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RECORDS AND REPORTS SECTION

INTRODUCTION

This section of the Manual contains the procedures for most of the records and reports maintained and utilized by the office of the Resident Engineer.

Any proposed major deviation from the policies and procedures outlined in this section of the Manual should be discussed with the Division Engineer, Roadway and/or Bridge Construction Engineer, or State Construction Engineer before being implemented.

ELECTRONIC DOCUMETNATION

All documentation discussed in this section of the manual including source documentation used to support payments and materials certification can be captured and/or stored in an electronic format as a PDF or Share Point Document. Original hardcopy documents can be destroyed upon verification that a legible electronic version exists. The rules governing public records discussed in this manual apply to the electronic version of documents as well. In addition, electronic records follow the same retention and disposition schedule as the paper documents unless a retention and disposition schedule has been established specifically for the electronic version of a document.

PUBLIC RECORDS

All project records except the Project Diaries, which include the Inspector's Daily Reports and the Engineer's Weekly Summary, are public records. Project Diaries become public records once the final estimate has been paid, therefore, Project Diaries shall not be provided to the contractor or general public until the final estimate has been processed by the Construction Unit. Requests to review the Project Diaries shall be made in writing to the State Construction Engineer. As public records, the project records can be viewed by anyone during normal work hours. The Federal Highway Administration (FHWA) has the right to view any project records pertaining to a specific federally-funded project. Exceptions to the review policy for Project Diaries, including Inspector's Daily Reports, can be made by the State Construction Engineer.

Anyone desiring to view public project records must make such request in writing and outline the specific records they wish to view. They should not be allowed access to the files. Records shall not be viewed except in the presence of a Department representative to ensure nothing is added to and/or removed from the records.

The Public Records Act further provides that the person having custody of public records shall furnish any person certified copies of public records upon payment of prescribed fees. If, in the discretion of the Department, the records requested are found to be a large amount, to the extent copying cannot be readily accomplished, the Department may release the documents to a bonded copying service for copying. Before release to any such service, permission should be obtained from the State Construction Engineer. The requestor is responsible for making arrangements with such a copying service, and payment for any copies.

As an exception to the Public Records Act, any confidential communications between legal counsel and the Department are not considered to be public records. The

State Construction Engineer should be consulted if there is any question regarding making records available to the public.

Confidential Information

Normally, a document submitted by a contractor to the Department becomes a public record under North Carolina General Statutes (N.C.G.S.) 132. However, N.C.G.S. 132-1.2 excludes certain information that is considered to be **confidential.** N.C.G.S. 132-1.2 (1) lists the four conditions that must be satisfied for information to be deemed confidential, and therefore not subject to disclosure pursuant to a public records request. The four conditions are as follows.

1. Constitutes a "trade secret" as defined in G.S. 66 152(3).
2. Is the property of a private "person" as defined in G.S. 66 152(2).
3. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
4. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

An example of documentation that could be considered confidential information is the contractor’s bid documents to support a claim for non-recovered fixed cost as provided in Standard Specification 104-5(C). If the four (4) conditions as set forth under N.C.G.S. 132-1.2(1) have been met, then the Department would not disclose this information pursuant to a public records request.

UNIFORM FILING SYSTEM

In order to properly administer a contract, each Resident Engineer must have a filing system that is consistent with good business practice. It must be such that a particular project record can be found easily and quickly. It is also necessary that a system be utilized that lends itself to a quick review by other Engineers. Therefore, the following system should be used on all projects.

In many instances it will be necessary to further subdivide the folders indicated in this section. Any further subdivision is at the option of the Resident Engineer. The folders listed in this section are the minimum that should be used, when applicable.

CONTRACT DOCUMENTS

This portion of the project files contains all contract documents and is separated into the individual file folders as shown below.

Contract - This folder should contain the Contract, Progress Schedule(s), Preconstruction Conference Reports, Final Inspection Report, Acceptance of Project Letter(s), and the Federal-Aid Agreement Estimate.

Supplemental Agreements - This folder should contain approved Supplemental Agreements and/or Force Account documentation.

Subcontractors - This folder should contain all requests for and approval of Subcontractors.

General - This folder should contain all other documents, such as field plan inspection reports, estimates of quantities, etc., that pertains to the contract but do not fall into any other category.

CORRESPONDENCE

Correspondence - Division and Construction Unit - All correspondence from the Division and/or the Construction Unit should be filed in this folder unless it pertains to one of the subjects listed below.

Correspondence - Contractor - This folder should contain all correspondence to and from the Contractor.

Correspondence - Claims - Correspondence from the Contractor, the Division, and the Construction Unit regarding the individual claim should be placed in the respective claim's folder. Cost records received from the Contractor should be promptly verified and also placed in the respective folder. A **separate** file folder should be created as each notice of intent to file a claim or claim is received from the Contractor.

Correspondence - Submittals - This folder should contain all correspondence regarding submittals from the Contractor. Correspondence pertaining to receipt of the submittal, transmittal for approval or acceptance, correspondence from other units regarding the submittal, and transmittal of the approved or accepted submittal to the Contractor should

be placed in this folder. The Resident Engineer should establish a system to track submittals as they are received from the Contractor, transmitted for approval or acceptance, and returned to the Contractor upon approval or acceptance.

Correspondence - Railroads - This folder should contain all correspondence, agreements, etc., pertaining to railroads that may be involved with the project.

Correspondence - Right-of-Way - This folder should contain all correspondence concerning rights-of-way, including right-of-way agreements, agreement/reclamation plans for borrow/waste pits, municipal agreements, etc.

Correspondence - Utilities - This folder should contain all correspondence concerning utilities, including utility agreements and utility conflicts.

Correspondence - Resident Engineer - This folder should contain all correspondence originating from the Resident Engineer's office which does not fall within the above categories. When the Resident Engineer answers correspondence received, the file copy should be attached to the correspondence being answered.

Partial Pay Estimates - This folder should contain all partial pay estimates paid to the Contractor, including all backup information that supports the quantities shown in each partial pay estimate.

Final Estimate - This folder should contain all information the Resident Engineer accumulates during the construction of a project that he feels will aid him in the preparation of the final estimate. This file would also contain the Resident Engineer's copy of the letter of transmittal and the paid final estimate.

CONSTRUCTION REPORTS

Erosion Control Reports

Other Reports

TEST REPORTS

Scale Checks, etc. - This folder should contain all scale checks, certifications of ready mixed concrete plants, list of approved ready mixed trucks, etc. The Resident Engineer should also document annually that all scales utilized to establish the weight of materials for payment are approved by the Department of Agriculture as required by Article 106-7. This file should also include the Resident Engineer's independent check of the weighmaster accuracy as outlined in Article 106-7 of this Manual.

Materials Received Reports - This folder should contain the Resident Engineer's copy of all Materials Received Reports, with invoices, bills of laden, certifications, etc. attached. If the Material is not received in HiCAMS, the notation “Not Received in HiCAMS” should be noted in the heading with the date. Test Results are associated to the Materials in HiCAMS and <u>do not</u> need to be printed and attached.

Concrete Cylinder, Density Tests, etc. A **separate** folder for each material that requires sampling and testing should be maintained. All test reports for components that relate to the item should be included in the folder. Test reports on Independent Assurance samples would be filed in the back of the same folder as the job control samples.

Job Mix Formulas - Asphalt Concrete

Mix Designs - Concrete

INSPECTOR'S REPORTS

QA/QC Laboratory Reports

Daily Asphalt Roadway Inspector's Reports

Daily Concrete Inspector's Reports

CONTRACTOR'S PAYROLL DATA

This section of the files would be used only on applicable federally-funded projects and should contain sufficient file folders to clearly separate all payroll information. Copies of payrolls submitted by the Contractor are to be retained in this section of the files.

CORRESPONDENCE

GENERAL

Correspondence concerning any phase of construction must be made a part of the project record and maintained in the project files.

The Division Engineer should receive a copy of all correspondence originating from the Resident Engineer's office. The State Construction Engineer and Roadway Construction Engineer should receive a copy of all non-routine correspondence pertaining to construction matters that originate from the Resident Engineer or Division Engineer's office.

Exception:
Copies of letters indicating the limits for the use of inmate labor, copies of Contractor submittals, letters transmitting concrete mix designs, copies of Contractor erosion control plans, routine erosion control inspections, and materials supplier lists forwarded to the Materials & Tests Unit should not be forwarded to the State Construction Engineer and Roadway Construction Engineer. Borrow and/or waste site reclamation plans should be forwarded to the Roadway Construction Engineer, but not to the State Construction Engineer.

The Bridge Construction Engineer should receive a copy of all correspondence pertaining to structure construction matters on a project. In addition, the Division Engineer, State Construction Engineer, and Roadway Construction Engineer should be sent a copy of all appropriate non-routine letters received by the Resident Engineer from the Contractor. These can be transmitted on an information basis only or with recommendations if appropriate.

All correspondence received by the Resident Engineer from the Contractor should be promptly acknowledged within seven to ten days to the Contractor, in writing, as to its receipt. This acknowledgment may either contain a reply to the Contractor's correspondence or advise him that he will receive a reply at a later date. **All answers to written requests by the Contractor should be given in writing.**

Any request from the Contractor received by the Resident Engineer should be immediately acknowledged and should be forwarded, if appropriate, to the Division Engineer along with the recommendations of the Resident Engineer. The Division Engineer should, if appropriate, forward the request and the Division's recommendations to the appropriate unit.

Several sections of the Specifications require the Contractor to make written requests or statements to the Department of Transportation on construction matters. These may involve extra work, requests for additional compensation, delays to his controlling operations, etc., and should not be taken by the Resident Engineer or his staff as a reflection upon them. These letters are a requirement of the Specifications and are necessary for the Contractor to receive consideration of his request.

Non-routine correspondence from the Contractor, such as requests for additional compensation, time extensions, etc., should be documented in the project diary.

All correspondence from the Resident Engineer to the Contractor should be sent to the Contractor's main office unless otherwise requested by the Contractor. Copies may be sent to the Contractor's project manager or superintendent if deemed appropriate.

Any discussions with the Contractor where decisions were rendered relating to payment for work performed, method of construction, etc., should be addressed in writing to the Contractor documenting this discussion. An entry in the Project Diary is not sufficient in itself because the Contractor does not have access to the Project Diary until after payment of the final estimate and thus cannot take exception to the entry.

When writing internal correspondence within the Department, such as a letter to the Division Engineer, **copies should not be sent to the Contractor or any of his agents.** The Resident Engineer should have no direct correspondence with a Subcontractor or supplier. The Contractor should be advised of any information requested by or necessary for the Subcontractor and it is the Contractor's responsibility to advise his agents as he determines necessary.

CORRESPONDENCE BY EMAIL

The use of email has become a growing source of communication between both the Resident Engineer and the Contractor and the Resident Engineer and other Department offices. Email is a great tool to use for communication as it does provide a written form of documentation, but it is often used to request and provide information in an expedient manner. In such cases, the information provided is often not concise and clear to the recipient, which could result in a string of emails going back and forth. This could be eliminated if the email is treated as a formal letter, making sure all appropriate information is clearly provided, instead of a "casual" exchange of information.

Email that is received regarding a specific project is considered correspondence and should be handled in the same manner as formal written correspondence. A hard copy should be filed in the appropriate file folder and a written response should be sent to the original sender and any other person(s) deemed appropriate. Although email is electronic correspondence it is still subject to the Public Records Act regardless or not if it is printed.

Keep in mind that email is electronic correspondence, it can be modified, and therefore follow-up formal letters are strongly suggested. In addition, if correspondence such as letters and spreadsheets is being sent via email, it should be sent as a pdf file or a scanned document. Note that pdf files and scanned files cannot be modified.

TIPS FOR CORRESPONDENCE

General Correspondence:

- All correspondence received by the Resident Engineer from the Contractor should be promptly acknowledged to the Contractor in writing as to the receipt within 7 to 10 days**.** The acknowledgement may contain a reply to the Contractor's correspondence or if additional investigation is needed advise him that he will receive a reply at a later date.
- Minutes of project construction meetings should be completed within 7 to 10 days of the meeting. The minutes should be addressed to the Contractor and copies sent to the Division Engineer and meeting attendees.
- All answers to written requests by the Contractor should be given in writing.
- Provide detail when referencing the Specifications. Provide detail of the specification cited in correspondence as it pertains to your response (i.e. If the Contractor's claim is not submitted in accordance with Article 104-8, tell him specifically what is not in accordance with the specifications, such as "You failed to submit cost records within seven days of the end of your weekly period.")
- Catalog correspondence in Resident Engineer's Project files. Create a list of the subjects and dates of the correspondence contained in the file folder. The list should be placed in the front of the file folder. This is helpful when reviewing a claim and researching files for specific information.
- Make sure correspondence is sent to all parties responsible for subject information (i.e. Roadway/Bridge Construction Engineer, Project Inspector, etc.).
- The State Construction Engineer should receive a copy of all non-routine correspondence pertaining to construction matters that originate from the Resident Engineer's office, specifically issues regarding claims, project progress and significant changes in project plans.
- The Resident Engineer should document non-routine correspondence from the Contractor, such as requests for additional compensation, time extensions, etc. in the project diary.
- Any discussions with the Contractor where decisions were rendered relating to payment for work performed, method of construction, etc. should be addressed in writing to the Contractor documenting this discussion within a week of the discussion.

Correspondence by Email:

- You may respond to a Contractor via email, but if there are successive emails regarding the same issue, you should begin corresponding with a formal letter and reference the previous email(s).
- All answers submitted to the Contractor via email should be followed with a formal letter or a hard copy of the email should become a part of the project file.
- If you are going to send the contractor correspondence such as letters and spreadsheets via email, it should be sent as a pdf file or a scanned document. Note that pdf files and scanned files cannot be modified.

EXAMPLE CORRESPONDENCE

The following are example letters that may be used during the course of the project.

Example 1

FIELD MEETING FOLLOW-UP

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

February 9, 2006

Contract:
T.I.P. No.:
Federal Project:
County:

Description: (Project Description)

Subject: -YI-REV- Drainage Revisions

Mr. I.B. Contractor
Prime Contracting
P.O. Box 123
Anytown, North Carolina 21111

Mr. Contractor:

A field meeting was held on February 2, 2006 with NCDOT, Prime Contracting, and I.B. Construction Company regarding drainage and grading issues on Anywhere Road. An email was sent out on February 3, 2006 documenting our discussion during this field meeting and the changes that were agreed upon with regard to drainage and grading work in this area. This email also addresses traffic control issues associated with this work. I have attached a plan sheet of Anywhere Road, south of I-XX, with drainage revisions marked in red. These revisions reflect the changes that were discussed during the meeting stated above. I have also attached the above referenced email. These revisions shall replace those sent to you in a letter from this office dated August 22, 2005 regarding drainage revisions in this same area.

Please contact this office if additional conflicts are discovered or if you need additional information regarding this matter.

Sincerely,

I.M. Engineer, P. E.
RESIDENT ENGINEER

Attachments

IME:tps

cc: State Construction Engineer
Division Engineer
Roadway Construction Engineer
Lead Project Inspector, w/ attachment

Example 2

CLAIM RESPONSE

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

September 25, 2006

Contract No.:
T.I.P. No.:
F.A. No.:
County:
Description: (Project Description)

Mr. M. R. Contractor
Prime Corporation
P. O. Box 1111
Anytown, North Carolina 27777

Subject: Soil-Cement Base – Claim for Additional Costs – Claim ID#3

Dear Mr. Contractor:

This letter is in response to your claim letter No. 45, dated September 15, 2006 about rework to stabilize subgrade. No additional payment or time will be granted for repairs to the soil-cement base on the above referenced project.

In accordance with Articles 542-14 and 542-15 of the 2006 Standard Specifications, "do not use construction equipment on the base for hauling except as necessary to discharge into the spreader during paving operations." Also, the Contractor shall "maintain the soil-cement base in an acceptable condition until final acceptance of the project. Include in maintenance operations immediate repair of any defects or damage that may occur. Perform this work at no cost to the Department and repeat as often as may be necessary to keep the base in an acceptable condition. Perform repairs to the base by replacing the base for its full depth rather than by adding a thin layer of soil-cement mixture to the existing layer of base." The Department's project records indicate that the portion of soil-cement base in question was utilized as a haul route for unclassified excavation hauling operations from –Y3- to –LRev- during November and December of 2004.

In addition, the procedures outlined in Subarticle 104-8(B) of the 2002 Standard Specifications were not adhered to and therefore additional compensation cannot be granted. Cost records were not submitted to this office within seven (7) days after the end of the given weekly period as required by the specifications. Your cost records were submitted with your

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
RESIDENT ENGINEER'S OFFICE
P. O. BOX 1111
ANYWHERE, NC 27777-1111

TELEPHONE: 919-555-5555
FAX: 919-555-5554

WEBSITE: WWW.DOH.DOT.STATE.NC.US

LOCATION:
222 SOUTH DISTRICT STREET
RALEIGH NC

claim letter. Furthermore, project records indicate you completed the alleged extra work April 20, 2006, which exceeds the requirement to submit your claim within 120 days after completion of the work in dispute. Failure to strictly adhere to the procedures of Subarticle 104-8(B) shall be a bar to recovery under the provisions of Article 104-3 or Article 104-7.

If you have any questions or concerns regarding this matter, please contact this office.

Sincerely,

I. M. Engineer, P. E.
RESIDENT ENGINEER

IME

cc: State Construction Engineer
Division Engineer
Roadway Construction Engineer
File

Example 3A

CONTRACTOR'S REQUEST FOR INFORMATION (RFI)

Letter No.: NCDOT
RFI No.: No. 107
Date: 5/17/06

Twelve Brothers Construction Co.

To: I.M. Engineer
Resident Engineer
North Carolina Department of Transportation
From: Brother One, TBCCo Project Engineer
Reference: I-XX From West of Any Street to West of Every Street, Any County, NC
North Carolina Department of Transportation Project XXXXXXXX
Twelve Brothers Construction Company Project XXXXXX

Subject: Electrical Lighting System at Noise Wall 'C'

On plan sheet E5, electrical lighting Control System H crosses under the left side soil nail wall at JB30. Circuit 2 then runs between the soil nail wall and Noise Wall C toward Any Street. There are five 13.7 M light standards (#10-#14) with drilled shaft foundations shown between the soil nail wall and noise wall on plan sheets E4 and E3. This is not a constructable plan. There is no way to access this tight space to install the light standards. Similar to storm drain boxes 52 and 54, JB 30 is not constructable because the box would have to be 25 feet tall in rock between soil nails. Furthermore, the plans state that no shafts shall be drilled after soil nail installation.

One possible solution is to add a separate control system with power fed from the Any Street power lines. The conduit for this system should be run behind Noise Wall C. Luminaires could be mounted to the noise wall pilasters.

Please consider this and other possible solutions to this issue. Then, Twelve Brothers and Subcontractor would like to meet with the Department to discuss solutions.

NCDOT Response:

Response Prepared By: _____ Date: _____

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DEPARTMENT RESPONSE TO RFI

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

June 5, 2006

Contract:
T.I.P. No.:
County:
Description: (Project Description)

Subject: Response to RFI 107 – Electrical Lighting System at Noise Wall 'C'

Mr. Brother One
Twelve Brothers Construction Company
P.O. Box 1234
Anywhere, North Carolina 27777

Dear Mr. One:

This letter is written in response to RFI 107 concerning the proposed electrical lighting system at Noise Wall 'C'. The Department has decided not to install the five single-arm roadway lights (#10-#14) and the two electrical junction boxes (#29 & #30). In order to maintain the lighting level in the area where the proposed lighting system would have been installed, the Department proposes installing 400W luminaires with IES Type III in lieu of the proposed 250W luminaires with IES Type II, on lights #3-#7. These changes are shown on the attached plan sheets E3-E5. The lights and junction boxes with the crossmarks through them will not be installed. The lights circled will use 400W luminaires instead of 250W luminaires.

Please submit a detailed price breakdown for five (5) Light Standard Luminaires, Type RDW 400W HPS. The detailed price breakdown should include copies of quotes from subcontractors and material suppliers. Please use the attached Supplemental Agreement Standard Pricing Information form when providing the price breakdown.

The table on the next page lists the contract items affected by the field change and the corresponding reduction in quantity.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
RESIDENT ENGINEER'S OFFICE
P.O. BOX 111
ANYWHERE, NC 27777

TELEPHONE: 919-555-5555
FAX: 919-555-5555
WEBSITE: WWW.DOH.DOT.STATE.NC.US

LOCATION:
222 DISTRICT STREET
ANYWHERE, NC 27777

Line Code	Item Description	Quantity	Unit	Comments
320	Light Standard, Type MTLT 13.7m SA 4.7	5	Ea	Light #10-14
322	Standard Foundations, Type R1	5	Ea	Light #10-14
327	Light Standard Luminaire, Type RDW, 250 HPS	5	Ea	Light #10-14
342	Electrical Duct, Type BD, Size 53	20	M	Sta. 1+288 SBCD, (JB29 – JB30)
345	2 #4 w/G Feeder Circuit	23	M	Sta. 1+288 SBCD, (JB29 – JB30)
347	2 #6 w/G Feeder Circuit in Size 41 Conduit	300	M	Light #10-#14
348	2 #4 w/G Feeder Circuit in Size 41 Conduit	107	M	JB30 - #14
350	Electrical Junction Boxes PC18	1	Ea	JB30
351	Electrical Junction Boxes BR18	1	Ea	JB29

Please advise if additional information is needed regarding this subject.

Sincerely,

I.M. Engineer, P. E.
RESIDENT ENGINEER

IME:amp

Attachments

cc: State Construction Engineer
Division Engineer
Roadway Construction Engineer
Bridge Construction Engineer
Lead Project Inspector

SUPPLEMENTAL AGREEMENT STANDARD PRICING FORM

Assemble separately for each operation within the Supplemental Agreement

Project Number	**Date**
Turn-around time needed to avoid project delays Day(s) Potential impacts to project schedule should be discussed when prices are requested	
Brief description of Supplemental Agreement	
If work is subcontracted, describe portion of work performed by Prime	
Describe special conditions that affect pricing (Risk)	
Materials*	
Cost	$
Transportation Costs	$
Anticipated fabrication and/or delivery time	
*Provide description of material(s) and source(s)	
Labor*	
Labor cost	$
Labor Burden (Percent mark-up to labor cost) *Provide certified annual labor burden	$
*Attach quantity, duration, labor classification and wage rates of anticipated work force.	
Equipment*	
Cost	$
*Attach quantity, type, production rates and duration of associated equipment. Identity rented equipment separately.	
*Describe any equipment that is idled during operations or associated with crew and idled by operation.	
Subtotal of costs associated with work	$
Subcontract	
Subcontract Administration Cost (percent mark-up on cost subtotal)	$
Overhead	
Overhead Cost (percent mark-up on cost subtotal)	$
Profit	
Profit Cost (percent mark-up on cost subtotal)	$
Total Supplemental Agreement Price	$
Time Extension*	**Days**
***Provide justification for any proposed time extension**	
The costs detailed herein, although an estimate of the proposed work, are based upon the most accurate available information and/or historical costs of similar operations. Date	

Rev. May 6, 2005

Example 4

RESPONSE TO CLARIFICATION REQUEST

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

April 2, 2006

Contract:
Federal Aid No.:
County:
Description: (Project Description)

Mr. I. B. Contractor
Prime Contracting
P.O. Box 123
Anytown, North Carolina 2111

Subject: **Clarification of Girder Erection Submittal Requirements**

Dear Mr. Contractor:

This letter is in response to your correspondence dated March 22, 2006 in which you requested clarification of the note on sheet S-1 in the structure plans and the girder erection submittal requirement in the contract special provisions. Clarification is provided below.

The Project Special Provision entitled "Erection Procedure" on page 100 of the contract is a safety requirement of the Railroad to ensure the protection of its railroad facility. It is a request for the process by which you will erect or remove the structure that specifically details the equipment, equipment capacity, location and estimated lifting loads. Therefore your approved erection sequence of the girders may be included in the Erection Procedure.

The plan note on sheet S-1 is an erection sequence specified by the Department to ensure the avoidance of overstressing the girders during the erection. However, you may submit an alternative sequence for review and approval if it is prepared and sealed by a Professional Engineer registered in North Carolina. The use of the erection sequence that is stated on plan sheet S-1 does not fulfill the Railroad's requirement of an erection procedure.

If you have any questions or concerns in regard to this matter, please contact this office.

Respectfully,

I. M. Engineer, P. E.
RESIDENT ENGINEER

cc: Division Engineer
State Construction Engineer
Bridge Construction Engineer
File

Any Construction Company

P.O. Box 1234
Anywhere, North Carolina 27777

Letter No. 1149

November 6, 2006

Mr. I. M. Engineer, PE
Resident Engineer
111 District Drive
Anywhere, North Carolina 27777

Reference: (State Project)
(Project Description)

Subject: Flatwork Repairs – Notice of Intent to File Claim

Dear Mr. Engineer:

In accordance with Article 104-8(B) of the 2006 Standard Specifications for Roads and Structures, this letter serves as notice of our intent to file claim for additional compensation for the extra work involved with removing and replacing damaged curb, sidewalk, and driveways on the above referenced project.

Extensive use by the traveling public over the life of the project has created numerous sections of cracked and damaged curb, sidewalk and driveways. Per your direction, cracked and damaged flatwork must be completely removed and replaced. Any Construction Company's position is that the flatwork was built in accordance with the contract plans and specifications and that these repairs are additional and compensible to the contract.

Any Construction Company will perform the repairs per your direction. Weekly cost records will be forwarded to your office for review. Should you request additional information regarding this issue, please contact me directly.

Sincerely,

I. B. Contractor
Project Manager
Any Construction Company

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Example 5B

ACKNOWLEDGEMENT OF NOTICE OF INTENT

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

November 9, 2006

Contract:
T.I.P. No.:
Federal Project:
County:

Description: (Project Description)

Subject: Acknowledgement of Intent to File Claim – Intent ID #14

Mr. I. B. Contractor
Any Construction Company
P.O. Box 1234
Anywhere, North Carolina 27777

Dear Mr. Contractor:

This is to acknowledge receipt of your letter dated November 6, 2006, in which you state your intent to file a claim for additional costs associated with repairing sidewalk, curb, and driveway aprons on the above referenced project.

Please keep in mind that this acknowledgement of receipt does not imply that the Department agrees this is a valid claim.

In order for a claim to be considered, the procedures outlined in Article 104-8 shall be strictly adhered to and records kept in accordance with Article 109-3 of the Standard Specifications. Article 104-8 provides that you shall keep accurate and detailed cost records and supporting data in such a manner that the Department can check your records. The cost records should clearly indicate the cost of performing the work in dispute and separate the cost of any work for which compensation has been made. The cost records shall be kept on a weekly basis and submitted to the Department with seven (7) days after the end of a given weekly period. Upon completion of the work in dispute, if you choose to pursue a claim, please be advised your written claim shall be submitted to the Department within 120 days after completion of the work in dispute. The written claim should include a summary of the previously submitted cost records and a justification for the adjustment in compensation under the terms of the contract.

In future correspondence, please refer to this issue as intent number 14.

Please advise if you have any questions or require additional information regarding this subject.

Sincerely,

I. M. Engineer, PE
RESIDENT ENGINEER

IME

cc: State Construction Engineer
Division Construction Engineer
Roadway Construction Engineer
Project Inspector
File

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

November 21, 2006

Contract:
T.I.P. No.:
Federal Project:
County:

Description: (Project Description)

Subject: Receipt of Cost Records Week Ending 11/04/06 – Intent ID #14

Mr. I. B. Contractor
Any Construction Company
P.O. Box 1234
Anywhere, North Carolina 27777

Dear Mr. Contractor:

This is to acknowledge receipt of your letter dated November 13, 2006, in which you transmit your cost records for the week ending November 4, 2006 for the associated intent to file claim, Intent ID #14. This intent to file claim is for additional costs to repair or replace damaged curb throughout the project.

Please keep in mind that this acknowledgement of receipt does not imply that the Department agrees this is a valid claim.

Additionally, the cost records received were for the week prior to receipt of your written notice of intent to file claim letter dated November 6, 2006. According to Article 104-8(B), of the 2006 Standard Specifications, the failure on the part of the Contractor to perform any of the following shall be a bar to recovery under the provisions of Articles 104-3 or 104-7: "The failure to notify the Engineer in writing prior to performing the work in dispute that he intends to file a claim." Inasmuch as the work performed during the week ending November 4, 2006 was performed prior to the notification of your intent to file a claim, these records will not be considered if you choose to pursue a claim for the work in dispute.

However, please be advised that future cost records for this work that are submitted in accordance with the time frames established in Article 104-8 will be considered.

Please advise if you have any questions or require additional information regarding this subject.

Sincerely,

I. M. Engineer, PE
RESIDENT ENGINEER

IME

cc: State Construction Engineer
Division Engineer
Roadway Construction Engineer
Lead Project Inspector
File

Belveder Contracting

P.O. Box 904
Sandy Hill, NC 27777

December 8, 2006

I. M. Resident, P. E.
North Carolina Department of Transportation
P.O. Box 222
Casual, North Carolina, 27775

Project: 8.1234567 (R-7891) Big Bridge Project
Beach County NFH-124-(83)

Subject: Contract Impacts

Dear Mr. Resident:

This letter is a follow up to our recent verbal notification and our earlier letters when we notified you that our work on the Project has been and continues to be materially and adversely affected by events beyond our reasonable control. As a result, our labor, overhead, and equipment costs have been adversely impacted. Over the past several months, we have been providing to you various records of weekly labor, equipment, and overhead for the entire project. We have now concluded that the entire project has been so materially and adversely affected that we will furnish you, on a weekly basis, records of our labor, equipment, and overhead for the entire project. It is our understanding that the documentation that we are providing to you on a weekly basis satisfies the contractual record keeping requirements of Sections 104-8 and 109-3 of the Standard Specifications for Roads and Structures.

If you believe that any additional information is needed in order for us to comply with the contract, please contact us at your earliest convenience.

Sincerely yours,

Joe B. Green
Project Manager

cc: Field File
J. Bookman

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STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

December 15, 2006

Project: 8.1234567
County: Beach County

Description: "US 45 From SR 1222, Carptown Road in Sandy Hill East of NC 467 North of Deer Path"

Subject: Belveder Contracting Correspondence NCDOT 359
NCDOT Correspondence No. 332

Mr. Joe B. Green
Project Manager
Belveder Contracting
P.O. Box 904
Sandy Hill, NC 27777

Dear Mr. Green:

Upon review of the above referenced letter, I am concerned that there may be some confusion regarding the submission of cost documentation.

Your letter is vague regarding the specific purpose of these submissions. It indicates that you believe that work on the project has been and continues to be materially and adversely affected by events beyond your reasonable control. And as a result, your labor, overhead, and equipment costs have been adversely impacted. Your letter further implies that you feel compelled to submit weekly records of labor, equipment, and overhead of the entire project. You also indicate that it is your intention that these records satisfy the contractual record keeping requirements of Articles 104-8 and 109-3 of the Standard Specifications.

Upon review of these records, it appears that they may provide enough documentation to elevate issues regarding overhead. However, the records do not indicate a specific notice of intent to file a claim which would require this submission.

If these records are intended to be a blanket submission for any specific notices of intent Belveder Contracting has previously submitted, they do not satisfy your contractual requirements. Article 104-8 indicates that the Contractor's cost records and supporting data

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shall clearly indicate the cost of performing any work in dispute and shall separate the cost of any work for which payment has been made. The cost records shall be prepared on a weekly basis for each occurrence for which notice of intent to file a claim has been submitted.

I would like to discuss this with you at your earliest convenience such that we can insure that Belveder Contracting is clear regarding the contractual requirements of pursuing any claims on this project.

If we can be of further assistance, or provide any additional information, please do not hesitate to call.

Sincerely,

I. M. Resident, P. E.
Resident Engineer

cc: Division Engineer
State Construction Engineer
Bridge Construction Engineer

Belveder Contracting

P.O. Box 904
Sandy Hill, NC 27777

February 11, 2007

I. M. Resident, P. E.
North Carolina Department of Transportation
P.O. Box 222
Casual, North Carolina, 27775

Project: 8.1234567 (R-7891) Big Bridge Project
Beach County NFH-124-(83)

Subject: Contract Impacts

Dear Mr. Resident:

We have reviewed your letter RE:332 dated December 15, 2006 and express the wish to meet with you as soon as possible to discuss the ongoing document submissions relating to claims and related issues.

We would, however, restate that it is our understanding that the regular submissions of labor, overhead, and equipment costs do satisfy the contractual record keeping requirements of Sections 104-8 and 109-3 of the Standard Specifications for Roads and Structures. These submissions are being maintained in line with the many notices made to you. To assist you in interpreting the situation that has enveloped the project, please refer to the attached contract notice log. This clearly indicates the issues beyond the reasonable control of the Contractor that have, and continue to have an impact upon the work.

We recognize that the final evaluation of a claim must take into account the work for which payment has been made. We must, however, reiterate that the percussive nature of the design errors and omissions, the numerous modifications and changes to the contract documents, and the impositions of construction criteria beyond industry standards have dramatically affected our ability to construct the project in the manner in which it was bid. As a result, it is not possible at present to identify any portion of the work that has not been adversely impacted.

Sincerely yours,

Joe B. Green
Project Manager

cc: Field File

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STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

February 20, 2007

Project: 8.1234567
County: Beach County

Description: "US 45 From SR 1222, Carptown Road in Sandy Hill East of NC 467 North of Deer Path"

Subject: Belveder Contracting Correspondence NCDOT 359
NCDOT Correspondence No. 332

Mr. Joe B. Green
Project Manager
Belveder Contracting
P.O. Box 904
Sandy Hill, NC 27777

Dear Mr. Green:

In our letter to you dated December 15, 2006, RE:332, we expressed our concern over the claim documentation being submitted on this project by Belveder Contracting. The letter indicated that the records being submitted do not satisfy the contractual requirements for record keeping for the various notices of intent previously submitted.

Your letter NCDOT 408, February 11, 2007, responded that the "*percussive nature of the design error and omissions, the numerous modifications and changes to the contract documents, and the impositions of construction criteria beyond industry standards have dramatically affected (your) ability to construct the project in the manner which it was bid. As a result, it is not possible at present to identify any portion of the work that has not been adversely impacted.*"

We do not accept these broad-sweeping generalizations as meeting the contractual requirements of record keeping. The items of contention on this project are finite events that can be identified as to point of beginning and duration, many of which could be resolved at the current time, if the proper documentation was provided for review. The Contract entered into by Belveder Contracting with the Department places the burden of documentation upon the Contractor,

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if he believes he is being affected by issues beyond his reasonable control or if work beyond the scope of the original Contract is requested. The documentation provides the proof of such impacts. To date, the documentation provided is not sufficient.

As in my letter of December 15, 2006, I am hereby requesting that you schedule a time for us to discuss the record keeping requirements. I am currently available February 21, 22, and 23.

If we can be of further assistance, or provide any additional information, please do not hesitate to call.

Sincerely,

I. M. Resident, P. E.
Resident Engineer

cc: Division Engineer
State Construction Engineer
Bridge Construction Engineer