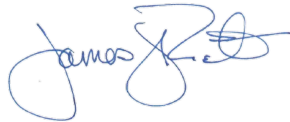


# Memorandum

DATE February 26, 2024

TO District Engineers, District Construction Engineers, Assistant District Construction Engineers, Project Managers,

FROM James J. Knott, NDOT State Construction Engineer 

THRU

SUBJECT DIRECTIVE CONSTR 24-01  
WAIVER OF DEDUCTION FOR NON-CONFORMING MATERIAL

## CONSTRUCTION DIRECTIVE

### BACKGROUND:

Subsection 105.03 of the NDOT Standard Specifications for Highway Construction Edition 2017 states that nonconforming material or work may be accepted and allowed to remain in place at a reduced cost. That reduction in cost is conveyed to the Contractor by a written notice (deduction letter) from the Engineer to the Contractor informing them of the amount of monetary deduction that will be imposed.

The deduction letter is typically developed, written, and reviewed by the Construction Division, and then forwarded to the Project Manager, District Construction Engineer and other NDOT stakeholder(s) for review. Following their review and any amendments, the deduction letter is sent by the Project Manager to the Contractor. This deduction is then codified in a Change Order in AASHTOWare. This process takes NDOT time and resources that correlate to a cost to the Department. This cost is estimated to be \$250.00.

### POLICY:

Deductions that are calculated and found to be \$250.00 or less are to be waived as the cost to the department exceeds the amount being collected from the Contractor through the deduction. The deduction waiver for a singular noncompliant acceptance standard that is a part of a group or set of acceptance criteria (e.g., sublots and lots) for a material or item of work can be postponed until all of the acceptance criteria has been evaluated to determine if the sum of the deductions for that material or item of work exceeds \$250.00.

In the event that the reduction is \$250 or less, correspondence will be sent from the Construction Division to the Project Manager and other NDOT stakeholder(s) notifying them of the waiver. A letter will be sent to the Contractor from the Project Manager indicating the failing tests and the NDOT decision to forego the deduction. See the attached template notification letter.

Attachment

CC: Materials and Research Engineer

Inside Address Name

Date

Page 1

Date

CONTRACTOR NAME

Contractor address

Contractor address

Contractor email (if letter is to be emailed to Contractor)

RE: Contract ID XXXXX  
PROJECT NUMBER  
PROJECT NAME

Mr., Ms. Last Name:

The Department has determined that material related to pay item "xxxx" does not conform to contract requirements. See the attached testing report for specifics. In accordance with Paragraph 2 of Subsection 105.03 of the Standard Specifications, this nonconforming material has been evaluated and determined to be acceptable to remain in place at a reduced cost. The calculated reduction is less than the threshold that NDOT has set for collection, therefore this reduction is waived.

Respectfully,

NEBRASKA DEPARTMENT OF TRANSPORTATION

Your Name Here

Your Title Here

Attachment

CC: District (xx,xx)  
OnBase