerals Division of EMNRD |
| 10. OSMRE | Office of Surface Mining, Reclamation, and Enforcement (federal) |
| 11. SAE | Society of Automotive Engineers |

01094 - Definitions

The following is a definition of mining terms that may be used in the contract documents (source: A Dictionary of Mining, Mineral, and Related Terms, Paul W. Thrush, Bureau of Mines, Department of the Interior, Washington, D.C., 1968):

1. adit A horizontal or nearly horizontal passage driven from the surface for the working or dewatering of a mine.
2. back The roof or upper part in any underground mining cavity.
3. cribbing The close setting of timber supports when shaft sinking through loose ground.
4. collar Timbering or concrete around the mouth or top of a shaft; the junction of a mine shaft and the surface.
5. drift A horizontal passage underground.
6. entry A haulage road, gangway, or airway to the surface.
7. gob pile A pile of heap mine refuse on the surface.
8. incline A shaft not vertical, usually on the dip of a vein.
9. lagging Planks, slabs, or small timbers placed over the caps or behind the posts of the timbering, not to carry the main weight, but to form a ceiling or a wall, preventing fragments or rock from falling through.
10. lining The brick, concrete, cast iron, or steel casing placed around a tunnel or shaft as a support.
11. loading chute A three-sided tray for loading or for transfer of material from one transport unit to another.
12. portal Any entrance to a mine.
13. red dog Material of reddish color resulting from the combustion of shale and other mine waste dumps on the surface.
14. shaft An excavation of limited area compared with its depth, made for finding or mining ore or coal, raising water, ore, rock, or coal, hoisting and lowering personnel and material, or ventilating underground workings.

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|----------------|--|
| 15. spoil | The overburden or non-ore material removed in gaining access to the ore or mineral material in surface mining. |
| 16. stope | An excavation in which ore has been excavated in a series of steps. |
| 17. subsidence | A sinking down of a part of the earth's crust. |
| 18. talus | A heap of coarse rock waste at the foot of a cliff. |
| 19. tipple | Originally the place where the mine cars were tipped and emptied of their coal, and still used in that sense, although now more generally applied to the surface structures of a mine, including the preparation plant and loading tracks. |
| 20. winze | Interior mine shaft. |

01100 - SPECIAL PROJECT PROCEDURES

The following section describes special procedures for alteration, preservation, security, and hazardous materials.

01170 - INDUSTRIAL WASTES AND TOXIC SUBSTANCES

The Contractor shall comply with all applicable laws and regulations existing or hereafter enacted or promulgated regarding industrial wastes and toxic substances. In any event, the Contractor shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) regarding any toxic substances that are used, generated by or stored at the project site. See 40 C.F.R., Part 702-799. Additionally, any release of toxic substances (leaks, spills, etc.) greater than the reportable quantity established by 40 C.F.R., Part 117, shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government because of a reportable release or spill of any toxic substances shall be furnished to the Project Engineer concurrent with the filing of the reports to the involved Federal agency or State government.

01200 - PROJECT MEETINGS

If determined to be necessary, the Project Manager will arrange for periodic or special Project meetings. The following sections describe the required project meetings that the Contractor is expected to attend.

01210 - PRECONSTRUCTION CONFERENCES

Before starting work at the site, a conference will be held to review the construction schedules; to establish procedures for handling documents, drawings, other submissions, and for processing Applications for Payment; and to establish a working understanding between the parties as to the nature of the project. Present at the conference will be the Project Manager, the Project Engineer, the Contractor, the Contractor's superintendent, and other persons as appropriate. The Contractor shall present his progress schedule at the preconstruction conference as specified in Section 01310 below.

01220 - PROGRESS MEETINGS

Progress meetings are expected to be held during construction at monthly intervals and as required for purposes of scheduling and coordination of work. Throughout the life of the project, the Contractor shall keep the Project Manager and Project Engineer well informed of the schedule of work.

01300 - SUBMITTALS

The following sections describe the required documents and reports to be submitted by the Contractor during the contract work.

01310 - PROGRESS SCHEDULES

The Contractor shall provide a detailed progress schedule to be followed in completing the work. This schedule shall be submitted in writing at the preconstruction conference and shall show the anticipated time required by the Contractor to complete each item of work in the Bid Form. Schedules may be prepared as a horizontal bar chart with a separate bar for each major portion of work or operation, identifying the first work day of each week. The Progress Schedule shall be updated as required and upon the request of the Project Engineer or Project Manager.

01320 - PROGRESS REPORTS

The Contractor shall submit written accurate daily progress reports to the Project Manager. The reports shall include but are not limited to work accomplished, quantities of unit price bid items installed, including load tickets as appropriate, records of any complaints including corrective actions taken, records of visitors to the site, and records of any personal injury or property damage incidents. The Contractor's authorized representative shall meet the Project Manager a minimum of once each week to verify and sign-off on all payable units of work performed during that week, and to review the daily project reports for the previous week. The authorized representatives from both parties shall be designated at the start of the project during the preconstruction conference.

01340 - SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

The Contractor shall submit shop drawings, product data, and samples as required in the specifications. Submittals shall be organized such that each submittal covers items in no more than one specification section. The Contractor shall allow a minimum of 21 calendar days for the Project Engineer's review; shorter periods for Project Engineer's review will not be acceptable. The Contractor shall allow acceptable time for the entire review process including transmittal, initial Project Engineer's review, correction and resubmission, final review, and distribution.

Engineering data and shop drawings covering all equipment and fabricated materials shall be submitted to the Project Engineer for review and comments. These data shall include drawings and descriptive information in sufficient detail to show the kind, size, arrangement, and operation of component materials and devices; the external connections, anchorages, and supports required; and performance characteristics and dimensions needed for installation and correlation with other materials and equipment. Data submitted shall include drawings showing essential details of any changes proposed by the Contractor.

It shall be the duty of the Contractor to check all data and shop drawings for completeness before submittal for Project Engineer's review. Each drawing or data sheet shall have indicated thereon the proposed use of the item as it pertains to the Work. Catalog cuts, pages, or copies submitted for review shall have items proposed for use in the Work clearly marked and identified. The current catalog number, date, and revision and drawing number (if applicable) shall be included.

Deviations from the drawings or specifications shall be identified on each submittal and shall be referenced in the Contractor's transmittal letter. The submittal for such deviations shall also include details of changes proposed and modifications required for all affected portions of the Work.

Shop drawings and other review data shall be submitted to the Project Engineer only from the Contractor.

The Contractor's submittal of shop drawings and other review material shall represent that he has reviewed the details and requirements of the Contract Documents, that he has coordinated the subject of the submittal with other portions of the Work, and that he has verified dimensions, quantities, construction details, materials, and installation criteria, as applicable for the Work. The Contractor shall accept full responsibility for the completeness of each submittal and, for resubmittals, verify that exceptions noted on the previous submittal have been accounted for.

Any requirement for more than one resubmission or delay in obtaining Project Engineer's review of submittals will not entitle the Contractor to an extension of Contract Time unless authorized by Change Order.

The Project Engineer's review of drawings and data submitted by the Contractor will cover only general conformity to the drawings and specifications, external connections, and dimensions that affect the plans and layout. The Project Engineer's disposition of submittals will not constitute a blanket approval of all dimensions, quantities, and details of the material, equipment, or item shown. Regardless of the corrections made in, or disposition given to, such drawings and data by the Project Engineer, the Contractor shall be responsible for the accuracy of such drawings and data and for their conformity and compliance with the contract documents.

No work shall be performed in connection with the fabrication or manufacture of materials and equipment, nor shall any material, accessory, or appurtenance be purchased until the drawings and data therefor have been reviewed.

Four copies of each drawing and necessary data shall be submitted to the Project Engineer. Each drawing or data sheet shall be clearly marked as instructed above. Submittals will be accepted only from the Contractor.

When the drawings and data are returned NOT APPROVED or RETURNED FOR CORRECTION, corrections shall be made as noted by the Project Engineer and four corrected copies resubmitted as instructed above.

When drawings and data are returned marked NO EXCEPTIONS NOTED, EXCEPTIONS NOTED, or RECORD COPY, no additional copies need be submitted.

The Project Engineer will return two copies to the Contractor with comments. The Contractor shall send additional copies of the original submittal if the Contractor requires more than two copies.

All drawings and data, after final processing by the Project Engineer, shall become a part of the contract documents and the work shown or described thereby shall be performed in conformity therewith unless otherwise required by the Project Engineer.

01400 - QUALITY CONTROL

The following sections outline the duties, responsibilities, and qualifications of inspectors, testing laboratories, and the Contractor's quality control requirements required to perform the contract work.

01405 - Contract Quality Control

The Contractor shall be responsible for the maintenance of quality control throughout the period of the contract work. This includes making periodic spot checks to assure that equipment, materials, and construction quality meets the contract specifications.

01500 - CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS

The following sections specify the types of construction facilities and temporary controls the Contractor shall provide for completion of the contract work.

01505 – Mobilization

The Contractor shall furnish and mobilize all specified construction facilities, temporary controls, equipment, labor, materials, power, supervision, and supplies to the site and commence work within ten business days after receipt via certified mail of the Notice to Proceed. Mobilization includes everything necessary to complete the required contract work. The Contractor shall inform the Project Manager of plans and schedules to move all equipment, machinery, and supplies to the job site.

The Contractor shall locate and position the staging area including field offices, parking, storage, and support facilities in a manner to create the least possible disturbance to existing vegetation and as directed and approved by the Project Manager. All equipment and machinery shall be moved onto the job site in conformance with previously approved plans and schedules. It is the Contractor's responsibility to arrange for storage facilities for equipment and materials. City, state, federal, or other public or private property shall not be used as temporary storage or parking areas for any equipment or materials unless written clearance is obtained by the Contractor from the appropriate public officials or private individuals.

01510 - TEMPORARY UTILITIES

The following sections describe temporary utilities, controls, facilities, and construction aids required during construction. They include requirements for installation, maintenance, and removal.

01514 - Temporary Telephone

The Contractor shall arrange and pay all costs for installation and operation of mobile communication or telephone service to any Contractor's Office at the site.

01516 - Temporary Sanitary Facilities

The Contractor shall provide temporary sanitation facilities during the contract work. The facility shall be installed on the project site in a location removed from the immediate contract work area. The facility shall be locked to prevent unauthorized access during the times work is not conducted. The Contractor shall remove the facility upon completion of the contract work and restore the area.

01530 - BARRIERS AND ENCLOSURES

The Contractor shall provide barricades with blinking markers for all equipment on roadways and pedestrian walkways. The barricades shall be no less than twenty feet from the front and rear of any equipment in the described rights-of-way. Traffic control devices shall be in substantial conformance with the American Traffic Services Association (ATSA) Guide for Work Area Traffic Control. The Contractor shall remove the barricades upon completion of the contract work.

01533 - Wildlife, Tree, and Plant Protection

Environmental disturbance shall be kept at a practical minimum level. All area wildlife is protected and this reclamation effort shall not adversely affect them. Shooting at and chasing wildlife is prohibited.

In steep areas and around vegetation, the Contractor shall, before beginning work, discuss the planned extent and nature of disturbance with the Project Manager. As shown and to maximum extent practicable, existing plants and trees shall be protected from damage or injury resulting from the Contractor's operations. Damaged trees and shrubs shall be trimmed to remove broken limbs where minor damage has occurred. Where directed by the Project Manager, cut or scarred surfaces of trees or shrubs shall be treated with a heavy coat of a tree sealant approved by the Project Manager.

01535 - Protection of Installed Work

The Contractor shall protect installed work and control traffic in the immediate area to prevent damage from subsequent operations.

01540 - SECURITY

The Contractor shall act to assure the protection of the contract work and equipment at the contract work site. The Contractor shall furnish, install, and maintain safety fences around any hazardous or high-voltage equipment at the site for the duration of the project. Where appropriate, the Contractor shall restrict access to the project site by barricading access roads during off-hours and by posting "No Admittance" and "Hard Hat Area" signs.

01550 - ACCESS ROADS AND PARKING AREAS

Only as specified and approved by the Project Engineer, the Contractor may construct temporary access roads from public thoroughfares and other existing roads and jeep trails of the width and load-bearing capacity to provide unimpeded traffic for project purposes. Otherwise, all Contractor personnel and equipment shall enter and leave the project site via existing roads and trails only. Upon the regrading, recontouring, or reclamation of any part of the site, further vehicular use shall be limited to that necessary to complete operations. Any access routes that the Project Manager determines are to remain following the project shall be left in as good or better

condition than the condition before the start of the project. Existing roads and trails shall be used whenever possible.

Equipment shall be "walked" or operated cross-country to travel to work sites where roads do not exist. The Contractor shall advise the Project Manager and obtain prior approval every time any road blading, clearing, or dozing is required for access. Topdressing shall be stripped and stockpiled before blading. All unspecified or unauthorized roads, trails, or travel routes shall be regraded to approximate original contours, reclaimed, and revegetated, as necessary, in conformance with the specifications at no additional cost to EMNRD. As specified, the Contractor shall build earthen berms to discourage vehicular traffic and to control erosion on closed temporary construction access roads.

01560 - TEMPORARY CONTROLS

The Contractor shall take all reasonable steps to reduce inconvenience and disruption to the public because of this project. The Contractor shall provide the following temporary controls for the duration of the contract work.

01561 - Construction Cleaning

The Contractor shall keep the contract work area, equipment, and adjacent areas free from spillage of construction and maintenance materials during the contract work. The Contractor shall also provide for the containment of solid debris created by unpacking construction materials and waste from meals consumed at the contract work site. The Contractor shall assure the cleanup and removal of all spillage and solid debris to an approved disposal site at the end of each contract workday.

01562 - Dust Control and Abatement

The Contractor shall be responsible for the control of excessive dust on both public roads and project access roads. The Contractor shall be prepared, at the request of the Project Manager or Project Engineer, to suppress dust. Only water shall be used to suppress dust unless written permission is given by Vermejo Park Ranch for other substances.

The Contractor may use watering equipment for dust pollution abatement. This operation shall be given priority over any other operations where the water equipment might be required. Haul roads and all other areas occupied by the Contractor in connection with the work shall be kept free of dust.

01564 - Noise Abatement

The Contractor shall assure that all equipment used in the contract work is fitted with standard noise suppression devices. In urban or populated rural areas where quiet conditions normally prevail, no equipment which emits noise above 70 DBA (decibels, A-scale) measured

at a distance of 50 feet, shall be operated between the hours of 6:00 P.M. and 7:00 A.M. except under emergency conditions or specific authorization from the Project Manager. Local requirements shall apply if they are more stringent than the requirements in the specifications.

01570 - TRAFFIC REGULATION

The Contractor shall take the following measures for regulation of traffic at the contract work site.

01572 - Flaggers

The Contractor shall post flaggers during the off-loading and on-loading of equipment or materials in roadways at the contract work site. The flaggers shall halt traffic during the off-loading or on-loading process or direct traffic to an alternate route.

01574 - Haul Routes

The Contractor shall consult with the authority having jurisdiction in establishing public thoroughfares to be used for haul routes and site access.

01580 - PROJECT IDENTIFICATION AND SIGNS

At least one temporary project sign shall be furnished and erected by the Contractor at the most convenient point of public access to the project site. The project identification sign shall be installed within ten business days after the receipt via certified mail of the Notice to Proceed or within five days after the Contractor initially mobilizes to the project site, whichever comes first. The sign is to be a minimum of four feet by eight feet by three quarter inch (4' x 8' x 3/4") exterior grade plywood or equivalent and is to give the project title, project number, and other data within the box on the Title Page (Section 00001). Exterior quality paint in contrasting colors shall be used. The Contractor shall remove sign, framing, supports, and foundations at completion of Project and restore the area. The costs connected to the construction, painting, erection, and later removal of the sign should be covered under Bid Item No. 1, Mobilization, on the Bid Form.

01590 - FIELD OFFICES AND SHEDS

Portable or mobile buildings, or buildings constructed with floors raised above ground, may be provided by the Contractor in locations approved by the Project Manager and the landowner. At completion of work, the Contractor shall remove all such temporary buildings, foundations, utility services, and debris and restore areas.

01600 - MATERIAL AND EQUIPMENT

All material and equipment required to complete the work shall be as specified. Any substitution to the specified products requires prior approval by the Project Engineer.

01700 - CONTRACT CLOSEOUT

The following sections specify the duties and responsibilities of the Contractor to close out the contract.

01701 - Contract Closeout Procedures

When work is completed, the Contractor shall submit project record documents, documenting as-built conditions, to the Project Manager.

01702 - Final Inspection

Upon written notice from the Contractor that the entire Work or an agreed portion thereof is complete, the Project Engineer will make a final inspection with the Project Manager and Contractor and will notify the Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. The Contractor shall immediately take such measures as are necessary to remedy such deficiencies.

01710 - FINAL CLEANING

After completion of all work, the Contractor shall demobilize and remove all equipment, materials, spills, supplies, and trash from the project site and shall reclaim all areas disturbed by the Contractor's activities. Unless otherwise specified, developed, maintained roads that existed before commencement of the Contractor's activities need not be reclaimed, but must be left in a condition equivalent to or better than what existed before the Contractor's activities began. Fences, gates, plants, sod, and other surface materials disrupted by these operations shall be replaced or restored to original or better conditions immediately upon completion of work at the site. Other damage to private or public property shall be immediately repaired. All such cleanup, repair, or replacement work shall be done at the Contractor's expense and to the satisfaction of the Project Manager pending approval of the appropriate public officials and property owners. Payment for Demobilization should be covered under Bid Item No. 1, Mobilization, on the Bid Form.

END OF DIVISION 1

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DIVISION 2 – SITEWORK

The following sections describe the sitework to be performed under this contract.

02100 - SITE PREPARATION

02110 - Site Clearing

This work shall consist of clearing, grubbing, trimming, removing, and disposing of vegetation and debris in accordance with these specifications, except those items designated to remain. This work shall also include the preservation from damage or defacement of all vegetation and items designated to remain or to be preserved.

The Contractor shall mark the limits of the areas to be cleared and grubbed by means of stakes, flags, tree markings, or other suitable methods. No clearing and grubbing shall occur without authorization and supervision of the Project Manager.

02200 - EARTHWORK

The following sections describe the earthwork to be performed under this contract.

02210 - GRADING

Grading requires that specified tolerances be met. Following backfilling and rough grading, each disturbed site shall be graded to the indicated finish slopes or, where not shown, to blend them in with the surrounding topography without sharp breaks in grade. The inholding ranch needs to be able to travel back and forth during the project duration. At the end of every work day and as feasible during the work day, the Contractor shall maintain the crossing and road in a manner traversable by a four-wheel drive truck.

02211 – Topsoil and Subsoil Salvaging

Soil stockpiles shall not interfere with natural drainage or cause off-site sediment damage. The Contractor shall limit stockpile site slopes to a ratio of 3h:1v. Immediately upon completion of daily stockpiling activities, the Contractor shall surround all soil stockpiles with sediment controls.

Before placing topsoil, the areas receiving topsoil shall be scarified to a minimum depth of two inches. Topsoil shall be evenly spread as available and the surface dressed to present a uniform appearance. The finished work shall conform to the lines, grades, slopes and typical cross sections indicated. The topsoil shall be lightly compacted to ensure contact with the underlying soil and to create a uniform seedbed.

02215 - Excavating, Backfilling and Compacting

The following sections describe the excavating, backfilling and compacting to be performed under this contract.

The Contractor shall follow the following sequence of earthmoving operations for removal, stockpiling and reuse of fill and riprap.

- a. Construct erosion control measures as needed throughout the entire project during construction.
- b. Remove existing riprap rock from areas to be excavated for the low water crossing and stockpile as directed by the Project Manager for later use. Leave riprap in place at areas that will not be excavated. Stockpiled riprap rock can be reused as needed but shall be screened as necessary to remove earth and vegetative material. A telephone cables runs above the culverts for the length of the crossing and will need to be severed at both ends during the excavation process. The telephone company will put the telephone line on poles across the project area during or after construction.
- c. Move fill at existing crossing to final deposition locations as directed by the Project Manager. Grade fill to blend in with surrounding terrain at slopes no steeper than 4h:1v. Assure proper drainage as directed by the Project Manager.
- d. Remove existing culverts and recycle or dispose of at licensed, authorized landfill.
- e. Rough grade the crossing according to the drawing specifications and excavate the foundation for the stone placement. The Contractor shall give the ranch manager of the Bar 5 Ranch the opportunity to traverse the crossing with a truck pulling a trailer to make sure the grade is appropriate for travel. If it is not, the Contractor shall consult the Project Engineer to make adjustments. Compaction as specified.
- f. Import gravel, riprap and stones as needed. The Project Manager shall determine the storage location of these materials.
- g. Excavate for and install stones for cross vane and scour sill. Start on upstream end and drain water downstream as necessary.
- h. Add rip rap and gravel as specified. Final grading and compaction.
- i. Disturbed areas and additional areas designated by the Project Manager shall then be seeded, mulched as specified. The top surfaces of soil slopes to receive seeding shall not be compacted.

02216 - Excavation

The Contractor shall excavate the least amount of material possible in order to complete the project according to the drawings and specifications. Due to archaeological considerations, excavation shall be kept to a minimum. Before removing any backfill or borrow, the Contractor shall discuss with the Project Manager where material shall be excavated and shall obtain the Project Manager's approval of the excavation plan. The Contractor shall also get prior approval from the Project Manager as to where the material will be placed.

02220 – Compaction

Except as specified below, in areas excavated as part of the low water crossing, the Contractor shall provide adequate compaction of the material to avoid significant future settlement. Fill shall be placed in lifts not more than two feet thick and each soil lift shall be adequately compacted with heavy equipment before placing succeeding lifts.

All fill placed beneath and the riprap and gravel shall be compacted to a dry density of not less than 95 percent of maximum density. When the material has been conditioned to the proper moisture content, it shall be compacted by tamping rollers, by hand or power tampers, or by other means acceptable to the Project Manager.

The distribution of materials shall be such that the compacted material will be homogeneous and free from lenses, pockets, streaks, or other imperfections. The material shall be deposited in horizontal layers not more than six inches (6") thick after being compacted. The excavating and placing operations shall be such that the material will be blended sufficiently to secure the best practicable degree of compaction and stability.

If using geotextile under the riprap, do not compact the riprap surface. Just lightly tamp the surface to make it smooth.

Do not compact the fill disposal areas.

02221 – Decompaction

To reduce compacted soil conditions that will adversely affect revegetation, the Contractor shall minimize off-road traffic. Construction vehicles shall keep to designated and established temporary access routes and staging areas.

After construction vehicle access to the project sites is completed, the Contractor shall rip, augur or otherwise decompact all temporary access roads, graded areas, and other areas compacted by construction activity that are to be seeded, such as temporary staging, storage and parking areas. This action shall be done under the direct supervision of the Project Manager and AML Archaeologist. Alternatives to ripping or auguring for decompaction shall be acceptable to the Project Engineer and AML Archaeologist. Decompaction methods shall be effective at

reducing soil density to a minimum depth of twelve inches (12”), and shall be accomplished without inverting the soil layers unless directed by the Project Manager and AML Archaeologist to use a shallower depth.

02370 - SLOPE PROTECTION AND SEDIMENT AND EROSION CONTROL

The following sections describe the slope protection and sediment and erosion control to be performed under this contract.

The Contractor shall take measures to control erosion and subsequent sediment carried off the project sites and access roads due to construction activities. These controls shall be included in the Storm Water Pollution Prevention Plan (SWPPP) to be developed by the Contractor in accordance guidelines given by the U.S. Environmental Protection Agency. Sediment control measures shall be placed wherever soil disturbed by construction could erode and be carried beyond the limits of construction. These areas include areas disturbed by construction activities, temporary access and haul roads, and temporary earth stockpiles.

Erosion and sediment control measures shall be placed as grading and earthmoving operations progress. The operation shall not progress at a distance further than the distance that sediment control installations can be placed by the end of daily operations. Areas of surface disturbance shall be kept to a practicable minimum.

Unless temporarily demobilized from the project area due to specified seasonal limitations, the Contractor shall inspect the erosion and sediment control features at least biweekly and within 24 hours of each rainfall. The Contractor shall repair any erosion and sediment control feature within seven days following the inspection during which damage is noted or following notification by the Project Manager that repairs are required. Repairs shall be initiated within 24 hours of damage occurring to erosion control features that could result in a discharge of sediment into a stream, arroyo or water impoundment.

All erosion and sediment control measures shall be maintained by cleaning or replacement as needed, or as directed by the Project Manager. These measures shall be fully effective for the purpose intended until permanent erosion control measures are in place and operational. Temporary erosion and sediment control features shall remain in place after construction operations are completed, unless otherwise designated in the contract, and shall be maintained until the date of final acceptance of the project.

02371 – RIPRAP

In places where riprap is specified and before riprap is placed, the base surface shall be properly graded and compacted. Next, a suitable geotextile or granular filter at least 6-9 inches thick shall be designed and placed as described in Section 02372. Placement of riprap shall follow immediately after placement of the filter. The riprap shall be placed so that it produces a

dense well-graded mass of stone with minimum voids. Riprap shall consist of a well-graded mixture of stone. Larger stone shall predominate, with sufficient smaller sizes to fill interstitial voids between the larger stones. The diameter of the largest stone size shall be no greater than 1.5 times the D50 size. The riprap shall be placed to its full thickness in one operation and shall not be placed in layers. The riprap shall not be placed by dumping into chutes or similar methods which are likely to cause segregation of the various stone sizes. Care shall be taken not to damage the geotextile, or dislodge the underlying granular filter material when placing riprap.

02372 – GEOTEXTILE AND GRANULAR FILTER

The Contractor has the option of using a geotextile or a granular filter underneath the riprap. Geotextiles shall meet classification standards designated in AASHTO M288 for Class II woven fabrics for Permanent Erosion Control, and shall be installed per the manufacturer's specifications. If the Contractor chooses a granular filter instead of a geotextile fabric, the granular filter shall be a well-graded, crushed aggregate D_{min} and smaller that is hard, angular and highly weather resistant. The Contractor shall be responsible for acquiring and properly placing granular filter material.

02800 - SITE IMPROVEMENTS

Cattle guards, curbs, fences, gates, gutters, sidewalks, and other road or street improvements destroyed, removed, or damaged during construction shall be replaced with the same type and dimensions of units removed and shall be equivalent to and consistent with the undisturbed portions of the improvements existing before the project.

02900 - PLANTING

The following sections describe revegetation to be performed under this contract.

02921 – SEED BED PREPARATION AND TOPDRESSING

Final grade all disturbed areas with a rough surface to facilitate seed entrapment, moisture retention and erosion control with approved equipment. A rough seed bed is the goal with the ripping furrows approximately 6-inches deep. In areas where equipment cannot be operated, the seedbed shall be prepared by hand. Seeding shall be conducted immediately after final seed bed preparation to prevent the formation of a soil crust that may develop after a precipitation event. The Project Manager will inspect and approve the seed bed immediately prior to seeding activities. Seed bed preparation shall be completed only on those acreages that can be reasonably seeded the following day.

Organic material was deposited in the channel immediately upstream of the culverts at Coal Canyon during last year's flood events. This material shall be used as topdressing at fill disposal areas whenever possible. Except as otherwise specified, all such material excavated during

construction shall be evenly spread on the surface where revegetation practices occur. Whenever available, a minimum of two inches in depth shall be placed to maintain plant growth.

Topdressing shall be applied generally along the contour, but if hazardous conditions arise, the application may be in another direction. In all cases, placement shall be such that erosion is kept to a minimum.

02930 - GRASSES

The following section describes the seeding to be conducted under this contract.

02933 - SEEDING

Following completion of seedbed preparation, the Contractor shall seed the areas according to the Specifications provided as follows.

I. SEEDING TIME

Seeding shall be accomplished as soon as practicable after final seed bed preparation takes place. Seeding shall not be done when wind speeds exceed 15 mph or the soil is too wet or too dry or otherwise untillable.

II. SEED SPECIES AND MIXTURES

To assure AML that the seed purchased shall exhibit the characteristics associated with the given variety, and that it is genetically pure, the Contractor shall provide certified seed of named varieties. For the unnamed varieties, the seed shall be obtained by the Contractor from a source adapted to the climate and soil in which it is being planted; that is, a similar land resource area which is not more than approximately three hundred miles south or about two hundred miles east, north, or west. Varieties well adapted to the soil, climate, and topography of the disturbed areas shall be used in revegetation and are discussed below.

III. SEEDING METHOD – BROADCAST

The seed shall be broadcast. When broadcast seeding, passes shall be made over the site to be seeded such that an even distribution of seed is obtained. Broadcast seeding shall take place immediately following the completion of final soil preparation. Broadcast seeding shall not be conducted when wind velocities would prohibit an even seed distribution. Broadcast seeding shall be followed by hand raking, manual use of a drag chain, or sweeping with sturdy tree or shrub branches to cover seed. This shall be done over the entire seeded area but shall not be so extreme as to reduce the extent of soil relief.

Broadcast seeding of large areas shall be done using hand-operated “cyclone-type” mechanical seeders. All seeding equipment used shall be equipped with a metering device and set to the appropriate seeding rate.

Broadcast seeding of small areas of disturbance, less than 0.05 acres (approximately 2,500 square feet or 50 feet by 50 feet) may be done by hand scattering. Raking of small areas is not necessary if there is sufficient surface roughness to ensure that seeds will fall in crevices and other micro-topographic depressions such that weather and gravity will cause them to be covered and stay in place.

After completion of the broadcast seeding and seed covering, organic debris such as logs, tree stumps and grubbed vegetation shall be randomly redistributed across the sites. This shall be done at the Project Manager's direction for the purpose of creating visual variation, ground shading, and production of wildlife habitat. Care shall be taken to avoid leveling the soil surface.

IV. SEEDING RATES

Seeding rates are given below. Pure Live Seed (PLS) expresses seed quality as a percentage of pure, viable seed in a particular lot of seed. PLS is calculated by multiplying the percent total germination by the percent purity and dividing by one hundred (100).

| Table 1 – Seed Mix <i>(VPR - Swastika Mine Stream Crossing Maintenance Project)</i> | | | | |
|---|-----------------------|---------------------|---------------------|-----------------|
| Upland Seeding | | Seeding Rate | | |
| Species | Common Name | % PLS | PLS lbs/acre | PLS/SqFt |
| Graminoids | | | | |
| <i>Achnatherum hymenoides</i> | Indian ricegrass | 6% | 0.67 | 2.5 |
| <i>Bouteloua curtipendula</i> | side oats grama | 6% | 0.68 | 2.5 |
| <i>Bouteloua gracilis</i> | blue grama | 3% | 0.30 | 5 |
| <i>Bromus ciliatus</i> | fringed brome | 4% | 0.46 | 2.5 |
| <i>Elymus trachycaulus</i> | slender wheatgrass | 14% | 1.61 | 5 |
| <i>Nassella viridula</i> | green needlegrass | 12% | 1.30 | 5 |
| <i>Pascopyrum smithii</i> | western wheatgrass | 17% | 1.91 | 5 |
| <i>Pleuraphis jamesii</i> | James galleta | 6% | 0.72 | 2.5 |
| <i>Schizachrium scoparium</i> | little bluestem | 4% | 0.45 | 2.5 |
| <i>Sporobolus cryptandrus</i> | sand dropseed | 1% | 0.04 | 5 |
| Forbs | | | | |
| <i>Artemisia frigida</i> | fringed sage | 1% | 0.02 | 2.5 |
| <i>Artemisia ludoviciana</i> | white sagebrush | 1% | 0.03 | 2.5 |
| <i>Dalea purpurea</i> | purple prairie clover | 1% | 0.14 | 1 |

Table 1 – Seed Mix

| <i>(VPR - Swastika Mine Stream Crossing Maintenance Project)</i> | | | | |
|--|--------------------|---------------------|---------------------|-----------------|
| Upland Seeding | | Seeding Rate | | |
| Species | Common Name | % PLS | PLS lbs/acre | PLS/SqFt |
| <i>Helianthus annuus</i> | annual sunflower | 12% | 1.39 | 1.5 |
| <i>Ipomopsis aggregata</i> | scarlet gilia | 6% | 0.69 | 1 |
| <i>Ratibida columnifera</i> | prairie coneflower | 1% | 0.15 | 2.5 |
| Shrubs | | | | |
| <i>Krascheninnikovia lanata</i> | Winterfat | 5% | 0.53 | 1.5 |
| Combined Total | | 100% | 11.09 | 50 |

All seed shall comply with the New Mexico Seed Law, NMSA 1978, Sections 76-10-11 through -22, and the New Mexico Department of Agriculture (NMDA) 21 NMAC 18.4.1 (Seed Standards and Classifications). Invoices or bag labels showing purity and germination for all seed shall be provided to the Project Manager before seeding.

The Contractor shall protect and care for seeded areas until final acceptance of the work, and shall repair all damage to seeded areas caused by pedestrian or vehicular traffic at no additional cost to EMNRD.

02940 - MULCH

The Contractor shall apply mulch to all seedbed areas. The mulch type shall be WoodStraw ®ECM made by Forest Concepts, or approved equivalent. Materials shall be wind resistant and shall be an engineered all-wood, long-strand soil erosion control mulch that is a blend of geometrically regular wood elements that have a straw-like form and function. The materials shall be inherently free of noxious weed seed and other additives detrimental to plant life. The mulch strands shall have the following characteristics:

| | |
|--------------|----------------------|
| “L” Length: | 6.3 inch |
| “S” Length: | 2.5 inch |
| Width: | 3/16 inch |
| Thickness: | 1/10 – 1/8 inch |
| Ratio of L:S | 50:50 by area (mass) |

The mulch shall be spread uniformly over the prepared area by hand. Mulch shall be applied by the Contractor to all seeded areas immediately after seeds are planted to provide suitable surface litter for improvement of moisture conditions and to reduce the potential for damaging erosion or soil blowing which might occur before or during plant establishment.

The rate of application of mulch shall be 7,800 pounds per acre (providing approximately

50% of surface coverage).

Fabricated wood mulch shall be stored in a dry location until application. When properly applied, WoodStraw brand fabricated wood mulch does not require any tacking. Application methods and calibration of application rates shall be approved by the Project Manager prior to application.ⁱ

02990 – SUBMITTALS

Complete data and specifications for the road base, riprap, filter material (geotextile and/or granular filter material), seed, wood mulch and accessories shall be submitted in accordance with the procedure set forth in Section 01340.

END OF DIVISION 2

ⁱ Use of any brand name herein is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.