



**Request for Proposals
for
Driveway Relocation and Crossing Closure**

Request for Proposals No.: **RFP 2026 075**

Issued: **Thursday, October 01, 2026**

Submission Deadline: **Friday, October 16, 2026 at 2:00:00 PM EDT**

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PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

1.1 Invitation to Proponents

1.1.1 Invitation

This Request for Proposals (the “RFP”) is an invitation by Ontario Northland Transportation Commission (“ONTC”) to prospective proponents to submit proposals for **Driveway Relocation and Crossing Closure**, as further described in Section A of the RFP Particulars (Appendix B) (the “Deliverables”).

ONTC is an agency of the Province of Ontario that provides reliable and efficient transportation services to northern and rural communities. For over 120 years, the company has provided integrated and impactful transportation services including rail freight, passenger rail, motor coach transportation, rail repair, and remanufacturing services.

ONTC’s rail services are vital in maintaining a reliable supply chain in Northern Ontario by connecting freight customers to global economies. The forestry industry, mining operations, farming communities, and manufacturers count on ONTC’s services to deliver large volumes across vast distances. The company’s 675 miles of mainline track span throughout northeastern Ontario and northwestern Quebec.

ONTC motor coaches connect rural Ontario to major centres providing access to education, medical appointments, shopping, and seamless connections to other transportation providers. The Polar Bear Express passenger train connects Moosonee and Cochrane, Ontario, providing an all-season land link for Indigenous communities on the James Bay Coast.

Improving and repairing transportation equipment is also a large part of ONTC’s service offering. We remanufacture and repair locomotives, passenger rail cars, freight cars, and more. ONTC’s unique mechanical skillset attracts new business and secures skilled trades jobs in Northern Ontario.

ONTC makes provincial dollars reach further by creating innovative solutions that help drive economic growth sustainably, responsibly, and with future generations top of mind. Throughout the agency, modernization is underway with many exciting projects that will improve how we operate. ONTC employs over 1,000 people including Locomotive Engineers, Motor Coach Operators, skilled tradespeople, and business professionals. Employees work together to improve and deliver services that provide value to the regions served.

ONTC is proposing the construction of a new access Driveway located at approximately **47°46'16.8"N, 79°48'14.7"W in Evanutrel Township, Ontario.**

The Driveway is being constructed to provide alternate road access and facilitate the future elimination of a nearby at-grade crossing. The removal of the crossing will improve overall railway safety by reducing the number of public interfaces with railway operations. In addition, the crossing removal will support more efficient railway operations by allowing higher train speeds through the area and reducing operational restrictions associated with the existing crossing.

1.1.2 Proponent Must Be Single Entity

The proponent must be a single legal entity that, if selected, intends to enter into the contract with ONTC. If the proposal is being submitted jointly by two (2) or more separate entities, the proposal must identify only one (1) of those entities as the “proponent”. The proponent will be responsible for the performance of the Deliverables.

1.1.3 Bidding System Registration

All proponents must have a vendor account with the electronic bidding system at: <https://www.merx.com/>. This will enable the proponent to download the solicitation document, to receive addenda email notifications, download addenda, and submit their proposal electronically through the bidding system.

1.2 RFP Contact

For the purposes of this procurement process, the “RFP Contact” will be:

Brinda Ranpura
Procurement Contracts Specialist
Telephone: 705-472-4500 * 548
Email: brinda.ranpura@ontarionorthland.ca

Proponents and their representatives are not permitted to contact any employees, officers, agents, elected or appointed officials, or other representatives of ONTC, other than the RFP Contact, concerning matters regarding this RFP. Failure to adhere to this rule may result in the disqualification of the proponent and the rejection of the proponent’s proposal.

1.3 Accommodations for Proponents with Disabilities

In accordance with the Ontario Human Rights Code, Ontarians with Disabilities Act, 2001 (ODA) and Accessibility for Ontarians with Disabilities Act, 2005 (AODA), ONTC will accommodate for a disability, ensuring full and equitable participation throughout the RFP process. If a proponent requires this RFP in a different format to accommodate a disability, the proponent must contact the RFP Contact as soon as possible and in any event prior to the Submission Deadline. The RFP in the different format will be issued only to the requesting proponent and all addenda will be issued in such different format only to the requesting proponent.

1.4 French Language Services

In accordance with the French Language Services Act, R.S.O. 1990, c. F.32, and Ontario Regulation 544/22, ONTC is committed to providing equitable access to procurement opportunities in both official languages. While this RFP and associated documents are posted in English, a French version may be available upon request. Interested parties may contact the RFP Contact.

1.5 Contract for Deliverables

1.5.1 Type of Contract

The selected proponent will be required to enter into an agreement with ONTC for the provision of the Deliverables in the form attached as Appendix A to the RFP (the “Agreement”).

1.5.2 Term of Contract

The term of the agreement will be in effect until the completion of Deliverables.

1.6 RFP Timetable

1.6.1 Key Dates

Issue Date of RFP	Thursday, October 01, 2026
Deadline for Questions	Friday, October 09, 2026 at 2:00:00 PM EDT
Deadline for Issuing Addenda	Wednesday, October 14, 2026 at 6:00:00 PM EDT
Submission Deadline	Friday, October 16, 2026 at 2:00:00 PM EDT
Anticipated Ranking of Proponents	Wednesday, October 21, 2026
Anticipated Execution of Agreement	Friday, November 06, 2026

The RFP timetable is tentative only and may be changed by ONTC at any time.

1.7 Submission Instructions

1.7.1 Submission of Proposals

Proposals must be submitted electronically through the bidding system at:

<https://www.merx.com/>

Submissions by other methods will not be accepted.

In the event of any technical issues, proponents should contact the bidding system’s technical support.

MERX Customer Support
Phone 1-800-964-6379
Email merx@merx.com

The Technical Proposal shall be uploaded into the bidding system, in PDF format, and not have a security password. It is the Proponent’s sole responsibility to ensure all uploaded documents are not defective, corrupted, or blank and can be opened by ONTC. If the Technical Proposal cannot be downloaded by ONTC, the Proposal shall be rejected.

The Pricing Proposal shall be uploaded into the bidding system. No pricing information shall be uploaded as part of the Technical Proposal as this is a **two-envelope process**.

1.7.2 Proposals to Be Submitted on Time

Proposals must be finalized and fully uploaded in the bidding system on or before the Submission Deadline. The time of receipt of proposals shall be determined by the bidding system web clock. Late submissions will not be accepted by the bidding system and will be disqualified as late.

Proponents are cautioned that the timing of submission is based on when the proposal is received by the bidding system, not when a proposal is submitted by a proponent. As transmission can be delayed due to file transfer size, transmission speed, or other technical factors, proponents should plan to submit proposals well in advance of the Submission Deadline to avoid submitting late due to technical issues. Proponents submitting near the Submission Deadline do so at their own risk.

The bidding system will send a confirmation email to the proponent advising when the proposal was submitted successfully. If you do not receive a confirmation email, contact the bidding system's technical support immediately.

1.7.3 Proposals to Be Submitted in Prescribed Format

Proposal materials should be prepared and submitted in accordance with the instructions in the bidding system, including any maximum upload file size.

Documents should not be embedded within uploaded files, as the embedded files may not be accessible or evaluated.

1.7.4 Amendment of Proposals

Proponents may amend their proposals prior to the Submission Deadline. However, the proponent is solely responsible for ensuring that the amended proposal is received by the bidding system by the Submission Deadline.

1.7.5 Withdrawal of Proposals

Prior to the Submission Deadline, proponents may withdraw a submitted proposal through the bidding system.

1.7.6 Proposals Irrevocable after Submission Deadline

Proposals shall be irrevocable for the Irrevocability Period, as specified in the RFP Timetable, running from the moment that the Submission Deadline passes.

[End of Part 1]

PART 2 – EVALUATION AND AWARD

2.1 Stages of Evaluation

ONTC will conduct the evaluation of proposals in the following stages:

2.2 Stage I – Mandatory Submission Requirements

Stage I will consist of a review to determine which proposals comply with all of the mandatory submission requirements. Proposals that do not comply with all of the mandatory submission requirements as of the Submission Deadline will, subject to the express and implied rights of ONTC, be rejected. The mandatory submission requirements are listed in Section C of the RFP Particulars (Appendix B).

2.2.1 No Amendment to Forms

Other than inserting the information requested on the mandatory submission forms set out in the RFP, a proponent may not make any changes to any of the forms. Any proposal containing any such changes, whether on the face of the form or elsewhere in the proposal, may be disqualified.

2.3 Stage II – Evaluation

Stage II will consist of the following two (2) sub-stages:

2.3.1 Mandatory Technical Requirements

ONTC will review the proposals to determine whether the mandatory technical requirements as set out in Section D of the RFP Particulars (Appendix B) have been met. Proposals that do not comply with all of the mandatory technical requirements will, subject to the express and implied rights of ONTC, be rejected.

2.3.2 Non-Price Rated Criteria

ONTC will evaluate each qualified proposal on the basis of the non-price rated criteria as set out under Initial Evaluation Criteria in Section F of the RFP Particulars (Appendix B).

2.4 Stage III – Pricing

Stage III will consist of a scoring of the submitted pricing of each qualified proposal in accordance with the price evaluation method set out in Section G of the RFP Particulars (Appendix B). The evaluation of price will be undertaken after the evaluation of mandatory requirements and rated criteria has been completed.

In the event that a proponent's pricing appears to be abnormally low in relation to the Deliverables, ONTC may require the proponent to provide a detailed explanation of the pricing information to account for the low level of price and confirm that all requirements in respect of the Deliverables have been taken into account. If the proponent is unable to satisfactorily account for the abnormally low pricing, ONTC may reject the proposal. ONTC may also reject any proposal that contains unbalanced pricing. Pricing may be considered unbalanced where nominal or significantly understated prices are proposed for some elements of the Deliverables and inflated prices are proposed for other elements of the Deliverables. Unbalanced pricing includes, but is

not limited to, “front-loaded” pricing which contains inflated pricing for Deliverables to be provided or completed at the beginning of the contract, offset by understated pricing for Deliverables to be provided or completed later in the contract.

2.5 Selection of Top-Ranked Proponent

After the completion of Stage III, all scores from Stage II and Stage III will be added together and proponents will be ranked based on their total scores. Subject to the reserved rights of ONTC, the top-ranked proponent will be selected to enter into the Agreement in accordance with the following section. In the event of a tie, the selected proponent will be the proponent with the highest score on the non-price rated criteria.

2.6 Notice to Proponent and Execution of Agreement

Notice of selection by ONTC to the selected proponent shall be in writing. The selected proponent shall execute the Agreement in the form attached as Appendix A to this RFP and satisfy any other applicable conditions of this RFP, including the pre-conditions of award listed in Section E of the RFP Particulars (Appendix B), within ten (10) days of notice of selection. This provision is solely for the benefit of ONTC and may be waived by ONTC.

2.7 Failure to Enter into Agreement

If a selected proponent fails to execute the Agreement or satisfy any pre-conditions of award within ten (10) days of notice of selection, ONTC may, without incurring any liability, proceed with the selection of another proponent and pursue all other remedies available to ONTC.

[End of Part 2]

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

3.1 General Information and Instructions

3.1.1 RFP Incorporated into Proposal

All of the provisions of this RFP are deemed to be accepted by each proponent and incorporated into each proponent's proposal. A proponent who submits conditions, options, variations, or contingent statements inconsistent with the terms set out in this RFP, including the terms of the Agreement in Appendix A, either as part of its proposal or after receiving notice of selection, may be disqualified. If a proponent is not disqualified despite such changes or qualifications, the provisions of this RFP, including the Agreement set out in Appendix A, will prevail over any such changes or qualifications in the proposal.

3.1.2 Proponents to Follow Instructions

Proponents should structure their proposals in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in a proposal should reference the applicable section numbers of this RFP.

3.1.3 Proposals in English

All proposals are to be in English only.

3.1.4 No Incorporation by Reference

The entire content of the proponent's proposal should be submitted in a fixed format, and the content of websites or other external documents referred to in the proponent's proposal, but not attached, will not be considered to form part of its proposal.

3.1.5 Past Performance

In the evaluation process, ONTC may consider the proponent's past performance or conduct on previous contracts with ONTC or other institutions.

3.1.6 Information in RFP Only an Estimate

ONTC and its advisers make no representation, warranty, or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any quantities shown or data contained in this RFP or provided by way of addenda are estimates only and are for the sole purpose of indicating to proponents the general scale and scope of the Deliverables. It is the proponent's responsibility to obtain all the information necessary to prepare a proposal in response to this RFP.

3.1.7 Proponents to Bear Their Own Costs

The proponent will bear all costs associated with or incurred in the RFP process, including, without limitation, preparation and presentation of its proposal and if applicable, costs incurred for meeting attendance, interviews or demonstrations.

3.1.8 Proposal to be Retained by ONTC

ONTC will not return the proposal or any accompanying documentation submitted by a proponent.

3.1.9 No Guarantee of Volume of Work or Exclusivity of Contract

ONTC makes no guarantee of the value or volume of work to be assigned to the selected proponent. The Agreement will not be an exclusive contract for the provision of the described Deliverables. ONTC may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

3.1.10 Trade Agreements

Proponents should note that procurements falling within the scope of the Ontario-Quebec Trade and Co-operation Agreement, Canadian Free Trade Agreement, and Comprehensive Economic and Trade Agreement are subject to those trade agreements but that the rights and obligations of the parties will be governed by the specific terms of this RFP.

3.2 Communication after Issuance of RFP

3.2.1 Proponents to Review RFP

Proponents shall promptly examine all of the documents comprising this RFP, and

- (a) shall report any errors, omissions, or ambiguities; and
- (b) may direct questions or seek additional information

in writing by email to the RFP Contact on or before the Deadline for Questions. No such communications are to be sent or initiated through any other means. ONTC is under no obligation to provide additional information, and ONTC is not responsible for any information provided by or obtained from any source other than the RFP Contact or the bidding system. It is the responsibility of the proponent to seek clarification on any matter it considers to be unclear. ONTC shall not be responsible for any misunderstanding on the part of the proponent concerning this RFP or its process.

3.2.2 All New Information to Proponents by Way of Addenda

This RFP may be amended only by addendum in accordance with this section. If ONTC, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all proponents by addendum posted in the bidding system. Each addendum forms an integral part of this RFP and may contain important information, including significant changes to this RFP. Proponents are responsible for obtaining all addenda issued by ONTC.

3.2.3 Post-Deadline Addenda and Extension of Submission Deadline

If ONTC determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, ONTC may extend the Submission Deadline for a reasonable period of time.

3.2.4 Verify and Clarify

When evaluating proposals, ONTC may request further information from the proponent or third parties in order to verify or clarify the information provided in the proponent's proposal. The response received by ONTC shall, if accepted by ONTC, form an integral part of the proponent's proposal.

3.3 Notification and Debriefing

3.3.1 Notification to Other Proponents

Once the Agreement is executed by ONTC and a proponent, the other proponents may be notified directly in writing and shall be notified by public posting, on ONTC's website, of the outcome of the procurement process.

3.3.2 Debriefing

Proponents may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the RFP Contact and must be made within sixty (60) days of such notification. The RFP Contact will contact the proponent's representative to schedule the debriefing. Debriefings may occur by way of conference call or other remote meeting format as prescribed by ONTC.

3.3.3 Procurement Protest Procedure

Any proponent with concerns about the RFP process is required to attend a debriefing prior to proceeding with a protest.

If, after attending a debriefing, the proponent wishes to challenge the RFP process, it should provide written notice to the RFP Contact in accordance with applicable procurement protest procedures. The written notice must contain:

- (a) a clear statement as to which procurement the proponent wishes to challenge;
- (b) a clear explanation of the proponent's concerns with the procurement, including specifics as to why it disagrees with the procurement process or its outcome; and
- (c) the proponent's contact details, including name, telephone number, and email address.

ONTC will send an initial response to acknowledge receipt of the proponent's notice and indicate the date by which ONTC will provide the proponent with a formal response.

3.4 Conflict of Interest and Prohibited Conduct

3.4.1 Conflict of Interest

For the purposes of this RFP, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to:

- (i) having or having access to confidential information of ONTC in the preparation of its proposal that is not available to other proponents;
 - (ii) having been involved in the development of the RFP, including having provided advice or assistance in the development of the RFP;
 - (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the RFP;
 - (iv) communicating with any person with a view to influencing preferred treatment in the RFP process (including, but not limited to, the lobbying of decision-makers involved in the RFP process); or
 - (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFP process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, the proponent's other commitments, relationships, or financial interests:
- (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or
 - (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

3.4.2 Disqualification for Conflict of Interest

ONTC may disqualify a proponent for any conduct, situation, or circumstances, determined by ONTC, in its sole and absolute discretion, to constitute a Conflict of Interest as defined above.

An existing supplier of ONTC may be precluded from participating in the RFP process in instances where ONTC has determined that the supplier has a competitive advantage that cannot be adequately addressed to mitigate against unfair advantage. This may include, without limitation, situations in which an existing supplier is in a position to create unnecessary barriers to competition through the manner in which it performs its existing contracts, or situations where the incumbent fails to provide the information within its control or otherwise engages in conduct obstructive to a fair competitive process.

3.4.3 Disqualification for Prohibited Conduct or Breach

ONTC may disqualify a proponent, rescind a notice of selection, or terminate a contract subsequently entered into if ONTC determines in its sole and absolute discretion that the proponent has engaged in any conduct prohibited by this RFP or has otherwise breached the terms of the of the RFP.

3.4.4 Prohibited Proponent Communications

Proponents must not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Submission Form (Appendix C).

3.4.5 Proponent Not to Communicate with Media

Proponents must not, at any time directly or indirectly, communicate with the media in relation to this RFP or any agreement entered into pursuant to this RFP without first obtaining the written permission of the RFP Contact. Further, proponents must not make any media release, social media or Internet post, public announcement or public disclosure (whether for publication in the press, on the radio, television, internet or any other medium) that relates to the RFP process, the solicitation documents or the Deliverables or any matters related thereto, without the prior written consent of ONTC.

3.4.6 No Lobbying

Proponents must not, in relation to this RFP or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the selected proponent(s).

3.4.7 Illegal or Unethical Conduct

Proponents must not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion, or collusion. Proponents must not engage in any unethical conduct, including lobbying, as described above, or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials, or other representatives of ONTC; deceitfulness; submitting proposals containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFP.

3.4.8 Supplier Suspension

ONTC may suspend a supplier from participating in its procurement processes for prescribed time periods based on past performance or based on inappropriate conduct, including, but not limited to, the following:

- (a) illegal or unethical conduct as described above;
- (b) the refusal of the supplier to honour its submitted pricing or other commitments;
- (c) engaging in litigious conduct, bringing frivolous or vexatious claims in connection with ONTC's procurement processes or contracts, or engaging in conduct obstructive to a fair competitive process; or
- (d) any conduct, situation, or circumstance determined by ONTC, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

In advance of a decision to suspend a supplier, ONTC will notify the supplier of the grounds for the suspension and the supplier will have an opportunity to respond within a timeframe stated in the notice. Any response received from the supplier within that timeframe will be considered by ONTC in making its final decision.

3.5 Confidential Information

3.5.1 Confidential Information of ONTC

All information provided by or obtained from ONTC in any form in connection with this RFP either before or after the issuance of this RFP:

- (a) is the sole property of ONTC and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFP and the performance of the Agreement;
- (c) must not be disclosed without prior written authorization from ONTC; and
- (d) must be returned by the proponent to ONTC immediately upon the request of ONTC.

Each proponent shall be responsible for any breach of the provisions of this section by any person to whom it discloses ONTC confidential information.

3.5.2 Confidential Information of Proponent

A proponent should identify any information in its proposal or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by ONTC. The confidentiality of such information will be maintained by ONTC, except as otherwise required by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed on a confidential basis to advisers retained by ONTC to advise or assist with the RFP process, including the evaluation of proposals. If a proponent has any questions about the collection and use of personal information pursuant to this RFP, questions are to be submitted to the RFP Contact.

3.6 Reserved Rights and Limitation of Liability

3.6.1 Reserved Rights of ONTC

ONTC reserves the right to:

- (a) make public the names of any or all proponents;
- (b) make changes, including substantial changes, to this RFP provided that those changes are issued by way of addendum in the manner set out in this RFP;
- (c) request written verification or clarification from any proponent and incorporate a proponent's response to that request for clarification into the proponent's proposal;
- (d) assess a proponent's proposal on the basis of: (i) a financial analysis determining the actual cost of the proposal when considering factors including quality, service, price, and transition costs arising from the replacement of existing goods, services, practices, methodologies, and infrastructure (howsoever originally established); and (ii) in addition to any other evaluation criteria or considerations set out in this RFP, consider any other relevant information that arises during this RFP process;
- (e) reject a proposal that contains abnormally low or unbalanced pricing;

- (f) waive formalities and accept proposals that substantially comply with the requirements of this RFP;
- (g) verify with any proponent or with a third party any information set out in a proposal;
- (h) check references other than those provided by any proponent;
- (i) disqualify a proponent, rescind a notice of selection, or terminate a contract subsequently entered into if the proponent has engaged in any conduct that breaches the process rules or otherwise compromises or may be seen to compromise the competitive process;
- (j) select a proponent other than the proponent whose proposal reflects the lowest cost to ONTC;
- (k) cancel this RFP process at any stage;
- (l) cancel this RFP process at any stage and issue a new RFP for the same or similar deliverables;
- (m) accept any proposal in whole or in part; or
- (n) reject any or all proposals;

and these reserved rights are in addition to any other express rights or any other rights that may be implied in the circumstances.

3.6.2 Limitation of Liability

By submitting a proposal, each proponent agrees that

- (a) neither ONTC nor any of its employees, officers, agents, elected or appointed officials, advisors, or representatives will be liable, under any circumstances, for any claim arising out of this RFP process including, but not limited to, costs of preparation of the proposal, loss of profits, loss of opportunity, or for any other claim; and
- (b) the proponent waives any right to or claim for any compensation of any kind whatsoever, including claims for costs of preparation of the proposal, loss of profit, or loss of opportunity by reason of ONTC's decision to not accept the proposal submitted by the proponent, to enter into an agreement with any other proponent, or to cancel this RFP process, and the proponent shall be deemed to have agreed to waive such right or claim.

3.7 Governing Law and Interpretation

These Terms and Conditions of the RFP Process (Part 3):

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive and shall not be construed as intending to limit the pre-existing rights of ONTC; and

- (c) are to be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and the courts of the Province of Ontario shall have exclusive jurisdiction to entertain any action or proceeding based on, relating to or arising from this RFP.

3.8 Power of Legislative Assembly

No provision of this RFP is intended to operate, nor shall any such provision have the effect of operating, in any way, that would interfere with or otherwise fetter the discretion of the Legislative Assembly of Ontario in the exercise of its legislative powers.

[End of Part 3]

APPENDIX A – FORM OF AGREEMENT

The Agreement for Deliverables will be the Stipulated Price Contract - Form of Agreement, as attached to this Appendix A.

THIS AGREEMENT made as of XX, 2026

BETWEEN:

ONTARIO NORTHLAND TRANSPORTATION COMMISSION
("ONTC")

AND:

XXX
(the "**Contractor**")

THE PARTIES AGREE AS FOLLOWS:

Contract Documents

1. The following documents and provisions are incorporated in this *Agreement* and form the *Contract Documents*:
 - (a) this *Agreement*;
 - (b) Addenda to the *RFP*, if any;
 - (c) Schedule A – (the "**Scope of Work**"), comprised of:
 - i. the document identified as Appendix B in the *RFP* (RFP Particulars);
 - ii. the document identified as Appendix H in the *RFP* (Issue for Tender Drawings);
 - iii. the document identified as Appendix I in the *RFP* (Policies and Procedures).
 - (d) Schedule B – (the "**Contractor's Submission**"), comprised of:
 - i. the document identified as Appendix C in the *RFP* (Submission Form);
 - ii. the document identified as Appendix D in the *RFP* (Buy Ontario Act Compliance Form);
 - iii. the document identified as Appendix E in the *RFP* (Domestic Supply Chain Plain);
 - iv. the document identified as Appendix F in the *RFP* (Schedule of Prices);
 - v. the document identified as Appendix G in the *RFP* (Health, Safety and Environmental); and
 - vi. the *Contractor's* Technical Proposal.
 - (e) Schedule C – *Project-Specific Requirements for a Proper Invoice*; and
 - (f) Special Provisions, if any,
(collectively, the "**Contract Documents**").

Precedence of Contract Documents

2. If there is any conflict or inconsistency between the *Contract Documents*, unless otherwise provided, such documents will prevail in the following order, but only to the extent necessary to resolve the conflict or inconsistency:

- (a) Special Provisions, if any;
- (b) this *Agreement*;
- (c) Addenda to the *RFP*, if any;
- (d) Schedule A – *Scope of Work*;
- (e) Schedule C – *Project-Specific Requirements for a Proper Invoice*; and
- (f) Schedule B – *Contractor's Submission*.

The Work

- 3. The *Contractor* shall perform the *Work* required by the *Contract Documents* for the relocation of a driveway located at X and the removal of a grade crossing at mile post 133.18 Temagami Subdivision.
- 4. The *Contractor* shall perform the *Work* in accordance with the requirements of the *Contract Documents* and the *Standard of Care*.
- 5. *ONTC* shall have the right to amend the *Work* to have some of the *Work* completed by its own forces.

Contract Price

- 6. The “**Contract Price**” is \$XXX plus applicable taxes, more particularly described in Schedule B, subject to adjustment in accordance with the *Change Order* process in the *Contract Documents*.

Contract Time

- 7. Subject to adjustment(s) approved in accordance with the *Contract Documents*, the *Contractor* shall commence the *Work* on the XX day of XX 202X, shall achieve *Substantial Performance of the Work* on or before the XX day of XX 202X, and shall achieve *Ready-for-Takeover* on or before the XX day of XX 202X (the “**Contract Time**”).

DEFINITIONS AND INTERPRETATION

- 8. In the *Contract Documents*,
“**Acceptance**” and “**Accepted**” means *ONTC* acknowledges that the work for a *Submittal* has been completed and that the *Submittal* on its face conforms to the requirements of the *Contract Documents*. *Acceptance* does not mean confirmation by *ONTC* that the *Submittal* does not contain error or omissions, defects, deficiencies or deviations from the *Contract Documents*. Wherever the words “acceptance” and “accepted” are used in the *Contract Documents*, they shall have the meaning set out in this definition even if the words are not capitalized.

“**Adjudication**” means construction dispute interim adjudication as defined under the *Construction Act*.

“**Agreement**” means this agreement and all attached Schedules.

“**As-Built Drawings**” means a set of drawings that are marked-up during construction by the *Contractor* that show how the structures and other parts of the *Work* were actually

constructed versus how the structures and other parts of the *Work* were originally designed and “**As-Built Record Drawings**” means the *As-Built Drawings* prepared by the *Contractor* following completion of the *Work* that are Submitted to *ONTC* with the Close-Out Documentation.

“**Authority Having Jurisdiction**” means the federal, provincial or municipal entity that is responsible for enforcing codes, standards and regulations relating to building construction or has the power to pass regulations to direct, specify and govern elements or activities of construction projects such as codes, safety, health or standards of manufacture or installation.

“**Change Directive**” means a written instruction prepared by the *ONTC Representative* and signed by *ONTC* directing the *Contractor* to proceed with a change in the *Work* within the general scope of the *Contract Documents* prior to *ONTC* and the *Contractor* agreeing upon adjustments, if any, in the *Contract Price* and/or the *Contract Time*.

“**Change Order**” means a written amendment to the *Contract Documents* prepared by the *ONTC Representative* and signed by *ONTC* and the *Contractor* stating their agreement on:

- (a) a change in the *Work*;
- (b) the method of adjustment or the amount of the adjustment in the *Contract Price*, if any; and
- (c) the extent of the adjustment in the *Contract Time*, if any.

“**Confidential Information**” includes information, whether oral, written, visual, electronic, or in any other form, relating in any way to this *Agreement*, which is identified as confidential or that would reasonably be considered as being confidential. *Confidential Information* does not include any portions of the *Confidential Information* that (a) at the time of disclosure was in the public domain; (b) after disclosure hereunder, is published or otherwise becomes part of the public domain through no fault of the *Contractor*; or (c) is received from an independent third party who had obtained the *Confidential Information* lawfully and was under no obligation of secrecy or duty of confidentiality owed to *ONTC*.

“**Conflict of Interest**” means any actual or potential conflict of interest including, but not limited to:

- (a) situations or circumstances that could compromise the ability of the *Contractor* to perform its obligations under the *Contract Documents*; and
- (b) the offer or giving of a benefit of any kind by or on behalf of the *Contractor* to anyone employed by or otherwise connected with *ONTC*.

“**Construction Act**” means the *Construction Act*, R.S.O. 1990, c. C.30, as amended, including all regulations passed under it that are enforceable as of the date of execution of this *Agreement*. For certainty, Parts I.1 (Prompt Payment) and II.1 (Construction Dispute Interim Adjudication) of the *Construction Act* apply to this *Agreement*.

“**Construction Documents**” means the *Drawings*, *Specifications*, and other documents prepared by or on behalf of the *Contractor*, based on and in compliance with the *Contract Documents*.

“**Construction Equipment**” means all machinery and equipment, either operated or not operated, that is required for preparing, fabricating, conveying, erecting, or otherwise performing the *Work* but is not incorporated into the *Work*.

“Construction Schedule” means the schedule for the performance of the *Work* provided by the *Contractor* pursuant to section 31, including any amendments to the *Construction Schedule* made pursuant to the *Contract Documents*.

“Contractor Parties” means the directors, officers, employees, agents, consultants, invitees, Subcontractors and representatives of the *Contractor*.

“Defect” or **“Defective Work”** means failure to perform or deliver any of the *Work* in conformity with the quantity, quality, specifications and/or other requirements set out in the *Contract Documents*.

“Drawings” means the detailed engineering designs, drawings, diagrams, illustrations, schedules, technical brochures and other data to be used by the *Contractor* in the performance of the *Work* and includes *Shop Drawings* and the waste management plan.

“Environmental Contaminants” means any substance, material or waste defined, regulated, listed or prohibited by *Environmental Laws*.

“Environmental Laws” means all applicable federal, provincial, territorial, municipal and local laws, common laws and principles thereof, and orders, directives and decisions rendered or issued by an *Authority Having Jurisdiction* relating to *Environmental Contaminants* or the protection of human health, natural resources or the environment;

“Force Majeure” means an event or a cause beyond the control of a party, which may include war, interference by civil or military authorities, civil insurrection, local or national emergency, blockade, seizure, riot, sabotage, vandalism, terrorism, adverse weather conditions which are materially more adverse than could reasonably be expected, earthquake, flood, act of God, accident, fire, nuclear or other explosion, disease, epidemic, pandemic, quarantine restriction, strike, lockout or other labour disturbance, governmental embargo, or changes to any acts, orders, legislation, regulations, directives, or government priorities of any *Authority Having Jurisdiction*; provided such event is not caused by the affected party's negligence or failure to exercise reasonable diligence. A *Force Majeure* event or cause does not include an inability to pay or a lack of financial resources unless it is due to a failure of the province to approve the appropriation from the Consolidated Revenue Fund for the *Project*.

“Impact Assessment Reports” means the impact assessment reports, if any, listed in the *RFP* related to the *Fisheries Act*; *Navigable Waters Act*; *Lakes and Rivers Improvement Act*; heritage reviews; *Endangered Species Act* and *Species at Risk Act*; terrestrial resources (vegetation, wildlife, other features); socio-economic impacts and Indigenous consultations.

“Intellectual Property Rights” means any improvement, invention or discovery, whether or not patented or patentable, any technical data, know-how or trade secret, any design, any computer software or any work subject to copyright, whether or not such design or copyright is registered or registrable and all Intellectual Property rights contained, embedded or disclosed in the *Work*.

“Materials” means material, machinery, equipment, and fixtures forming the *Work*, but does not include *Construction Equipment*.

“Notice of Annual Release of Holdback” means a notice of annual release of holdback published by *ONTC* in accordance with subsection 26(3) of the *Construction Act* (Form 6).

“Notice of Non-Payment” means a notice of non-payment (Form 1.1) under the *Construction Act*.

“ONTC” means ONTC and its directors, officers, employees, agents, consultants, contractors and subcontractors.

“ONTC Representative” means the person or entity appointed or engaged by ONTC to manage the *Work* on behalf of ONTC.

“Project” means the total construction contemplated by ONTC, as described in section 3 and elsewhere in the *Contract Documents*, of which the *Work* may be the whole of the *Project* or a part.

“Proper Invoice” means a “proper invoice” as that term is defined in Section 6.1 of the *Construction Act*, with the minimum requirements set out in Schedule C.

“Ready-for-Takeover” means the milestone achieved when all of the following has occurred, as verified and accepted by ONTC in accordance with section 73: Substantial Performance of the *Work* has been achieved; the *Work* has satisfied the requirements for deemed completion in accordance with section 2(3) of the *Construction Act*; final cleaning and waste removal has been completed as required by the *Contract Documents*; all inspection certificates from authorities having jurisdiction have been delivered to ONTC; all deficient work and deficiency list items outstanding at the time of *Substantial Performance* have been completed; all Close-Out Documentation and other materials required by the *Contract Documents* have been submitted to ONTC; and all Products, systems and components of the *Work* have been commissioned, certified for operation and accepted by ONTC, subject in each case to any waiver granted by ONTC under section 74.

“Restricted Period (Adjudication)” means the (inclusive) period of time between November 15 in one calendar year to January 2, in the next calendar year, in any given year throughout the duration of the *Agreement*.

“Restricted Period (Proper Invoice)” means the (inclusive) period of time between December 10 to December 28 in any given year throughout the duration of the *Agreement*.

“RFP” means ONTC Request for Proposals No. 2026 075 for Driveway Relocation and Crossing Closure.

“Shop Drawings” are drawings, diagrams, illustrations, schedules, performance charts, brochures, *Materials* data, and other data which the *Contractor* provides to illustrate details of portions of the *Work*.

“Specifications” means that portion of the *Contract Documents*, wherever located and whenever issued, consisting of the written requirements and standards for the *Materials*, systems, workmanship, quality, and the services necessary for the performance of the *Work*.

“Standard of Care” has the meaning set out in section 10.

“Subcontractor” means a person who contracts with the *Contractor* or another *Subcontractor* for the performance of any part of the *Contractor’s* obligations under the *Contract Documents* and includes suppliers of the *Contractor*.

“Submittal(s)” means all documentation prepared by the *Contractor* and submitted to the ONTC for review and *Acceptance* in accordance with the *Contract Documents*.

“Substantial Performance of the Work” or **“Substantial Performance”** means when the requirements of section 2(1) and, if applicable, section 2(2) of the *Construction Act* are certified as achieved or deemed achieved, in accordance with the *Construction Act*.

“Supplemental Instruction” means an instruction, not involving an adjustment in the *Contract Price* or *Contract Time*, in the form of *Specifications*, *Drawings*, schedules, samples,

models or written instructions, consistent with the intent of the *Contract Documents*. It is to be issued by the *ONTC Representative* to supplement the *Contract Documents* as required for the performance of the *Work*.

“**Taxes**” means any and all taxes, levies, import duties, customs duties, stamp duties, fees, withholdings, assessments, deductions or charges whatsoever, imposed, assessed, levied or collected by any governmental authority, together with interest, fines and penalties, including occupational, excise, unemployment, ownership, sales, gross receipts, income taxes, payroll taxes, employer contributions (both statutory and otherwise) and workers’ compensation payments and contributions, but does not include Harmonized Sales Tax (HST).

“**Work**” means everything that the *Contractor* is required to supply or perform in order to carry out the terms and conditions of the *Contract Documents* and includes any work or services not expressly in the *Contract Documents*, but which is, nevertheless, necessary for the proper completion of the *Work*.

“**Working Day**” means any day except a Saturday, Sunday or statutory holiday, or statutory vacation day that is observed by the construction industry in Ontario, or such other day(s) designated as working days in the *Contract Documents*.

“**Work Site**” means the designated site(s) or location(s) of the *Work* identified in the *Contract Documents*, including without limitation the location specified in section 3.

“**WSIA**” means the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c. 16, Sched. A.

9. **Trade Terms.** Words and abbreviations that have well known technical or trade meanings are used in the *Agreement* in accordance with such recognized meanings.

CONTRACTOR’S OBLIGATIONS

Standard of Care

10. The *Contractor* shall:
- (a) perform the *Work* in accordance with all applicable laws, the *Contract Documents*, all applicable professional standards, and in an efficient and workmanlike manner, using only qualified, skillful and careful workers;
 - (b) in performing the *Work* and its obligations under the *Agreement*, exercise the standard of care, skill and diligence that would normally be provided by an experienced and prudent contractor performing work of a similar nature to the *Work*;
 - (c) ensure any *Construction Equipment* used by *Contractor Parties* at the *Work Site* will be in safe working condition, will comply with all laws applicable to such equipment and will be operated by suitably qualified and competent personnel; and
 - (d) while being on *ONTC*’s property, comply with *ONTC*’s policies, including its Fit for Duty Policy,
- (the “**Standard of Care**”).
11. The *Contractor* acknowledges and agrees that the performance of the *Contractor*’s obligations, duties and responsibilities under this *Agreement* shall be judged against the *Standard of Care*. The *Contractor* shall exercise the *Standard of Care* when recommending the use of *Materials*, personnel or procedures to *ONTC*.

12. Where the *Work* does not comply with the specified *Standard of Care*, the deficiency in the *Work* shall be corrected as directed by the *ONTC Representative*. Subsequent testing to ensure that the *Standard of Care* has been attained (including re-testing by *ONTC*), shall be carried out at the *Contractor's* expense.

Vendor Performance Evaluation

13. *ONTC* has a Vendor Performance Policy which requires *ONTC* to complete an evaluation of the *Contractor's* performance of its obligations under the *Contract Documents*. The performance evaluation of the *Contractor's* performance of its obligations under the *Contract Documents* will be used in the assessment of the *Contractor's* proposals in response to future procurements. The performance evaluation may also result in the *Contractor* being disqualified from submitting proposals in response to future procurements in accordance with the terms of the policy. The policy can be found at <http://ontarionorthland.ca/en/requests-tenders>. The *Contractor* shall participate in the evaluation process under the Vendor Performance Policy.

Anti-Corruption, Forced Labour and Sanctions

14. The *Contractor* warrants that no bribe, gift or other inducement has been paid, promised or offered to any official or employee of *ONTC*, the Ministry of Transportation, the Government of Ontario or any other government official relating to *ONTC* entering into this *Agreement* with the *Contractor*.
15. The *Contractor* warrants that it will take reasonable steps to ensure that its officials and employees do not extort, accept or pay bribes or illicit payments, charge or accept fees that are not legally due or are in excess of those legally due, or unreasonably delay or obstruct the granting of permits, licences, or other such approvals in relation to the project. If the *Contractor* becomes aware of an actual or attempted bribe, extortion, delay or obstruction relating to this *Agreement*, the *Contractor* shall report the incident to *ONTC* immediately.
16. The *Contractor* warrants that it is unaware of any forced labour or child labour being used at any step of the production of goods produced, purchased or distributed by it in Canada or elsewhere or for the production of goods imported by the *Contractor*. The *Contractor* warrants that it has undertaken the appropriate due diligence to ensure its business and its supply chains do not use forced labour or child labour, including an assessment of its business and supply chains that may carry a risk of forced labour or child labour being used and the management of the risk. If applicable, the *Contractor* shall comply with the reporting requirements under the *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, S.C. 2023 c.9.
17. In compliance with its international obligations or with United Nations obligations, Canada imposes restrictions on trade, financial transactions or other dealings with a foreign country or its nationals. These sanctions may be implemented by regulation under such acts as the United Nations Act, the Special Economic Measures Act (SEMA), or the Export and Import Permits Act. The text of any such regulations is published in the Canada Gazette, Part II. It is the only text which is authoritative. The *Contractor* shall comply with any such regulations that are in force on the effective date of the *Contract* and will require such compliance by its first-tier subcontractors. *ONTC* relies on such undertaking from the *Contractor* to enter into this *Contract*, and any breach of such undertaking shall entitle *ONTC* to terminate this

Contract for default and to recover damages from the *Contractor*, including excess re-procurement costs.

Communications

18. *ONTC* or the Government of Ontario will lead and make any announcements relating to this *Contract* and the *Work*. The *Contractor* shall not make any announcement of any kind, including press releases, social media posts, public declarations, or any form of publication or announcement, in relation to this *Contract* or the *Work* unless prior written consent is given by *ONTC*. Should the *Contractor* be contacted by any media outlet or other person or entity wishing to make any form of publication or announcement, or seeking any information, in relation to this *Contract* or the *Work*, the *Contractor* shall provide no comment and shall immediately notify *ONTC*. The *Contractor* shall immediately notify *ONTC* if it becomes aware of any publication or announcement relating to the *Contract* or the *Work*.

Time of the Essence

19. The parties agree that time is of the essence in this agreement and that the *Contractor* must achieve *Substantial Performance* and *Ready-for-Takeover* within the *Contract Time*, which deadlines may only be amended by a fully executed *Change Order*, if any.
20. The *Contractor* acknowledges that *ONTC* will suffer damages if *Ready-for-Takeover* is not achieved within the *Contract Time* for reasons other than *Force Majeure* or if the *Work* contains Defects that delay *Substantial Performance*. The *Contractor* shall be responsible for all damages suffered by *ONTC* as a result of the failure to achieve *Ready-for-Takeover* within the *Contract Time* or a delay in *Ready-for-Takeover* due to Defects. The *Contractor* acknowledges and agrees that, without limiting *ONTC*'s entitlement to any additional or other damages, if the *Contractor* fails to achieve *Ready-for-Takeover* within the *Contract Time*, *ONTC* will incur substantial damages and the extent of such damages shall be incapable or very difficult of accurate measurement. Nonetheless, the parties acknowledge that as of the effective date of this *Contract*, liquidated damages at the per diem rate specified in the *Contract Documents* for each calendar day of delay represents a good faith estimate on the part of the parties as to the actual potential damages that *ONTC* would suffer because of late completion of the *Work*. If there is no per diem rate set out in the *Contract Documents*, the *Contractor* shall pay to *ONTC* the Administration Costs incurred by *ONTC* as a result of the delay. It is expressly acknowledged and agreed by and between the parties that the amount of such liquidated damages does not include any penalty. Notwithstanding the foregoing, where the *Work* is delayed beyond the *Contract Time*, *ONTC* shall be entitled to (i) the liquidated damages as calculated pursuant to this section, or (ii) in the event that the *Contractor* claims that this liquidated damages provision is invalid or unenforceable and the *Contractor* prevails in such a defence, the damages arising from the delay suffered by *ONTC* including, without limitation, consequential, special, incidental, and indirect damages, costs and other expenses incurred or suffered by *ONTC*.

Contractor's Responsibilities

21. The *Contractor* shall be solely responsible for the construction means, methods, techniques, sequences, and procedures with respect to the *Work* and shall direct and supervise the *Work* so as to ensure conformity with the *Contract Documents*.

22. The *Contractor* is solely responsible for the quality of the *Work* and shall undertake any quality control activities specified in the *Contract Documents* or, if none are specified, as may be reasonably required to ensure such quality.
23. The *Contractor* shall provide access to the *Work* that *ONTC* may reasonably require to verify the progress of the *Work* and their conformity to the requirements of the *Contract Documents*.
24. The *Contractor* shall furnish promptly to *ONTC*, on request, a copy of certificates, test reports and inspection reports relating to the *Work*.
25. The *Contractor* shall submit the proposed *Construction Documents* to *ONTC* to review in orderly sequence and sufficiently in advance so as to cause no delay. *ONTC* and the *Contractor* shall jointly prepare a schedule of the dates for submission and return of proposed *Construction Documents*. At a minimum, *ONTC* shall have not less than 10 days after each submission to review the *Construction Documents* and either approve or reject the *Construction Documents*. Any deficiencies in the *Construction Documents* shall be remedied by the *Contractor* promptly after notification by *ONTC* of the deficiency.
26. At the time of submission the *Contractor* shall advise *ONTC* in writing of any significant deviations in the proposed *Construction Documents* from the requirements of the *Contract Documents*. *ONTC* may or may not accept such deviations. Accepted deviations will be recorded in a *Change Order*.
27. The *Contractor* shall:
 - (a) promptly after signing the *Agreement*, prepare and submit to *ONTC* a *Work* schedule that indicates the timing of the major activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate that the *Work* will be performed in conformity with the schedule; and
 - (b) monitor the progress of the *Work* relative to the schedule and update the schedule on a monthly basis or as stipulated by the *Contract Documents*.
28. The *Contractor* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the place of the *Work* while work is being performed. The appointed representative shall not be changed except for valid reason.

EXECUTION OF THE WORK

29. The *Contractor* is solely responsible for the execution of the *Work* and shall perform the *Work* in accordance with the requirements of the *Contract Documents*. In particular, the *Work* to be performed by the *Contractor* includes:
 - (a) scheduling the *Work* in accordance with the *Contract Time* and monitoring and reporting on the progress of the *Work* relative to the *Contract Time* and ensuring that each critical path activity or milestone is completed by the applicable dates in the *Construction Schedule* and in accordance with the *Contract Time*;
 - (b) coordinating and taking responsibility for the scheduling and supervising of Subcontractors;
 - (c) before the *Work* is commenced, ensuring that the *Drawings* and methods of working proposed or specified by the *Contractor* are provided to the *ONTC Representative*; and

- (d) consulting with the *ONTC Representative* throughout the performance of the *Work*.
30. For greater certainty, the *Contractor* shall be the “importer of record” of and shall be responsible for all *Taxes* including import duties on all *Materials*, equipment, parts or any other items forming part of the *Work*.

Construction Schedule

31. The *Contractor* shall prepare, and update as required or requested, a construction schedule, including identification of the critical path of the *Work* and the schedule of operations, indicating the proposed methods of construction and sequence of work and the times the *Contractor* proposes to complete the various items of work (i.e. milestones) within the *Contract Time* (the “*Construction Schedule*”). The *Construction Schedule*, if not submitted with the *Contractor’s Submission*, shall be submitted to the *ONTC Representative* within 10 Working Days from the date of the contract award.
32. The *Contractor* shall, during performance of the *Work* and in accordance with the controls and reporting requirements in the *Contract Documents*, provide for the *ONTC Representative’s* review and *Acceptance* progress reports updating the *Construction Schedule*, reporting on the progress achieved, percentage of completion, schedule status and financial status with areas of immediate concern highlighted. These updated *Construction Schedules* shall be provided at least every 30 days. If the *Construction Schedule* is affected by approved *Changes*, the *Contractor* shall submit an updated *Construction Schedule*, if requested by the *ONTC Representative*, within 7 Working Days of the request. This updated *Construction Schedule* shall show how the *Contractor* proposes to perform the balance of the *Work* and complete the *Work* within the *Contract Time*. *ONTC* may, at its sole discretion, not issue an order to commence work until the *Construction Schedule* has been received and *Accepted*.

Schedule Slippage

33. If at any time it should reasonably appear to *ONTC* that the actual progress of the *Work* is behind schedule or is likely to become behind schedule and notice of such opinion is given to the *Contractor* or the *Contractor* has noticed slippage in the schedule, then the *Contractor* shall take appropriate steps to cause the actual progress of the *Work* to conform to the *Construction Schedule* and shall provide *ONTC* with an updated *Construction Schedule* showing how the *Contractor* proposes to perform the balance of the *Work* and complete the *Work* within the *Contract Time*.

Permits, Licenses, Approvals

34. *ONTC* has Crown immunity from the *Building Code Act* and the *Planning Act* and will not be obtaining building permits or development approvals for the *Work*. The *Contractor* shall, at the *Contractor’s* expense, obtain prior to commencement of the *Work* and maintain all permits, licenses, approvals, consents and other forms of authorizations necessary for the performance the *Work* and required in accordance with applicable laws.

Labour and Materials

35. The *Contractor* shall provide and pay for labour, *Materials*, tools and *Construction Equipment*, transportation and other services necessary for the performance of the *Work* in accordance

with the *Contract Documents*. The *Contractor* shall not be entitled to a change in the *Contract Price* due to any increase in the cost of labour, *Materials*, tools, *Construction Equipment*, utilities, transportation, or other facilities or services, whether or not the *Contract Time* is extended.

36. Unless otherwise specified in the *Contract Documents*, *Materials* provided shall be new. Substitutions for *Materials* which are specified by their proprietary names, part numbers, or catalogue numbers shall be of the same quality as the specified *Materials* and substituted *Materials* shall be *Accepted* by the *ONTC Representative* prior to their use. The *Contractor* shall use all *Materials* in strict accordance with the manufacturer's directions except when specified otherwise.
37. Unless otherwise specified, all materials existing at the *Work Site* at the time of commencement of the *Work* shall remain the property of the *ONTC*. All work and *Materials* delivered to the *Work Site* by the *Contractor* shall be the property of the *ONTC*. The *Contractor* shall remove all surplus or rejected *Materials* as its property when notified to do so by *ONTC*.

Documents at the Work Site

38. The *Contractor* shall keep one copy of the current *Contract Documents* and *Submittals*, including Supplemental Instructions, contemplated Change Orders, Change Orders, Change Directives, reviewed *Shop Drawings*, *As-Built Drawings* and reports and records of meetings at the *Work Site* in good order and available to *ONTC* and the *ONTC Representative*.

Shop Drawings

39. The *Contractor* shall provide *Shop Drawings* in the form directed by the *ONTC Representative*, as required in the *Contract Documents* and sufficiently in advance to ensure no delay in the *Work*.
40. The *Contractor* shall review all *Shop Drawings* before providing them to the *ONTC Representative* and shall confirm that review by stamp, date and signature of the person responsible for the review.
41. The review of the *Shop Drawings* by *ONTC* shall not relieve the *Contractor* of responsibility for errors or omissions in the *Shop Drawings* or for meeting all requirements of the *Contract Documents*.
42. Certain specifications require the *Shop Drawings* to bear the seal and signature of a professional engineer. Such professional engineer must be registered in the jurisdiction of the *Work Site* and shall have expertise in the area of practice reflected in the *Shop Drawings*.
43. Where *ONTC* has advised the *Contractor*, by notice in writing, that designs or *Specifications* fail to comply with *ONTC's* requirements, the *Contractor* shall ensure that the design documents or proposed *Construction Documents* are promptly corrected or altered, and shall promptly correct defective work that has been rejected by notice in writing by *ONTC* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, design, use of defective products, or damage through carelessness or other act or omission of the *Contractor*.

Effect of Review and Approval

44. Notwithstanding any other provision of the *Agreement*, no direction, request, *Acceptance* or approval by *ONTC*, or anyone on its behalf, nor any failure of *ONTC* to do so, will lessen or relieve the *Contractor* from performing and fulfilling its obligations or satisfying any liability under the *Agreement* or be construed as an acceptance of all or part of the *Work* or as a *Change Order*.

Cutting and Remedial Work

45. The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly. The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum. Cutting and remedial work shall be performed by specialists familiar with the *Materials* affected and shall be performed in a manner to neither damage nor endanger the *Work*.

PAYMENT AND COMPLETION OF THE WORK

Contract Price

46. *ONTC* shall, subject to any right of set-off or withholding by *ONTC*, pay the *Contractor* the *Contract Price* in accordance with the terms of the *Contract Documents* for the performance of the *Work*, subject to any Change Orders authorized by *ONTC* and the *Contractor* in writing. The *Contract Price* shall constitute the *Contractor's* sole and exclusive consideration for performance of the *Work*, and the *Contractor* shall not be entitled to receive any other monies or other consideration for the performance of the *Work*.

Applications for Payment

47. The *Contractor* shall submit an application for payment on account of the *Contract Price* plus HST by email to pay.inv@ontarionorthland.ca and to the *ONTC Representative* monthly with all necessary backup and support requirements set out in the *Contract Documents* or reasonably identified by *ONTC*. All applications for payment must be sent to the *ONTC Representative* within 30 days after the end of each month unless otherwise agreed by the parties. If the *Contractor* fails to deliver its application for payment, at the interval prescribed in this section or agreed to by the parties, subject to written approval by the *ONTC Representative*, the *Contractor* shall not be entitled to submit an application for payment until the next prescribed interval.
48. The *Contractor* shall submit to the *ONTC Representative*, at least 30 calendar days before delivering its first application for payment, a schedule of values for the parts of the *Work*, aggregating the total amount of the *Contract Price*, in a form acceptable to *ONTC*, to facilitate evaluation of each application for payment. When accepted by the *ONTC Representative*, the schedule of values shall be used as the basis for evaluating the *Contractor's* applications for payment.
49. Each application for payment delivered by the *Contractor* in accordance with sections 47 and 48 shall include all of the requirements for a *Proper Invoice* as set out in Schedule C.
50. *ONTC* may, prior to the time it is required to issue payment in respect of an application for payment, request any additional information or backup from the *Contractor* in respect of the application for payment.

51. The *Contractor* shall not claim for or be entitled to payment for the correction or re-performance of any *Defective Work*, including labour and time of any *Contractor Parties* for such correction or re-performance.
52. Notwithstanding any other provision of this *Agreement*, the *Contractor* shall not deliver an application for payment, for consideration as a *Proper Invoice* by *ONTC*, during the *Restricted Period (Proper Invoice)*.

Progress Payments

53. After receipt by the *ONTC Representative* of an application for payment submitted by the *Contractor* in accordance with sections 47 to 49:
 - (a) the *ONTC Representative* will assess whether all the criteria for a *Proper Invoice* are satisfied and, if not, the *ONTC Representative* will return the application for payment to the *Contractor* with the reasons why the application for payment is not a *Proper Invoice*,
 - (b) *ONTC* reserves the right, in its sole, absolute, and unfettered discretion to permit the *Contractor* to correct an error or minor irregularity in an application for payment submitted by the *Contractor* in accordance with sections 47 through 49, and to permit the *Contractor* to re-submit the application for payment before the next interval prescribed by section 47; however, *ONTC* shall be under no obligation to exercise this right and the date of resubmission of the application for payment shall be deemed to be the date of receipt by *ONTC* of the *Proper Invoice*, provided that the requirements of the *Proper Invoice* are then satisfied;
 - (c) within 14 calendar days of receipt of a *Proper Invoice* (or on the next *Working Day* if the 14th day is not a *Working Day*), in the event that *ONTC* disputes the amount claimed as payable in the *Proper Invoice*, *ONTC* shall deliver to the *Contractor* an executed *Notice of Non-Payment* (Form 1.1); and
 - (d) *ONTC* shall make payment to the *Contractor*, on account as provided in section 46, on the 28th calendar day after receipt of a *Proper Invoice*, unless such 28th calendar day lands on a day that is other than a *Working Day*, in which case payment shall be made on the next *Working Day* after such 28th day.
54. Where *ONTC* has delivered a *Notice of Non-Payment*, as specified under section 53(c), *ONTC* and the *Contractor* shall first engage in good faith negotiations to resolve the dispute. If within 10 calendar days following the issuance of a *Notice of Non-Payment*, *ONTC* and the *Contractor* cannot resolve the dispute, either party may issue a notice of *Adjudication* pursuant to the *Construction Act*, in which case *ONTC* and the *Contractor* will agree to submit the dispute to *Adjudication* in accordance with the Dispute Resolutions provisions of this *Agreement*.
55. The amounts disputed and described under the *Notice of Non-Payment* shall be held by *ONTC* until all disputed amounts of the relevant *Proper Invoice* have been resolved pursuant to the Dispute Resolution provisions of this *Agreement*. Any portion of the *Proper Invoice* which is not the subject of the *Notice of Non-Payment* shall be payable within the period set out in section 53(d).
56. Without limitation, *ONTC* shall be entitled to deduct from or, set off against, any payment of the *Contract Price* and any other amounts payable by *ONTC* to the *Contractor* under the *Contract Documents*:

- (a) any amount expended by *ONTC* in exercising *ONTC*'s rights under the *Contract Documents* to perform any of the *Contractor*'s obligations that the *Contractor* has failed to perform;
 - (b) any damages, costs or expenses (including, without limitation, reasonable legal fees and expenses) incurred by *ONTC* as a result of the failure of the *Contractor* to perform any of its obligations under the *Contract Documents*; and
 - (c) any other amount owing from the *Contractor* to *ONTC* under the *Contract Documents*.
57. Notwithstanding the foregoing, this section does not apply to statutory holdback or annual holdback release amounts, which are subject to the restrictions on set-off set out in the *Construction Act* and sections 64 to 71 of this Agreement.
58. The *Contractor* represents, warrants, and covenants to *ONTC* that it is familiar with its prompt payment and trust obligations under the *Construction Act* and will take all required steps and measures to ensure that it complies with the applicable prompt payment and trust provisions under the *Construction Act* including, without limitation, section 8.1 of the *Construction Act*. Evidence of the *Contractor*'s compliance under this section will be made available to *ONTC* within 5 Working Days following receipt by the *Contractor* of a written notice making such request.

Substantial Performance

59. When the *Contractor* is of the opinion that the *Work* is substantially performed, the *Contractor* shall provide *ONTC* with written notice of the date on which the *Contractor* believes that *Substantial Performance of the Work* was achieved. The notice shall include a list of items to be completed or corrected. Failure to include an item on the list does not alter the responsibility of the *Contractor* to complete the *Work* in accordance with the *Contract Documents*.
60. Prior to or as part of the *Contractor*'s application for *Substantial Performance of the Work*, the *Contractor* shall submit the following *Submittals* to *ONTC*, where applicable to the *Project*: guarantees, warranties, certificates, testing and balancing reports, distribution system drawings, spare parts, maintenance manuals, commissioning documents and manuals, waste audit reporting, list of outstanding work and deficiency list, all close-out documents, record drawings and *As-Built Record Drawings* (in editable, hard-copy and electronic format). *ONTC* and the *Contractor* will agree to a final schedule for the provision of *Submittals* that cannot reasonably be submitted with the *Contractor*'s application for *Substantial Performance of the Work*.
61. The *ONTC Representative* and the *Contractor* shall jointly inspect the *Work Site* at a mutually convenient time to verify that *Substantial Performance of the Work* has been achieved. If, following the inspection, in the opinion of the *ONTC Representative*, *Substantial Performance of the Work* has been achieved, the *ONTC Representative* shall issue a certificate in the prescribed form confirming that *Substantial Performance of the Work* has been achieved and the date of such achievement. If the *ONTC Representative* is of the opinion that *Substantial Performance of the Work* has not been achieved, the *ONTC Representative* shall, within 10 Working Days of the completion of the inspection, provide the *Contractor* with a list of items that must be completed by the *Contractor* for *Substantial Performance of the Work* to be achieved. After the date of *Substantial Performance of the Work* is established, the *Contractor* shall complete, on a commercially reasonable efforts basis and within thirty (30)

days, all deficient work including providing the required *Submittals* described in section 60, unless the reasons for any delay are acceptable to *ONTC*. All deficient work not completed within the above time may be completed by *ONTC* and the cost thereof may, at the option of *ONTC*, be deducted from the *Contractor's* next application for payment, or otherwise recoverable upon written demand by *ONTC* to the *Contractor*.

62. If *ONTC* takes possession and control of the *Work* before the *Contractor* has completed the items on the *ONTC Representative's* list, the *Contractor* shall co-ordinate any remaining work with *ONTC* and perform such work in the manner and at the times required by *ONTC*.
63. Immediately following the issuance of a certificate of *Substantial Performance of the Work*, the *Contractor* shall publish the certificate in the manner provided in the *Construction Act*. Failing valid publication by the *Contractor* within 3 Working Days following the issuance of the certificate, *ONTC* shall be at liberty to publish the certificate and back-charge the *Contractor* for its reasonable costs for doing so.

Payment of Holdback upon Substantial Performance of the Work

64. After publication of the certificate of *Substantial Performance of the Work* pursuant to section 63, the *Contractor* shall submit to *ONTC* an application for payment of the outstanding statutory holdback amount. Such application shall include all of the requirements set out in Schedule C, as applicable to the application for payment of holdback, and shall include a written statement that the *Contractor* has not received any written notices of lien or claims for lien from any *Subcontractor* or Supplier in respect of the *Work*. After the receipt of a complete application for payment of the holdback amount from the *Contractor*, *ONTC* will issue a certificate for payment of the holdback amount, provided that such amount is subject to and will only become due and payable in accordance with section 66 and the *Construction Act*.
65. The statutory holdback amount shall become due and payable on the day immediately following the expiration of the holdback period prescribed by the *Construction Act*, subject to the occurrence of any of the following:
 - (a) the preservation of a lien in respect of the *Project* that has not been satisfied, discharged or otherwise provided for in accordance with the *Construction Act*;
 - (b) receipt by *ONTC* of a written notice of lien that has not been satisfied, discharged or otherwise provided for in accordance with the *Construction Act*; or
 - (c) prior to the expiry of 40 calendar days following the publication of the certificate of *Substantial Performance of the Work*, *ONTC* publishes a *Notice of Non-Payment* of holdback in accordance with the *Construction Act* setting out the amount of holdback that will not be paid.

Annual Release of Holdback

66. This section 66 applies where the *Work* extends beyond twelve (12) months from the date the *Contractor* first supplied services or materials under the *Contract*. The first annual holdback release shall occur on the first anniversary of the *Contract* date, and annually thereafter on each subsequent anniversary until *Substantial Performance of the Work* is achieved.
67. Within fourteen (14) days after each *Contract* anniversary triggering an annual holdback release under section 66, *ONTC* shall publish a *Notice of Annual Release of Holdback* (Form 6) in accordance with subsection 26(3) of the *Construction Act*. The *Contractor* shall submit

its application for annual holdback release in accordance with section 70 within 14 days after each such anniversary date.

68. The annual holdback amount shall become due and payable:
- (a) no earlier than sixty (60) days after *ONTC's* publication of the notice of annual release under section 67; and
 - (b) no later than seventy-four (74) days after *ONTC's* publication of the notice of annual release under section 67, subject to the exceptions set out in section 69.
69. *ONTC* shall pay the annual holdback release in accordance with section 68 unless, prior to the expiry of the applicable payment period, the *Contract* or a relevant subcontract has been formally abandoned or terminated in accordance with the *Construction Act*, in which case *ONTC's* obligations with respect to the holdback shall be governed by the *Construction Act*. For greater certainty, the existence of a preserved or perfected lien does not entitle *ONTC* to withhold payment of the annual holdback release.
70. To receive annual holdback release, the *Contractor* shall submit an application to *ONTC* that includes:
- (a) all requirements for a *Proper Invoice* as set out in Schedule C;
 - (b) a written statement that the *Contractor* has not received written notices of lien or claims for lien from Subcontractors or Suppliers in respect of *Work* performed up to the anniversary date;
 - (c) a statutory declaration in the form prescribed by *ONTC* confirming payment of all accounts for labour, subcontracts, *Materials* and other indebtedness which may have been incurred by the *Contractor* and for which *ONTC* might in any way be held responsible up to the anniversary date, except for amounts properly retained as holdback or amounts in legitimate dispute; and
 - (d) a current Workplace Safety and Insurance Board Clearance Certificate.
71. For clarity, annual holdback release does not affect:
- (a) lien preservation and perfection timelines under the *Construction Act*, which continue to run from *Substantial Performance* and completion in accordance with sections 31 and 32 of the *Construction Act*;
 - (b) the statutory holdback retained upon *Substantial Performance of the Work* under section 64 or any finishing holdback retained by *ONTC* in connection with final payment upon *Ready-for-Takeover*; or
 - (c) the *Contractor's* warranty obligations under this *Agreement*.

Ready-for-Takeover

72. *Ready-for-Takeover* shall be achieved when all of the following has occurred, as verified and accepted by *ONTC*:
- (a) *Substantial Performance of the Work* has been achieved and the certificate of *Substantial Performance* has been issued and published in accordance with section 63;
 - (b) the *Work* has satisfied the requirements for deemed completion in accordance with section 2(3) of the *Construction Act*;
 - (c) final cleaning and waste removal has been completed as required by the *Contract Documents*;
 - (d) all inspection certificates from authorities having jurisdiction with respect to any component of the *Work* have been delivered to *ONTC*;

- (e) subject only to section 73, the entire *Work* has been completed to the requirements of the *Contract Documents*, including completion of all items on the deficiency list outstanding at the time of *Substantial Performance of the Work*;
 - (f) subject only to section 73, the *Contractor* has submitted to *ONTC* all close-out *Submittals* and other materials and documentation required by the *Contract Documents*, including all warranties, guarantees, operation and maintenance manuals, *As-Built Record Drawings* and any other close-out documentation; and
 - (g) subject only to section 73, all systems and components of the *Work* have been commissioned, certified for operation and accepted by *ONTC*.
73. *ONTC* may, in its sole, absolute and unfettered discretion, waive compliance with a requirement, or a part thereof, for achieving *Ready-for-Takeover* as set out in sections 72(e) to 72(g) (inclusive). Where *ONTC* exercises this discretion, the *Contractor* shall be required to complete such outstanding obligations as agreed in writing with *ONTC*, and *ONTC* and the *Contractor* shall establish a reasonable date for completing such obligations.
74. When the *Contractor* considers that *Ready-for-Takeover* has been achieved, the *Contractor* shall submit a written application to *ONTC* for review. *ONTC* shall confirm, or provide written reasons for declining to confirm, *Ready-for-Takeover* within 10 Working Days of receipt of such application. Following *ONTC*'s confirmation of the date of *Ready-for-Takeover*, the *Contractor* shall submit an application for final payment in accordance with the Final Completion provisions of this *Agreement*. Notwithstanding any other provision of this *Agreement*, *ONTC* shall not be required to make final payment under the Final Completion provisions prior to *Ready-for-Takeover* being achieved and confirmed in accordance with this section.

Final Completion

75. *ONTC* will consider the *Work* is complete when, except for any obligations of the *Contractor* relating to the warranty, the *Work* has been fully completed in accordance with the *Agreement*, including all Defects remedied to meet the *Standard of Care* and the requirements of the *Contract Documents* and all obligations of the *Contractor* to Subcontractors and anyone else related to the *Work* are fully satisfied.
76. When the *Work* has, in the opinion of the *Contractor* reached final completion, the *Contractor* shall submit an application for final payment, including the following:
- (a) the documents described in Schedule C;
 - (b) a complete statement of accounts, including any Change Orders applicable to the *Work*;
 - (c) a complete statement of all money that the *Contractor* considers to be due from *ONTC* arising out of or in connection with the *Work*, the *Contract Documents* or any alleged breach of the *Contract Documents*, including details of how the amount claimed in the application for final payment is calculated; and
 - (d) confirmation that all *Submittals* and approvals of all Authorities Having Jurisdiction as required by the *Contract Documents* have been delivered to *ONTC*.
77. After receipt by the *ONTC Representative* of an application for final payment submitted by the *Contractor* in accordance with section 76:
- (a) the *ONTC Representative* will assess whether all of the criteria for a *Proper Invoice* are satisfied and, if not, within 2 Working Days of receipt, the *ONTC Representative* will

return the application for payment to the *Contractor* with reasons setting out why the application for final payment is not a *Proper Invoice*;

- (b) within 14 calendar days of receipt of the *Proper Invoice* (or on the next *Working Day* if the 14th day is not a *Working Day*), if *ONTC* disputes the amount claimed as payable in the *Proper Invoice*, *ONTC* shall deliver to the *Contractor* an executed *Notice of Non-Payment* (Form 1.1); and
 - (c) *ONTC* shall make payment to the *Contractor* as provided in section 46, on the 28th calendar day after receipt of a *Proper Invoice*, unless such 28th calendar day lands on a day that is other than a *Working Day*, in which case payment shall be made on the next *Working Day* after such 28th day.
78. Where *ONTC* has delivered a *Notice of Non-Payment*, as specified under section 77(b), *ONTC* and the *Contractor* shall first engage in good faith negotiations to resolve the dispute. If within 10 calendar days following the issuance of a *Notice of Non-Payment*, *ONTC* and *Contractor* cannot resolve the dispute, either party may issue a notice of *Adjudication* in a form prescribed under the *Construction Act*. *ONTC* and *Contractor* will then submit the dispute to *Adjudication* in accordance with the Dispute Resolution provisions of this *Agreement*.
79. The amounts disputed and described under the *Notice of Non-Payment* shall be held by *ONTC* until all disputed portions of the *Proper Invoice* for final payment have been resolved in accordance with the Dispute Resolution provisions of this *Agreement*. Any portion of the *Proper Invoice* which is not the subject of the *Notice of Non-Payment* shall be payable within the time period set out in section 77(c).

Taxes

80. The *Contractor* shall be liable for the payment of any *Taxes* connected with the *Work*, except for taxes relating to *ONTC*'s capital, operations or income. *ONTC* may deduct from or set-off against the whole or part of payments due to the *Contractor* any *Taxes* that *ONTC* is required to withhold or deduct by any governmental authority. Prior to payment being made to the *Contractor*, *ONTC* shall notify the *Contractor* of any required withholding or deduction.

Payment on Account

81. A payment made pursuant to the *Agreement* does not prejudice the right of either party to dispute whether the paid amount is the amount properly due and payable nor does it conclusively constitute evidence of the value of the *Work* or whether the *Work* has been executed satisfactorily.

Liens

82. The *Contractor* shall not permit a *Subcontractor* to assert any right to a construction, builder's, mechanic's or unpaid vendor's lien for unpaid work or supply of *Materials* (a "lien") or to issue a written notice of lien pursuant to the *Construction Act*.
83. The *Contractor* shall, at its cost, promptly discharge, release or vacate or obtain a withdrawal of any lien that is the subject of a claim for lien or a written notice of lien relating to the *Work Site* or any of *ONTC*'s property or buildings by a *Subcontractor*. If such lien is not discharged or withdrawn within 7 calendar days of the service of the written notice of lien or of the registration of the claim for lien, then without prejudice to any other rights or remedies it may

have, *ONTC* may take whatever steps it deems necessary and appropriate to discharge or obtain a withdrawal of the lien, including payment of any amount owing or claimed thereunder, and seek immediate recovery from the *Contractor* for the amount of any such payment and any associated costs, including legal costs, all of which shall be payable on demand.

84. Without limiting any of the foregoing, the *Contractor* shall satisfy all judgments and pay all costs resulting from any construction liens or any actions brought in connection with any liens, or in connection with any other claim or lawsuit brought against *ONTC* by any person that provided services or *Materials* to the *Project* which constituted part of the *Work*, and the *Contractor* shall indemnify *ONTC* for any and all costs (including, without limitation, legal fees on a solicitor and client basis) *ONTC* may incur in connection with such claims or actions.
85. In the event that a *Subcontractor* registers a claim for lien with respect to all or part of the *Work Site* or delivers a claim for lien or a written notice of lien to *ONTC*, *ONTC* shall have the right to withhold, in addition to the statutory holdback, the full amount of the claim for lien plus either: (a) \$250,000 if the claim for lien is in excess of \$1,000,000 or (b) 25% of the value of the claim for lien and to bring a motion to vacate the claim for lien and any associated certificate of action in respect of that claim for lien, in accordance with Section 44 of the *Construction Act*, by paying into court as security the amount withheld.
86. Section 20(1) of the *Construction Act* does not apply to this *Agreement* and no general lien arises under or in respect of the *Work* and liens shall arise and expire on a per property basis.

Withholding from Payment

87. All or part of any payment under an application for payment may be withheld by *ONTC* or set-off against the payments owing to the *Contractor* for:
 - (a) all amounts due from the *Contractor* to *ONTC* (including under any indemnity in this *Agreement*);
 - (b) any amount that *ONTC* is required to withhold or deduct by the *Construction Act* or applicable laws;
 - (c) the amount of any liens for which *ONTC* has received a written notice of lien or a copy of a claim for lien relating to the *Work*; or
 - (d) Defective *Work* including non-compliance with health and safety rules and policies (until it has been re-performed or otherwise remedied to *ONTC*'s satisfaction at the *Contractor*'s sole expense).
88. For greater certainty, this section does not apply to statutory holdback or annual holdback release amounts, which are governed exclusively by the *Construction Act* and sections 64 to 71 of this *Agreement*.
89. If because of climatic or other conditions reasonably beyond the control of the *Contractor*, there are items of work that cannot be performed, payment in full for that portion of the *Work* which has been performed as certified by *ONTC Representative* shall not be withheld or delayed by *ONTC* on account thereof, but *ONTC* may withhold, until the remaining portion of the *Work* is finished, only such an amount that the *ONTC Representative* determines is sufficient and reasonable to cover the cost of performing such remaining work.

90. In the event of deficiencies or delays in the *Work* that the *Contractor* fails or refuses to address upon receiving notice of same in accordance with the requirements of the *Contract Documents*, then *ONTC* may, without limiting the remedies available to it under this *Agreement* and subject to *ONTC*'s requirement to issue a *Notice of Non-Payment* under the *Construction Act*, retain and set off as against any payments that would otherwise be owing to the *Contractor*, the reasonable costs of rectifying such deficiencies or delays as determined by *ONTC Representative*.
91. In addition to any rights *ONTC* has pursuant to the *Construction Act* and subject to *ONTC*'s requirement to issue a *Notice of Non-Payment* under the *Construction Act*, if a lien is registered or an action commenced against *ONTC*, *ONTC* shall have the right to withhold from any money otherwise due to the *Contractor*, the full amount claimed in the lien action plus an additional amount sufficient to satisfy all of *ONTC*'s expenses relating to such lien action, including legal and consulting costs. These funds, less expenses incurred, shall be released to the *Contractor* upon the full discharge of all liens and dismissal of all actions against *ONTC*.

CONTRACT ADMINISTRATION

The ONTC Representative

92. *ONTC* shall appoint, and may replace, the *ONTC Representative* for the *Project* by written notice to the *Contractor*. The *ONTC Representative* will have the authority to act on behalf of *ONTC* for all matters arising under the *Contract*.
93. The *ONTC Representative* will visit the *Work Site* at intervals appropriate to the progress of the *Work* to become familiar with the progress and quality of the work and to determine if the *Work* is proceeding in general conformity with the *Contract Documents*.
94. Based on the *ONTC Representative*'s observations and evaluation of the *Contractor*'s applications for payment, within 7 calendar days of receipt of the *Contractor*'s *Proper Invoice*, the *ONTC Representative* will determine the amounts owing to the *Contractor* under the *Contract Documents* and will recommend the applications for payment. If *ONTC* determines that the amount payable to the *Contract* differs from the amount stated in a *Proper Invoice*, *ONTC* shall prepare the applicable *Notice of Non-Payment* for the amount in dispute.
95. If there is a dispute between *ONTC* and the *Contractor* regarding the performance of the *Work* or the interpretation of the *Contract Documents*, the parties shall resolve the Dispute in accordance with the Dispute Resolution provisions in this *Agreement*.
96. The *ONTC Representative* will have the authority to reject any portion of the *Work* (including any *Materials*) which in the *ONTC Representative*'s opinion does not conform to the requirements of the *Contract Documents*. Whenever the *ONTC Representative* considers it necessary or advisable, the *ONTC Representative* will have authority to require inspection or testing of *Work*, whether or not such work is fabricated, installed or completed.

Review and Inspection of the Work

97. *ONTC* shall have access to the *Work* at all times. The *Contractor* shall provide sufficient, safe and proper facilities at all times for the review of the *Work* by *ONTC* and the inspection of the *Work* by authorized agencies. If parts of the *Work* are in preparation at locations other than

the *Work Site*, *ONTC* shall be given access to such *Work* whenever it is in progress upon reasonable notice and at its cost.

98. If any part of the *Work* is designated for tests, inspections or approvals in the *Contract Documents* or by the applicable laws, the *Contractor* shall give *ONTC* reasonable notification of when the part of the *Work* will be ready for review and inspection. The *Contractor* shall arrange for and shall give *ONTC* reasonable notification of the date and time of inspections by other authorities.
99. The *Contractor* shall furnish promptly to *ONTC* copies of any certificates and inspection reports relating to the *Work*.
100. If the *Contractor* covers, or permits to be covered, any part of the *Work* that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the *Contractor* shall, if so directed, uncover such *Work*, have the inspections or tests satisfactorily completed, and make good and cover such *Work* at the *Contractor's* sole expense.
101. *ONTC* may order any portion or portions of the *Work* to be examined to confirm that such *Work* is in accordance with the requirements of the *Contract Documents*. If the portion or portions of the *Work* are not in accordance with the requirements of the *Contract Documents*, the *Contractor* shall correct the *Work* and pay the cost of examination and correction. If such *Work* is in accordance with the requirements of the *Contract Documents*, *ONTC* shall pay the cost of examination.
102. The *Contractor* shall pay the cost of making any test or inspection, including the cost of samples required for such test or inspection, if such test or inspection is required in the *Contract Documents* or by applicable laws to be performed by the *Contractor*.

Defective Work

103. The *Contractor* shall promptly correct *Defective Work* that has been rejected by *ONTC* as failing to conform to the *Contract Documents* whether or not the *Defective Work* has been incorporated in the *Work* and whether or not the *Defect* is the result of poor design, poor workmanship, use of defective *Materials* or damage through carelessness or other act or omission of the *Contractor*.
104. If in the opinion of *ONTC* it is not expedient to correct *Defective Work* or *Work* not performed as provided in the *Contract Documents*, *ONTC* may deduct from the amount otherwise due to the *Contractor* the difference in value between the work as performed and that called for by the *Contract Documents*. If *ONTC* and the *Contractor* do not agree on the difference in value, the matter shall be handled as a dispute in accordance with the Dispute Resolution provisions of this *Agreement*.

EMPLOYEES AND SUBCONTRACTORS

Contractor Parties

105. The *Contractor* shall assign to the *Work* only competent, appropriately qualified, experienced and skilled *Contractor Parties* to perform the *Work* and ensure that the *Work* is performed under the supervision of appropriately qualified and experienced personnel.

106. All parts of the *Work* required by applicable laws to be performed by licensed or registered professional engineers or architects shall be performed by licensed or registered professional engineers and architects. All *Submittals* must, to the extent required by the applicable laws, be reviewed by professional engineers registered to practice professional engineering in the jurisdiction in which the *Work Site* is located and bear such engineer's signature and stamp.
107. The *Contractor* shall be solely liable to pay all salaries, wages, overtime, bonuses, allowances, profit sharing, pensions, and other remuneration of the *Contractor Parties*, including payment of costs related to employee benefits, and for the deduction and remittance of all applicable employment-related taxes, premiums, dues and other burdens to the appropriate governmental authorities. The *Contractor* shall not be entitled to claim, nor shall *ONTC* be obliged to pay or reimburse the *Contractor*, for any monies whatsoever in respect of or in connection with any such payments, save and except where expressly included in the *Contract Price*.
108. The *Contractor* shall ensure the *Contractor Parties*, while working on *ONTC's* property, are aware of and comply with applicable laws, *ONTC's* policies, including its Drug and Alcohol Policy, and the Ontario Northland Operating Manual, including the Current Summary Bulletin, the current Ontario Northland Timetable, C.R.O.R. 2015, Infrastructure Special Instructions, Dangerous Goods and Ontario Northland General Operating Instructions, as applicable.

Subcontracting

109. The *Contractor* shall not enter into a subcontract for any part of the *Work* except as disclosed in any quote or response of the *Contractor* to an *ONTC* procurement document or, in any other case, without the prior written approval of *ONTC*. The *Contractor* shall provide to *ONTC* as part of the *Contractor's* request for approval, a description of that part of the *Work* to be subcontracted and the name and address of the proposed *Subcontractor*, and such other information as *ONTC* may request.
110. The *Contractor* shall not change Subcontractors without the prior written approval of *ONTC*, which approval will not be unreasonably withheld.
111. The *Contractor* shall ensure that any subcontract with the *Subcontractor*:
- (a) enables the *Contractor* to terminate the subcontract for convenience and without cause and without creating any liability to *ONTC* except as provided in section 184;
 - (b) contains a term that ensures that *ONTC* obtains the benefit of any warranties to be provided by the *Subcontractor* to the *Contractor*;
 - (c) incorporates the relevant terms and conditions of the *Contract Documents* into the subcontract, including the requirement for insurance, with the *Contractor* and *ONTC* as a named insured; and
 - (d) requires the *Subcontractor* to perform their *Work* in accordance with the *Contract Documents*.
112. The *Contractor* shall be responsible to *ONTC* for the performance of all Subcontractors' *Work*. The *Contractor* is responsible for the acts, omissions and defaults of the *Subcontractor* and the employees, consultants, representatives and agents of the *Subcontractor* as if they were acts, omissions or defaults of the *Contractor*.

113. Nothing in the *Contract Documents* creates any contractual relationship between *ONTC* and any *Subcontractor*, except to the extent that *Subcontractor* warranties shall be directly enforceable by *ONTC*.

CHANGES IN THE WORK

114. *ONTC* may at any time make any change in, addition to, or deletion from the *Work* or the *Contract Time* by issuing a *Change Order* or *Change Directive*.
115. The *Contractor* shall not perform a change in the *Work* without a *Change Order* authorized by both parties or a *Change Directive*. This requirement is of the essence and it is the express intention of the parties that any claims by the *Contractor* for a change in the *Contract Price* and/or *Contract Time* shall not be approved unless there has been compliance with the provisions of this Part. No course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions to the *Work* and no claims that *ONTC* has been unjustly enriched by an alteration or addition to the *Work*, whether in fact there is any such unjust enrichment or not, should be the basis for a claim for additional payment under this *Agreement* or a claim for any extension of the *Contract Time*.
116. When a change in the work is proposed or requested, the *Contractor* shall present to *ONTC* for its acceptance a description of the change in the work and the *Contractor's* claim for an adjustment in the *Contract Price* and/or *Contract Time*, supported by appropriate documentation, all in a form acceptable to *ONTC*. If approved by *ONTC*, a *Change Order* shall be issued to the *Contractor*, amending the *Contract Price* and/or *Contract Time*, as appropriate.
117. If *ONTC* requires the *Contractor* to proceed with a change prior to *ONTC* and the *Contractor* agreeing on a *Change Order*, *ONTC* shall issue a *Change Directive* to the *Contractor* authorizing the change and the *Contractor* shall proceed with implementation and performance of the change. If at any time after the commencement of the change directed by a *Change Directive*, *ONTC* and the *Contractor* reach agreement with respect to the change, this agreement shall be recorded in a *Change Order* signed by both the *Contractor* and *ONTC* and such *Change Order* shall supersede the *Change Directive*.
118. If *ONTC* and the *Contractor* do not agree on the proposed adjustment in the *Contract Price* and/or the *Contract Time* attributable to the change in the *Work*, or the method of determining it, the adjustment shall be referred to the dispute resolution process for determination.
119. If, subsequent to the time of deadline for submission of responses for the procurement, changes are made to applicable laws, ordinances, rules, regulations or codes of authorities having jurisdiction, which changes were not, or could not have reasonably been known to *ONTC* or the *Contractor*, as applicable, at the time of the deadline for submission of responses to the procurement and which changes did not arise as a result of a public emergency or other *Force Majeure* event, which affect the cost of the *Work*, either party may submit a claim for a change in the *Contract Price*.

Delay

120. If the *Contractor* is delayed in the performance of the *Work* by an act or omission of *ONTC* contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be

extended for such reasonable time as *ONTC* determines. The *Contractor* shall be reimbursed by *ONTC* for the reasonable direct costs directly flowing from the delay but excluding any indirect, consequential or special damages.

121. If the *Contractor* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority on account of a breach, violation, contravention, or a failure to abide by any laws, ordinances, rules, regulations, or codes or the advice, recommendations and instructions of public health officials directly by *ONTC* or *ONTC*'s other contractor(s) and relating to the *Work* or the *Work Site* and providing that such order was not issued as the result of an act or fault of the *Contractor* or any person employed or engaged by the *Contractor* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *ONTC* determines in consultation with the *Contractor*. The *Contractor* shall be reimbursed by *ONTC* for the reasonable direct costs directly flowing from the delay but excluding any indirect, consequential, or special damages.
122. If the performance of the *Work* or the performance of any other obligation(s) of a party to this contract is delayed by *Force Majeure*, then the *Contract Time* shall be extended for such reasonable time as *ONTC* and the *Contractor* shall agree. The extension of time shall not be less than the time lost as a result of the event causing the delay, unless the *Contractor* and *ONTC* agree to a shorter extension. Neither party shall be entitled to payment for its costs incurred by such delays. Upon reaching agreement on the extension of the *Contract Time* attributable to the *Force Majeure* event, *ONTC* and the *Contractor* shall execute a *Change Order* indicating the length of the extension to the *Contract Time* and confirming that there are no costs payable by either party to the other for the extension of *Contract Time*.
123. Notwithstanding the foregoing, *ONTC* may issue a *Change Directive* requiring the *Contractor* to undertake those specific actions identified in the *Change Directive* as the *Contractor* can reasonably and safely initiate to remove or relieve either the *Force Majeure* or its direct or indirect effects on the *Project*, in which case the *Contract Price* will be adjusted in accordance with *Change Directive* provisions of this *Agreement*. If the *Contractor* fails within the time period specified in the *Change Directive* to take such action, then *ONTC* may, at its sole and absolute discretion and after it has given written notice to the *Contractor*, take some or all of such actions to partially or wholly remove or relieve such *Force Majeure* or its direct or indirect effects, and thereafter require the *Contractor* to resume the performance of the *Work*.
124. If the *Contractor* gives notice of a *Force Majeure* and the non-performance of any obligation affected by such *Force Majeure* continues for a period longer than 30 days, *ONTC* may terminate the *Agreement* by notice in writing to the *Contractor*. *ONTC* shall pay the *Contractor* for the *Work* performed to the date of termination.
125. No extension of the *Contract Time* will be approved unless the *Contractor* notifies *ONTC* in writing within 3 Working Days of becoming aware of (or when it ought reasonably to have been aware of) or being notified of any potential delay contemplated in sections 121, 122, or 123. For the written notice to be valid under this section it must include specific details about:
 - (a) the cause of the delay;
 - (b) the likely impact the delay will have on the *Contract Time* and details of the extension of time being requested;

- (c) the likely effect the delay will have on payment; and
- (d) mitigation efforts, if any, undertaken by the *Contractor* or, where no mitigation efforts have been undertaken by the *Contractor*, the reasons why mitigation is either not possible or has not been undertaken by the *Contractor*.

WORK SITE

Access to Work Site

126. *ONTC* shall give the *Contractor* non-exclusive access to the *Work Site* to enable the *Contractor* to carry out its obligations under the *Contract Documents*, subject to the restrictions set out in the *Contract Documents*.

Concealed or Unknown Conditions

127. The *Contractor* represents to *ONTC* that, prior to submitting its proposal in the response to the procurement for the *Project*, it had the opportunity to carefully investigate the *Work Site* and examined all reasonably available information relevant to the risks, contingencies and other circumstances having an effect on the *Work*, the *Construction Schedule*, the *Contract Time* or the *Contract Price*, and applied to that investigation the degree of care and skill described in the *Standard of Care*. The *Contractor* is not entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation undertaken prior to the submission of its response.

128. If *ONTC* or the *Contractor* discover conditions, including mould or *Environmental Contaminants*, at the *Work Site* which are:

- (a) subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
- (b) physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist for such *Work*,

then the party that discovers such conditions shall give notice to the other party of such conditions before they are disturbed and in no event later than 5 Working Days after first discovering the conditions. The *ONTC Representative* will investigate the conditions and determine if the conditions differ materially and, if so, will issue a change order for the changes in the *Contract Time* and/or the *Contract Price* to complete the *Work*.

129. The *Contractor* acknowledges that the Designated Substance Survey, if any, was provided to the *Contractor* by *ONTC* for information purposes only prior to submission of the *Contractor's* proposal. The *Contractor* shall have no remedy against the author of the reports for any damages suffered by it as a result of decisions made or actions taken by the *Contractor* based on the report.
130. The *Contractor* confirms that it has conducted its own investigation of the *Work Site* and satisfied itself of the exact quantities and conditions of the *Environmental Contaminants* at the *Work Site* and included in the *Contract Price* the cost of all the work procedures and practices needed to comply with the applicable federal and provincial laws.

131. The *Contractor* acknowledges that it has received the *Impact Assessment Reports*, if any, for the *Project* that are described in the procurement documents and that it has considered the mitigation measures described in the *Impact Assessment Reports* in the *Contract Price*. If the *Impact Assessment Reports* are not completed prior to the closing of the procurement, any adjustments required to the *Contract Price* based on the Impact Assessments shall be determined through a *Change Order*.

Cleanup

132. The *Contractor* shall maintain the *Work Site* in a safe and tidy condition and free from the accumulation of waste *Materials* and debris, other than that caused by *ONTC* or other contractors.
133. Prior to commencing the *Work*, the *Contractor* shall provide to *ONTC* for approval a waste management plan, and a waste reduction plan if required by *Environmental Laws*, for the waste products, debris and any excess soils generated by the *Work*, which plan shall comply with all *Environmental Laws* and the *Specifications*. The costs of disposing of all waste products and debris, including products and debris containing *Environmental Contaminants*, and excess soil resulting from the *Work* is included in the *Contract Price*.
134. Prior to submitting notice for *Substantial Performance of the Work*, the *Contractor* shall remove waste *Materials* and debris, other than that resulting from the work of *ONTC* or other contractors. The *Contractor* shall remove *Materials*, tools, *Construction Equipment*, and temporary work not required for the performance of the remaining *Work*.
135. Prior to submitting the application for final payment, the *Contractor* shall remove from the *Work Site* the remaining *Materials*, tools, *Construction Equipment*, Temporary *Work* and waste *Materials* and debris, except those resulting from the work of *ONTC* or other contractors.
136. The *Contractor* shall comply with all *Environmental Laws* in disposing of the waste products, debris and excess soil resulting from the *Work*. The *Contractor* shall assume all liability and responsibility for any waste products, debris and excess soil, including any such materials containing *Environmental Contaminants*, which are removed from the Place of the *Work* by the *Contractor* and during the transportation of the waste products, debris and excess soils to the appropriate waste disposal site. The *Contractor* shall submit landfill weigh bills from a waste disposal site as proof that all waste has been disposed of at a certified waste disposal site.

Utilities

137. The *Contractor* shall determine the location of all underground utilities and structures indicated in the *Contract Documents* or that are discoverable by inspection using the degree of care and skills described in the *Standard of Care*.

Damage to the Work Site

138. The *Contractor* shall be responsible for the remediation, at its expense, of any damage, including by *Environmental Contaminants* or mould, to the *Work Site*, the *Work*, *ONTC's* property or third parties' property caused by the *Contractor* in the performance of the *Work*.

Environmental Liability

139. The *Contractor* shall comply with all applicable laws, including *Environmental Laws*, in the provision of the *Work*. If the *Contractor* fails to comply with *Environmental Laws* relating to the performance of the *Work*, the *Contractor* shall be solely responsible for and shall indemnify and hold harmless *ONTC* from, all costs, claims, fines, fees or other expenses arising from such failure to comply.
140. The *Contractor* shall not cause or permit any *Environmental Contaminants* to be located, disposed of, released, discharged or incorporated in, on or under any part of *ONTC*'s land except as required to perform the *Work*. The *Contractor* shall remove from *ONTC*'s land, immediately upon demand, at its cost, any *Environmental Contaminants* introduced thereto by the *Contractor* that are not required to provide the *Work*.
141. The *Contractor* shall have no responsibility for *Environmental Contaminants* existing in *ONTC*'s land prior to the *Contractor* performing the *Work* and entering upon *ONTC*'s land unless the *Contractor* causes the release or migration of the *Environmental Contaminants* while performing the *Work*.
142. As of the date for the commencement of the *Work*, the *Contractor* shall be responsible for taking all reasonable steps to ensure that no person's exposure to the *Environmental Contaminants* or any other toxic or hazardous substances discovered after the commencement of the *Work*, exceeds the time weighted levels prescribed by the *Occupational Health and Safety Act* (Ontario) at the *Work Site* and that no property is damaged or destroyed as the result of exposure to, or the presence of the *Environmental Contaminants* or any other toxic or hazardous substances discovered after the commencement of the *Work*.
143. The *Contractor* shall be responsible for taking all necessary steps, in accordance with applicable law to dispose of, store or otherwise render harmless the *Environmental Contaminants*.
144. Notwithstanding any provision of law to the contrary, any *Environmental Contaminants* placed or permitted on or under *ONTC*'s land by the *Contractor* shall remain the property of the *Contractor*.

Environmental Protection for Construction in and Around Waterbodies

145. The *Contractor* shall comply with the environmental protection requirements and mitigation measures that apply to construction involving work in and around waterbodies and on waterbody banks as set out in OPSS.PROV 182.
146. Pursuant to section 38(4) of the *Fisheries Act*, the *Contractor* has an obligation to notify the Department of Fisheries & Oceans ("DFO") when the *Work* results in the unauthorized death of fish or a harmful alteration, disruption or destruction ("HADD") of fish habitat or where there is imminent danger that the death of fish or HADD of fish habitat could occur. The *Contractor* shall also notify *ONTC* of any such incidents. Failure to notify DFO of such incidents is a federal offence.

147. In accordance with the Fisheries Act, notification must be made without delay to DFO after the *Contractor* ensures the immediate health and safety risks are managed at the *Work Site*. Updates to DFO may be provided at a later time, if required.
148. All spills and sediment releases into a waterbody during the *Work* must be immediately reported by the *Contractor* to *ONTC* who must report the release to the Spills Action Centre (“SAC”) operated by the Ministry of Environment, Conservation and Parks (“MECP”) at 800-288- 6060. If the *ONTC Representative* is not available, the *Contractor* shall report the incident to SAC. The *Contractor* shall take all reasonable measures to mitigate or remedy any adverse effects that result from the occurrence or might reasonably be expected to result from it.

Environmental Spills and Releases

149. All spills and releases of *Environmental Contaminants* in the course of the *Work* must be immediately reported by the *Contractor* to *ONTC* who will report the spill or release to the MOECP SAC. If the *ONTC Representative* is not available, the *Contractor* shall report the incident to the MOECP SAC and the *ONTC* RTC at 800-558-4129 or X 141.
150. The *Contractor* shall take immediate steps to mitigate the damage to the environment and contain the spill or release. If the *Contractor* does not take timely action or, if the *Contractor* is not available, *ONTC* may direct others to remedy the situation.
151. If the spill or release was the fault of the *Contractor*, the remedial work shall be completed at the cost of the *Contractor* and with no additional cost to *ONTC* and *ONTC* shall be entitled to seek reimbursements for all costs associated with the remedial work including the cost of work done by third parties.
152. If the spill or release was not the fault of the *Contractor*, *ONTC* shall pay for the remedial work.

Impact Assessments

153. The *Contractor* shall be responsible for:
- (a) ensuring that any potential impacts and areas of concern identified in the *Contract Documents* or *Impact Assessment Reports*, if provided, are mitigated during the *Work*; and
 - (b) identifying any previously unknown impacts relating to fish, navigable waters, species at risk, vegetation, wildlife, socio-economic and heritage that arise prior to commencing the *Work* and during the *Work*.
154. If the *Contractor* or *ONTC* observes or reasonably suspects the presence of any impacts described above that are not mentioned or accounted for in the *Contract Documents* or *Impact Assessment Reports*, if any, and related mitigation plans,
- (a) the observing party shall immediately report the circumstances to the other party;
 - (b) the *Contractor* shall immediately take reasonable steps, including stopping the *Work* if necessary, to ensure that any potential impacts are mitigated; and
 - (c) if *ONTC* and the *Contractor* do not agree on the existence, significance or mitigation measures for the impact, *ONTC* shall retain and pay for an independent qualified expert

to investigate and determine the issue and the parties will enter into a *Change Order* if the mitigation measures will cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*.

155. If the *Contractor* fails to comply with the requirements in sections 153 and 154, the *Contractor* shall:
- (a) be responsible for all costs incurred by *ONTC* or the *Contractor* to mitigate the damage caused due to the failure;
 - (b) not be entitled to request a *Change Order* relating to the failure to comply; and
 - (c) indemnify *ONTC* and hold it harmless from any claims, damages, costs, fines or other expenses, including reasonable legal fees and expenses, relating to or arising from the *Contractor's* failure to comply with sections 153 and 154.

SUBMITTALS AND INTELLECTUAL PROPERTY

Submittals

156. All *Submittals* shall be the sole and absolute property of *ONTC* as and when created. The *Contractor* shall provide the *Submittals* in the form required by *ONTC*.

Contractor's Background IP

157. *ONTC* acknowledges that the *Contractor* remains the owner of all *Intellectual Property Rights* owned by or licensed to the *Contractor* prior to and after the date of this *Agreement*, other than any *Intellectual Property Rights* arising from the *Work* ("**Contractor Background IP**").
158. The *Contractor* grants to *ONTC* a fully paid, non-exclusive, worldwide, transferable (with the right to assign and sub-license), royalty free, irrevocable, perpetual licence of the *Contractor's* Background IP to use, make, have made, import and export any of the *Contractor's* Background IP to the extent necessary for *ONTC* to fully enjoy the *Submittals* for the *Project*, including for the purposes of repairing, maintaining or servicing (including the supply of replacement parts), or alterations, additions or expansions to the *Work* or the *Work Site*.
159. *ONTC* may sub-licence the *Contractor's* Background IP to any person for the purposes of providing services to, or performing work for, *ONTC*.

Work IP

160. All *Intellectual Property Rights* (including the *Submittals*) arising from and relating to the *Work* (the "**Work IP**"), from its creation, vests in *ONTC* and is the sole and absolute property of *ONTC* as and when created. The *Contractor* assigns all of its *Intellectual Property Rights* and waives all moral rights, and shall require Subcontractors to assign their *Intellectual Property Rights* and waive their moral rights, in and to the *Work IP*, if any, to *ONTC*.
161. The *Contractor* shall maintain the *Work IP* in confidence unless otherwise agreed in writing by *ONTC*.

CONFIDENTIAL INFORMATION

Non-Disclosure and Restricted Use

162. Except as otherwise permitted in the *Contract Documents*, the *Contractor* shall keep in confidence, any *Confidential Information* that it now has or that may come into its possession in the course of the *Agreement*, including information marked “Confidential”, and shall not, without *ONTC*’s prior written consent, disclose the *Confidential Information* in any manner whatsoever, in whole or in part, and shall not use the *Confidential Information* for any purpose other than in connection with the *Project*. The *Contractor* may reveal or permit access to the *Confidential Information* only to *Contractor Parties* who need to know the *Confidential Information*, who must be advised of the confidential nature of the *Confidential Information*, who are directed by the *Contractor* to hold the *Confidential Information* in confidence and who agree to be bound by and to act in accordance with the terms and conditions of the *Agreement*. The *Contractor* shall take all necessary precautions or measures to prevent improper access to, or use or disclosure of, the *Confidential Information* by such parties and agrees to be jointly and severally responsible for any breach of the *Agreement* by any *Contractor Parties*.
163. The *Contractor* acknowledges that *ONTC* is subject to the provisions of the *Freedom of Information and Protection of Privacy Act* as amended from time to time.

CONFLICT OF INTEREST

164. The *Contractor*, all of the Subcontractors, and any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a *Conflict of Interest* (actually or potentially, in the sole opinion of *ONTC*) with the provision of the *Work* pursuant to the *Contract*.
165. The *Contractor* shall disclose to *ONTC*, in writing, without delay, any actual or potential situation that may be reasonably interpreted as either a *Conflict of Interest* or a potential *Conflict of Interest*, including the retention of any *Subcontractor* or Supplier that is directly or indirectly affiliated with or related to the *Contractor*.

AUDITS

166. *ONTC* has the right to audit all financial and related records associated with the terms of the *Agreement* and the *Contract Documents*, including *Submittals*, timesheets, reimbursable out of pocket expenses, materials, goods and *Construction Equipment* claimed by the *Contractor*.
167. The *Contractor* shall at all times during the term of the *Agreement* and for a period of 6 years after the expiration or termination of the *Agreement*, keep and maintain records of the *Work* performed pursuant to the *Agreement*. The *Contractor* shall at its own expense make such records available for inspection and audit by *ONTC* at all reasonable times and without prior notice.

TITLE, RISK AND INSURANCE

Title and Risk

168. Title to all *Work*, including the *Submittals* and other items supplied by the *Contractor* or its Subcontractors, completed or in the course of completion and all *Materials* for this *Project*, except *Construction Equipment* shall become the property of *ONTC* upon the earlier of payment by *ONTC* on account for such item or delivery to the *Work Site*. Notwithstanding the foregoing, until final completion of the *Work* and *ONTC* taking possession and control of the *Work*, the *Contractor* shall retain all risk with respect to and be responsible for: (a) all items supplied by *ONTC*, the *Contractor* or its Subcontractors that are to be incorporated into the *Work* or used in performing the *Work*; and (b) any *Work* completed or in progress.

Insurance

169. The *Contractor* shall obtain, and for as long as this agreement is in effect, maintain, pay for and, upon request by *ONTC* from time to time, provide evidence, satisfactory to *ONTC*, of the following insurance coverages, all taken out with insurers licensed to transact insurance business in Ontario and satisfactory to *ONTC*:

(a) Commercial General Liability Insurance:

- (i) with no limitations on or exclusions from coverage arising from working on or around railway property;
- (ii) including “Ontario Northland Transportation Commission” as an additional insured;
- (iii) to a limit of not less than five million dollars (\$5,000,000) inclusive per occurrence;
- (iv) including bodily injury, personal injury, death, damage to property, including loss of use thereof and product liability;
- (v) without any restriction related to working on or near railway property;
- (vi) including coverage for environmental liability;
- (vii) in a form satisfactory to *ONTC*; and
- (viii) endorsed to endeavour to provide *ONTC* with not less than thirty (30) days’ notice, in advance, of any cancellation, change or amendment restricting coverage.

(b) Automobile Liability Insurance:

- (i) in respect of licensed vehicles,
- (ii) to a limit of not less than two million dollars (\$2,000,000) inclusive per occurrence,
- (iii) including bodily injury, death and damage to property,
- (iv) endorsed to endeavour to provide *ONTC* with not less than thirty (30) days’ notice, in advance, of any cancellation, change or amendment restricting coverage, and
- (v) in the following forms: standard owner’s form automobile policy providing third party liability and accident benefits insurance and covering licensed vehicles owned or operated by or on behalf of the *Contractor*, and standard non-owned automobile form policy including standard contractual liability endorsement.

(c) Pollution Liability Insurance:

- (i) with coverage for damages to *ONTC*’s property and adjacent land and watercourse due to a contravention of *Environmental Laws* or the *Fisheries Act*;
- (ii) to a limit of not less than five million dollars (\$5,000,000) inclusive per occurrence; and

- (iii) endorsed to endeavour to provide *ONTC* with not less than thirty (30) days' notice, in advance, of any cancellation, change or amendment restricting coverage.
- 170. If any of the *Contractor's* insurance policies expire during the term of this agreement, the *Contractor* shall renew or replace them and, within sixty (60) days after such expiry, provide to *ONTC* certificates of the renewed/replaced insurance.
- 171. The *Contractor* shall ensure that all the insurance is primary and does not call into contribution any other insurance coverage available to *ONTC*. The *Contractor* shall not do or omit to do anything which would impair or invalidate the insurance policies.
- 172. If the *Contractor* fails to take out or maintain the above-described insurance, *ONTC* may, in its discretion, terminate this agreement immediately or take over and maintain such insurance, whereupon the *Contractor* shall immediately pay to *ONTC* any premium paid by *ONTC* for such insurance.

Workers' Compensation

- 173. The *Contractor* shall ensure all its and its Subcontractors' employees, consultants, representatives and agents and visitors attending at the *Work Site*, or any of them who perform *Work* but do not attend at the *Work Site*, are registered for workers' compensation coverage.
- 174. The *Contractor* shall provide to *ONTC* a current certificate under the *WSIA* confirming that the *Contractor* has complied with its obligations under the *WSIA* and whenever a certificate has expired and been replaced with a new, current, certificate, the new certificate shall be provided to *ONTC*.

WARRANTY

- 175. The *Contractor* warrants the work free from *Defect* for a warranty period of two years from the date of *Substantial Performance of the Work* or, if *Substantial Performance of the Work* was not certified, two years from the date of final completion of the *Work* (the "**Warranty Period**").
- 176. *ONTC* shall promptly give the *Contractor* notice of observed Defects which arise during the Warranty Period. Following the receipt of the notice, the *Contractor* shall remedy, at the *Contractor's* expense, the Defects in the *Work* within 10 Working Days of receipt of the notice, or such other period directed by *ONTC*, acting reasonably (the "**Remediation Period**"). The *Contractor* shall correct or pay for damage resulting from such remediation.
- 177. If the *Contractor* fails to remedy a *Defect* within the Remediation Period, *ONTC* may upon written notice to the *Contractor*, in its sole discretion, either proceed to remedy the *Defect* itself or contract a third party to remedy the *Defect* (including redesign costs, reconstruction costs and costs related to damages arising from such *Defect*). *ONTC* shall be entitled to recover from the *Contractor* the costs thereof or may deduct the money from any monies due or that become due to the *Contractor*, including any Warranty Holdback.
- 178. The *Contractor* further warrants any and all remedial work it performs for a further period of two years from completion of the remedial work.

179. *ONTC* may hold back, on each application for payment, advance payment or progress draw, 2.5% of the total amount payable under each such application for payment, advance payment or progress draw as security for the *Contractor's* performance of its warranty obligations (the “**Warranty Holdback**”). In the event the *Contractor* fails to correct a *Defect* during the warranty period within the required time and/or fails to pay for the redesign, reconstruction and other costs related to damages arising from a *Defect*, *ONTC* shall have the right to use the Warranty Holdback money, or such part of it still being held by *ONTC*, to pay for the costs of remedying the *Defect* and any redesign, reconstruction or other costs relating to the *Defect*. If the costs are greater than the amount of the Warranty Holdback, the *Contractor* shall pay the additional costs upon receipt of an invoice from *ONTC*. The *Contractor* shall have the right to invoice *ONTC* for the balance of the Warranty Holdback at the end of the warranty period or extended warranty period.
180. *Acceptance* of the *Work* by *ONTC* shall not relieve the *Contractor* from any responsibility for Defects.
181. The *Contractor* shall assign to *ONTC* all warranties, guarantees or other obligations for *Work*, services or *Materials* performed or supplied by any *Subcontractor*, supplier or other person in connection with the *Work* and such assignment shall be with the consent of the assigning party where required by law or by the terms of that party's agreement. Such assignment shall be in addition to, and shall in no way limit, the warranty rights of *ONTC* under the *Contract Documents*.

SUSPENSION AND TERMINATION

Suspension

182. *ONTC* may suspend the *Work* at any time and for any reason upon providing notice to the *Contractor* and such notice shall have immediate effect, unless stated otherwise. At the end of the suspension period, *ONTC* and the *Contractor* may negotiate in good faith any adjustments to the *Contract Price*, the *Contract Time* or the *Construction Schedule* to account for the time in which the *Work* was suspended. The *Contractor* shall not be entitled to any adjustment where the suspension was a result of any act or omission of the *Contractor*.

Termination for Convenience

183. *ONTC* may terminate this *Contract* at any time for any or no reason. Such termination shall be effective upon the date specified in *ONTC's* Notice in writing advising of the termination of the *Contract* pursuant to this section. In such event, *ONTC* shall pay for the actual and verifiable *Work* performed up to the effective date of termination, including demobilization costs, and for such additional costs, if any, directly flowing from and which are a reasonable consequence of the termination, but excluding any consequential, indirect or special damages, termination fees, penalties or levies, and any claims for loss of profit, lost deposits, or lost opportunity. *ONTC* shall not be liable to the *Contractor* for any other claims, costs or damages whatsoever arising from such termination of the *Contract*. Within 3 Working Days of receiving the Notice of termination by *ONTC*, the *Contractor* shall deliver a Notice in writing to each of its *Subcontractors* confirming the effective date of the termination.

Contractor Default

184. The *Contractor* is in default under the *Contract Documents* if any of the following occurs:

- (a) the *Contractor* becomes insolvent or makes a general assignment for the benefit of its creditors, enters into a plan of arrangement for the benefit of its creditors or otherwise acknowledges its insolvency or if a bankruptcy or receiving order is filed or made against it;
- (b) the *Contractor* commits a breach of the health and safety plan applicable to the *Work Site*;
- (c) the *Contractor* abandons the *Work* for a period which exceeds 7 days from receipt by the *Contractor* of a written request from *ONTC* to return to the *Work Site*;
- (d) the *Contractor* assigns the *Contract Documents* or any right or obligation under the *Contract Documents* or subcontracts the *Work* without the prior written consent of *ONTC*; or
- (e) the *Contractor* commits a breach of any of the terms of the *Contract Documents* (other than a breach already referred to in this section), and upon receiving notice of such breach from *ONTC*, the *Contractor* fails to remedy such breach within 7 days after receipt of notice from *ONTC* of the breach.

If the *Contractor* is in default, *ONTC* shall be entitled to immediately terminate this *Agreement* upon providing notice to the *Contractor* and/or to exercise any one of its rights in section 185.

Remedies of ONTC for Default

185. Upon the occurrence of a *Contractor* default, provided *ONTC* has given the *Contractor* notice, *ONTC* may, without prejudice to any of its other rights and remedies, do any or all of the following in its sole discretion:

- (a) terminate the *Agreement* in its entirety by written notice having immediate effect and within 5 Working Days publish a notice of termination (Form 8) in accordance with the *Construction Act*;
- (b) take any action *ONTC* considers appropriate to rectify or attempt to rectify the *Contractor's* default but shall not be obligated to do so and all costs and expenses incurred by *ONTC* in rectifying or attempting to rectify the *Contractor's* default, together with interest thereon, shall be payable by the *Contractor* on demand. Such action by *ONTC* shall not be deemed a termination;
- (c) take possession of all goods and the *Contractor's Construction Equipment, Materials* and plant and shall have the right to use the same to complete, or arrange to have completed, the *Work*;
- (d) withhold all further payments to the *Contractor*, subject to *ONTC's* rights of set off, and use any amounts withheld for any purpose to advance the *Project*, and upon final completion, recover from the *Contractor* any liability incurred or suffered by *ONTC* as a result of, or arising out of, or in any way in connection with, the *Contractor* default;
- (e) make a claim against any applicable contract security required to be provided by the *Contractor*; and
- (f) recover all legal costs and expenses on a full indemnity basis that were incurred by *ONTC* associated with the termination.

ONTC Default

186. *ONTC* shall be in default under the *Contract Documents* if any of the following occur:

- (a) *ONTC* becomes insolvent or makes a general assignment for the benefit of its creditors, enters into a plan of arrangement for the benefit of its creditors or otherwise acknowledges its insolvency or if a bankruptcy or receiving order is filed or made against it upon which time the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, terminate the *Agreement* by giving *ONTC* or receiver or trustee in bankruptcy written notice to that effect and within 5 Working Days publish a notice of termination (Form 8) in accordance with the *Construction Act*; or
- (b) *ONTC* fails to make an undisputed payment that is due and payable within the payment period in accordance with the *Contract Documents* and upon receiving notice of such breach from the *Contractor*, *ONTC* failing to remedy such breach within 20 Working Days of notice of such breach, in which case, the *Contractor*, shall be entitled to immediately terminate this *Agreement* upon providing written notice to *ONTC* and within 5 Working Days publish a notice of termination (Form 8) in accordance with the *Construction Act*.

On Termination

187. If the *Agreement* is terminated under sections 183 or 186, *ONTC* shall pay the *Contractor* all undisputed applications for payment due to the *Contractor* for *Work* performed in the relevant period, together with reasonable and auditable demobilization costs and other direct costs the *Contractor* reasonably incurs and provides satisfactory evidence for in terminating the *Agreement*, including reasonable cancellation fees payable to its Subcontractors. The amount to be paid under this section is the *Contractor's* sole claim for payment for termination.

188. If the *Agreement*, in whole or in part, is terminated:

- (a) The *Contractor* shall immediately deliver to *ONTC* all the *Submittals* and all other documents and work product arising in connection with the *Work*, completed or in progress;
- (b) the *Contractor* shall effect an orderly transition to any contractor replacing the *Contractor* for the completion of the *Work*;
- (c) as directed by the *ONTC Representative*, subject to section 185(c), remove from the *Work Site* any property of or in the possession or control of the *Contractor* prior to the effective date of termination other than property belonging to *ONTC* or to be incorporated in the *Work*. *ONTC* may, without any liability whatsoever and at the *Contractor's* sole expense, remove or dispose of any such property left at the *Work Site* after such date; and
- (d) all terms and obligations set forth in the *Agreement* that by their terms or nature continue to apply to the *Contractor* following termination or expiration of the *Agreement* shall apply.

INDEMNITY AND LIABILITY

General Indemnities

189. The *Contractor* shall indemnify *ONTC* and its officers, directors, employees, consultants, contractors and agents (collectively the “**ONTC Indemnitees**”) and save them harmless from and against all losses, claims, liabilities, damages and costs (“**Loss**”) which may arise by

reason of the exercise of the responsibilities and obligations contained herein by the *Contractor* or as a result of any breach of the terms of this *Agreement* by the *Contractor* or by any act or omission of the *Contractor* or *Contractor Parties* or those for whom the *Contractor* is at law responsible, including all legal costs and expenses reasonably incurred by *ONTC* in connection with the defence or settlement of any such Loss, unless such Loss is caused by the negligent act or omission of *ONTC* or those for whom it is in law responsible. For the purpose of enforcement of this indemnity, *ONTC* is acting as agent and trustee for the *ONTC* Indemnitees.

190. The *Contractor* shall indemnify *ONTC* and *ONTC* Indemnitees and save them harmless from and against all Loss incurred by *ONTC* arising from:
- (a) any decision or interpretation by any court or governmental authority that: (i) any of the *Contractor Parties* is an employee of *ONTC*; or (ii) *ONTC* is liable to pay statutory contributions or deductions in respect of any of the *Contractor Parties* under any Laws, including employment insurance, provincial health insurance, income tax or other employment matters;
 - (b) any health, medical disability or similar claims which the *Contractor* or *Contractor Parties* may have during or after the term of this *Agreement*;
 - (c) a claim by any third party against *ONTC* alleging that the *Work* IP and its use by *ONTC*, infringes any *Intellectual Property Rights*;
 - (d) safety infractions committed by the *Contractor* under the *Occupational Health and Safety Act*; and
 - (e) exposure to, or the presence of, toxic or hazardous substances or materials which were either brought on to the *Work Site* by the *Contractor* or a *Contractor Party* and mishandled or handled negligently or improperly.

Exception

191. The *Contractor* shall not be liable for any Loss arising from errors or omissions in any of the information which is supplied to the *Contractor* by *ONTC*.

Bodily Injury and Property Damage

192. The *Contractor* shall make full and complete compensation for any bodily injury or death to any person and for any damage caused to *ONTC*'s physical property by and act or omission of the *Contractor* or a *Contractor Party* or those for whom it is at law responsible.

Waiver

193. The *Contractor* waives against *ONTC* and *ONTC* Indemnitees any claims of any kind whether directly or indirectly arising out of or connected with the existence of this *Agreement* or for any injury to or death of any person or for any loss of or damage to any property belonging to the *Contractor* or *Contractor Parties* and for any loss or damage of the *Contractor* unless caused by the negligent act or omission of *ONTC* or *ONTC* Indemnitees.

Limitation of Liability

194. Notwithstanding any other provision of this *Agreement*,

- (a) *ONTC* shall not be responsible for indirect, consequential, special, incidental or contingent damages of any nature whatsoever, including loss or revenue or profit or damages resulting from interruption of service or transmission. This limitation shall apply regardless of the form of action, damage, claim, liability, cost, expense or loss, whether in contract (including fundamental breach), statute, tort (including negligence), or otherwise, and regardless of whether *ONTC* has been advised of the possibility of such damages; and
- (b) any express or implied reference to *ONTC* providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of *ONTC*, whether at the time of execution of this *Agreement* or at any time during the Term or Renewal Term, shall be void and of no legal effect in accordance with s.28 of the *Financial Administration Act*, R.S.O. 1990, c. F.12.

Survival

195. The provisions in this part – Indemnity and Liability shall survive the expiry or termination of this *Agreement*.

DISPUTE RESOLUTION

196. Save and except where the *Contractor* has given an undertaking, in accordance with the *Construction Act*, to refer a dispute to *Adjudication*, prior to delivering a notice of *Adjudication* in a form prescribed by the *Construction Act*, the parties agree to first address all unresolved claims, disputes or controversies of any kind arising out of or in connection with this *Agreement* or the provision of the services (hereafter referred to as the “**Dispute**”) in a tiered approach as follows:
- (a) A Dispute shall be referred to *ONTC*’s project manager for the *Project* and a representative of the *Contractor* of the equivalent seniority or position for resolution within a period not to exceed thirty (30) days.
 - (b) If unresolved, after following the process described in (a), the Dispute shall be referred to the *ONTC* Director or Vice President who is responsible for the *Project* and an employee of the *Contractor* of the equivalent seniority or position for resolution within a period not to exceed thirty (30) days.
 - (c) If unresolved after following the process described in (b), and only at the election of *ONTC*, the Dispute shall be referred to the CEO of *ONTC* and the most senior executive employee of the *Contractor* for resolution within a period not to exceed thirty (30) days. If *ONTC* does not elect, at its sole option, to proceed under this section, the Dispute may proceed under either step described in sections 197, 199 or 200.
197. If the Dispute remains unresolved despite the parties’ attempting to resolve it following the process in section 196(a) to (c), a party may elect to proceed with the Dispute by way of an *Adjudication*. If a party elects to proceed by way of an *Adjudication*, the other party shall not be bound to proceed by way of an *Adjudication*, save and except where the parties are obliged under the *Construction Act*. Where either party has delivered a notice of *Adjudication* in a form prescribed by the *Construction Act*, the procedures and rules set out under the *Construction Act* and the regulations thereto shall govern the *Adjudication*. The parties may, by mutual written agreement, retain a private adjudicator in lieu of an adjudicator appointed through the registry system under the *Construction Act*, provided that any such private

adjudicator holds the qualifications required under the *Construction Act* and its regulations and is approved by the Ontario Dispute *Adjudication* for Construction Contracts (ODACC).

198. Other than where the *Contractor* is obliged to commence an *Adjudication* pursuant to an undertaking under the *Construction Act*, neither *ONTC* nor the *Contractor* shall commence an *Adjudication* during the *Restricted Period (Adjudication)*.
199. If the Dispute remains unresolved despite the parties attempting to resolve it following the process in section 196(a) to (c) or following a determination of the Dispute pursuant to an *Adjudication*, a party may elect to proceed with the Dispute under a mediation model to be agreed upon by the parties. A party shall elect to proceed to mediation no later than: (i) ten (10) days following the expiry of the timeline set out in section 196(b) or (c), whichever is the later, or (ii) ten (10) days following the rendering of the adjudicator's determination following an *Adjudication*. Where a party elects to proceed with mediation within the timelines prescribed in this section, the other party shall be bound to proceed to mediation. No later than ten (10) days after a party makes an election to proceed to mediation, or such longer period as may be mutually agreed between the parties, the parties shall enter into a mediation agreement which shall set out the mediation process and designate the mediator.
200. If neither party elects to proceed to mediation within the timelines outlined in section 199, or the parties are unable to enter into a mediation agreement within the time limits, the matter shall proceed and be finally resolved by binding arbitration by a single arbitrator in accordance with the *Arbitration Act*, 1991, S.O. 1991, c. 17 (hereafter referred to as the "Arbitration Act") as amended by an arbitration agreement to be executed by the parties and the arbitrator. The parties shall mutually agree on the selection of the arbitrator, failing which the arbitrator shall be appointed in accordance with the *Arbitration Act*. The arbitration proceedings shall take place in Toronto, Ontario, Canada. The language of the arbitration shall be English. The parties agree that any arbitration award, including with respect to costs, shall be binding on the parties, may be enforced in any court of competent jurisdiction and shall be final and no appeals or judicial reviews shall be permitted as of right or by application to any court of competent jurisdiction, except on errors of law. The parties shall each bear their own costs and their proportionate share of any joint costs of arbitration, subject to any award of an arbitrator.
201. The timelines in this part – Dispute Resolution may be amended by mutual agreement of the parties.

HEALTH AND SAFETY

202. The *Contractor* shall be solely responsible for construction safety at the *Work Site* and for compliance with the rules, regulations and practices required by the applicable laws and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the *Work*.
203. Without limiting the generality of the foregoing, the *Contractor* shall comply with the occupational health and safety laws and regulations and any orders, recommendations and restrictions made by the federal, provincial or municipal governments and the advice, recommendations and instructions of public health officials as they apply to the *Work Site*. If the *Work Site* is located on *ONTC*'s premises, the *Contractor* shall comply with all *ONTC*'s policies and directions to ensure the health and safety of *ONTC*'s employees and contractors as well as the *Contractor Parties*. The *Contractor* shall indemnify and hold harmless *ONTC*

for any fines, penalties or other costs imposed or assessed on or incurred by *ONTC* arising from the *Contractor's* failure to comply with the applicable health and safety laws, any orders, recommendations and restrictions of the federal, provincial or municipal governments or the advice, recommendations and instructions of public health officials.

204. Prior to the commencement of the *Work*, the *Contractor* shall submit to *ONTC* documentation of the *Contractor's* health and safety policy and programs and a copy of the Notice of *Project* filed with the Ministry of Labour naming itself as "Constructor" under the *Ontario Occupational Health and Safety Act*.
205. The *Contractor* shall ensure that it and its employees and Subcontractors are aware of and, while being on *ONTC's* property, comply with *ONTC's* policies, including its Drug and Alcohol Policy, and with the Ontario Northland Operating Manual, including the Current Summary Bulletin, current Ontario Northland Time Table, C.R.O.R. 2015, Infrastructure Special Instructions, Dangerous Goods and Ontario Northland General Operating Instructions, as applicable.

PRIOR SERVICES OR WORK

206. Any aspect of the *Work* provided for herein which has been performed by the *Contractor* prior to the execution of this *Agreement* and any payment made by *ONTC* for such work shall be deemed to be subject to and performed and paid under this *Agreement*.

GENERAL

207. **No Waiver:** No waiver by a party of any breach by the other party of any of its covenants, agreements or obligations in this *Agreement* shall be a waiver of any subsequent breach or the breach of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be a waiver by the party of its rights and remedies with respect to such breach or any subsequent breach. The subsequent acceptance of any remittances from the *Contractor* by *ONTC* shall not be deemed a waiver of any preceding breach by the *Contractor* regardless of *ONTC's* knowledge of such preceding breach at the time of the acceptance of such compensation.
208. **Relationship:** Nothing contained in this *Agreement* shall be deemed or construed by the parties nor by any third party as creating the relationship of principal and agent, landlord and tenant, or of partnership or of joint venture between the parties.
209. **Governing Law:** This *Agreement* shall be governed by and constituted in accordance with the laws in force in the Province of Ontario without regard to conflict of laws principles. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario for any legal proceedings arising out of this *Agreement* or the performance of the obligations hereunder.
210. **Severability:** Should any section or part or parts of any section in this *Agreement* be illegal or unenforceable, it or they shall be considered separate and severable from the *Agreement* and the remaining provisions of this *Agreement* shall remain in full force and effect and shall be binding upon *ONTC* and the Service Provider as though such section or part or parts thereof had never been included in this *Agreement*.

211. **Entire Agreement:** This *Agreement* constitutes the entire agreement and understanding of the parties and supersedes any and all prior understandings, discussions, negotiations, commitments, representations, warranties, and agreements, written or oral, express or implied between them with respect to the subject of this *Agreement*. No amendment, variation or change to this *Agreement* shall be binding unless the same shall be in writing and signed by the parties.
212. **Survival:** In addition to those provisions which are expressly stated to survive the termination or expiration of this *Agreement*, the provisions of this *Agreement* that are by their nature intended to survive termination or expiration of this *Agreement* shall continue in full force and effect subsequent to and notwithstanding termination or expiration until or unless they are satisfied.
213. **Counterparts and Electronic Delivery:** This *Agreement* may be executed and delivered by facsimile or electronic transmission and the parties may rely upon all such facsimile or electronic signatures as though such facsimile or electronic signatures were original signatures. This *Agreement* may be executed in any number of counterparts and all such counterparts shall, for all purposes, constitute one agreement binding on the parties.
214. **Notice:** Any notice, consent, acceptance or approval required or permitted to be given in connection with the *Contract Documents* shall be in writing and shall be sufficiently given if delivered to the recipient party if sent to the address of the party set out below by personal delivery, courier or email.

To ONTC:

Ontario Northland Transportation Commission
555 Oak Street East
North Bay, ON P1B 8L3
Attention: Chad Chenette
E: chad.chenette@ontarionorthland.ca with copy to legal@ontarionorthland.ca
T: 705-472-4500 Ext. 168

To Contractor:

[Contractor]
[Address]
Attention:
E:
T:

Any notice delivered or transmitted to a party shall be deemed to have been given and received on the day it is delivered or transmitted, provided that if it is delivered or transmitted on a day that is not a *Working Day*, then the notice shall be deemed to have been given and received on the next *Working Day*. Any party may, from time to time, change its contact information by giving notice to the other party in accordance with this section.

215. **Assignment and Enurement:** The *Contractor* may not assign this *Agreement* (or the proceeds thereof) or subcontract its obligations under this *Agreement* without the express consent of *ONTC*, which consent may be withheld or conditioned in *ONTC*'s sole and

absolute discretion. This *Agreement* enures to the benefit of and it is binding upon the parties and their respective successors and permitted assigns.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this *Agreement*.

**ONTARIO NORTHLAND
TRANSPORTATION COMMISSION**

Per: _____
Name: XXX
Title: XXX

Date: _____

I have authority to bind the Corporation.

XXX

Per: _____
Name:
Title:

Date: _____

I have authority to bind the Corporation.

Schedule A – Scope of Work

Schedule B – Contractor's Submission

Schedule C – Project-Specific Requirements for a Proper Invoice

To satisfy the requirements for a *Proper Invoice*, the following criteria, as may be applicable in each case, must be included with the *Contractor's* application for payment:

- (a) Be in the form of a written bill, invoice, application for payment, or request for payment;
- (b) Be in writing;
- (c) Contain the *Contractor's* name, telephone number and mailing address and contact information of the *Contractor's* project manager;
- (d) Contain the title of the *Project* and *ONTC's* contract number or purchase order number under which the work was performed and the related request for qualification, tender, or request for proposal number, as applicable;
- (e) Contain the date the written bill, invoice, application for payment, or request for payment is being issued by the *Contractor*;
- (f) Identify the period of time in which the labour and/or materials were supplied to *ONTC*;
- (g) Reference to the provisions of the *Agreement* under which payment is being sought (e.g. progress payment / milestone, holdback, final payment, etc.);
- (h) A description, including quantities where appropriate, of the services or materials, or a portion thereof, that were supplied and form the basis of the *Contractor's* request for payment;
- (i) The amount the *Contractor* is requesting to be paid by *ONTC*, set out in a statement based on the schedule of values approved under section 48 of the *Agreement*, separating out any statutory or other holdbacks, set-offs and HST;
- (j) With each application for payment after the first, a Statutory Declaration, in the form prescribed by *ONTC*, stating that all accounts for labour, subcontracts, *Materials*, *Construction Equipment* and other indebtedness which may have been incurred by the *Contractor* and for which *ONTC* might in any way be held responsible have been paid in full up to the previous application for payment, except for amounts properly retained as a holdback or as an identified amount in dispute;
- (k) A current Workplace Safety Insurance Board clearance certificate;
- (l) An updated *Construction Schedule* in the format(s) required under sections 32 and 33 of the *Agreement*;
- (m) If requested by *ONTC*, a current and valid certificate(s) of insurance for the insurance required pursuant to the *Agreement*;
- (n) The following statement: "Provided this *Proper Invoice* complies with the requirements of the *Agreement* and provided no *Notice of Non-Payment* is issued by *ONTC*, payment is due within 28 days from the date this *Proper Invoice* is received by *ONTC*.";
- (o) The name, title, telephone number and mailing address of the person at the place of business of the *Contractor* to whom payment is to be directed;
- (p) In the case of the *Contractor's* application for final payment;
 - (i) Sufficient evidence that the *Contractor* has delivered all warranties to *ONTC*;

- (ii) Sufficient evidence that the *Work Site* has been left in a clean and tidy condition, including evidence that any remaining *Materials*, tools, *Construction Equipment*, temporary work, and waste products and debris have been removed from the *Work Site*;
- (iii) An executed, original, Full and Final Release of all claims that may arise as a result of the *Work*, which Full and Final Release executed by the *Contractor* shall be in a form approved by *ONTC*;
- (q) Information identifying the authority, whether in the *Contract Documents* or otherwise, under which the services or materials were supplied;
- (r) Any other information that is prescribed in Schedule A or identified by *ONTC* as required;
- (s) The amount invoiced to date;
- (t) The percentage of the *Contract Price* invoiced; and
- (u) The individual value of Change Orders approved during the invoice period and the cumulative value of Change Orders for the *Project*.

APPENDIX B – RFP PARTICULARS

PROJECT BACKGROUND

Ontario Northland Transportation Commission (“ONTC”) is proposing the construction of a new access Driveway located at approximately 47°46'16.8"N, 79°48'14.7"W in Evanutrel Township, Ontario.

The Driveway is being constructed to provide alternate road access and facilitate the future elimination of a nearby at-grade crossing. The removal of the crossing will improve overall railway safety by reducing the number of public interfaces with railway operations. In addition, the crossing removal will support more efficient railway operations by allowing higher train speeds through the area and reducing operational restrictions associated with the existing crossing.

The site is located within a rural environment (active farm) and contains existing drainage infrastructure, utilities, vegetation, and railway-related features that must be protected throughout construction.

- **Anticipated Start Date** – Monday, November 09, 2026
- **Anticipated End date** – Friday, December 11, 2026

PROJECT PURPOSE

1. Construct a safe and durable Driveway to maintain property access following crossing closure.
2. Improve public and railway safety by eliminating a redundant at-grade crossing.
3. Support improved railway operating efficiency and future train speed increases.
4. Improve drainage and Driveway performance within the project limits.
5. Minimize future maintenance requirements for both the Driveway and railway corridor.

SCOPE OF WORK

The Contractor shall supply all labour, supervision, materials, equipment, permits, testing, and incidentals necessary to complete the works, including but not limited to:

1. Mobilization and demobilization.
2. Site preparation, clearing, and grubbing as required.
3. Removal and disposal of the existing driveway and existing culvert.
4. Excavation and grading necessary to achieve design grades.
5. Supply and installation of culverts in accordance with the Contract Documents.
6. Construction of Driveway embankment and road structure.

7. Supply and installation of geotextile where shown on the drawings.
8. Supply, placement, and compaction of granular materials.
9. Construction and shaping of roadside ditches and drainage features.
10. Fine grading and restoration of all disturbed areas.
11. Erosion and sediment control measures throughout construction.
12. Quality control testing and submission of all required test results and material certifications.
13. Traffic control and maintenance of access during construction where required.
14. Cleanup and disposal of excess materials and debris.
15. Submission of as-built information upon completion of the work.

CONTRACTOR RESPONSIBILITIES

1. Verify all dimensions, quantities, elevations, and site conditions before commencing work.
2. Obtain and maintain all permits, approvals, and permissions necessary to complete the work.
3. Complete utility locates before undertaking any excavation activities.
4. Protect all existing utilities, structures, drainage features, vegetation, and adjacent properties.
5. Repair, at no additional cost to ONTC, any damage resulting from construction operations.
6. Provide competent supervision throughout the duration of the project.\
7. Coordinate all work activities with ONTC representatives.

SITE CONDITIONS AND SPECIAL CONSIDERATIONS

Contractors should be aware that:

1. The work is being completed adjacent to an active railway corridor.
2. Railway operations shall take priority over construction activities.
3. Access restrictions may be required during railway operations.
4. Groundwater, soft soils, rock, or other unforeseen subsurface conditions may be encountered.

5. Existing utilities may be present within or adjacent to the work limits.
6. Surface drainage patterns must be maintained throughout construction.
7. Dust, erosion, sediment transport, and environmental impacts must be controlled at all times.
8. All disturbed areas shall be stabilized upon completion of construction activities.

HEALTH, SAFETY, AND ENVIRONMENTAL REQUIREMENTS

The Contractor shall be deemed the Constructor under the Ontario Occupational Health and Safety Act (OHSA) and shall be solely responsible for health and safety within the work area.

At a minimum, the Contractor shall:

1. Comply with all applicable provisions of the Occupational Health and Safety Act and associated regulations.
2. Develop and implement a site-specific Health and Safety Plan.
3. Complete daily hazard assessments and toolbox talks.
4. Ensure all workers are trained and competent to perform assigned work.
5. Maintain safe work procedures for excavation, heavy equipment operations, lifting activities, and culvert installation.
6. Provide and maintain all necessary personal protective equipment (PPE).
7. Prevent unauthorized access to the work site.
8. Maintain emergency response procedures and emergency contact information on site.
9. Immediately report all incidents, spills, property damage, and near misses to ONTC.
10. Coordinate with ONTC regarding any work occurring near railway infrastructure or operations.
11. Ensure all personnel entering railway property comply with ONTC safety requirements and site access restrictions.

ENVIRONMENTAL REQUIREMENTS

1. Implement erosion and sediment control measures before commencing earthworks and maintain them throughout construction.
2. Prevent sediment, fuels, lubricants, or other contaminants from entering ditches, drainage channels, wetlands, or watercourses.

3. Maintain spill kits on site at all times.
4. Store fuels and hazardous materials in accordance with regulatory requirements.
5. Dispose of waste materials only at approved facilities.
6. Restore all areas disturbed by construction activities upon completion of the work.

B. MATERIAL DISCLOSURES

1. Examination of Site

Proponents are required to satisfy themselves as to existing conditions of the site and must take all site conditions into account in preparing their quotations.

2. Contractor Health and Safety

The successful proponent must be familiar and comply with the Occupational Health and Safety Act (OHSA) and ONTC's Policies.

C. MANDATORY SUBMISSION REQUIREMENTS

1. Submission Form (Appendix C)

Each proposal must include a Submission Form (Appendix C) completed and signed by an authorized representative of the proponent.

2. Pricing (Appendix F)

Each proposal must include pricing information that complies with the instructions set out below in Section G of this Appendix B.

Please ensure that all pricing information is uploaded in the **Pricing Proposal Envelope only**.

3. Bid Security

3.1 Proponents shall provide with their Bid, Bid Performance Security in one of the following forms:

- (a) Irrevocable stand-by Letter of Credit ("**LOC**"); or
- (b) Bid bond

(the "**Bid Performance Security**").

The Bid Performance Security shall be:

- (a) in the Proponent's own name;

- (b) if a bid bond, issued by a surety licensed to conduct surety and insurance business in Ontario;
- (c) in a form satisfactory to ONTC;
- (d) for a term of at least ninety (90) calendar days after the submission deadline; and
- (e) in the amount of ten percent (10%) of the total bid price excluding HST.

The Bid Performance Security is for the benefit of ONTC and will be retained by ONTC to compensate ONTC for the damages it will suffer if the successful proponent fails to provide the Contract Securities (defined in Section 3.2, below) and evidence of insurance and other documents required by this RFP or by the final agreement, or fails to execute the final agreement within the time required by the RFP documents.

The Bid Performance Security of the successful proponent will be returned after the successful proponent delivers to ONTC compliant Contract Securities and evidence of insurance and other documents required by this RFP or by the final agreement and the successful proponent has executed the final agreement, all within the time required by the RFP documents.

The Bid Performance Security of all other proponents shall be returned to the proponents upon the occurrence of the earlier of:

- (a) execution by both parties of the final agreement between ONTC and the successful proponent;
- (b) the expiry of the 90-day period following the submission deadline;
- (c) the cancelation of the RFP process without an award of the contract; or
- (d) the disqualification of all Bids.

3.2 Agreement to Bond

The proponent shall provide with its bid an agreement to bond issued by a surety company undertaking to provide a fifty percent (50%) Performance Bond and a fifty percent (50%) Labour and Material Bond (the “Contract Securities”) in the form prescribed by the *Construction Act*, both to be provided to ONTC by the successful proponent following award of the contract.

3.3 Bids not accompanied by the required Bid Performance Security and the required agreement to bond will be declared non-compliant.

3.4 The proponent shall include the actual cost of all bonds, with no mark-up, in the Price

4. Buy Ontario Act Compliance Form (Appendix D)

Each submission should include a Buy Ontario Compliance Form submitted in the format prescribed in this solicitation. For this specific solicitation falling under the Capital Infrastructure Procurement category, fill out sections 1.0, 3.2, 5.2, and sign the details at the bottom of the form

5. Domestic Supply Chain Plan Form (Appendix E)

Each submission must include a completed Domestic Supply Chain Plan Form (Appendix E). By completing the attestation contained in Section 5.2 of the Buy Ontario Act Compliance Form, the Proponent commits to meeting or exceeding the prescribed domestic content percentage identified in Appendix E through the use of Ontario-Made Goods, Ontario Services, Canadian-Made Goods, and Canadian Services.

D. MANDATORY TECHNICAL REQUIREMENTS

Not Applicable.

E. PRE-CONDITIONS OF AWARD

The selected proponent must satisfy the following conditions and provide the following information with ten (10) days of the notice of selection:

- (a) The performance bond and the labour and material bond described in the RFP Documents. The form of such bonds shall comply with the requirements prescribed in the *Construction Act*. Refer to the link below for the appropriate form (Form 31 and 32).

<https://ontariocourtforms.on.ca/en/construction-lien-act-forms/>

- (b) Certificates of insurance as specified in the draft Agreement;
- (c) A current Clearance Certificate issued by the Workplace Safety and Insurance Board, if applicable; and

F. EVALUATION CRITERIA

The following sets out the categories, weightings, and descriptions of the rated criteria of the RFP. Proponents who do not meet a minimum threshold score for a category will not proceed to the next stage of the evaluation process.

Item	Criteria	Weighting	Minimum Threshold
1. TECHNICAL PROPOSAL			
1.0	Category 1: Experience and Qualifications	30	15
1.1	Company Profile	5	

1.2	Project Team	10	
1.3	Project Profiles	15	
2.0	Category 2: Schedule and Proposed Approach	35	17.5
2.1	Schedule	15	
2.2	Proposed Approach, Narrative and Methodology	20	
3.0	Category 3: Health, Safety and Environmental	10	5
3.1	Health, Safety & Environmental	10	
	Total	75	
50% Minimum Threshold to be obtained in Category 1 (15/30), Category 2 (17.5/35), to Proceed to Stage 2 - Pricing Proposal. Proposals which do not meet these minimum thresholds may not be considered further.			
2. PRICING PROPOSAL			
	Pricing	25	n/a
	Total Points	100	

Technical Proposal Content Requirements

The Proponent shall provide a written proposal in PDF format. The proposal to undertake the project shall include a clear outline, including the general items listed below, but also include other considerations based on the Proponent's understanding of the project. Failure to provide the requested information will negatively affect the scoring of the proposal in the evaluation process.

All submissions shall utilize the headings in the Technical Proposal Requirements table provided below, and in the order presented, which align with the Evaluation Criteria. All submissions shall also address the information requirements under each heading.

ITEM #	DESCRIPTION
	Title Page
	Table of Contents
1.0	Experience & Qualifications
1.1	The proponent should demonstrate that it possesses the organizational capacity, resources, and relevant experience necessary to successfully complete the project. Proponents must demonstrate experience performing Driveway construction, drainage works, earthworks, culvert installations, and projects undertaken in rural environments or adjacent to active transportation corridors. The evaluation will

	assess the overall capability and stability of the organization, as well as its ability to manage work of a similar size and complexity. Proponents should provide: • Company background and years in operation. • Corporate structure and key areas of expertise. • Description of available resources, equipment, and personnel. • Relevant experience performing roadway, drainage, grading, and civil construction projects. • Experience working in proximity to active railway operations or other operational transportation infrastructure. • Any additional information that demonstrates the company's ability to successfully deliver the project.
1.2	Proponents shall provide an organizational chart and identify all key personnel proposed for the project. The submission shall clearly identify: • Project Manager. • Site Supervisor (required). • Health and Safety Representative (if different from the Site Supervisor). • Key personnel and technical specialists. • Major subcontractors and their respective roles. The proposed Site Supervisor shall serve as the primary point of contact and be responsible for coordinating site activities, safety requirements, subcontractors, inspections, environmental controls, and communication with ONTC. Resumes shall be provided for all personnel and include: • Role and responsibilities on the project. • Relevant Driveway construction, earthworks, drainage, and culvert installation experience. • Years of industry experience. • Applicable certifications, safety training, and qualifications. • Experience working adjacent to active railway operations, transportation corridors, or similar operational environments. • Availability and commitment for the duration of the project. The Proponent shall confirm that the proposed Site Supervisor and key personnel will remain assigned to the project for its duration unless otherwise approved by ONTC. Evaluation Considerations

	1. Extensive experience on projects of similar scope and complexity. 2. Experience working adjacent to active railway operations or transportation infrastructure. 3. Strong site supervision and safety management experience. 4. Relevant certifications, training, and qualifications. 5. Proven performance delivering projects within schedule and budget.
1.3	Proponents shall provide a minimum of three (3) relevant projects completed within the last five (5) years involving Driveway construction, drainage works, culvert installation, earthworks, or transportation infrastructure projects of similar scope, complexity, and value. Project descriptions shall include: • Client name • Client contact information • Project name and location • Description of project scope • Original contract value and final contract value • Original project schedule and actual completion date • Description of services provided by the Proponent • Project outcomes and schedule performance ONTC may, at its sole discretion, verify project experience by contacting the references provided. Evaluation Considerations 1. Successful delivery of projects of similar scope, complexity, and value. 2. Experience working adjacent to active railway operations or transportation infrastructure. 3. Strong project delivery, coordination, and schedule performance. 4. Relevant Driveway construction, drainage, culvert installation, earthworks, or transportation infrastructure experience.
2.0	Schedule and Proposed Approach
2.1	The proponent will be evaluated on its ability to complete the work within the required timeframe while effectively managing project risks, resources, and potential constraints. The proposed schedule should demonstrate a logical sequence of activities and sufficient planning to ensure efficient project execution.

	The submission should include a detailed project schedule identifying key milestones and activities, including: • Mobilization and site preparation. • Clearing and grubbing activities. • Excavation and grading operations. • Culvert installation. • Placement and compaction of granular materials. • Drainage and ditching work. • Testing and quality control activities. • Site restoration and demobilization. • Substantial completion and final completion milestones. The evaluation will consider the realism of the schedule, resource allocation, critical path activities, and the proponent's ability to mitigate schedule risks.
2.2	The proponent should provide a detailed narrative demonstrating its understanding of the project requirements and describing how the work will be planned, managed, and executed. The evaluation will consider the completeness of the proposed methodology, the proponent's understanding of the site conditions and project constraints, and the overall practicality of the proposed approach. The submission should address: • Overall understanding of the project objectives and scope. • Construction methodology for roadway, earthworks, drainage, and culvert installation activities. • Approach to traffic control and access maintenance, where required. • Coordination with ONTC representatives and railway operations. • Quality assurance and quality control procedures. • Management of subcontractors and suppliers. • Protection of existing infrastructure, utilities, drainage systems, and adjacent property. • Identification of project risks and proposed mitigation measures. • Restoration of disturbed areas and project closeout activities.
3.0	Health, Safety and Environmental
3.1	Proponents shall complete the Contractor Health and Safety Responsibility Agreement and the Contractor Safety Pre-Qualification Form attached at Appendix F and provide the following supporting documents: • WSIB clearance documentation. • Health, Safety and Environmental Policy. • Safety statistics and performance records, if available.

	The submission shall also include: • Site-specific health and safety approach. • Project risk management approach. • Approach to safety meetings, inspections, and reporting. • Relevant training, certifications, and qualifications of personnel assigned to the Work. • Approach to working safely adjacent to active railway operations and infrastructure. • Approach to erosion and sediment control, spill prevention, and environmental protection.
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G. PRICE EVALUATION METHOD

Pricing is worth **25 points** of the total score.

Pricing will be scored based on a relative pricing formula using the rates set out in the pricing form. Each proponent will receive a percentage of the total possible points allocated to price, which will be calculated in accordance with the following formula:

$$\text{lowest price} \div \text{proponent's price} \times 25 = \text{proponent's pricing points}$$

Instructions on How to Provide Pricing

- Proponents should submit their pricing information by completing the attached pricing form (Appendix F) and including it in their pricing proposal.
- Rates must be provided in Canadian funds, inclusive of all applicable duties and taxes except for HST, which should be itemized separately.
- Unless otherwise indicated in the requested pricing information, rates quoted by the proponent must be all-inclusive and must include all labour and material costs, all travel and carriage costs, all insurance costs, all costs of delivery, all costs of installation and set-up, including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law.

Required Pricing Information

Rates to be provided as per Appendix F - Schedule of Prices, attached separately. **(Rates are to exclude HST)**

APPENDIX C - SUBMISSION FORM

1. Proponent Information

Please fill out the following form, naming one (1) person to be the proponent's contact for the RFP process and for any clarifications or communication that might be necessary.	
Full Legal Name of Proponent:	
Any Other Relevant Name under which Proponent Carries on Business:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Company Website (if any):	
Proponent Contact Name and Title:	
Proponent Contact Phone:	
Proponent Contact Email:	

2. Sub-Contractors

The proponent shall state all Subcontractor(s) and type of Work proposed to be used for this project. Proponents shall not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording and shall not indicate multiple choices of Subcontractor names for any Subcontractor category in their list of Subcontractors.

List of Sub-Contractors

In the spaces provided below, please list those subcontractors you intend to use:

☐ By checking this box, I confirm that there are no Subcontractor(s) and the proponent shall perform the project with their "**OWN FORCES**".

Item	Organization	Contact Name	E-mail	Phone
1				
2				
3				
4				
5				

3. Bill S-211

ONTC adheres to, and reports under the Government of Canada's Bill S-211 Fighting against Forced Labour and Child Labour in Supply Chains Act.

1. Is your company required to report under the Government of Canada's Bill S-211 Fighting against Forced Labour and Child Labour in Supply Chains Act? Yes ☐ No ☐

2. Is your company compliant with the Government of Canada's Bill S-211 Fighting against Forced Labour and Child Labour in Supply Chains Act? Yes ☐ No ☐
3. Has your company been involved in forced and/or child labour in the past? Yes ☐ No ☐
If yes, please provide details including date and action taken to mitigate.

4. Acknowledgment of Non-Binding Procurement Process

The proponent acknowledges that the RFP process will be governed by the terms and conditions of the RFP, and that, among other things, such terms and conditions confirm that this procurement process does not constitute a formal, legally binding bidding process (and for greater certainty, does not give rise to a Contract A bidding process contract), and that no legal relationship or obligation regarding the procurement of any good or service will be created between ONTC and the proponent unless and until ONTC and the proponent execute a written agreement for the Deliverables.

5. Ability to Provide Deliverables

The proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required. The proponent represents and warrants its ability to provide the Deliverables in accordance with the requirements of the RFP for the rates set out in its proposal.

6. Non-Binding Pricing

The proponent has submitted its pricing in accordance with the instructions in the RFP. The proponent confirms that the pricing information provided is accurate. The proponent acknowledges that any inaccurate, misleading, or incomplete information, including withdrawn or altered pricing, could adversely impact the acceptance of its proposal or its eligibility for future work.

7. Addenda

The proponent is deemed to have read and taken into account all addenda issued by ONTC prior to the Deadline for Issuing Addenda.

8. Communication with Competitors

For the purposes of this RFP, the word "competitor" includes any individual or organization, other than the proponent, whether or not related to or affiliated with the proponent, who could potentially submit a response to this RFP.

Unless specifically disclosed below under Disclosure of Communications with Competitors, the proponent declares that:

- (a) it has prepared its proposal independently from, and without consultation, communication, agreement, or arrangement with any competitor, including, but not limited to, consultation, communication, agreement, or arrangement regarding:
- (i) prices;
 - (ii) methods, factors, or formulas used to calculate prices;
 - (iii) the quality, quantity, specifications, or delivery particulars of the Deliverables;
 - (iv) the intention or decision to submit, or not to submit, a proposal; or
 - (v) the submission of a proposal which does not meet the mandatory technical requirements or specifications of the RFP; and
- (b) it has not disclosed details of its proposal to any competitor and it will not disclose details of its proposal to any competitor prior to the notification of the outcome of the procurement process.

Disclosure of Communications with Competitors

If the proponent has communicated or intends to communicate with one (1) or more competitors about this RFP or its proposal, the proponent discloses below the names of those competitors and the nature of, and reasons for, such communications:

9. No Prohibited Conduct

The proponent declares that it has not engaged in any conduct prohibited by this RFP.

10. Conflict of Interest

The proponent must declare all potential Conflicts of Interest, as defined in Section 3.4.1 of the RFP. This includes disclosing the names and all pertinent details of all individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the proposal; **AND** (b) were employees of ONTC within twelve (12) months prior to the Submission Deadline.

If the box below is left blank, the proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its proposal; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

Otherwise, if the statement below applies, check the box.

- ☐ The proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its proposal, and/or the proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

If the proponent declares an actual or potential Conflict of Interest by marking the box above, the proponent must set out below details of the actual or potential Conflict of Interest:

11. Disclosure of Information

The proponent hereby agrees that any information provided in this proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal. The proponent hereby consents to the disclosure, on a confidential basis, of this proposal by ONTC to the advisers retained by ONTC to advise or assist with the RFP process, including with respect to the evaluation of this proposal.

12. Travel

To the extent that travel expenses are expressly provided for under the written agreement for the Deliverables, the proponent hereby acknowledges that travel expenses must be approved in advance by ONTC and must be in compliance with the Management Board of Cabinet Travel, Meal & Hospitality Expenses Directive, January 2020 (<https://www.ontario.ca/page/travel-meal-and-hospitality-expenses-directive-2020>)."

Signature of Proponent Representative

Name of Proponent Representative

Title of Proponent Representative

Date

I have the authority to bind the proponent.

APPENDIX D - BUY ONTARIO ACT COMPLIANCE FORM

Ontario's *Buy Ontario Act, 2025* (Buy Ontario Act) and the directives and guidelines promulgated thereunder restrict contracting opportunities to U.S. Businesses and require businesses contracting with Ontario public sector institutions to, among other things, confirm their place of origin to assess their eligibility for public sector contracts. The information set out below is collected pursuant to those regulatory requirements for the purposes of assessing eligibility for Ontario public sector contracts. By submitting this form you are: (i) consenting to the use of this information on a confidential basis for the purposes identified herein by the collecting institution and its advisors; and (ii) acknowledging that the information provided herein, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal.

1.0 Supplier Information

Please fill out the following form, naming one (1) person to be the supplier's contact.

Full Legal Name of Supplier:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Supplier Website (if any):	
Supplier Contact Name and Title:	
Supplier Contact Phone:	
Supplier Contact Email:	

2.0 Definitions

The capitalized terms in this form have the following meaning:

“BOA Directive” means the Buy Ontario Procurement Directive.

“BOBI Guide” means the Building Ontario Businesses Initiative - A Guide for Buyers issued by the Ministry of Public and Business Service Delivery and Procurement released September 2024 and any subsequent revisions made to that document after the above-noted date.

“Canadian Business” means a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in Canada and has either: (i) its headquarters or main office in any province or territory within Canada; or (ii) at least 250 full-time employees in any one province or territory within Canada at the time of the applicable procurement process.

“Canadian-Made Good” means a good that meets any one of the following criteria: (i) it is wholly manufactured or originating in Canada; (ii) at least 51% of the total direct costs of producing or

manufacturing the good have been incurred in Canada; or (iii) it is labelled as “Made in Canada” or “Product of Canada”.

“Canadian Service” means a service wholly provided by individuals (natural persons) located in Canada.

“Capital Infrastructure Procurements” mean Construction, Related Fixtures, Furniture and Equipment, and Transit Fleet Vehicles including rolling stock and buses but excluding light duty passenger vehicles.

“Capital Infrastructure Guideline” means the Capital Infrastructure Policy - A Guide for Buyers issued by the Ministry of Public and Business Service Delivery and Procurement dated April 13, 2026, and any subsequent revisions made to that document after the above-noted date.

“Commitment Approach” means the contracting method established under the BOA Directive and Capital Infrastructure Guideline for Capital Infrastructure Procurements that requires the inclusion in procurement documents of a Domestic Supply Chain Plan to meet or exceed a specified proportion of Ontario or Canadian-Made Goods and Services as a part of the procurement and for greater clarity the specified proportion may be any percentage of the total estimated procurement value that the purchasing entity determines would maximize the use of: (i) Ontario-Made Goods; (ii) Canadian-Made Goods; (iii) Ontario Services; and (vi) Canadian Services; as further prescribed in each procurement document.

“Construction” means construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement.

“Eligible U.S. Services Business” means a U.S. Business that can commit to having at least 90 percent of the required staff for performing a services contract located in Canada.

“Ontario Business” means a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in Ontario and has either: (i) its headquarters or main office in Ontario; or (ii) at least 250 full-time employees in Ontario at the time of the applicable procurement process.

“Ontario-Made Good” means a good that meets any one of the following criteria: (i) it is wholly manufactured or originating in Ontario; or (ii) at least 51% of the total direct costs of producing or manufacturing the good have been incurred in Ontario.

“Ontario Trading Partner Business” means a bidder from a jurisdiction that has trade obligations with Ontario which includes: (i) Canadian Businesses and; (ii) suppliers of a country that has existing procurement-related trade obligations with Ontario, as further specified in Appendix C of the BOBI Guide to: (i) include Armenia, Australia, Brunei, Chile, European Union (and its 27 member states : Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic,

Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, and Sweden), Hong Kong, China, Iceland, Israel, Japan, Republic of Korea, Liechtenstein, Malaysia, Mexico, Republic of Moldova, Montenegro, Netherlands with respect to Aruba, New Zealand, North Macedonia, Norway, Peru, Singapore, Switzerland, Chinese Taipei, Ukraine, United Kingdom, and Vietnam; but for greater clarity this definition excludes U.S Businesses.

“Ontario Service” means a service wholly provided by individuals (natural persons) located in Ontario.

“U.S. Business” means a supplier, manufacturer or distributor of any business structure (includes a sole proprietorship, partnership, corporation or other business structure) that: (i) has its headquarters or main office located in the U.S.; and (ii) has fewer than 250 full-time employees in Canada at the time of the applicable procurement process. For greater clarity, if a bidder or supplier is a subsidiary of another corporation, part (i) of the definition above is met if that bidder or supplier is controlled by a corporation that has its headquarters or main office located in the U.S.

3.0 Attestation Regarding Place of Origin of Supplier

This section applies to the procurement of goods and services (including consulting services) as well as to Capital Infrastructure Procurements, but not to Fleet Vehicles.

3.1 Instructions

Check the box for the category below that applies to your business. For greater clarity:

1. If you qualify as an Ontario Business, Canadian Business, and Ontario Trading Partner Business, select Ontario Business.
2. If you qualify as both a Canadian Business and Ontario Trading Partner Business, select Canadian Business.
3. If you qualify only as an Ontario Trading Partner Business, select Ontario Trading Partner Business.
4. Note that U.S. Businesses do not qualify as Ontario Businesses, Canadian Business or Ontario Trading Partner Businesses. If you are a U.S. Business, select U.S. Business.
5. If you are responding to a contract for services and are a U.S. Business but can commit to having at least 90 percent of the required staff to deliver the contracted services located in Canada, select Eligible U.S. Services Business.

3.2 Attestation (select one of the following):

- ☐ Ontario Business
- ☐ Canadian Business
- ☐ Ontario Trading Partner Business
- ☐ U.S. Business

- ☐ Eligible U.S. Services Business

4.0 Attestation Regarding Domestic Supply Chain Plan Commitment

4.1 Instructions

This section applies to Capital Infrastructure Procurements. To comply with this section, suppliers must submit a Domestic Supply Chain Plan in the manner prescribed in the Domestic Supply Chain Form and related instructions and in accordance with the Commitment Approach that confirms that they will meet or exceed the specified proportion of Ontario or Canadian-Made Goods and Services if awarded a contract.

Check the box below to confirm that you are submitting a Domestic Supply Chain Form in accordance with the instructions provided with that form and in accordance with above-noted Commitment Approach:

4.2 Attestation (select the option below):

- ☐ I am submitting a Domestic Supply Chain Plan Form and am committing to meeting or exceeding the prescribed percentage of Ontario-Made Goods, Ontario Services, Canadian-Made Goods and Canadian Services if awarded a contract.

5.0 Representation

5.1 Instructions

The supplier represents that the information provided in this form is accurate and acknowledges that any misrepresentations or other misleading or inaccurate information may result in, among other remedies: (i) the disqualification from a bidding process; (ii) the termination or rescission of a contract award and damages resulting from any re-procurement costs; (iii) the debarment from future contracting opportunities; or (iv) any combination of the above-noted remedies.

5.2 Attestation (select the option below):

- ☐ I acknowledge the representation noted above, as well as the remedies that may apply in the event of any misrepresentations or submission of misleading or inaccurate information.

Signature of Supplier Representative

Name of Supplier Representative

Title of Supplier Representative

Date

I have the authority to bind the supplier.

APPENDIX E - DOMESTIC SUPPLY CHAIN PLAN

DOMESTIC SUPPLY CHAIN PLAN

Proponents must complete and submit the Domestic Supply Chain Plan Form included with this RFP.

The Domestic Supply Chain Plan Form must identify the Proponent's anticipated use of Ontario-Made Goods, Ontario Services, Canadian-Made Goods, and Canadian Services in the delivery of the Deliverables and demonstrate how the Proponent intends to satisfy the prescribed domestic content requirement.

As a condition of participation, the Proponent must commit to achieving a minimum domestic content percentage of **90%** of the total contract value through the use of Ontario-Made Goods, Ontario Services, Canadian-Made Goods, and Canadian Services, as defined in the Buy Ontario Act Compliance Form.

The Domestic Supply Chain Plan Form is a mandatory submission requirement and will be evaluated on a pass/fail basis. Failure to provide a completed Domestic Supply Chain Plan Form, or failure to commit to meeting or exceeding the prescribed percentage set out above, may result in the Proponent's proposal being declared non-compliant.

The commitment made in the Domestic Supply Chain Plan Form will form part of the Proponent's proposal and, if awarded a contract, will become a contractual obligation. The Successful Proponent may be required to provide supporting documentation and attestations during contract performance to demonstrate ongoing compliance with its commitment.

APPENDIX F - SCHEDULE OF PRICES

1. SCHEDULE A - SCHEDULE OF PRICES

Proponents shall complete the Schedule A - Cost Breakdown as provided.

Please refer to the separate Schedule A - Schedule of Prices Excel worksheet. This form must be completed as part of the proposal.

2. SCHEDULE B - PRICING FOR CHANGE ORDERS / CHANGE DIRECTIVES

Proponents shall quote overhead and profit percentages based on the project cost ranges included in the table provided.

Proponents shall also provide the hourly rates of pay for the listed positions in the table provided.

3. SCHEDULE C - SCHEDULE OF PROGRESS PAYMENTS

Proponents shall provide their Schedule of Progress Payments in the table provided.

APPENDIX G - HEALTH, SAFETY AND ENVIRONMENTAL

Proponents shall complete and include the attached Contractor Health and Safety Responsibility Agreement and Contractor Safety Pre-Qualification Form with their bid:

- A. Contractor Health and Safety Responsibility Agreement
- B. Contractor Safety Pre-Qualification Form

A. Contractor Health and Safety Responsibility Agreement

In submitting this Quotation, I/We, on behalf of, _____
(legal name of company)

certify the following:

- (a) I/We have a health and safety policy and will maintain a program to implement such policy as required by clause 25(2) (j) of the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1, as amended, (the "OHSA").

The requirements in (a) do not apply to employers with five (5) or less employees.

- (b) With respect to the Services being offered in this Quotation, I/We and on behalf of our proposed sub-consultants, acknowledge the responsibility to, and shall:

- (i) fulfill all of the obligations under the OHSA and ensure that all work is carried out in accordance with the OHSA and its regulations;
- (ii) ensure that adequate and competent supervision is provided as required under the OHSA to protect the health and safety of workers; and
- (iii) provide information and instruction to all employees to ensure they are informed of the hazards inherent in the work and understand the procedures for minimizing the risk of injury or illness.

- (c) I/We agree to take precautions reasonable in the circumstances for the protection of worker health and safety, as required under the OHSA.

Dated at _____ this _____ day of _____, 202__.

An Authorized Signing Officer _____

(Key Contact)

(Title) _____

(Telephone Number) _____

(Firm's Name) _____

(Firm's Address) _____

B. Contractor Safety Pre-Qualification Form

1. Company Identification:			ONTC Use
Company Name:	Telephone		
	:		
Mailing Address:	Fax:		
	E-mail:		
2. Form of Business:			
Sole			
☐ Proprietor	☐ Partnership:	☐ Corporation	
3. Officers:			Years with the Company
President / CEO			
Vice President			
Treasurer			
Who is the manager most responsible for health and safety?			
Name:		Title:	
4. How many years has your business operated under its current name?			
5. Under Current Management Since (Date)			
6. Parent Company Information			
Parent Name:			
City:	Province / State:	Postal / Zip Code:	
Subsidiaries:			
7. Insurance Contact Information			
Title:	Telephone:	Fax:	
Insurance			
8. Carriers:	Type of Coverage:	Telephone	
9. Organization:			
Describe the nature of the work your company specialized in:			
☐	☒		
☐	☐		
☐	☐		
☐	☐		

☐	☐		
10.	Are any of the above services that you perform normally subcontracted to others?	☐ Yes ☐ No	
11. Health and Safety Performance			
a)	Are any of the above services that you perform normally subcontracted to others?	☐ Yes ☐ No	
b)	Can you provide a Workplace Safety & Insurance Clearance Certificate?	☐ Yes ☐ No	
c)	Has an employee of your company suffered a fatal accident or "critical injury" as defined by the <u>Ontario Occupational Health & Safety Act</u> ? Please provide for the last 3 years: i) total number of lost time accidents by rate group, ii) total number medical aid accidents, iii) total number of hours worked by each rate group	☐ Yes ☐ No	
d)	Has your company ever been subjected to a Workwell Audit? If yes, what was your final score? _____	☐ Yes ☐ No	
e)	Are there judgements, claims or suits pending or outstanding against your company?	☐ Yes ☐ No	
f)	Have you received any regulatory (MOL, MOE, etc.) orders and/or prosecutions in the last 3 years? If yes, provide details of all prosecution and fines for the past 3 years on a separate sheet.	☐ Yes ☐ No	
g)	Do you have involvement in provincial safety associations such as the Infrastructure Health & Safety Association (IHSA) and/or Workplace Safety & Prevention Services (WSPS)? If yes, please name:	☐ Yes ☐ No	
12. Health and Safety Program and Procedures:			
a)	Do you have a written health and safety policy? If yes, include a copy.	☐ Yes ☐ No	
b)	Do you have a written health and safety program?	☐ Yes ☐ No	
c)	If so, are the following elements addressed?	☐ Yes ☐ No	
i.	Participation by all levels in the organization	☐ Yes ☐ No	
ii.	Accountabilities & responsibilities for managers, supervisors and employees	☐ Yes ☐ No	
iii.	Adequate resourcing for meeting health and safety requirements	☐ Yes ☐ No	
iv.	Hazard identification and control	☐ Yes ☐ No	
v.	Health and safety performance measurement and evaluation	☐ Yes ☐ No	
vi.	Corrective actions implementation	☐ Yes ☐ No	
13. Health and Safety Program: Does the health and safety program include procedures and practice documents such as:			
a)	Hazardous Energy Control, Lock-out – Tag-out	☐ Yes ☐ No	
b)	Confined Space Entry	☐ Yes ☐ No	
c)	Working at Heights, Fall Protection	☐ Yes ☐ No	

d) Personal Protective Equipment (PPE)	☐ Yes	☐ No	
e) Portable / Electric Power Tools			
f) Vehicle Safety	☐ Yes	☐ No	
g) Compressed Gas Cylinders	☐ Yes	☐ No	
h) Electrical Equipment Grounding Assurance	☐ Yes	☐ No	
i) Powered Industrial Vehicles (forklifts, cranes, etc.)	☐ Yes	☐ No	
j) Heavy Construction Equipment (excavators, backhoes, bulldozers, etc.)	☐ Yes	☐ No	
k) Excavation and Trenching	☐ Yes	☐ No	
l) Housekeeping	☐ Yes	☐ No	
m) Accident / Incident Reporting and Investigation	☐ Yes	☐ No	
n) Hazard / Unsafe Condition Identification, Reporting and Communication	☐ Yes	☐ No	
o) Workplace Hazardous Materials information System (WHMIS)	☐ Yes	☐ No	
p) Emergency Action Plan / Evacuation Plan	☐ Yes	☐ No	
q) Spill Response / Reporting	☐ Yes	☐ No	
r) Respiratory Protection	☐ Yes	☐ No	
s) Designated Substances Management	☐ Yes	☐ No	
t) Waste Staging / Disposal	☐ Yes	☐ No	
u) Traffic Control	☐ Yes	☐ No	
v) Hearing Conservation	☐ Yes	☐ No	
14. Do you have a policy/procedure for terminating contracts of subcontractors who do not comply with the requirements of the <u>Occupational Health & Safety Act</u> , associated regulations and / or company safety rules?	☐ Yes	☐ No	
15. Do your employees read, write and understand English to the degree that they can safely perform their tasks without the aid of an interpreter? (<i>If no, provide a description of your plan to assure that they can safely perform their tasks</i>)	☐ Yes	☐ No	
16. Do you have personnel certified in Emergency First Aid and CPR on site? If yes, provide copies of certificates of training for site personnel proposed for the project?	☐ Yes	☐ No	
17. Do you have First Aid kits available to your staff?	☐ Yes	☐ No	
18. Does your company use a formalized Health and Safety Plan for conducting large projects?	☐ Yes	☐ No	
19. Does the company conduct pre-placement medical examinations?	☐ Yes	☐ No	
20. Is task-adequate PPE provided to workers?	☐ Yes	☐ No	
21. Are employees trained in PPE care, use and maintenance?	☐ Yes	☐ No	

22. Do you have a corrective action process for addressing individual health and safety performance deficiencies	☐ Yes	☐ No	
23. Equipment and Manuals:			
a. Do you conduct inspections on operating equipment (e.g. excavators, cranes, forklifts, vehicles, etc.) as per regulatory requirements?	☐ Yes	☐ No	
b. Do you maintain operating equipment in compliance with regulatory requirements?	☐ Yes	☐ No	
c. Do you maintain applicable pre-use inspection and maintenance certification records for operating equipment?	☐ Yes	☐ No	
d. Are records available upon request	☐ Yes	☐ No	
24. Subcontractors			
a. Do you use health and safety performance criteria in the selection of contractors?	☐ Yes	☐ No	
b. Do you require your subcontractor to have a written health and safety program?	☐ Yes	☐ No	
c. Are your subcontractors included in	☐ Yes	☐ No	
i. health and safety orientation	☐ Yes	☐ No	
ii. health and safety meetings	☐ Yes	☐ No	
iii. workplace inspections	☐ Yes	☐ No	
iv. health and safety audits	☐ Yes	☐ No	
d. Does the company have a policy for the termination of contracts of subcontractors who do not comply with the Occupation Health and Safety Act, regulations under the Act, contractor rules, programs, protocols policies or procedures?	☐ Yes	☐ No	
e. Does the company have a progressive discipline policy for employees and subcontractors?	☐ Yes	☐ No	
25. Health and Safety Training			
a. Are you aware of the regulatory training requirements for your employees?	☐ Yes	☐ No	
b. Have your employees received the required health and safety training?	☐ Yes	☐ No	
c. Do you have specific health and safety training for supervisors?	☐ Yes	☐ No	
d. Do you keep records of health and safety training for employees?	☐ Yes	☐ No	
e. Are records of health and safety training available on request?	☐ Yes	☐ No	
26. Job Skills			
a. Have employees been trained in appropriate job skills?	☐ Yes	☐ No	
b. Are employee job skills certified where required by regulation or industry standard?	☐ Yes	☐ No	
c. Are certificates available upon request?	☐ Yes	☐ No	
27. Appendix Health and Safety Supervision			

- a. Does the company have a health & safety coordinator?
b. Who is the highest ranking safety professional in the company

☐ Yes

☐ No

☐ Yes

☐ No

I agree that the above information is true and correct to the best of my knowledge. I also agree to follow all terms and conditions of the Contractor Safety Program at all times while performing work for ONTC. I understand that supporting documentation may be requested for due diligence verification purposes.

Name: (Please
print)

Signature:

Title:

Date:

APPENDIX H - ISSUE FOR TENDER DRAWINGS

Refer to the Issue for Tender Drawings as outlined below, and which are attached to this Appendix H.

Description	Drawing No.
General Notes	
General Notes 1	G1
General Notes 2	G2
Driveway	
DRIVEWAY PLAN VIEW 1 STA 0+000 TO 0+230	C1
DRIVEWAY PROFILE VIEW 1 STA 0+000 TO 0+340	C2
DRIVEWAY PLAN VIEW 1 STA 1+000 TO 1+122	C3
DRIVEWAY PLAN VIEW 1 STA 0+000 TO 0+230	C4
Sections	
TYPICAL SECTIONS	C5
CROSS SECTIONS STA 0+000 TO 0+020	C6
CROSS SECTIONS STA 0+030 TO 0+070	C7
CROSS SECTIONS STA 0+080 TO 0+110	C8
CROSS SECTIONS STA 0+120 TO 0+150	C9
CROSS SECTIONS STA 0+160 TO 0+180	C10
CROSS SECTIONS STA 0+190 TO 0+220	C11
CROSS SECTIONS STA 0+230 TO 0+260	C12
CROSS SECTIONS STA 0+270 TO 0+300	C13
CROSS SECTIONS STA 0+310 TO 0+330	C14
CROSS SECTIONS STA 1+001 TO 1+030	C15
CROSS SECTIONS STA 1+040 TO 1+070	C16
CROSS SECTIONS STA 1+080 TO 1+110	C17
CROSS SECTIONS STA 1+020	C18

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1. GENERAL NOTES

- 1.1 All work shall conform to the latest editions of the Ontario Provincial Standard Specifications (OPSS), Ontario Provincial Standard Drawings (OPSD), and applicable regulations unless otherwise specified.
- 1.2 The Contractor shall verify all dimensions, elevations, existing conditions, and site features prior to commencing construction.
- 1.3 Any discrepancies, omissions, conflicts, or unforeseen conditions encountered shall be reported to the ONTC before proceeding with the affected work.
- 1.4 The Contractor shall provide all labour, materials, equipment, supervision, and incidentals necessary to complete the work.
- 1.5 Existing conditions shown on the drawings are based on available survey information and are provided for reference only.
- 1.6 Existing grades and site conditions may differ from those shown on the drawings and shall be verified in the field by the Contractor.
- 1.7 The Contractor shall establish and maintain all required construction layout, grade control, and staking.
- 1.8 All disturbed areas outside the permanent works shall be restored to pre-construction condition or better.
- 1.9 Submission of a bid shall constitute acknowledgement that the Contractor has examined the site and accepted existing conditions.
- 1.10 No claim for additional compensation arising from readily observable site conditions will be considered.
- 1.11 The Contractor shall be responsible for all means, methods, techniques, sequences, and procedures of construction.
- 1.12 Any work not specifically described but required to complete the works in accordance with the intent of the Contract Documents shall be considered incidental to the Contract.

2. UTILITY NOTES

- 2.1 The Contractor shall obtain all utility locates through Ontario One Call and directly from utility owners before commencing any excavation, drilling, grading, or construction activities.
- 2.2 The location, elevation, and extent of existing underground and overhead utilities shown on the drawings are approximate only and are not guaranteed.
- 2.3 The Contractor shall verify the location of all underground and overhead utilities prior to construction.
- 2.4 The Contractor shall immediately notify the ONTC and utility owner upon discovery of any unidentified utility.
- 2.5 Existing utilities shall be protected at all times during construction.
- 2.6 Damage to existing utilities resulting from the Contractor's operations shall be repaired at the Contractor's expense to the satisfaction of the utility owner.
- 2.7 Utility relocations, adjustments, or temporary support not specifically identified in the Contract Documents shall not be assumed.
- 2.8 The Contractor shall coordinate construction activities with all affected utility owners.

3. EARTHWORKS NOTES

- 3.1 Topsoil, organic material, and deleterious materials shall be stripped from beneath embankments, roadways, and other areas as required by the Contract Documents.
- 3.2 Unsuitable materials encountered within the limits of construction shall be removed and replaced with approved material as directed by the ONTC.
- 3.3 Embankment and backfill materials shall be placed in uniform lifts and compacted to the density requirements specified in the applicable OPSS.

- 3.4 Areas disturbed or weakened by construction operations shall be repaired at the Contractor's expense.
- 3.5 Frozen material shall not be incorporated into the works.
- 3.6 Construction shall not proceed on frozen subgrade without approval from the ONTC.
- 3.7 The Contractor shall maintain positive drainage at all times during earthworks operations.

4. GEOTEXTILE NOTES

- 4.1 Geotextile shall conform to OPSS 1860 unless otherwise specified.
- 4.2 Geotextile shall be placed on a prepared surface free of protruding objects, frozen material, standing water, and debris.
- 4.3 Geotextile shall be installed in accordance with OPSS requirements and the manufacturer's recommendations.
- 4.4 The Contractor shall prevent damage to geotextile during placement of overlying materials.
- 4.5 Damaged geotextile shall be removed and replaced at no additional cost to the ONTC.
- 4.6 Geotextile overlaps shall conform to OPSS requirements and the manufacturer's recommendations.
- 4.7 Construction traffic shall not travel directly on exposed geotextile unless specifically permitted by the manufacturer.

5. GRANULAR ROAD CONSTRUCTION NOTES

- 5.1 Granular materials shall conform to the applicable OPSS requirements.
- 5.2 Granular placement and compaction shall comply with OPSS 314 and related specifications.
- 5.3 The Contractor shall maintain positive drainage on all completed granular surfaces throughout construction.
- 5.4 Segregated, contaminated, or unsuitable granular material shall be removed and replaced.
- 5.5 All granular materials shall be obtained from approved sources.
- 5.6 Aggregate sources may be subject to review and approval by the ONTC prior to delivery to the site.
- 5.7 The Contractor shall provide aggregate testing results upon request.
- 5.8 Granular material containing excessive fines, organic matter, clay, frozen lumps, or other deleterious substances shall be rejected.
- 5.9 The Contractor shall be responsible for maintaining material quality during hauling, placement, and compaction.
- 5.10 Stockpiled materials shall be placed so as not to interfere with drainage or create environmental impacts.

6. DRAINAGE AND CULVERT NOTES

- 6.1 Existing drainage patterns shall be maintained throughout the duration of construction.
- 6.2 Ditches shall be graded to provide positive drainage and prevent ponding.
- 6.3 Culvert installation shall conform to OPSS 1801 and applicable OPSD details unless otherwise noted.
- 6.4 Culvert bedding and backfill shall conform to OPSS requirements.
- 6.5 Existing watercourses shall remain uninterrupted throughout construction unless otherwise approved.
- 6.6 Temporary drainage measures shall be provided as required to prevent flooding and erosion.
- 6.7 Culverts shall be installed to the line and grade shown on the drawings.
- 6.8 Bedding, cover material, and backfill shall conform to OPSS 1801 and applicable OPSD requirements.
- 6.9 Backfill shall be placed uniformly on both sides of the culvert to prevent displacement.



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6.10 Construction equipment shall not cross installed culverts until sufficient cover has been placed.

6.11 Existing culverts designated for removal shall be removed in their entirety unless otherwise specified.

6.12 Existing drainage shall be maintained at all times during culvert replacement operations.

6.13 Riprap, rock protection, or erosion protection measures shall be installed at culvert inlets and outlets where shown on the drawings or directed by the Contract Administrator.

6.14 Erosion around culvert ends shall be repaired immediately by the Contractor.

6.15 Culvert inlets and outlets shall remain free of obstructions throughout construction.

7. EROSION AND SEDIMENT CONTROL NOTES

7.1 Erosion and sediment control measures shall be installed prior to commencement of earth-disturbing activities.

7.2 Erosion and sediment control measures shall be maintained until disturbed areas are stabilized.

7.3 Sediment-laden water shall not be discharged directly into watercourses, wetlands, drainage systems, or adjacent properties.

7.4 The Contractor shall inspect erosion and sediment control measures regularly and repair deficiencies immediately.

7.5 Temporary erosion and sediment control measures shall remain in place until permanent stabilization measures are effective.

8. ENVIRONMENTAL NOTES

8.1 Refuelling and equipment maintenance shall be conducted in a manner that prevents contamination of soil and watercourses.

8.2 Spill response materials shall be maintained on site at all times.

8.3 Any spills shall be reported and remediated in accordance with applicable environmental regulations.

8.4 Construction waste shall be disposed of at approved facilities.

8.5 Dust control measures shall be implemented as necessary to minimize nuisance conditions.

8.6 The Contractor shall conduct all work in a manner that minimizes impacts to adjacent watercourses, ditches, and environmentally sensitive areas.

8.7 Machinery operating near water shall be maintained in good working order and free of leaks.

8.8 Construction debris, excavated material, and waste materials shall not be deposited within watercourses or drainage channels.

8.9 Disturbed areas adjacent to watercourses shall be stabilized immediately following construction.

8.10 If fish habitat, regulated watercourses, or environmentally sensitive features are encountered, the Contractor shall comply with all applicable federal, provincial, and regulatory agency requirements.

9. DEWATERING NOTES

9.1 The Contractor shall provide all pumping, diversion, containment, and dewatering required to complete the work.

9.2 Dewatering operations shall not cause erosion, flooding, sediment transport, or damage to adjacent properties.

9.3 Water removed from excavations shall be discharged through appropriate sediment control measures.

9.4 No direct discharge of sediment-laden water into watercourses, wetlands, drainage channels, or adjacent properties shall be permitted.

9.5 The Contractor shall obtain all permits and approvals required for dewatering operations.

10. TRAFFIC AND ACCESS NOTES



10.1 The Contractor shall maintain access to adjacent properties, facilities, roadways, and utilities throughout construction unless otherwise approved.

10.2 Traffic control and public protection measures shall be implemented as required to safely conduct construction operations.

10.3 The Contractor shall provide and maintain all required signage, barricades, delineators, and safety devices.

10.4 Emergency vehicle access shall be maintained at all times.

10.5 The Contractor shall comply with all applicable road-use and seasonal load restrictions.

10.6 Any damage to public or private roads resulting from construction activities shall be repaired at the Contractor's expense.

11. RAILWAY PROPERTY NOTES (IF APPLICABLE)

11.1 All work occurring within railway property shall be coordinated with the Owner's representative.

11.2 The Contractor shall comply with all railway safety requirements and site access restrictions.

11.3 Railway operations shall take precedence over construction activities.

11.4 The Contractor shall not foul railway tracks without written authorization from Ontario Northland.

11.5 No equipment, materials, or personnel shall enter active railway operating areas without authorization.

11.6 Temporary storage areas shall be confined to locations approved by the Owner.

11.7 Construction operations shall not interfere with railway operations unless specifically approved.

11.8 Any damage to railway infrastructure shall be repaired at the Contractor's expense to the satisfaction of the Owner.

11.9 The Contractor shall maintain emergency access to railway facilities throughout construction.

11.10 All personnel entering railway property shall comply with railway safety orientation and training requirements.

11.11 Construction equipment shall maintain minimum clearances from active railway infrastructure as directed by the Owner.

11.12 Excavations within railway property shall comply with the Owner's excavation authorization procedures.

12. MATERIALS TESTING AND QUALITY ASSURANCE NOTES

12.1 The Owner reserves the right to conduct independent quality assurance testing.

12.2 Materials failing to meet specified requirements shall be removed and replaced at no cost to the Owner.

12.3 The Contractor shall provide copies of all material test results upon request.

12.4 Field density testing may be required by the ONTC.

13. SITE RESTORATION NOTES

13.1 All disturbed areas outside the permanent works shall be restored to original condition or better.

13.2 Excess excavated material shall be disposed of off-site at an approved location unless otherwise directed.

13.3 All temporary works shall be removed upon completion of construction.

13.4 Ditches, drainage channels, and culverts shall be left clean and free-flowing.

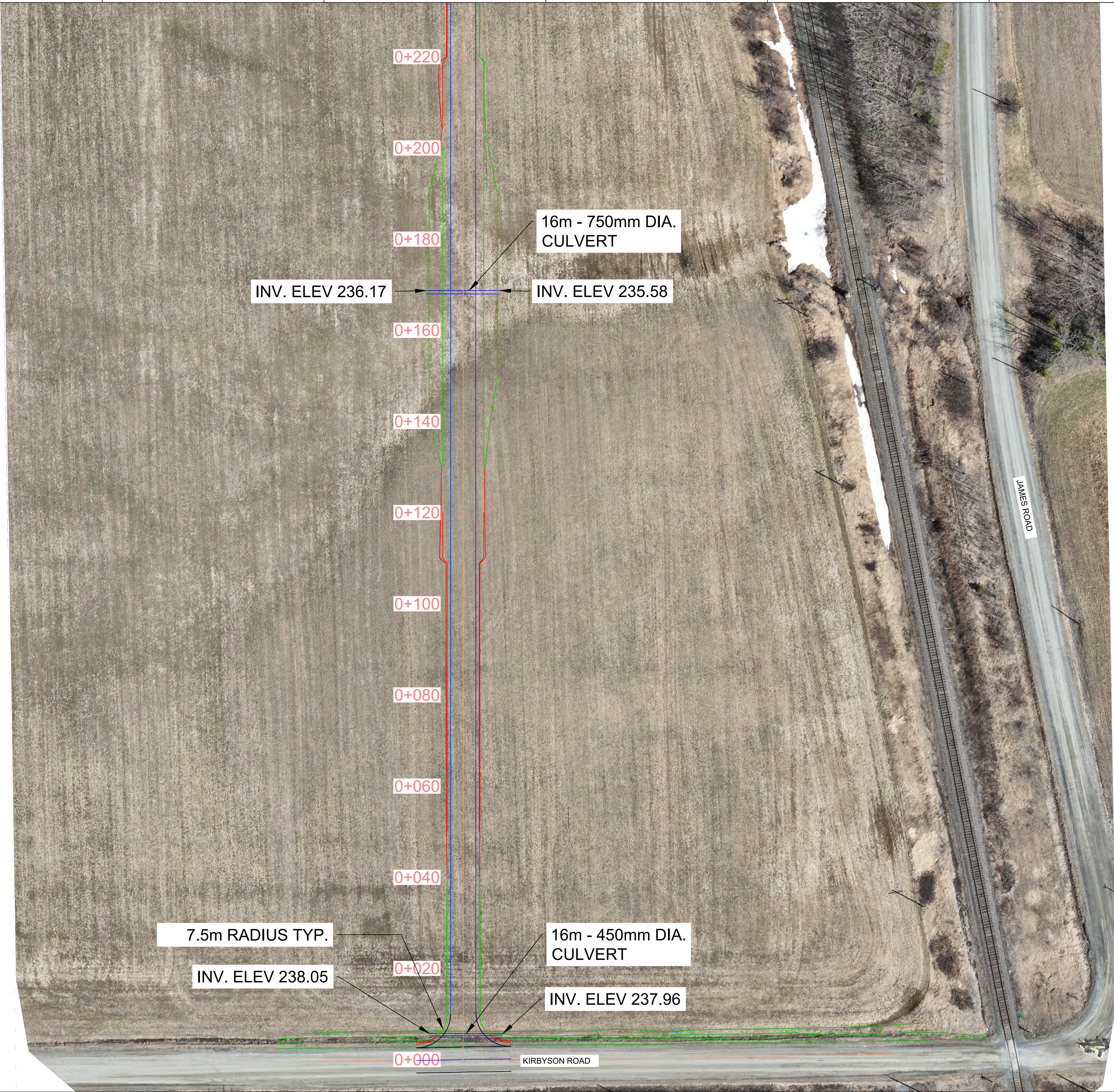
13.5 Construction debris shall be removed from the site upon completion of the work.

13.6 All disturbed surfaces shall be graded to provide positive drainage.

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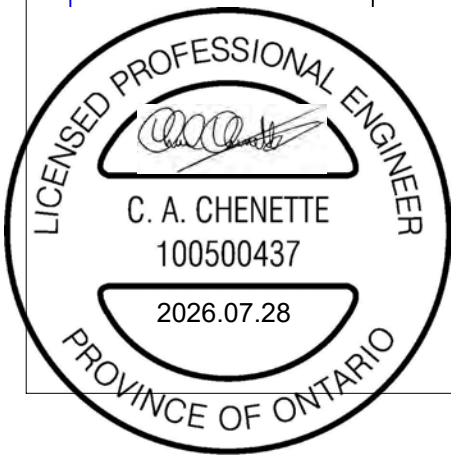
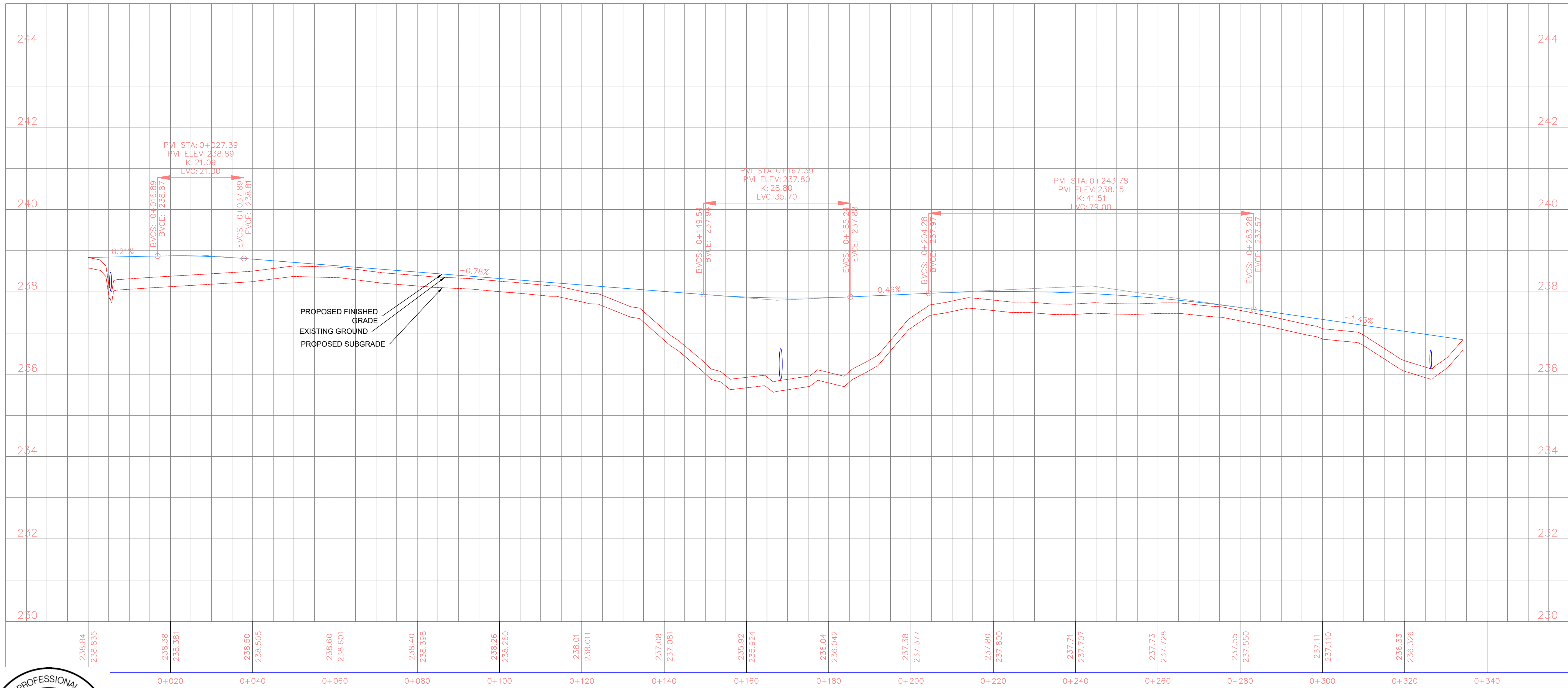
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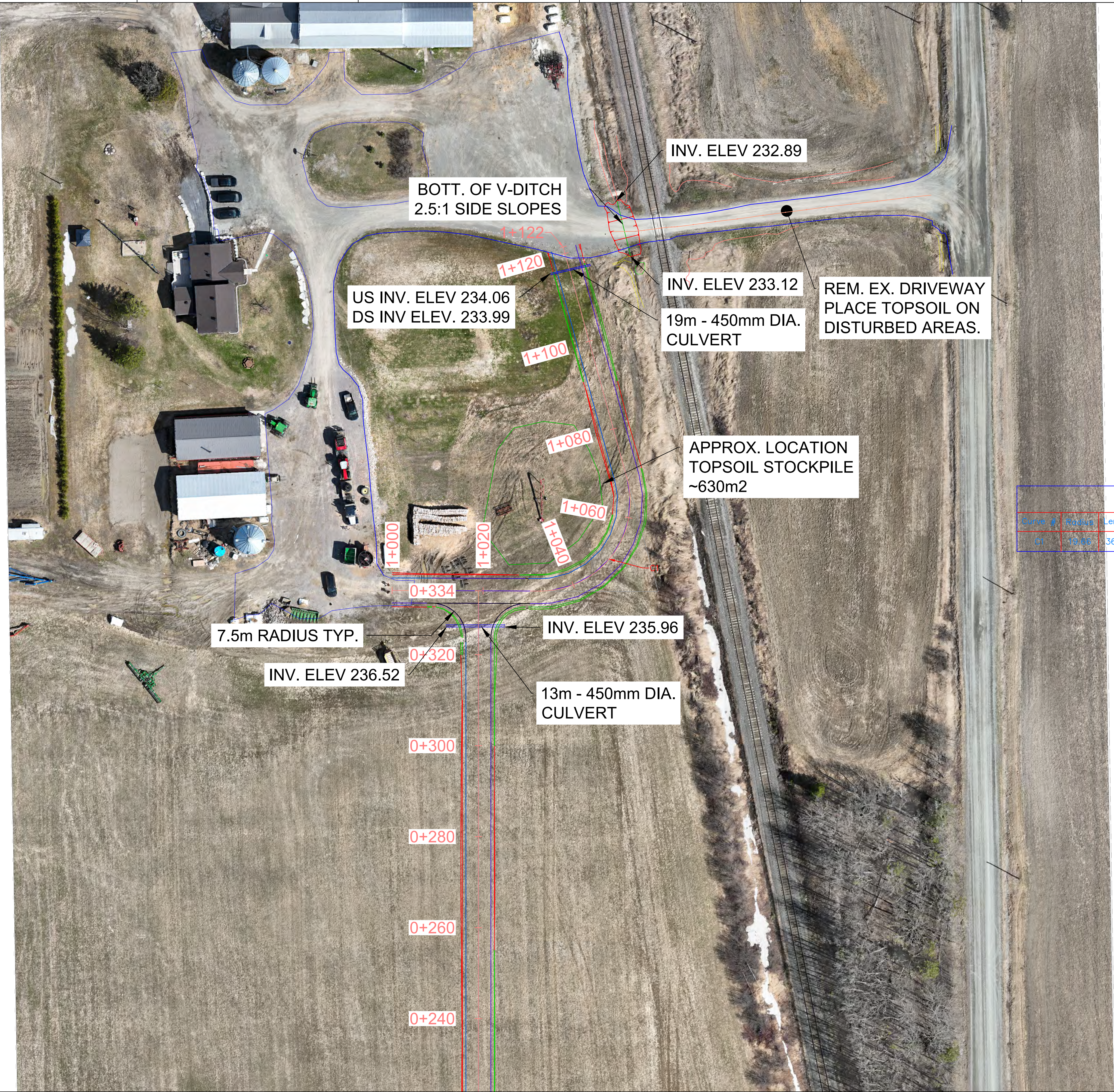
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Alignment – Field PROFILE



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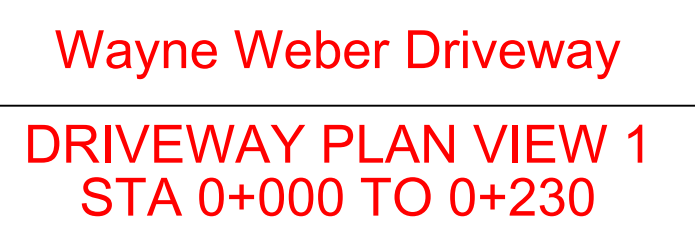
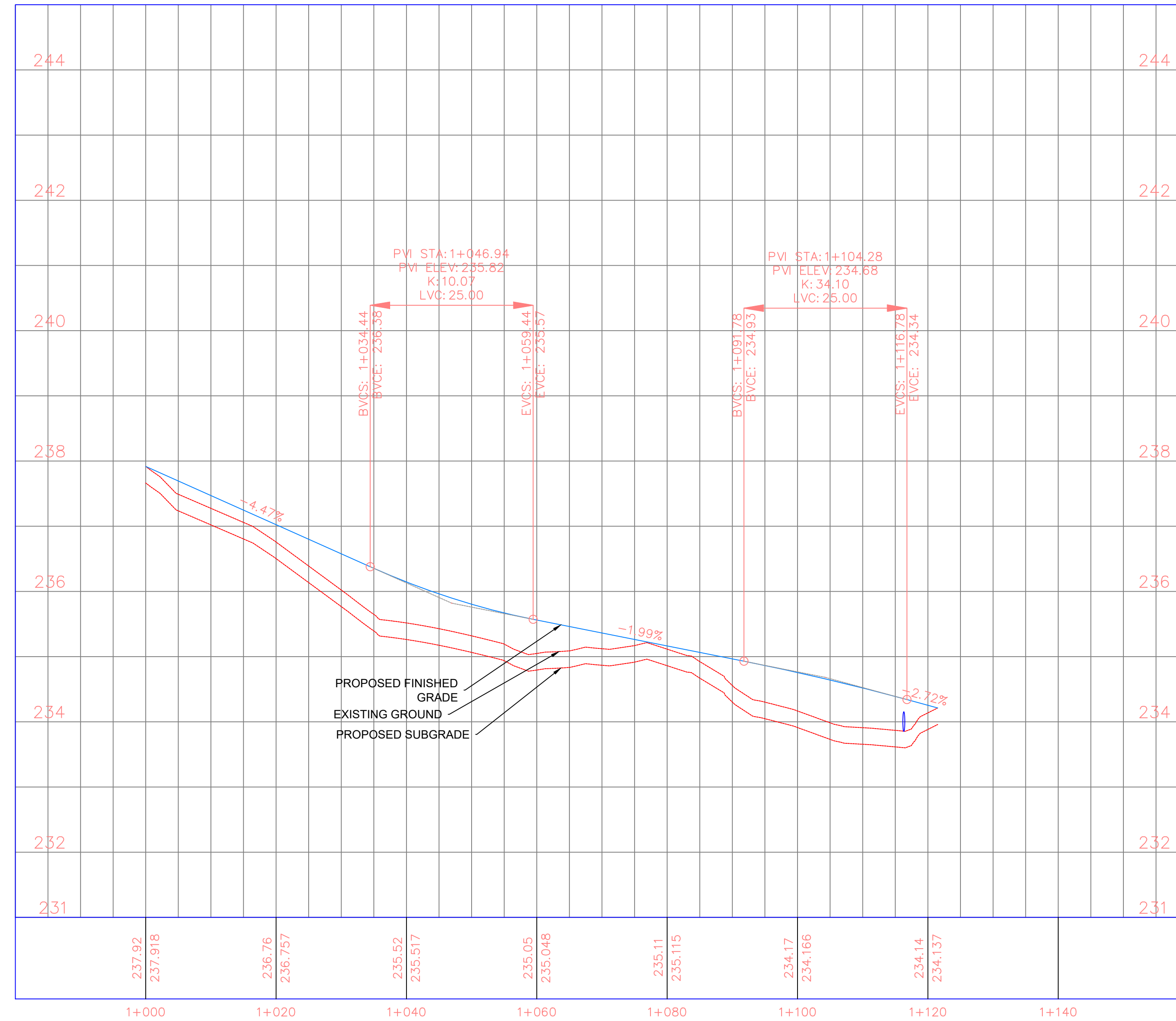


Curve Table: Alignments					
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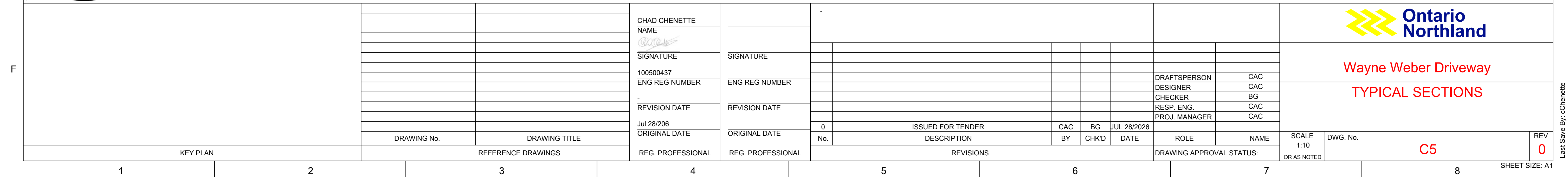


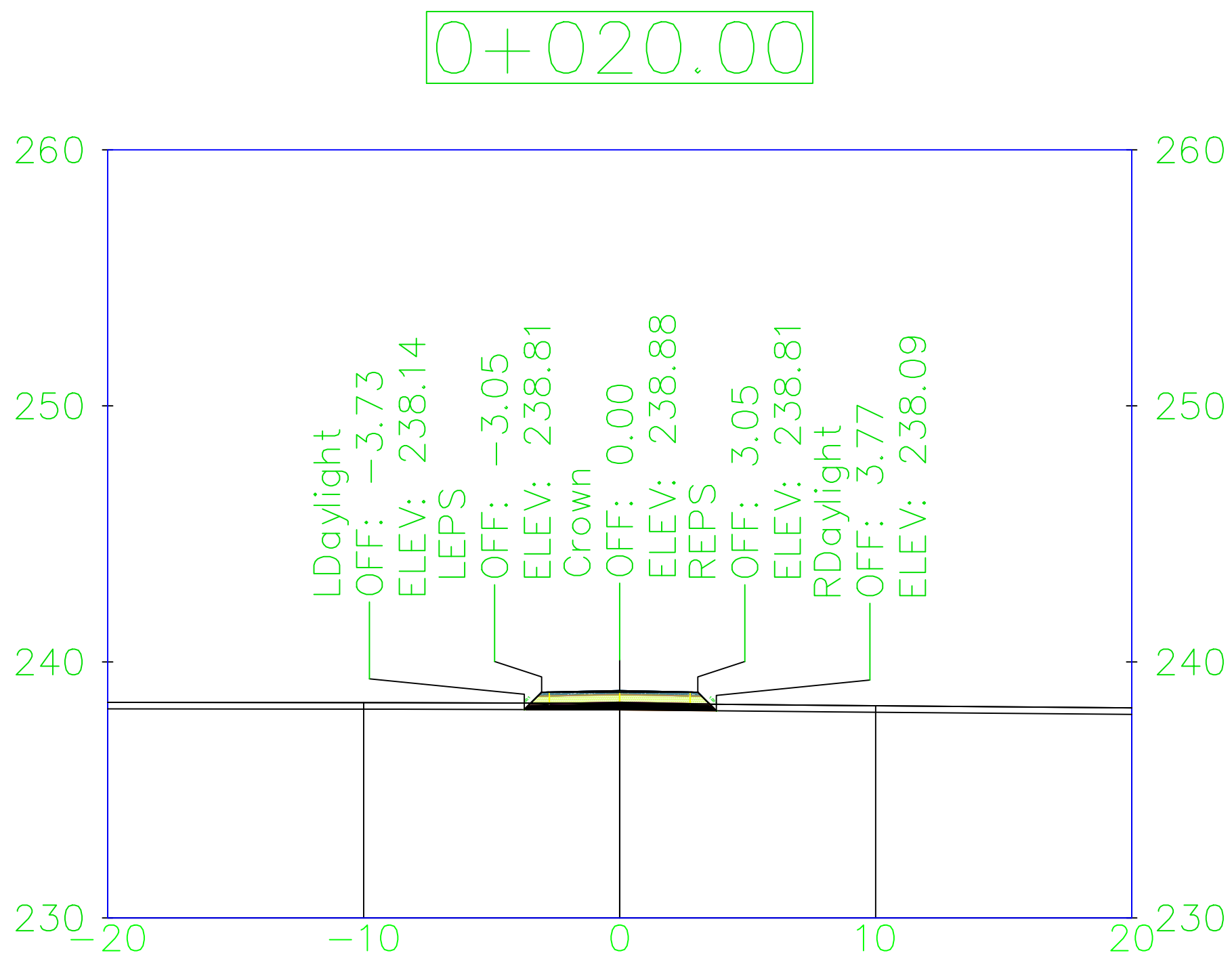
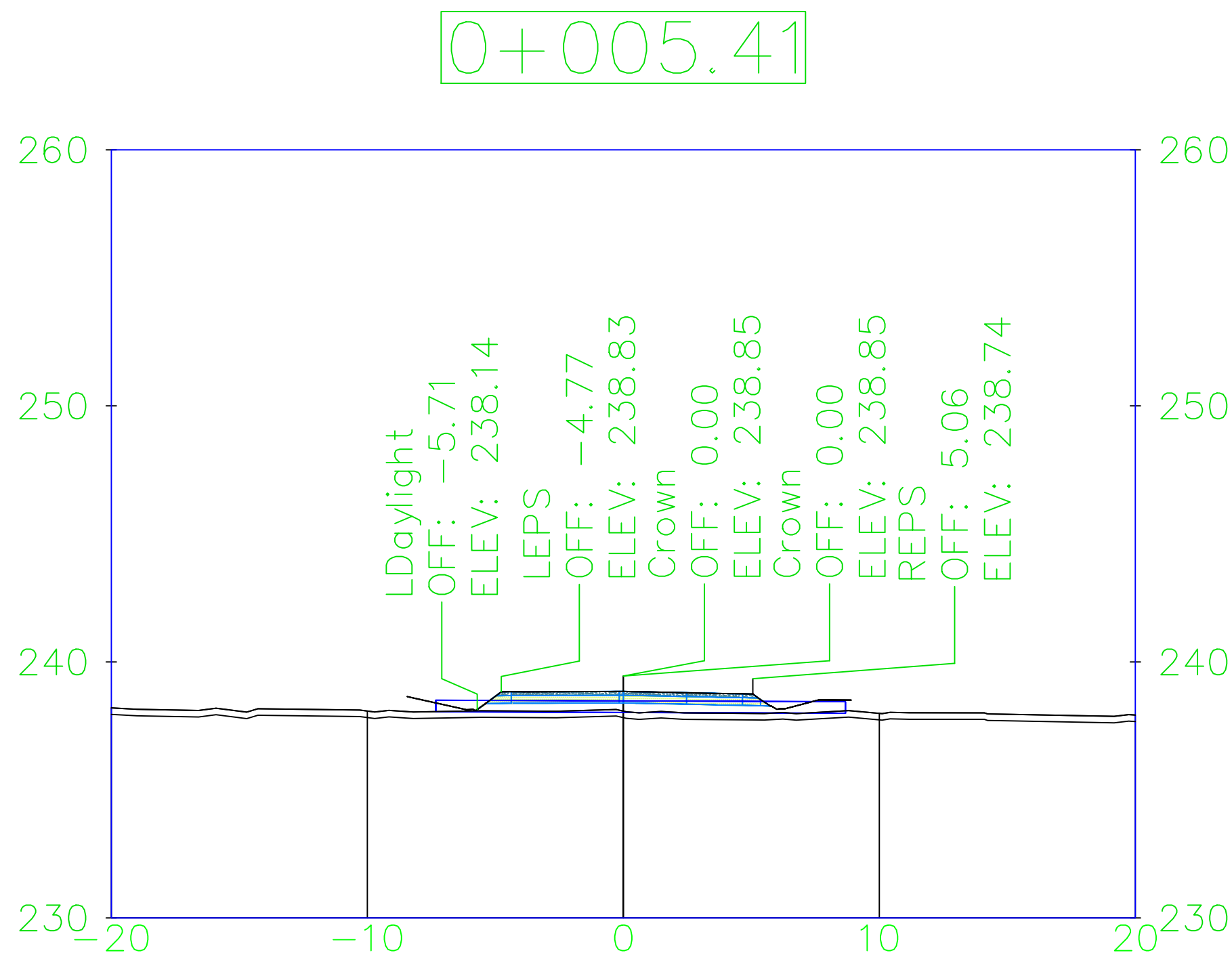
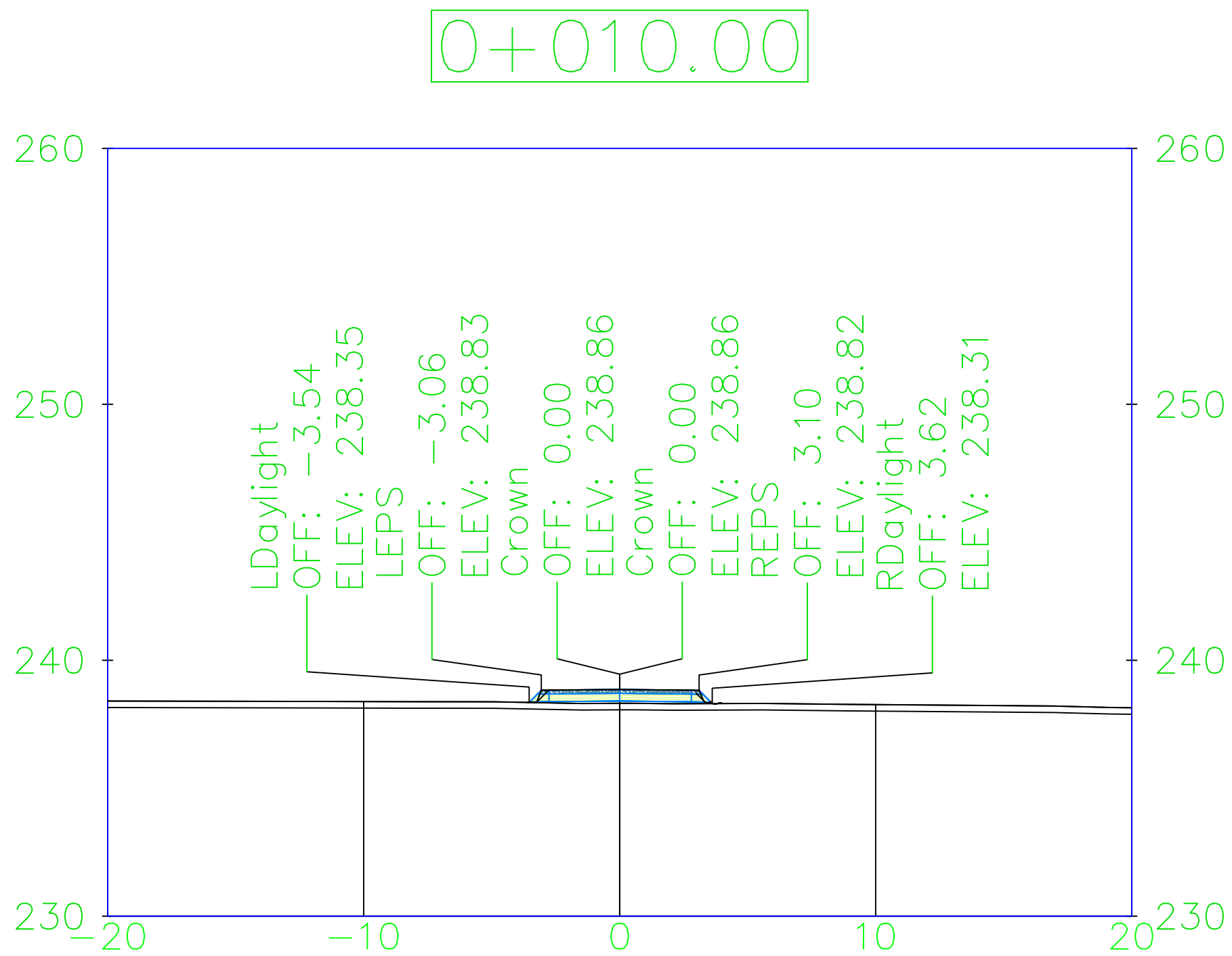
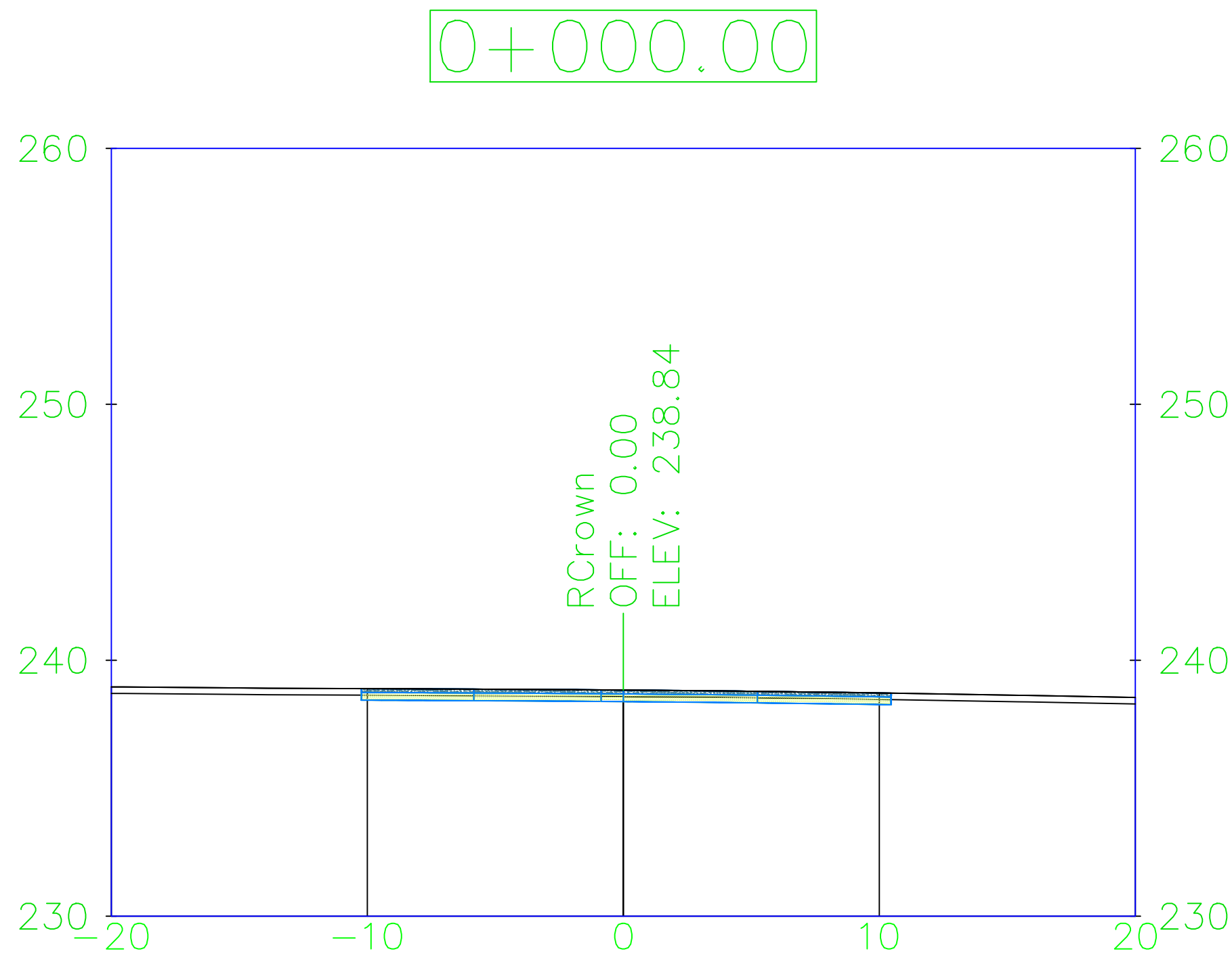
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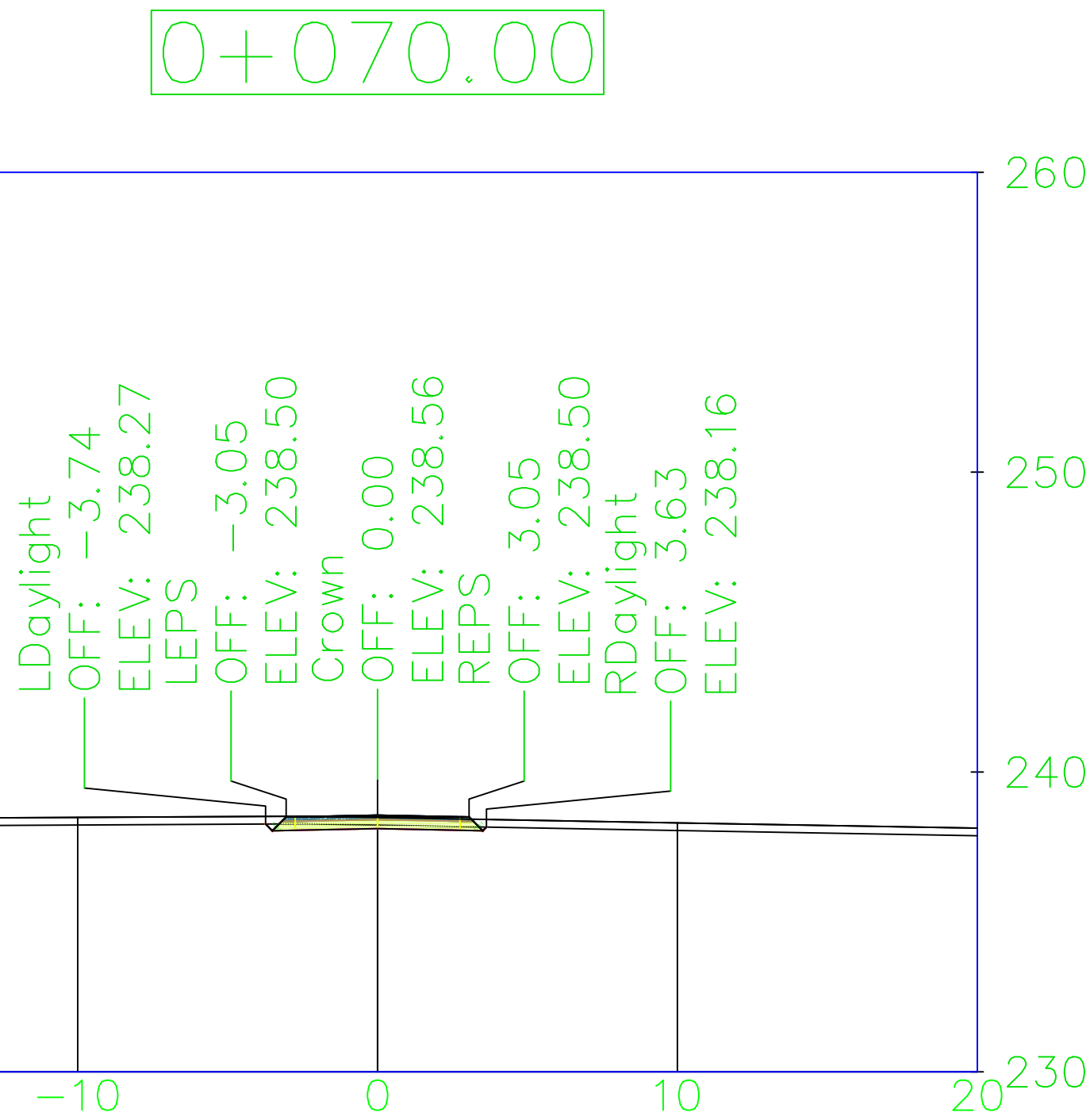
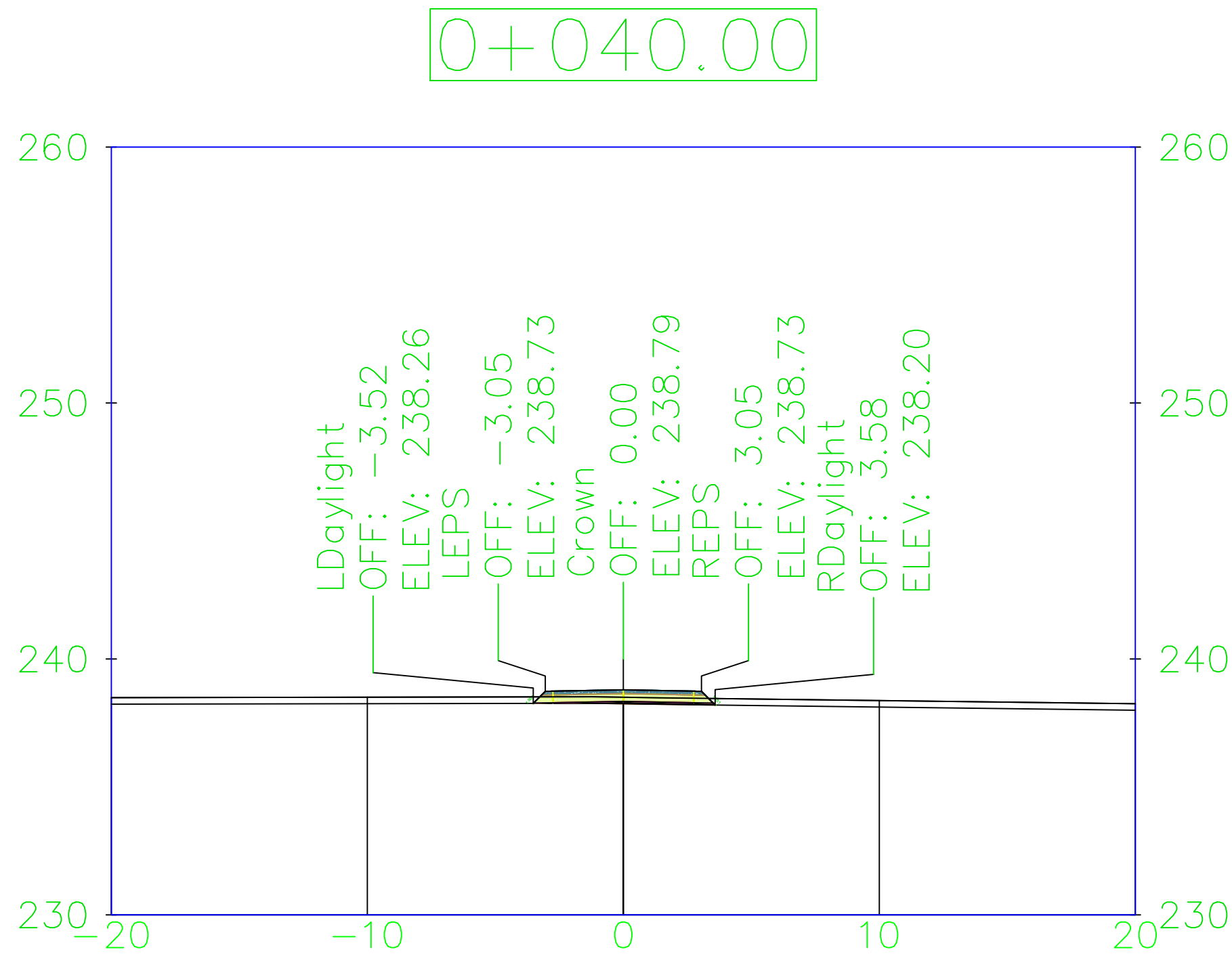
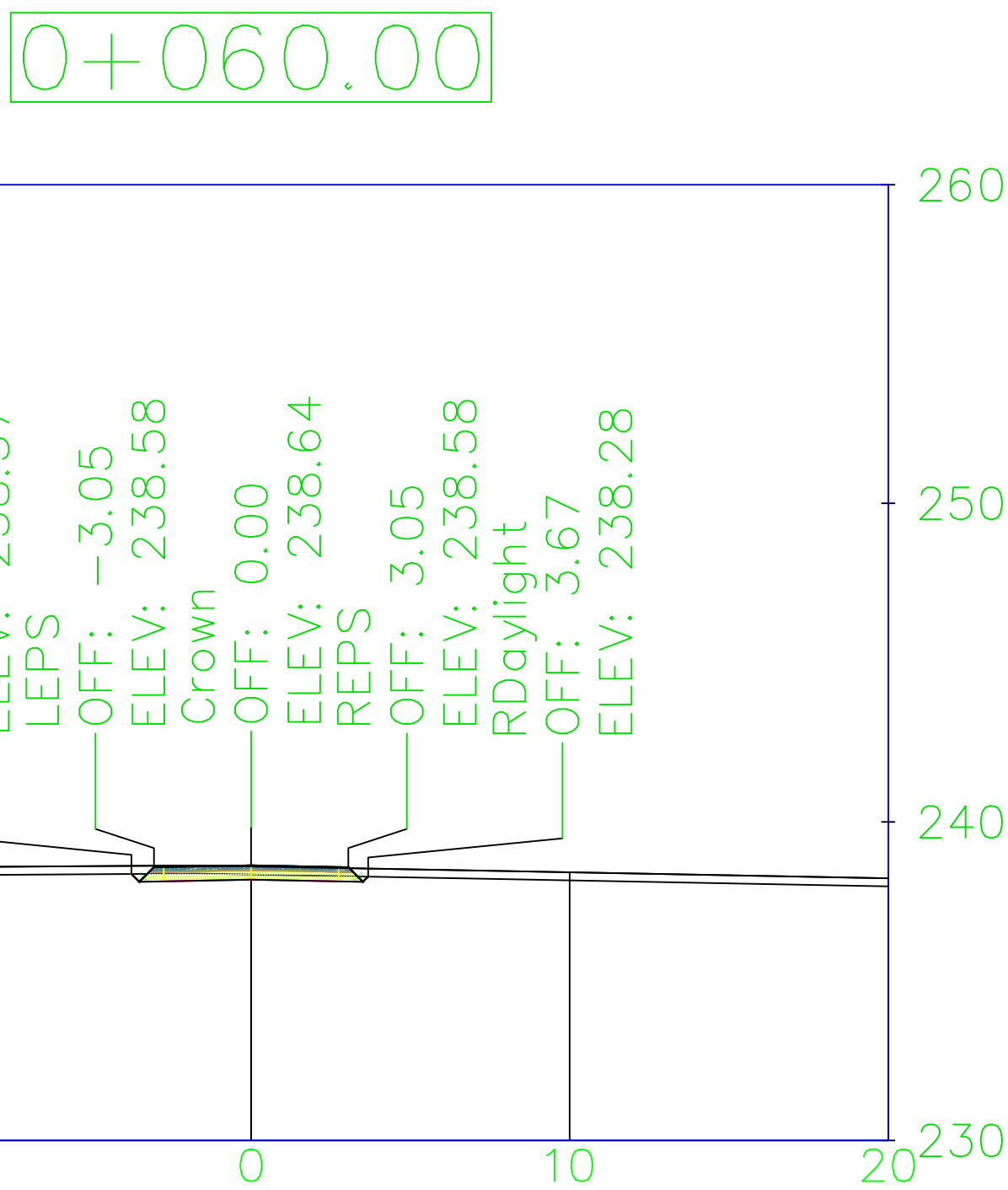
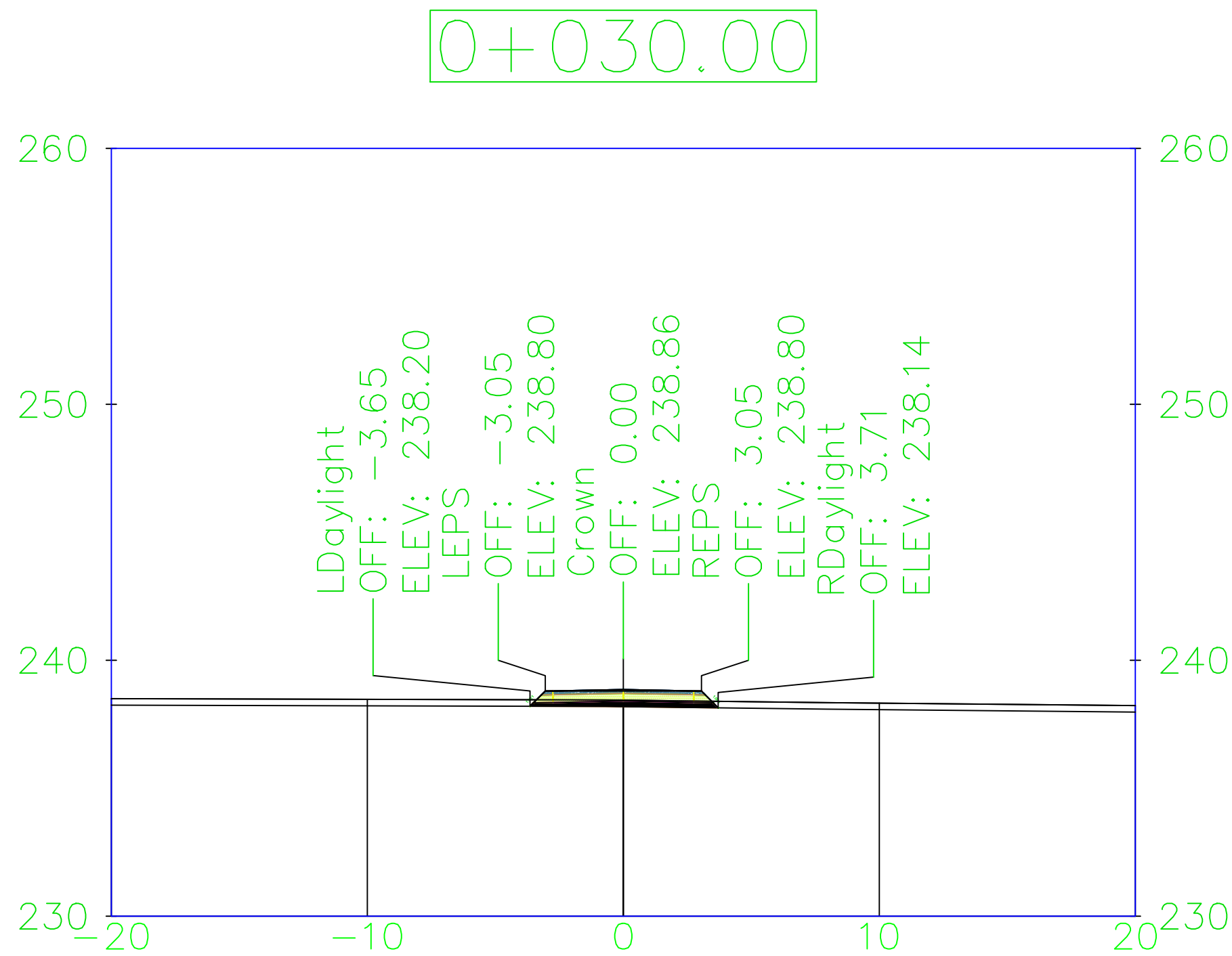
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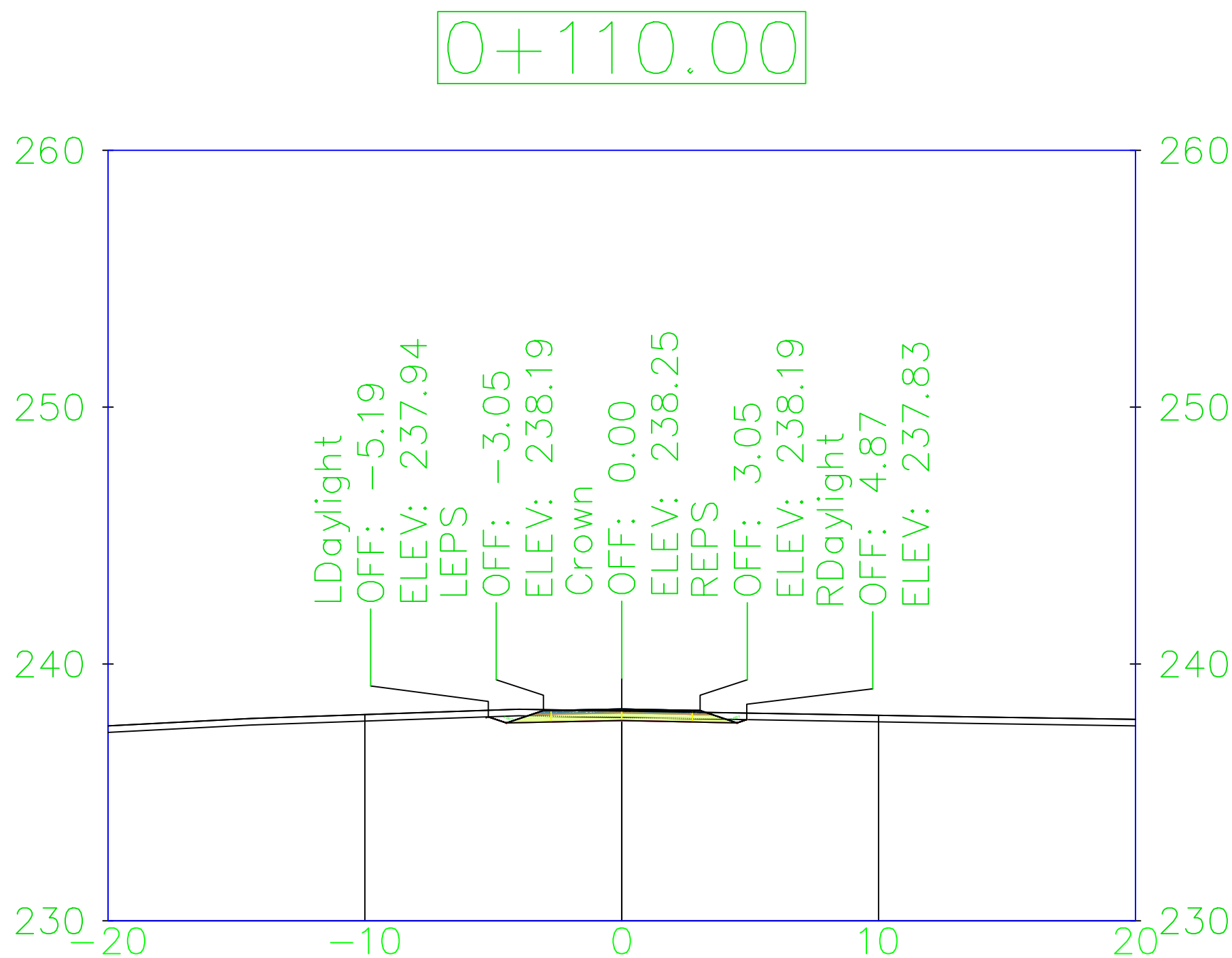
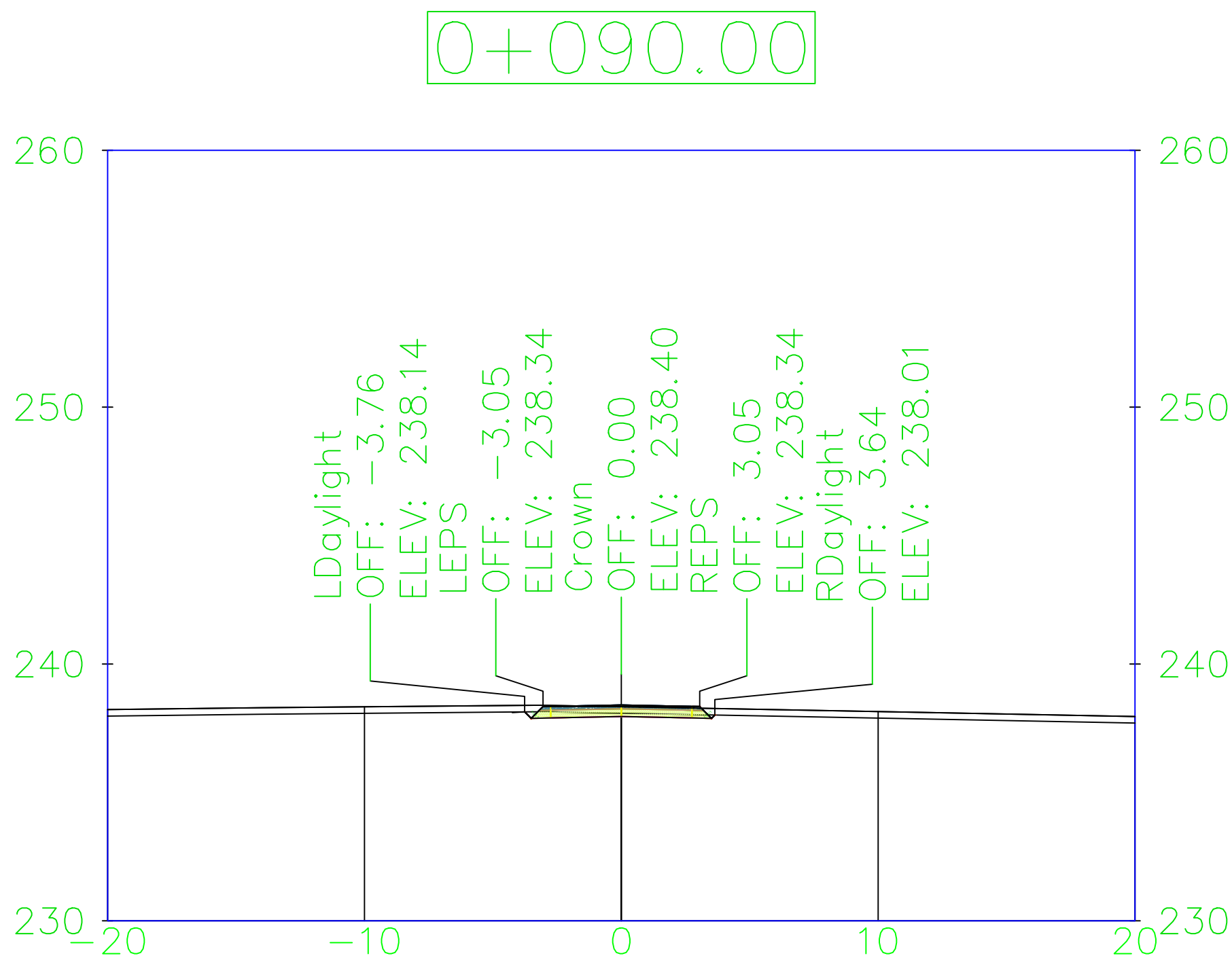
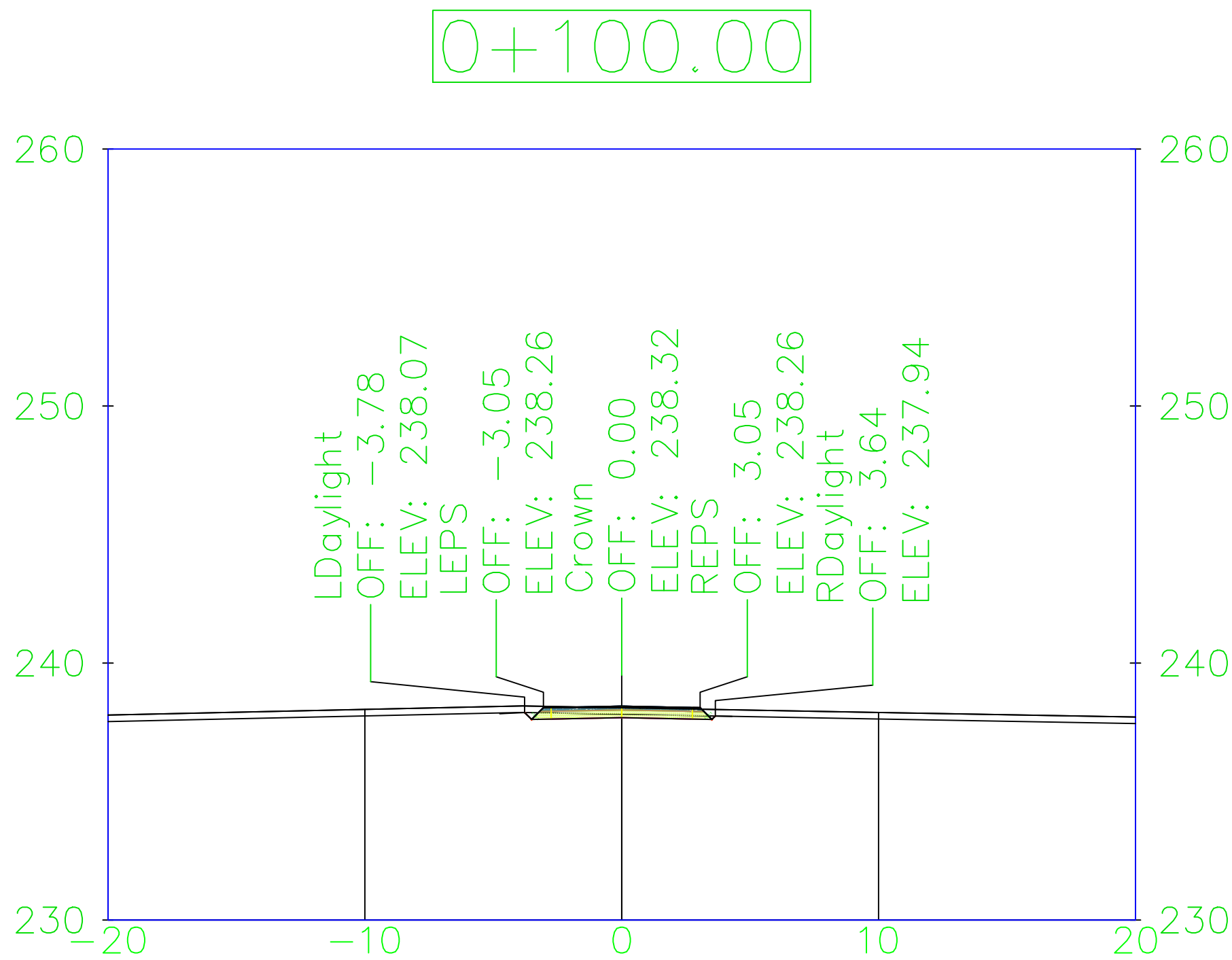
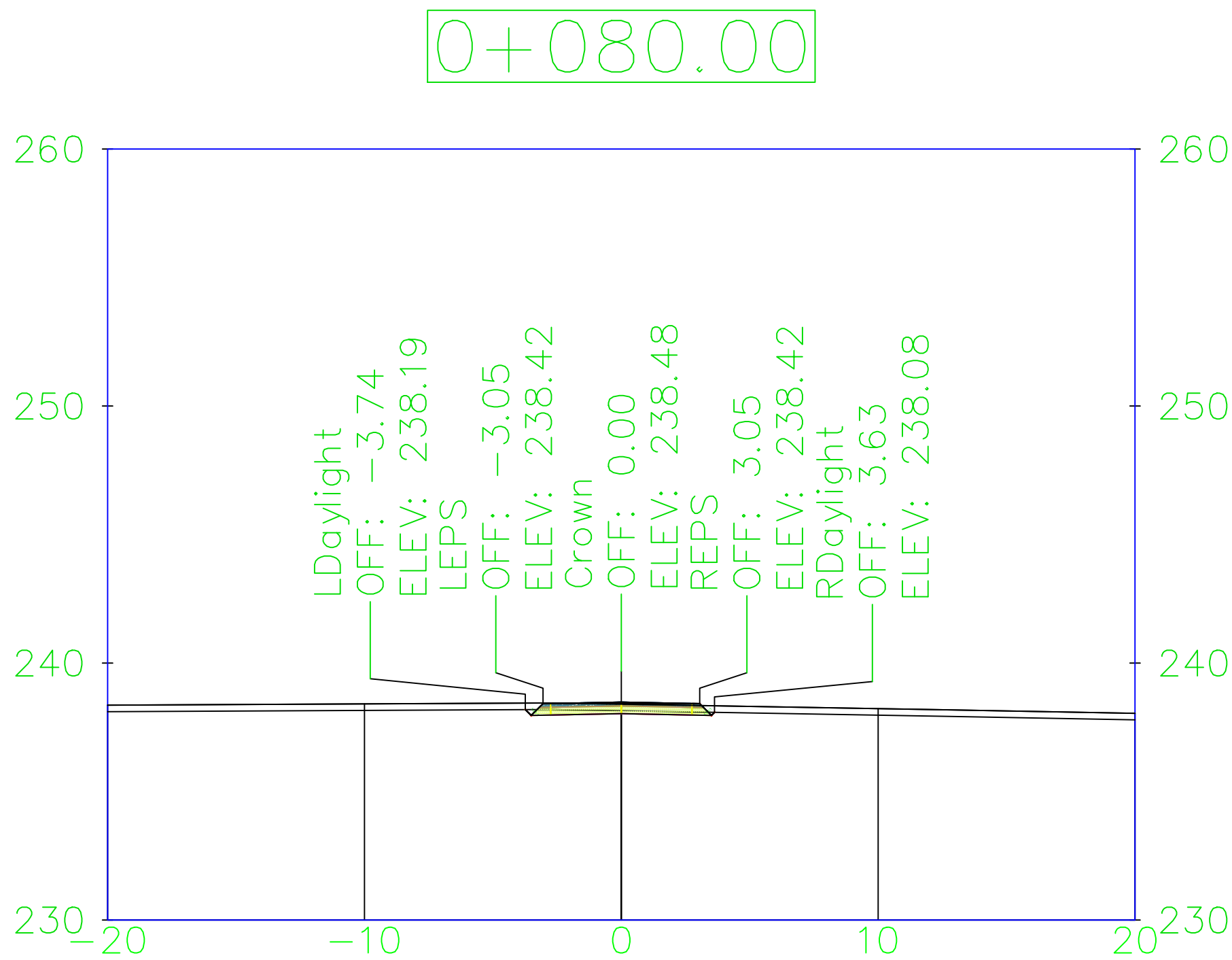
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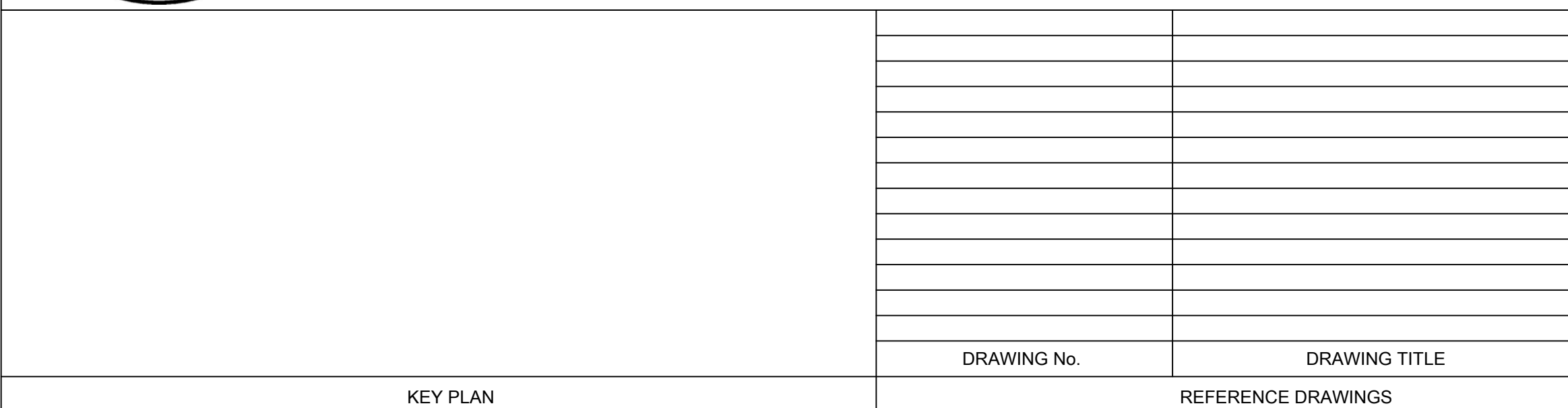
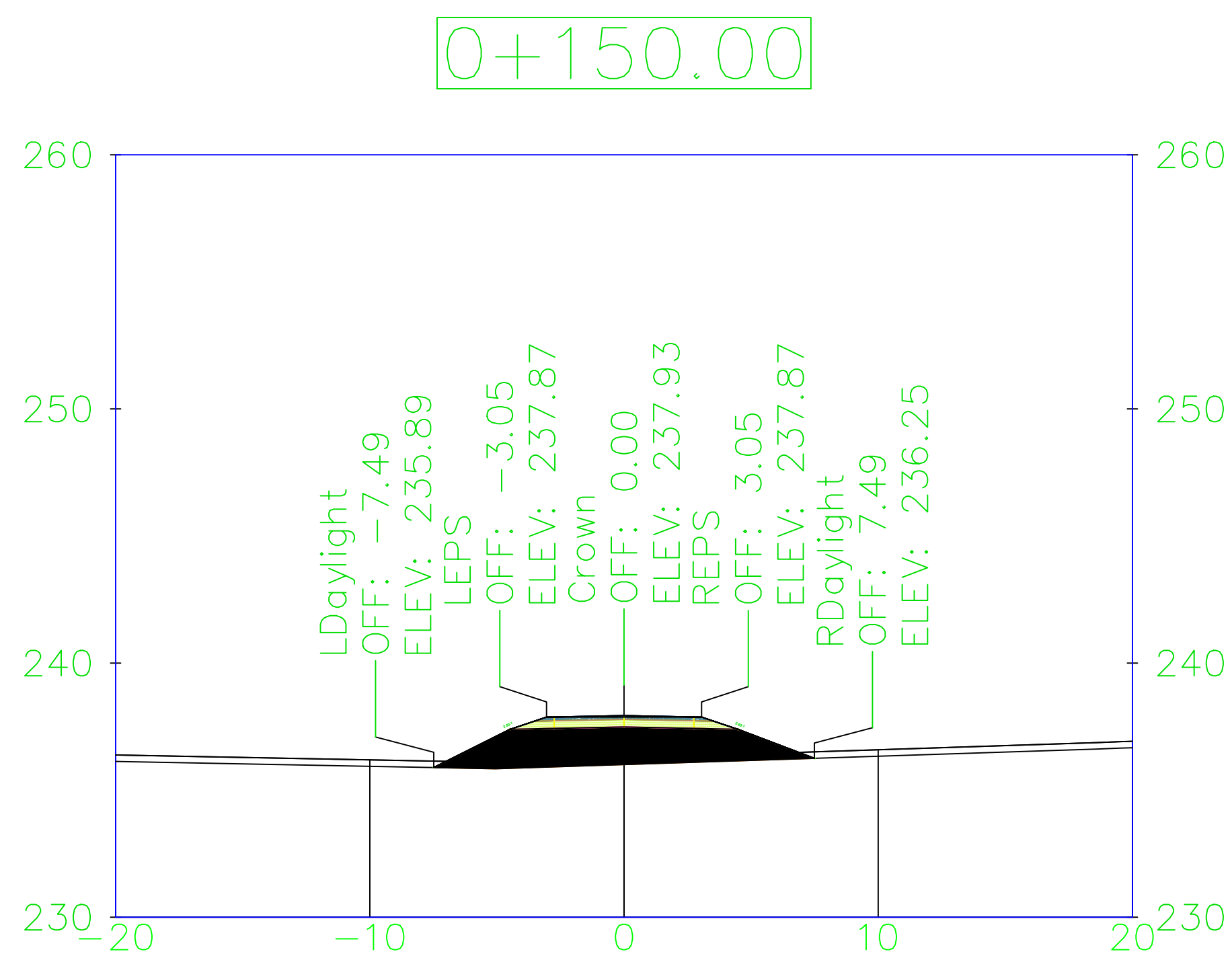
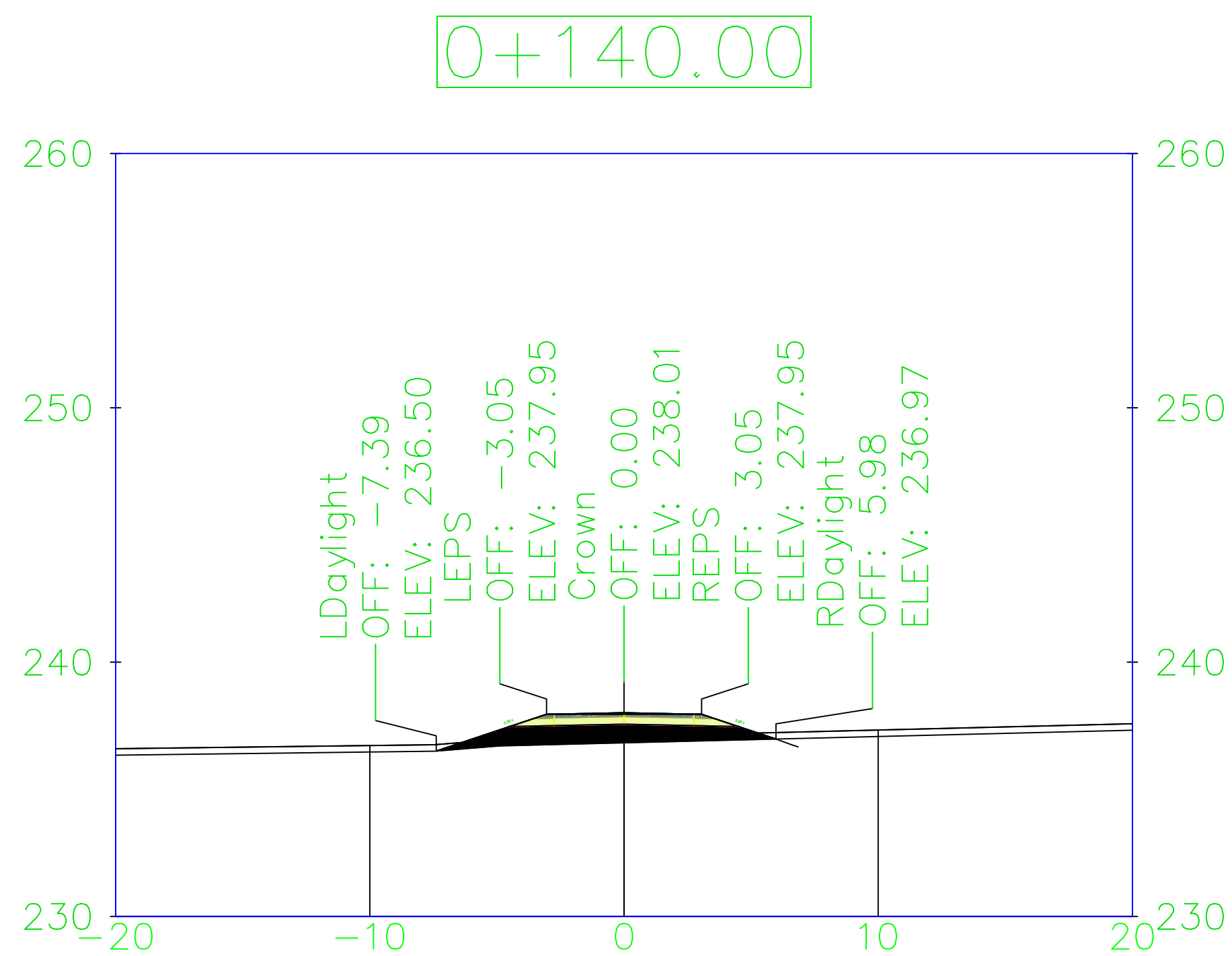
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Wayne Weber Driveway

CROSS SECTIONS
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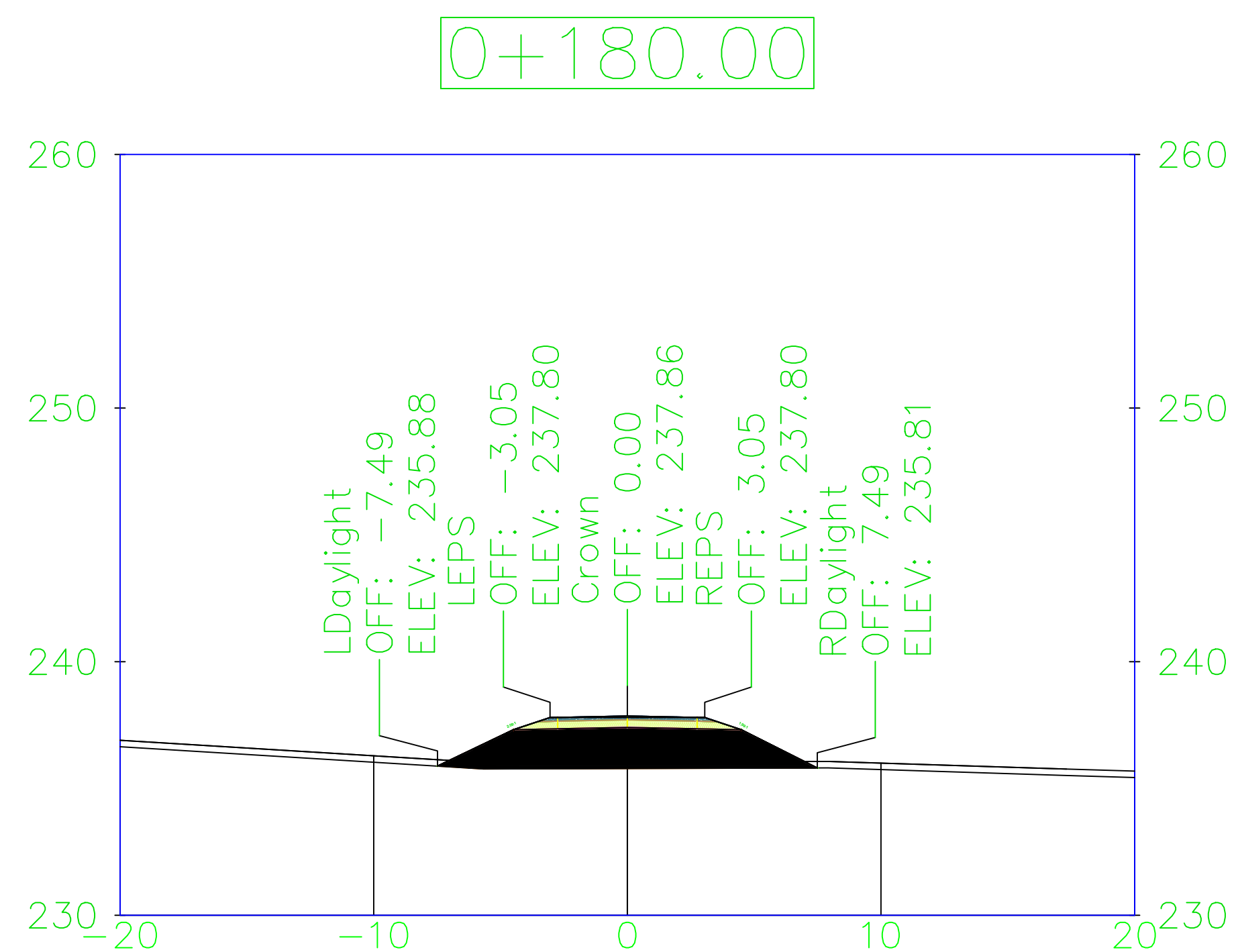
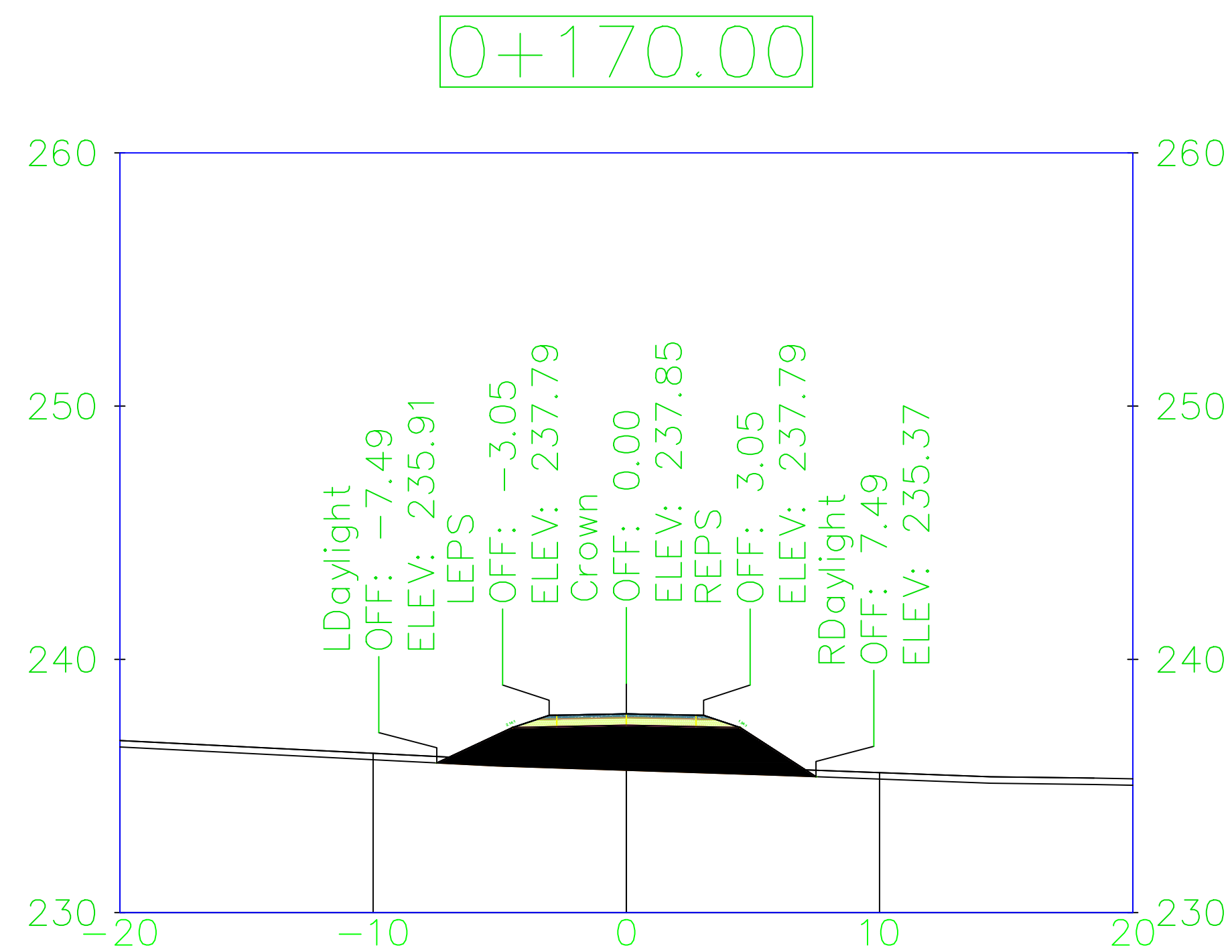
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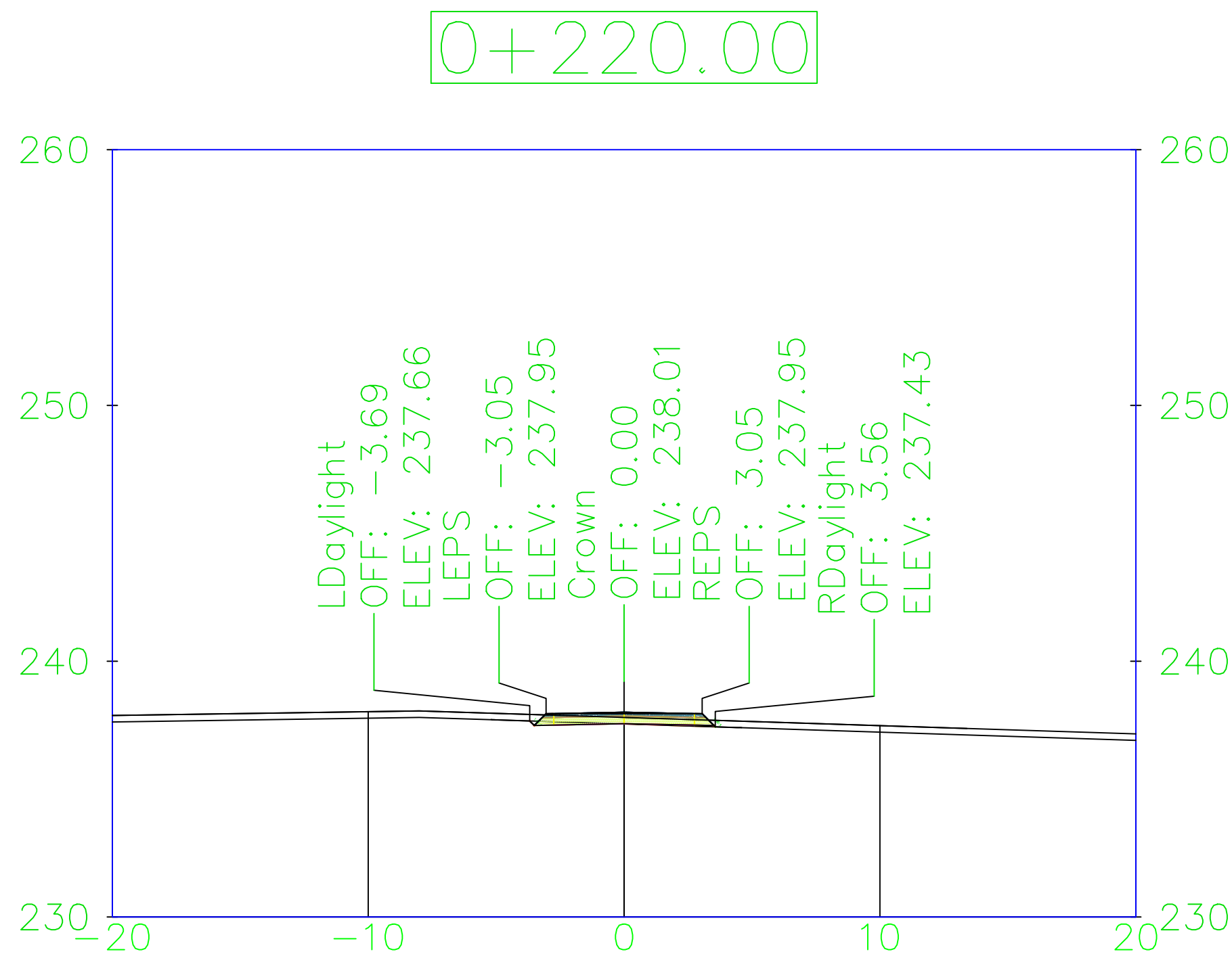
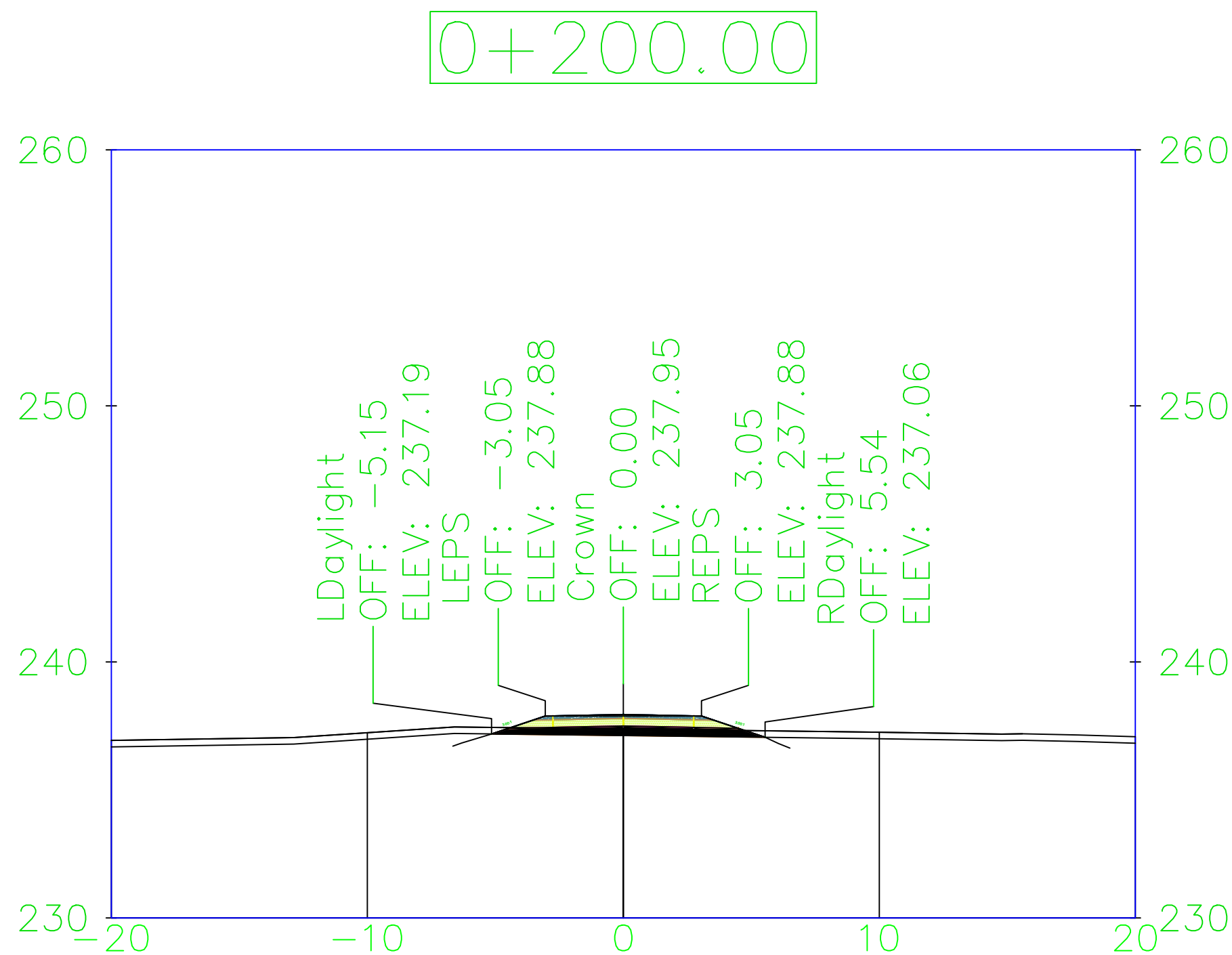
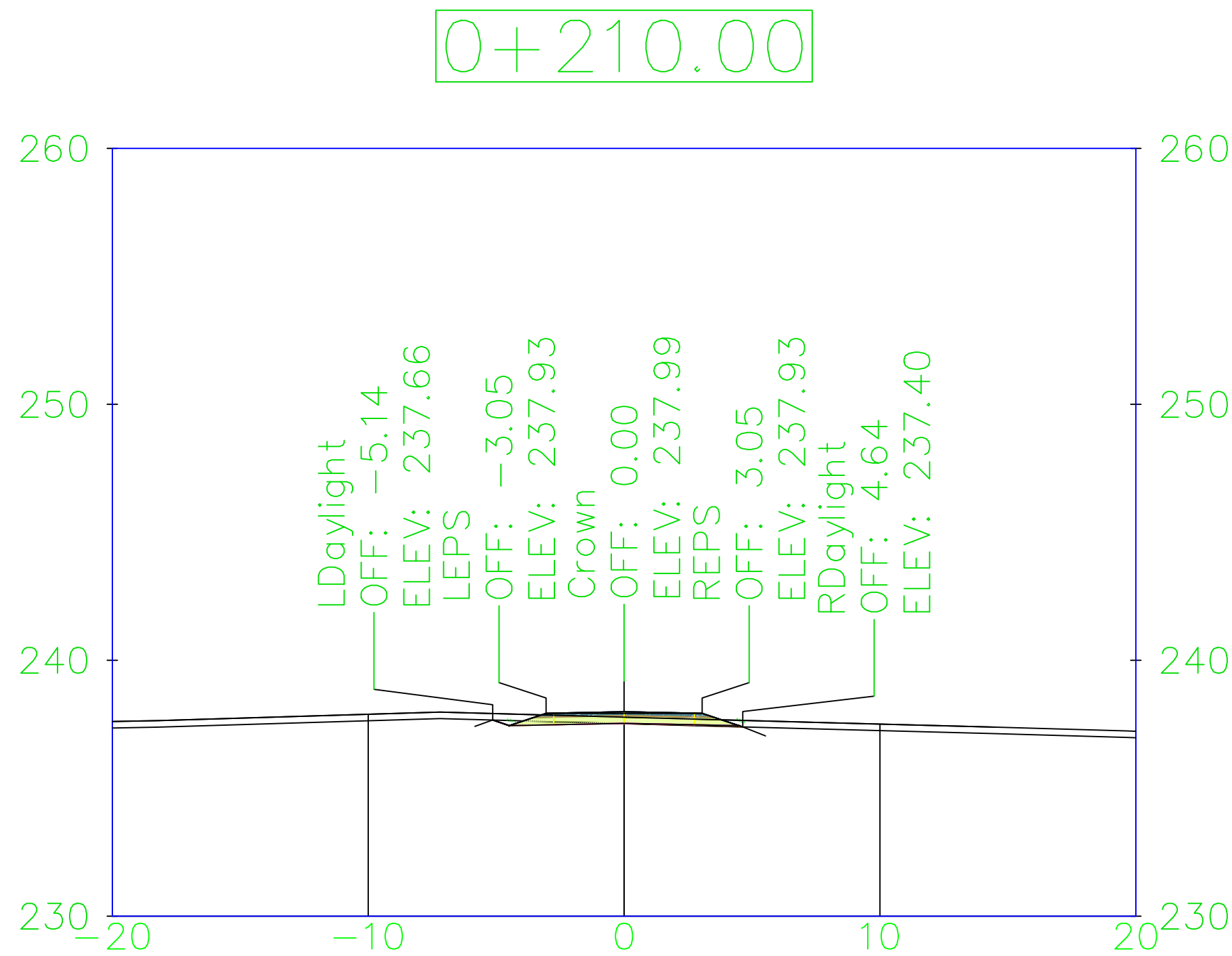
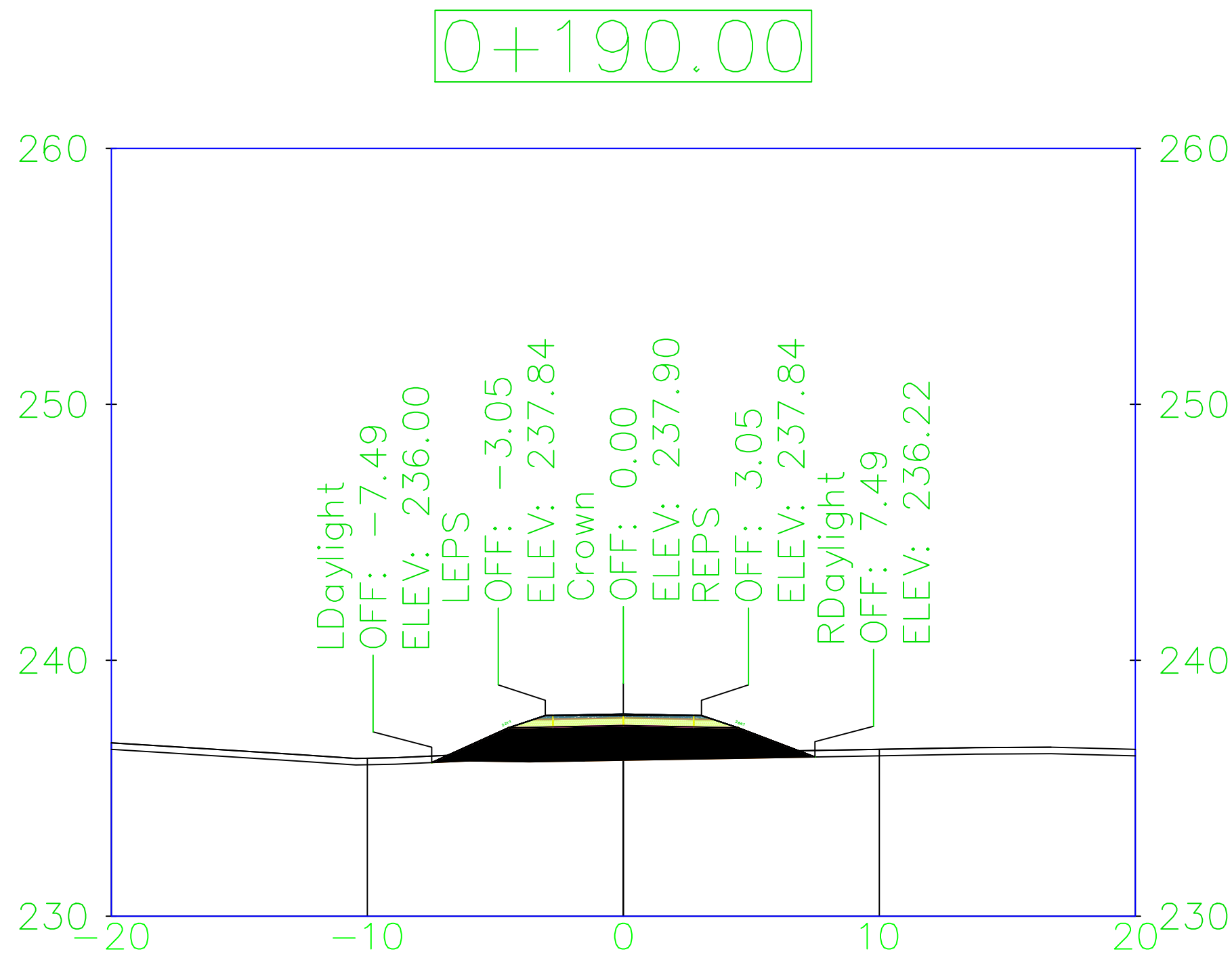


CHAD CHENETTE NAME										
										
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100500437 ENG REG NUMBER		ENG REG NUMBER						DRAFTSPERSON	CAC	
-							DESIGNER	CAC		
REVISION DATE	REVISION DATE						CHECKER	BG		
Jul 28/206							RESP. ENG.	CAC		
ORIGINAL DATE							PROJ. MANAGER	CAC		
REG. PROFESSIONAL	REG. PROFESSIONAL	0	ISSUED FOR TENDER			CAC	BG	JUL 28/2026		
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		REVISIONS							DRAWING APPROVAL STATUS:	

SCALE 1:200 OR AS NOTED	DWG. No. C9	REV 0
		SHEET SIZE: A1

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KEY PLAN		
REFERENCE DRAWINGS		

CHAD CHENETTE
NAME

SIGNATURE
100500437
ENG REG NUMBER
Jul 28/206
ORIGINAL DATE
REG. PROFESSIONAL

SIGNATURE
ENG REG NUMBER
REVISION DATE
ORIGINAL DATE
REG. PROFESSIONAL

0	ISSUED FOR TENDER		CAC	BG	JUL 28/2026
No.	DESCRIPTION		BY	CHK'D	DATE
REVISIONS					

DRAFTSPERSON	CAC
DESIGNER	CAC
CHECKER	BG
RESP. ENG.	CAC
PROJ. MANAGER	CAC
ROLE	NAME

Wayne Weber Driveway

CROSS SECTIONS
STA 0+190 TO 0+220

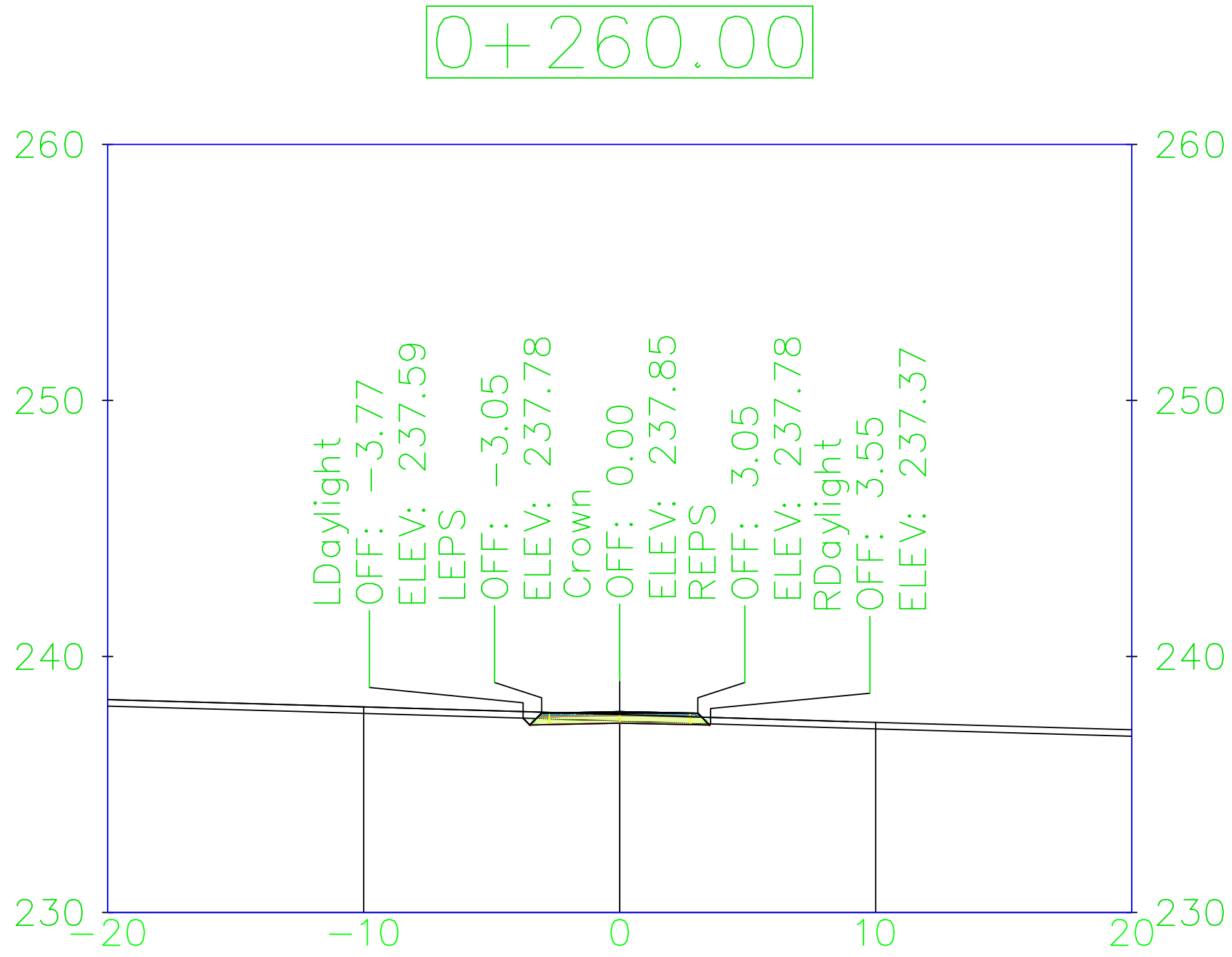
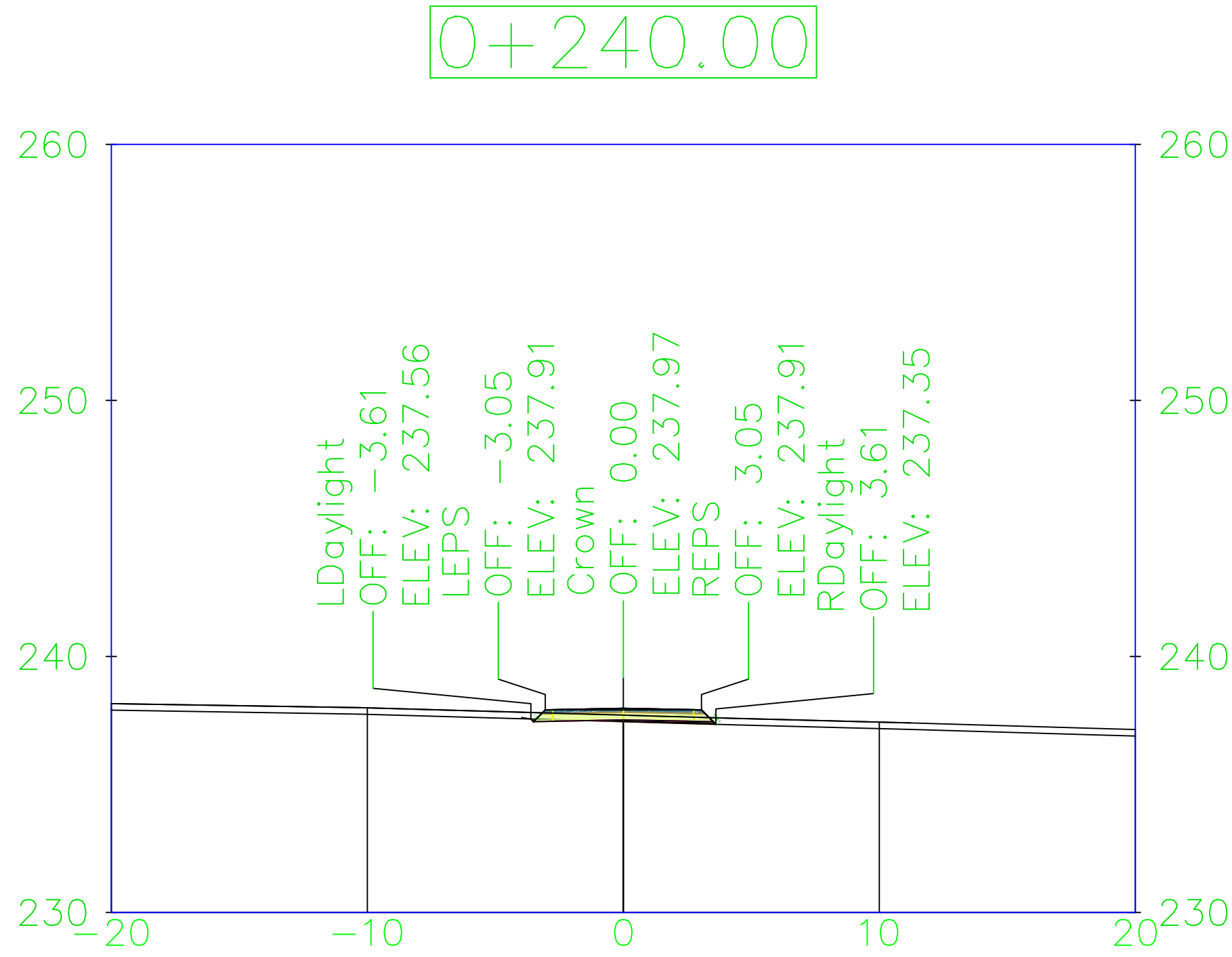
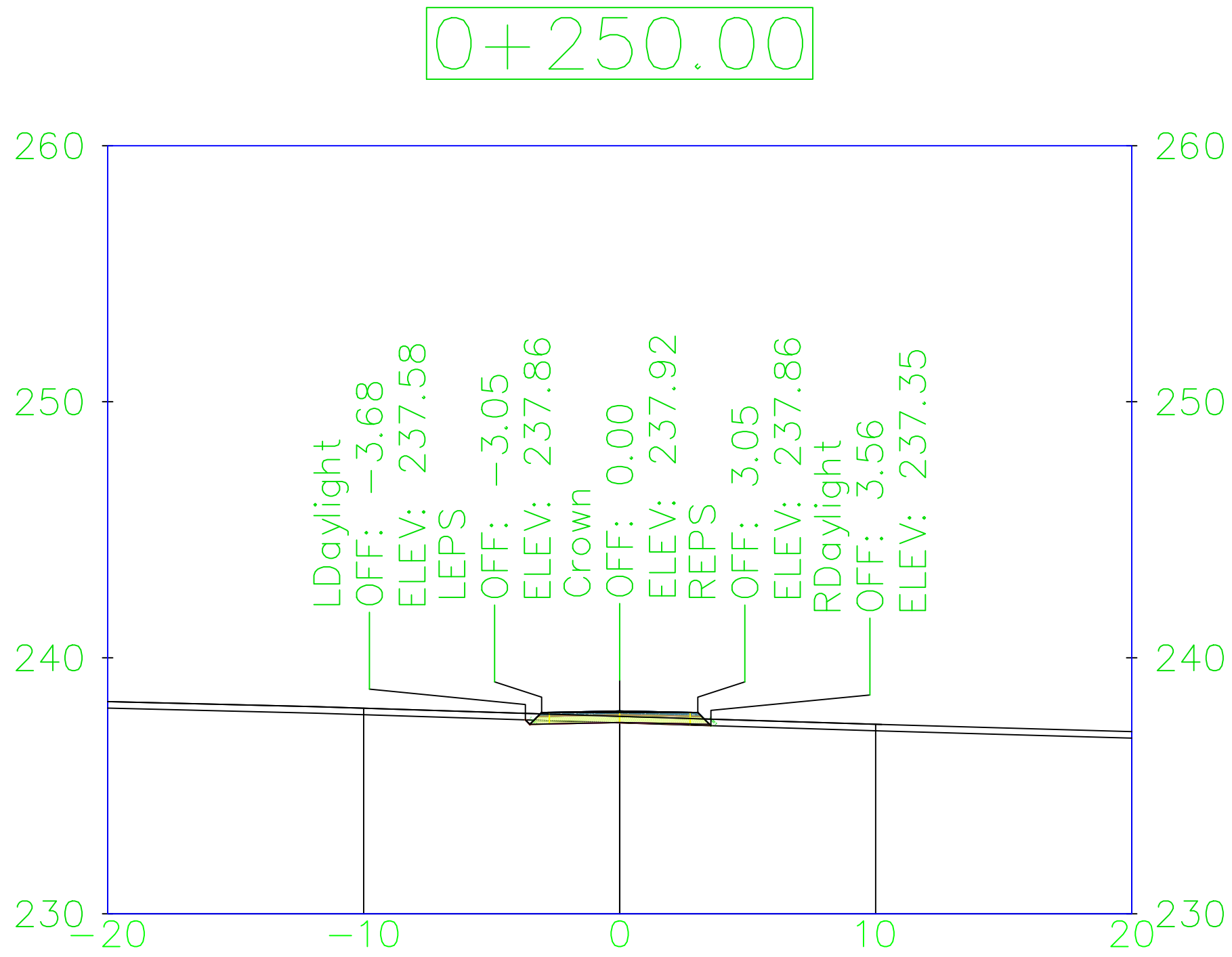
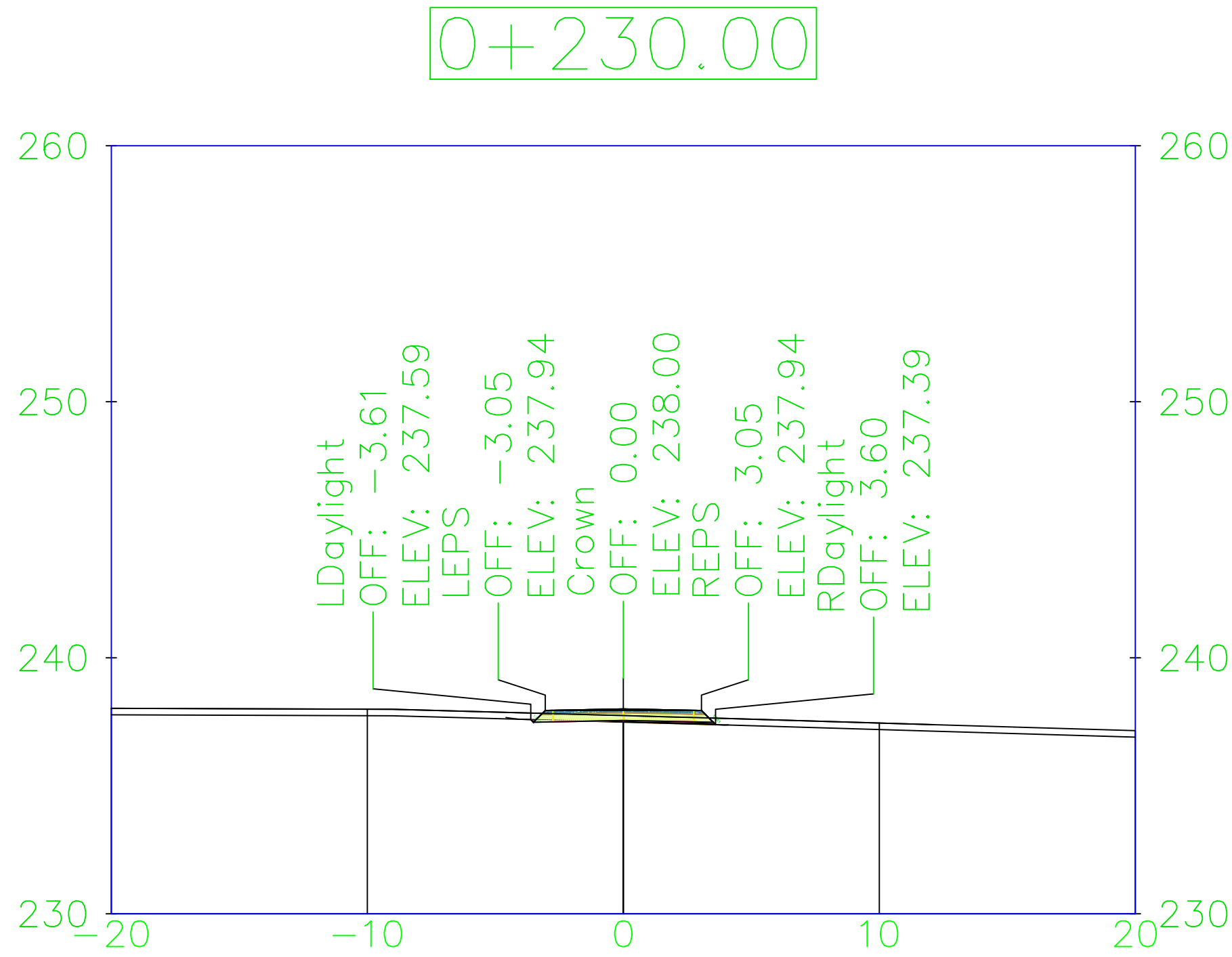
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SCALE
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OR AS NOTED

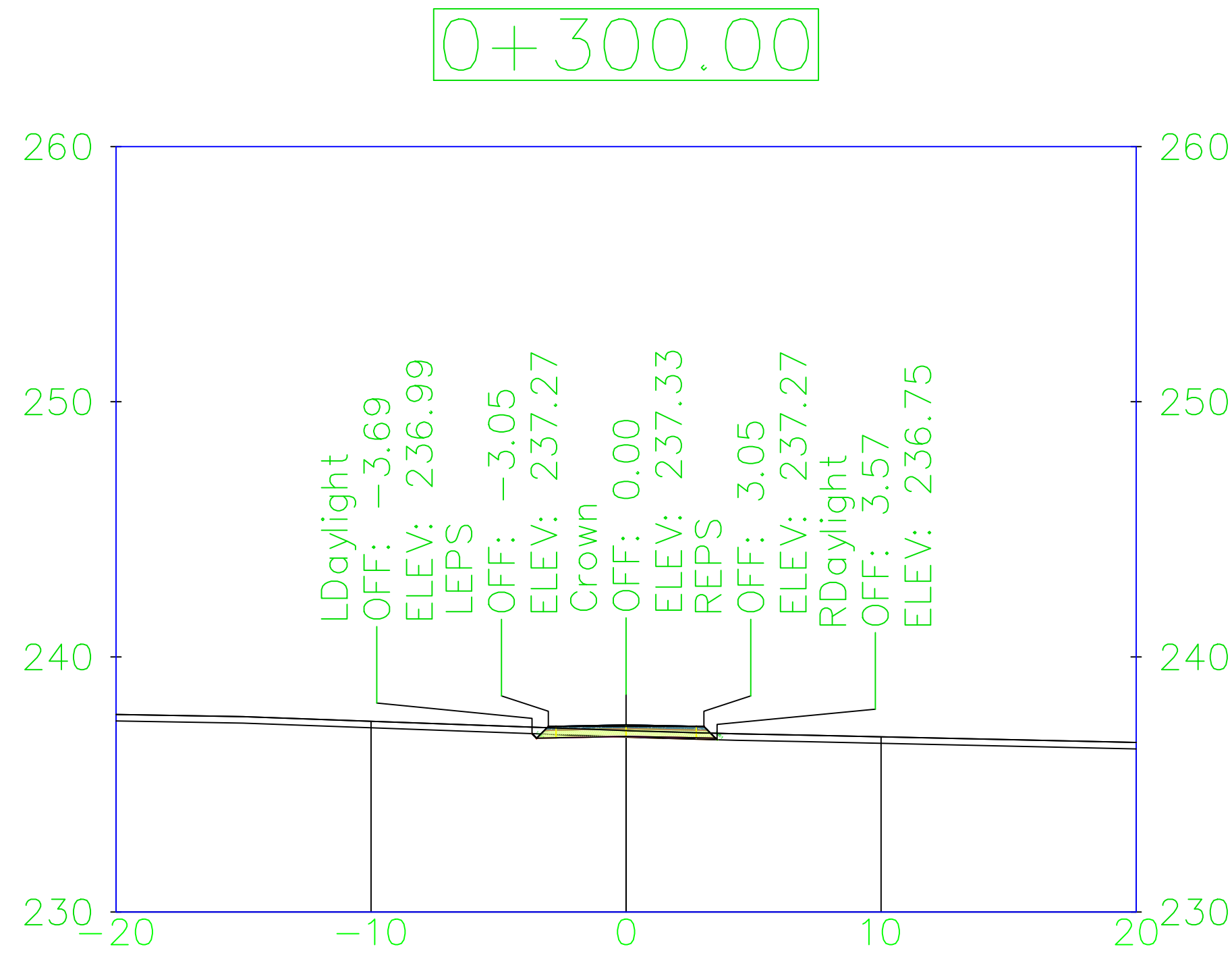
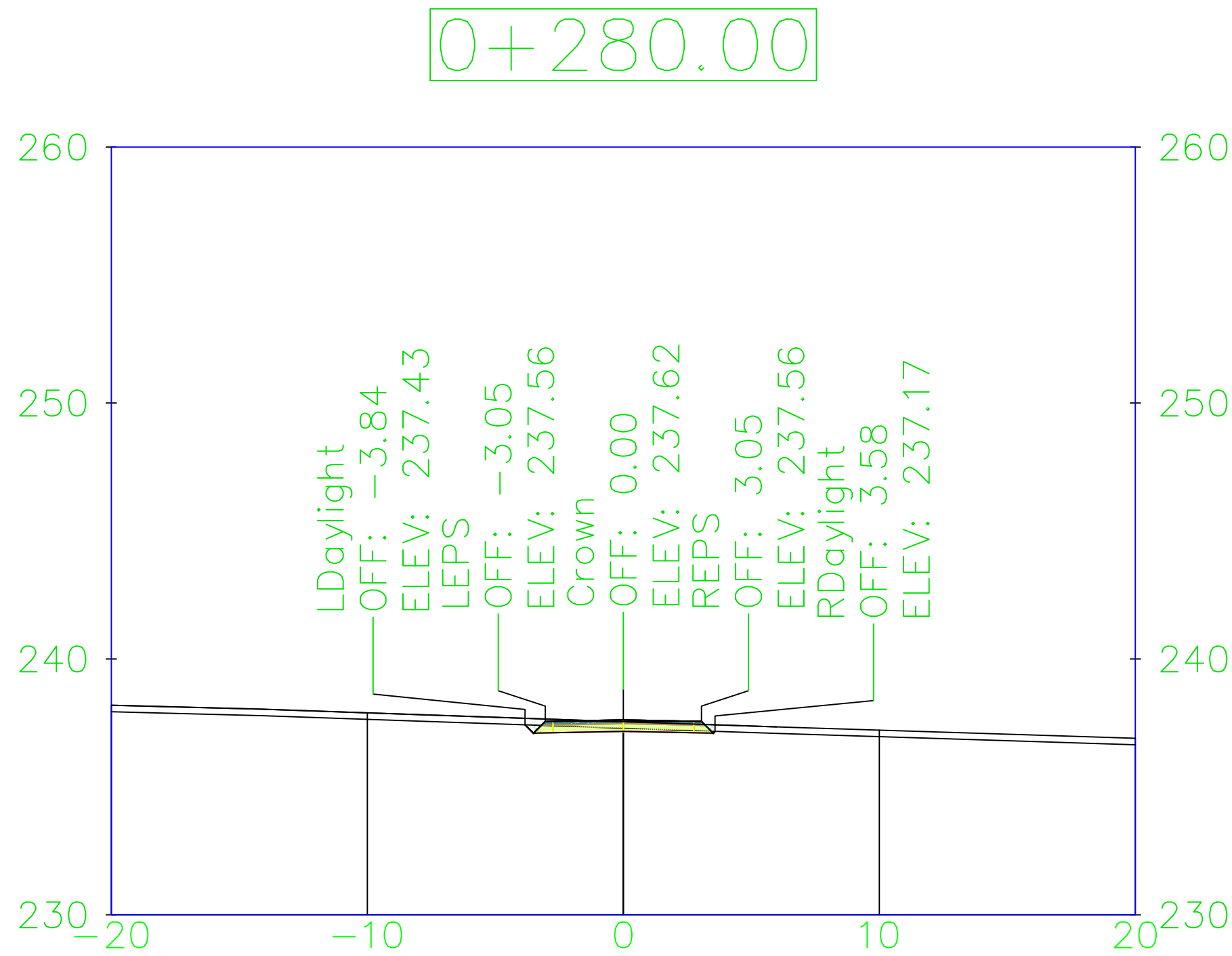
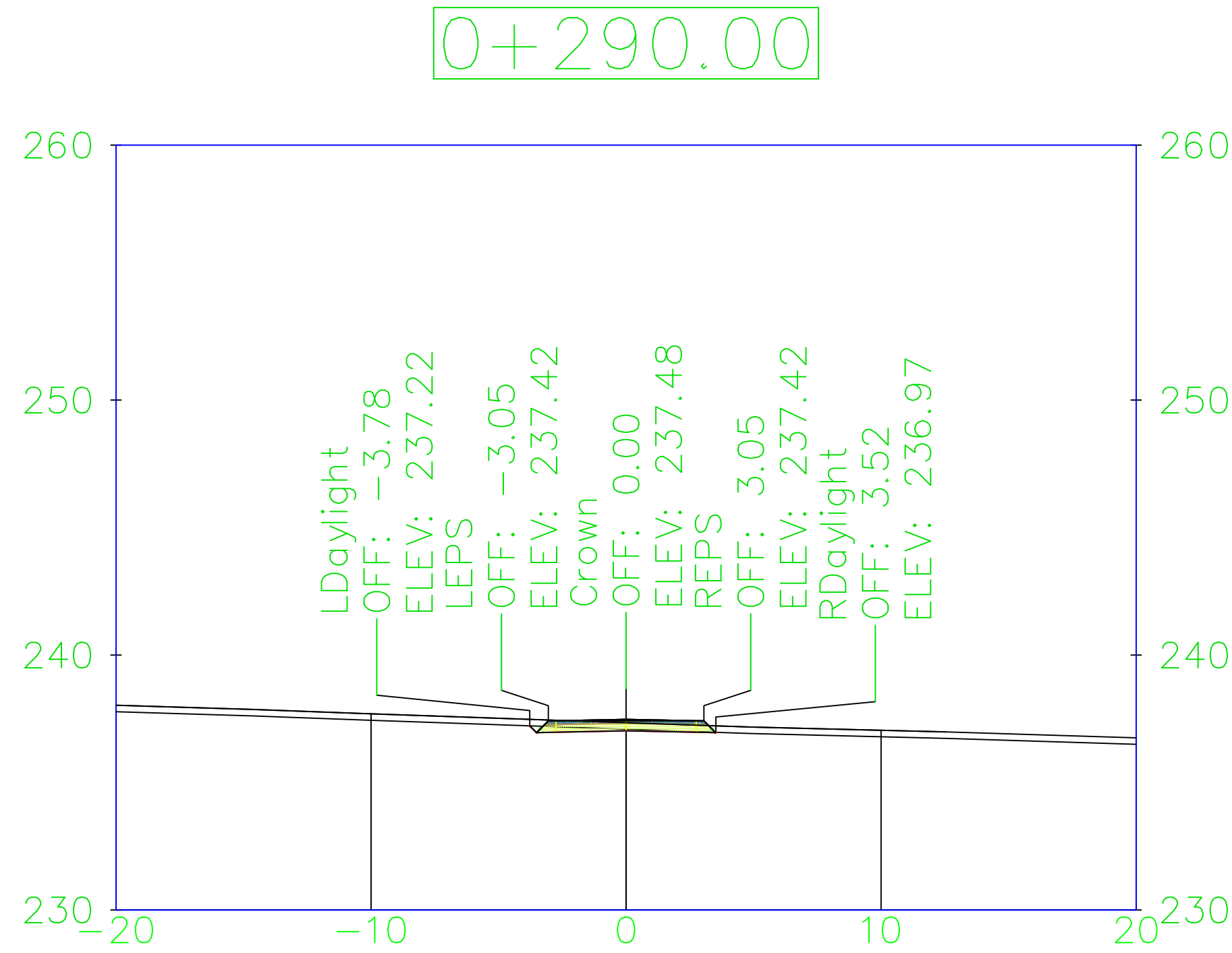
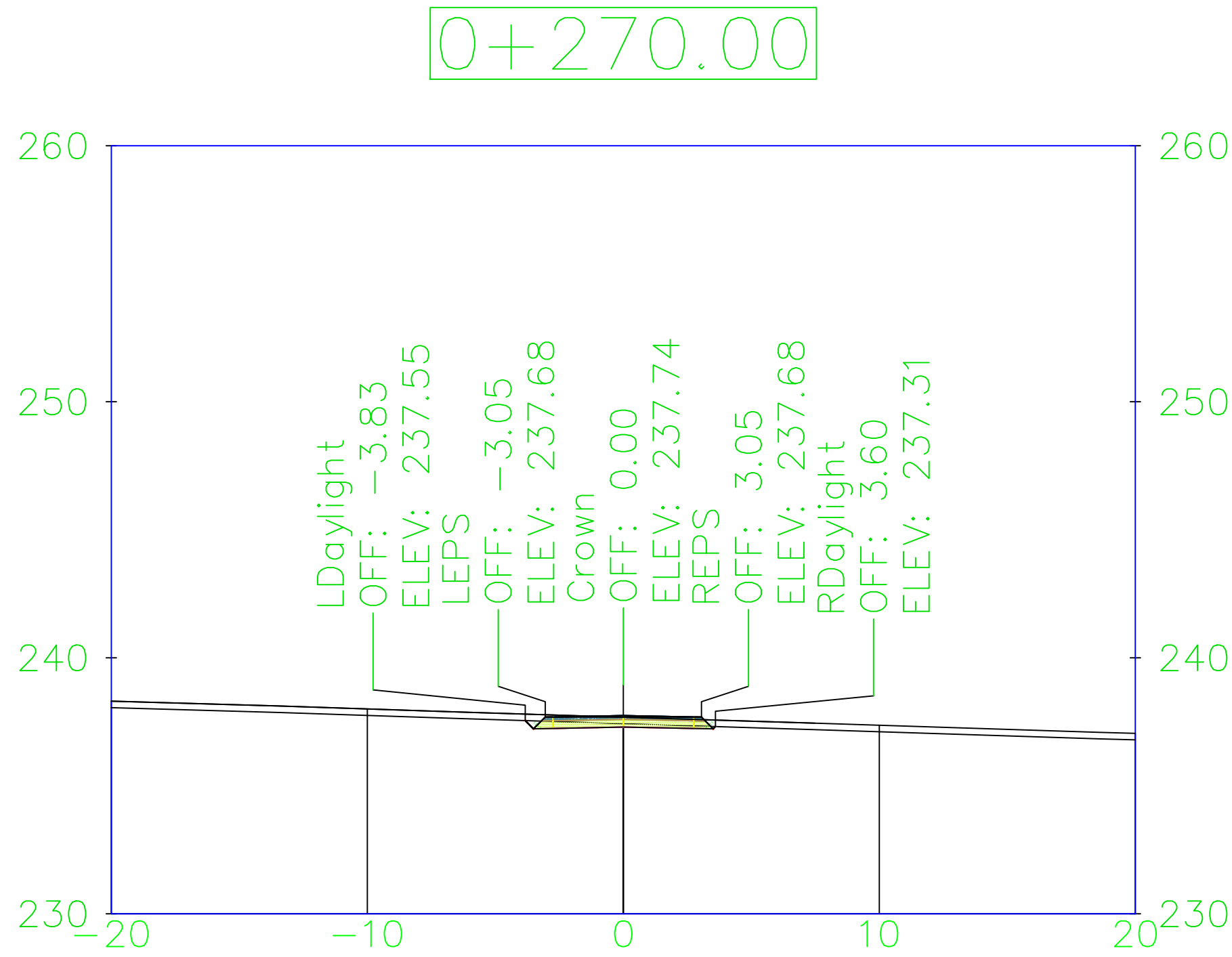
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SHEET SIZE: A1



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KEY PLAN		
REFERENCE DRAWINGS		
DRAWING No.	DRAWING TITLE	

CHAD CHENETTE
NAME

SIGNATURE
100500437
ENG REG NUMBER
Jul 28/206
ORIGINAL DATE
REG. PROFESSIONAL

SIGNATURE
ENG REG NUMBER
REVISION DATE
ORIGINAL DATE
REG. PROFESSIONAL

No.	0	ISSUED FOR TENDER	CAC	BG	JUL 28/2026		
		DESCRIPTION	BY	CHK'D	DATE	ROLE	NAME
REVISIONS				DRAWING APPROVAL STATUS:			

DRAFTSPERSON	CAC
DESIGNER	CAC
CHECKER	BG
RESP. ENG.	CAC
PROJ. MANAGER	CAC

Wayne Weber Driveway

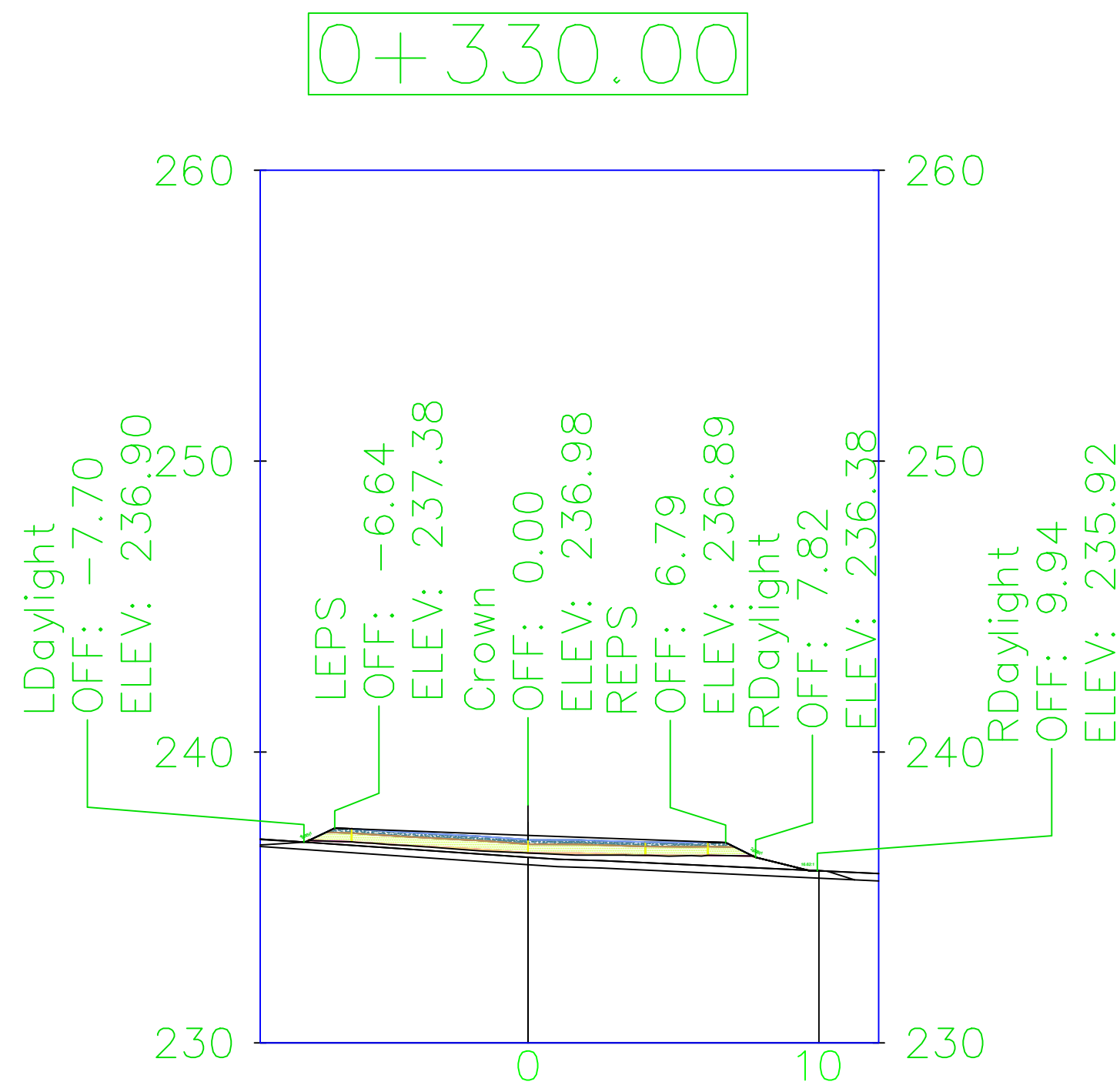
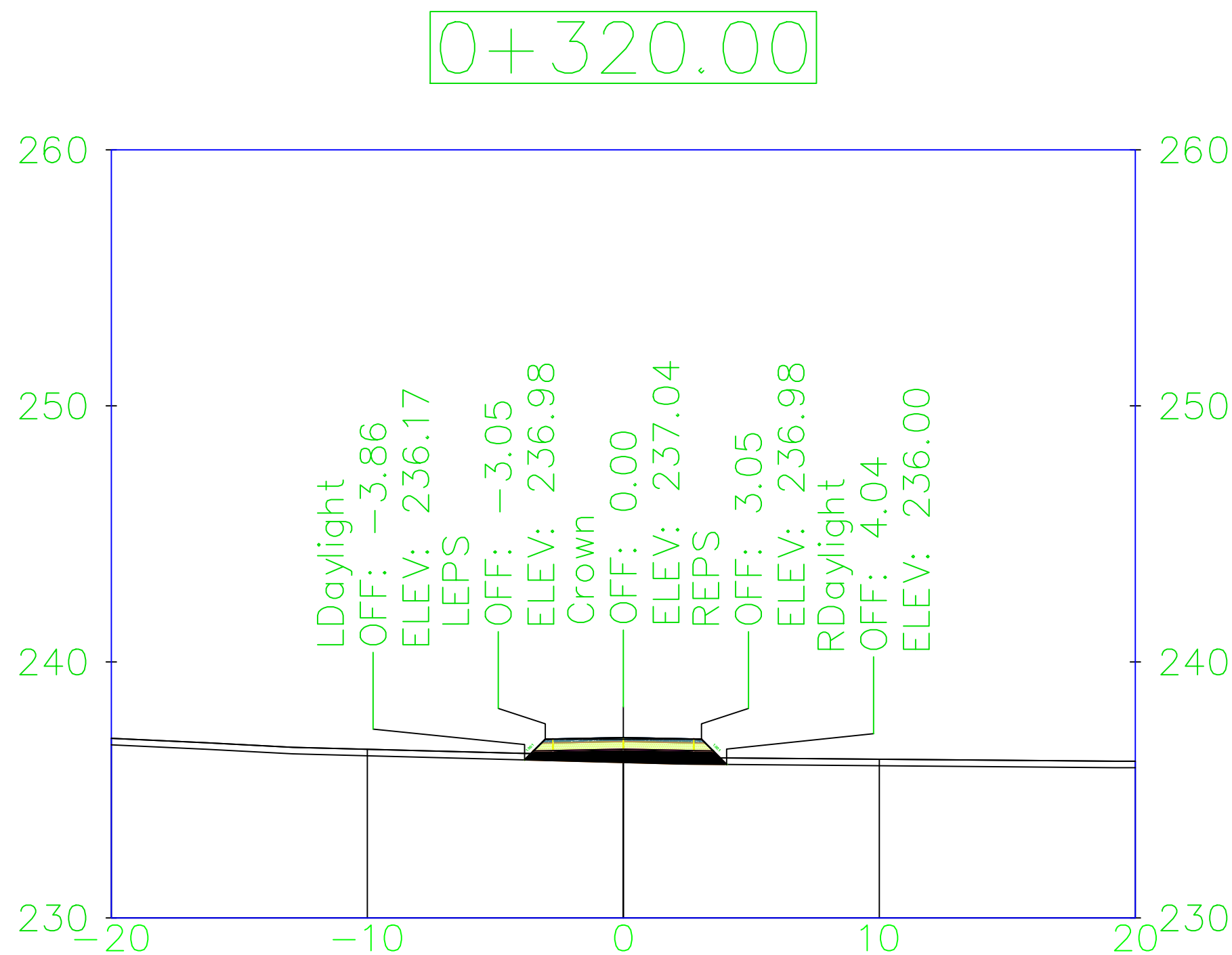
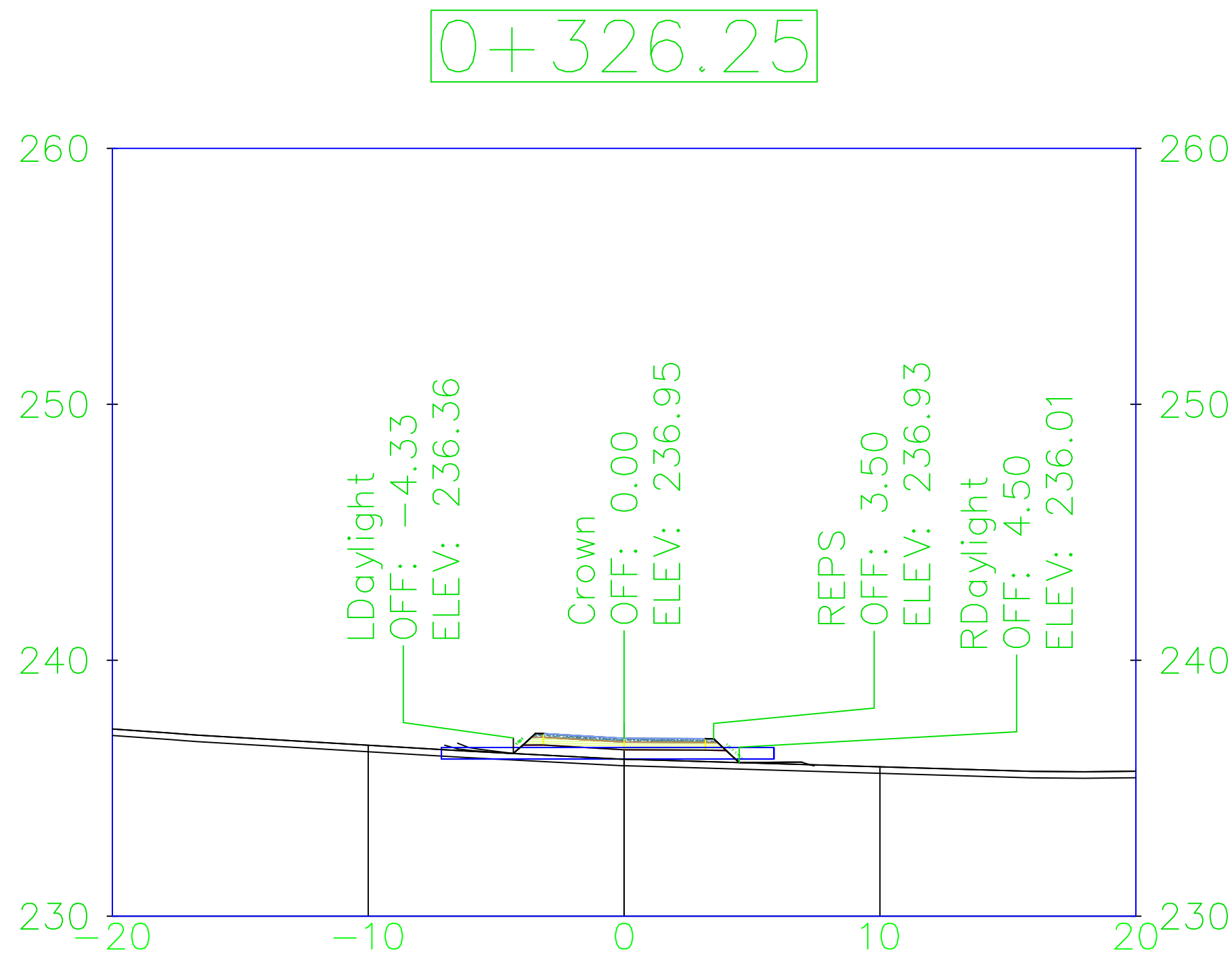
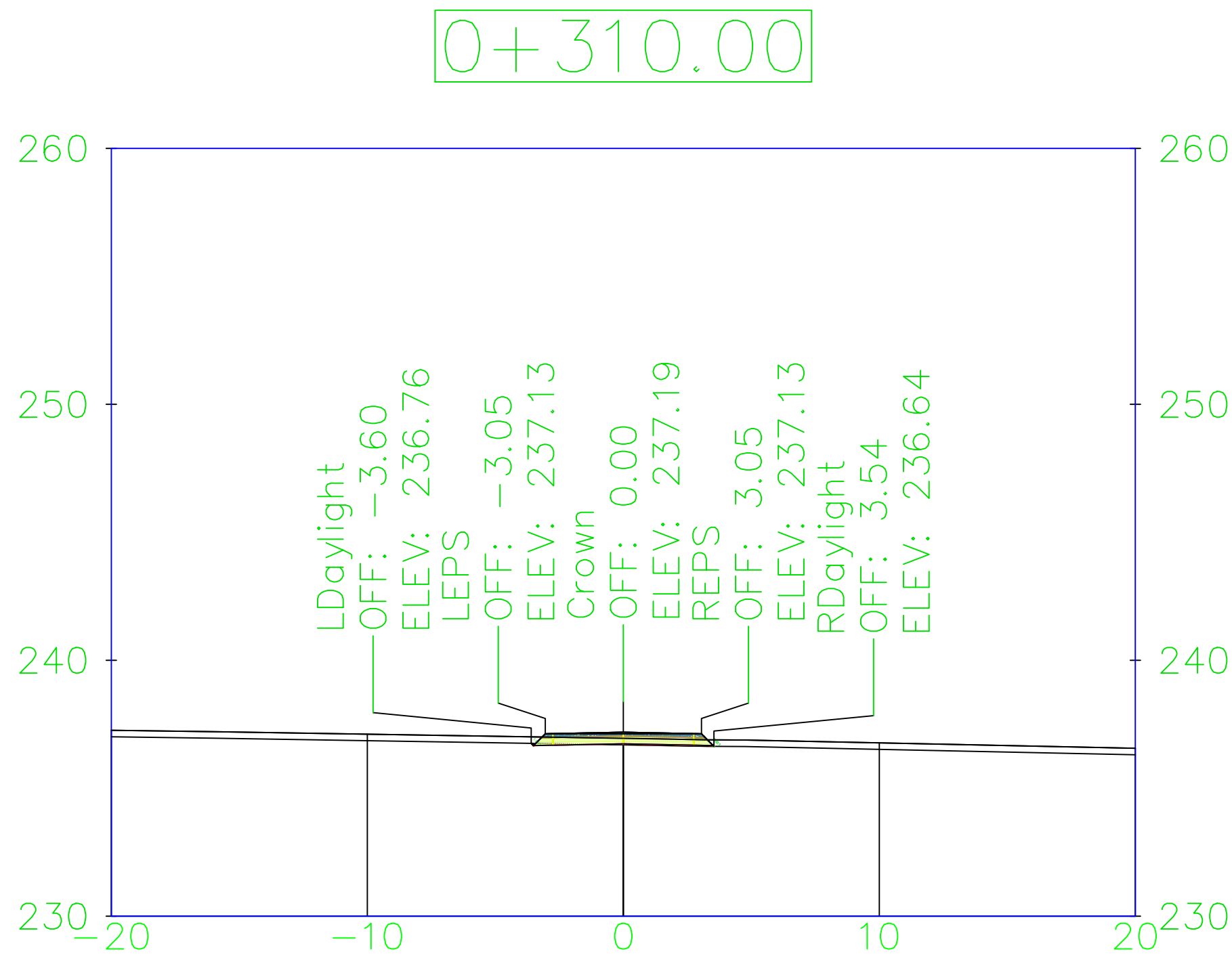
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DWG. No.
C13

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SHEET SIZE: A1



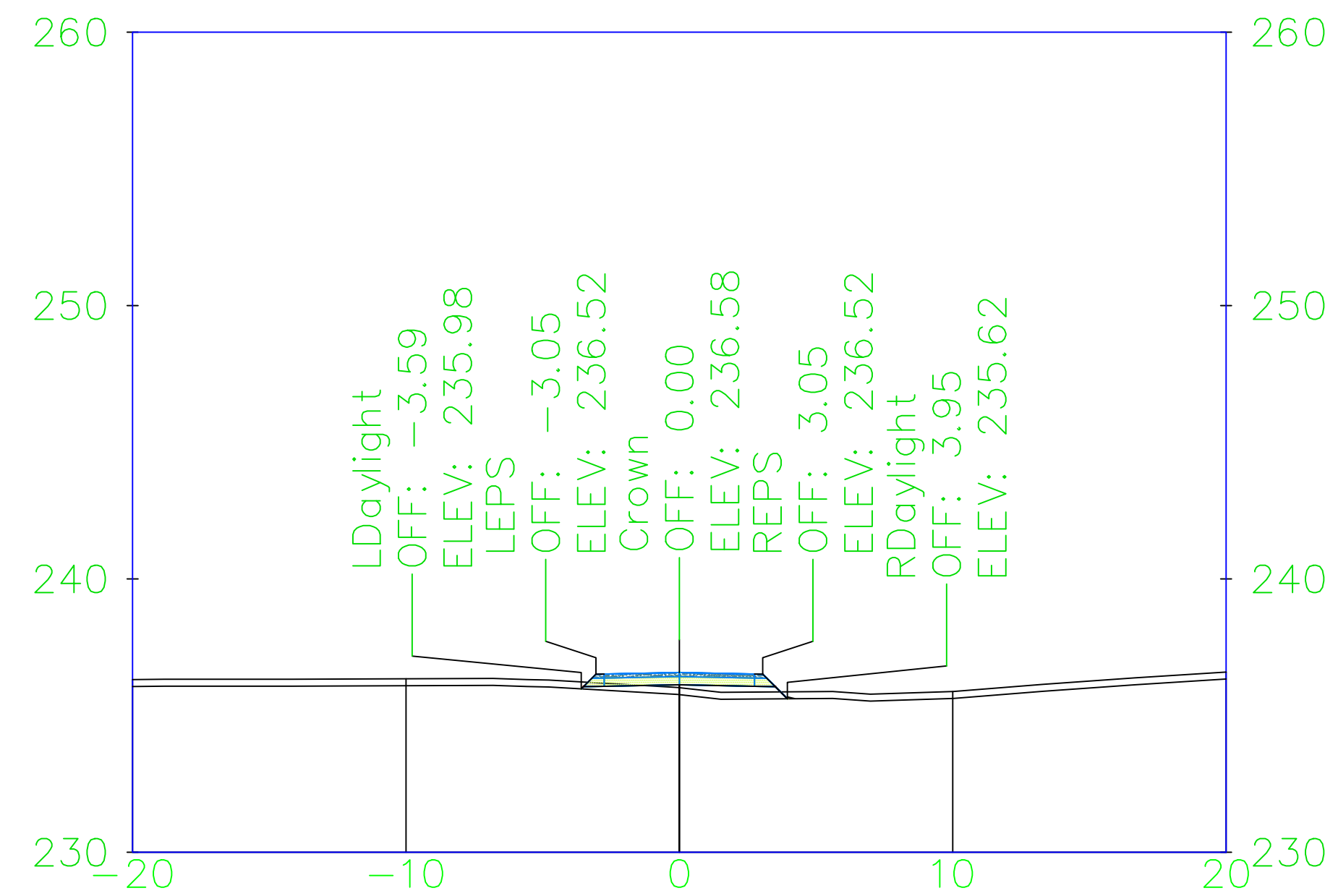
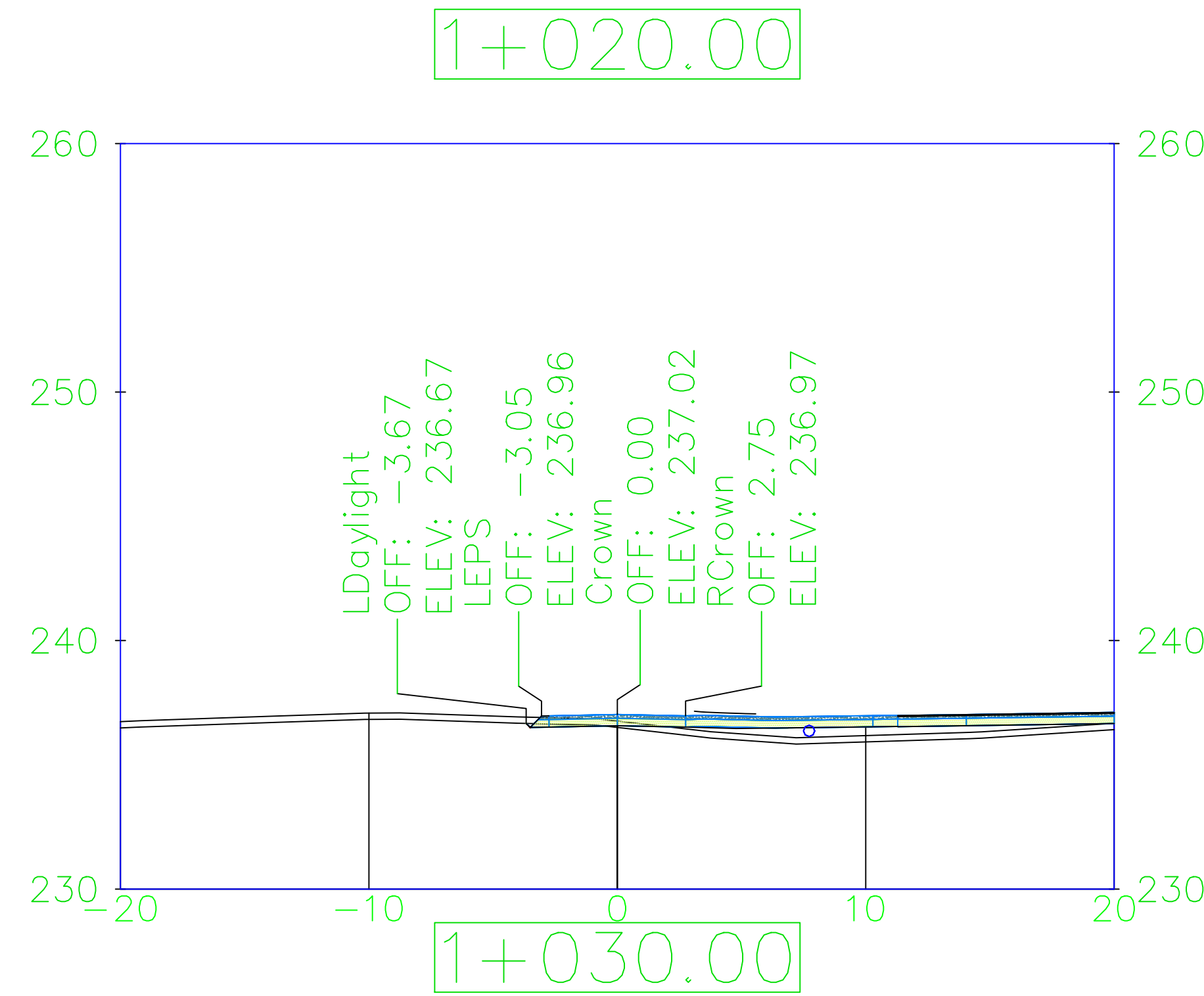
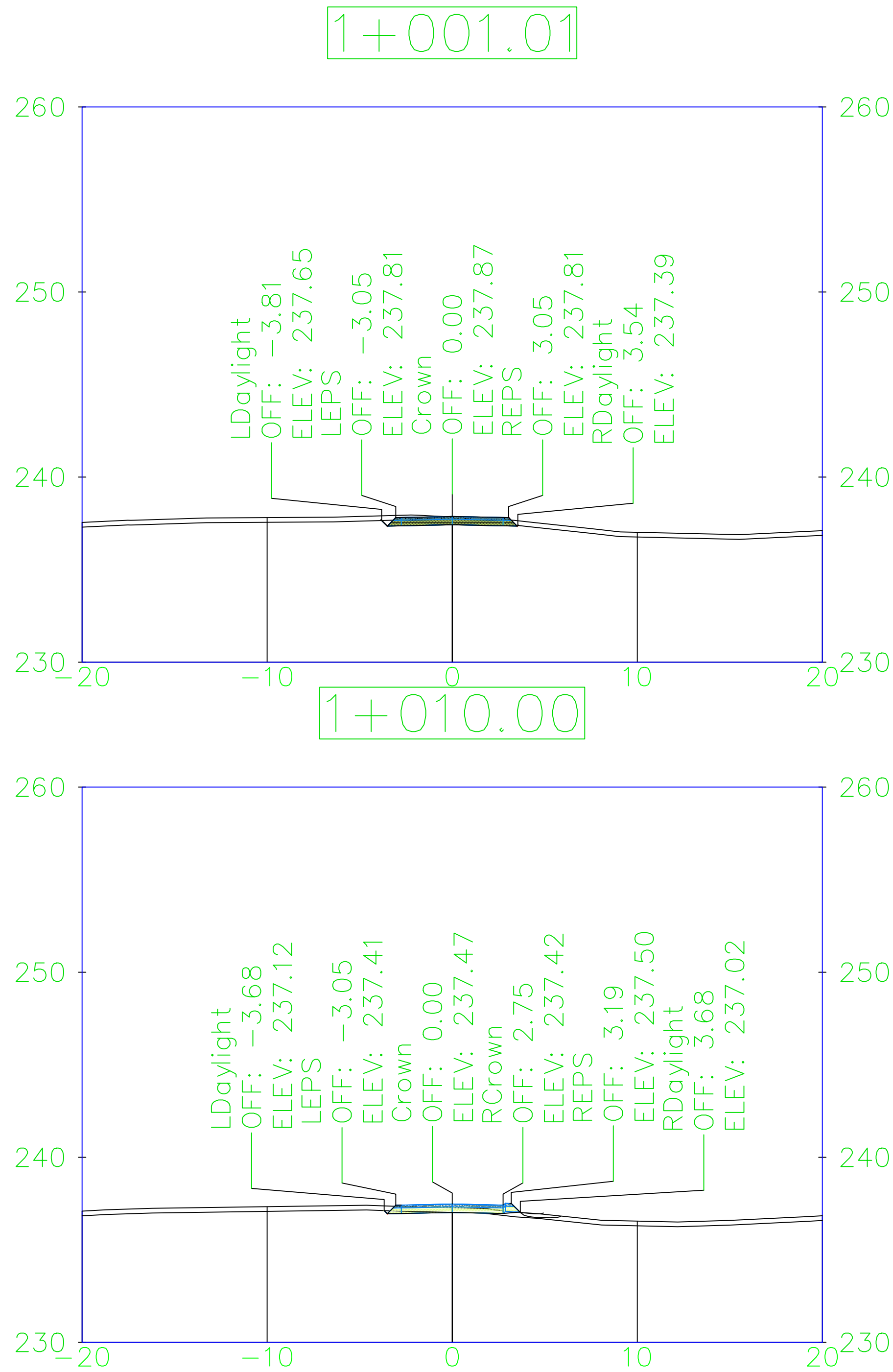
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REVISION DATE
Jul 28/206 ORIGINAL DATE
REG. PROFESSIONAL

SIGNATURE
ENG REG NUMBER
REVISION DATE
ORIGINAL DATE
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No.	DESCRIPTION		BY	CHK'D	DATE
REVISIONS					

Wayne Weber Driveway		
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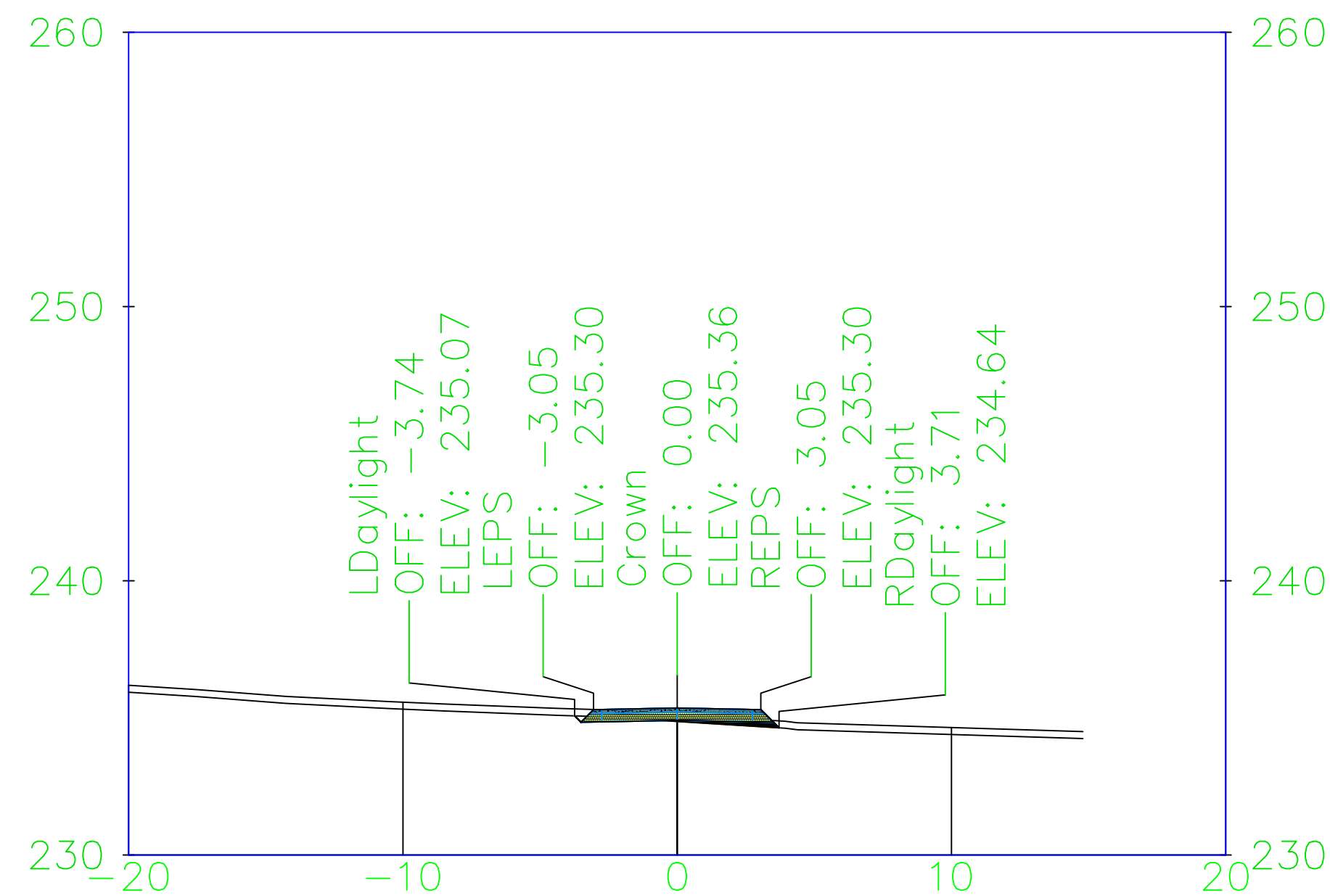
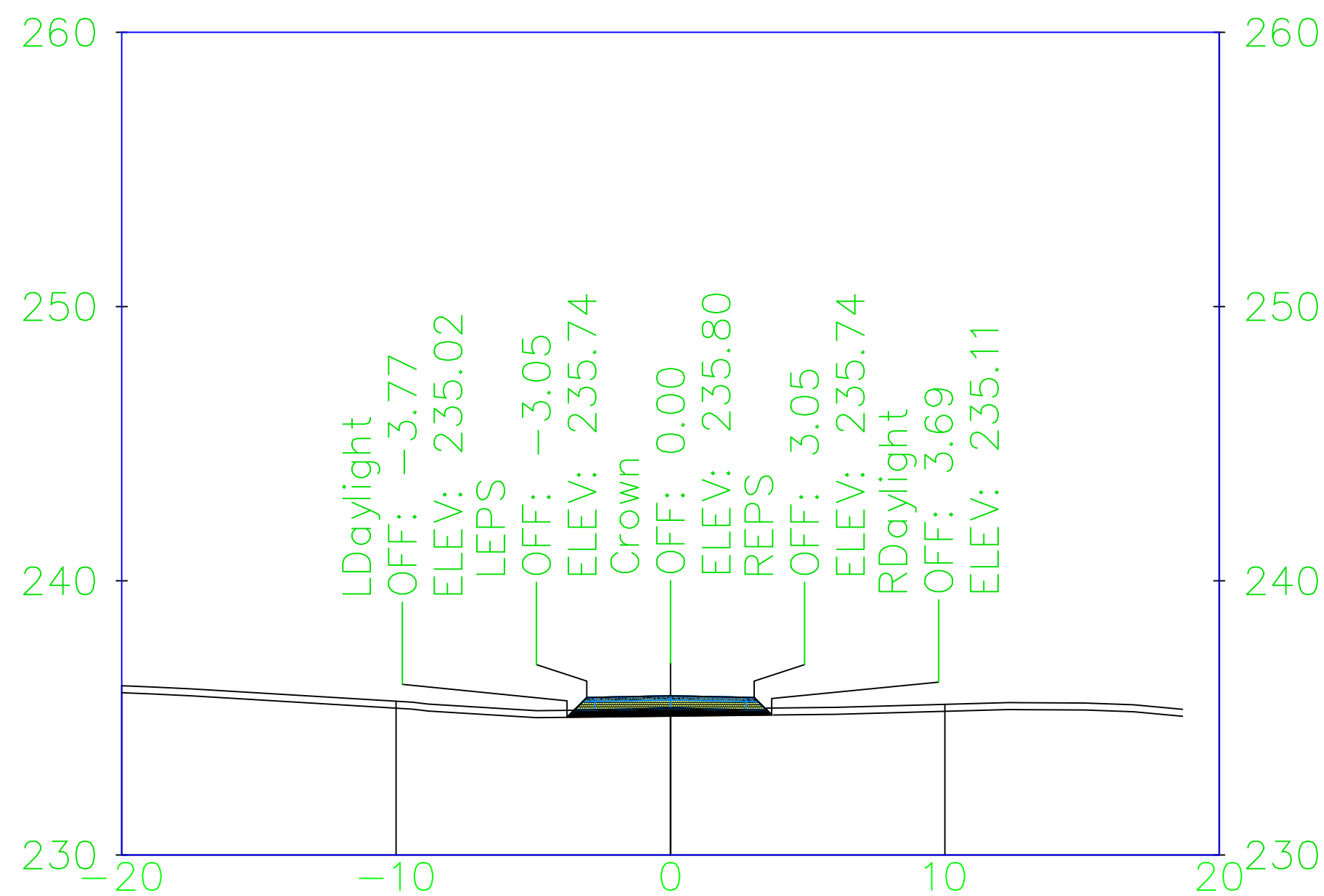
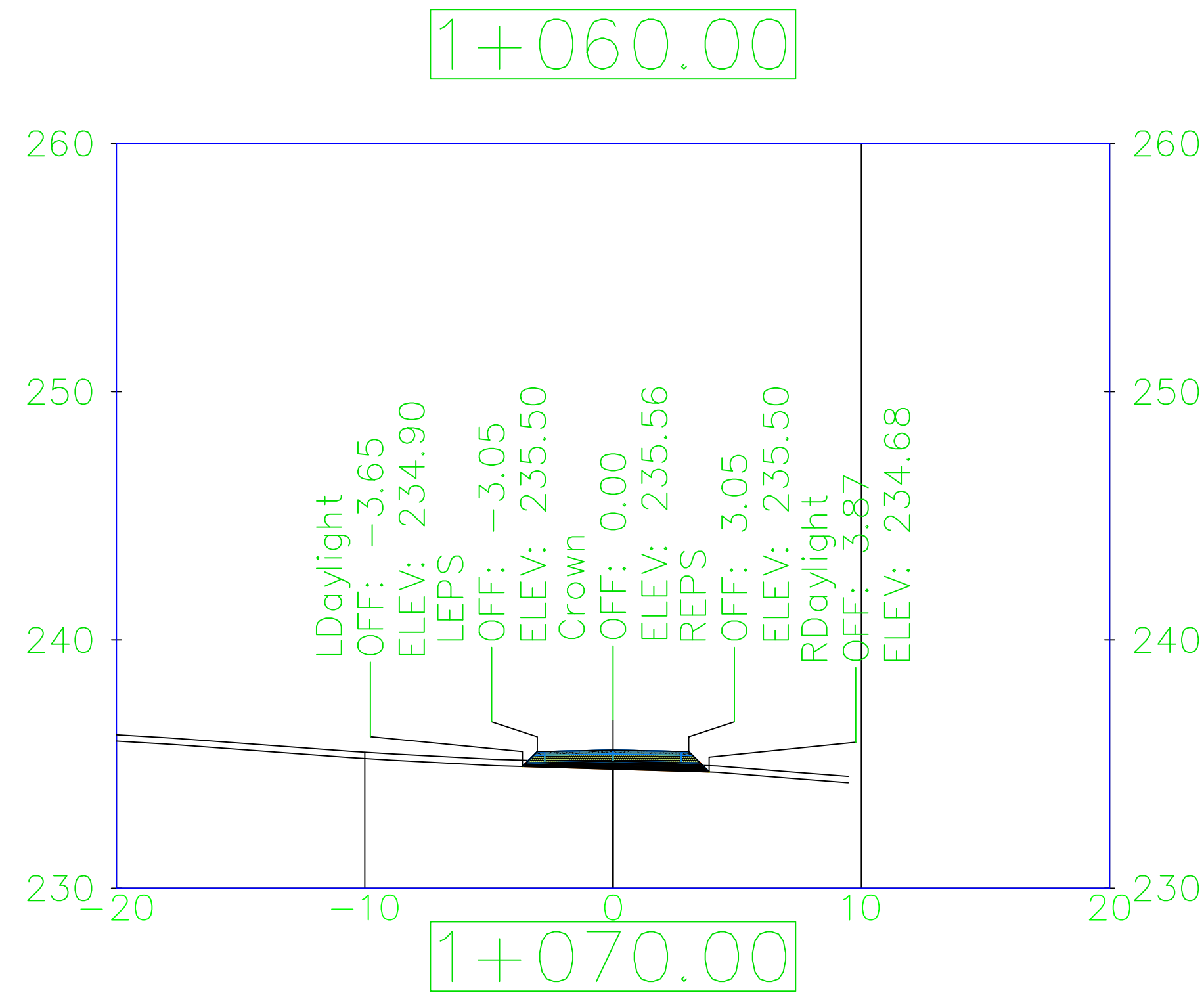
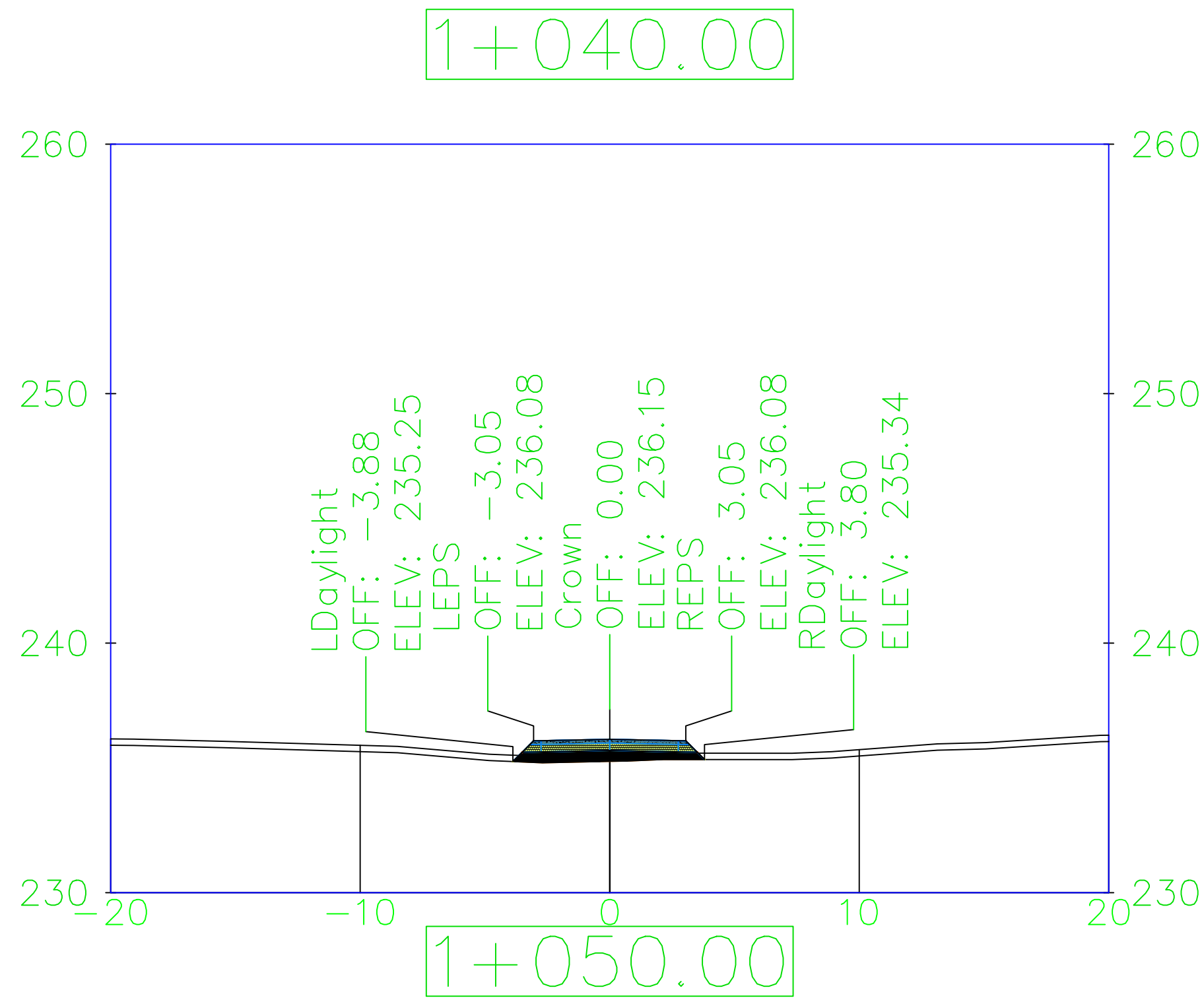


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REVISION DATE
ORIGINAL DATE
REG. PROFESSIONAL

							DRAFTSPERSON	CAC
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							RESP. ENG.	CAC
							PROJ. MANAGER	CAC
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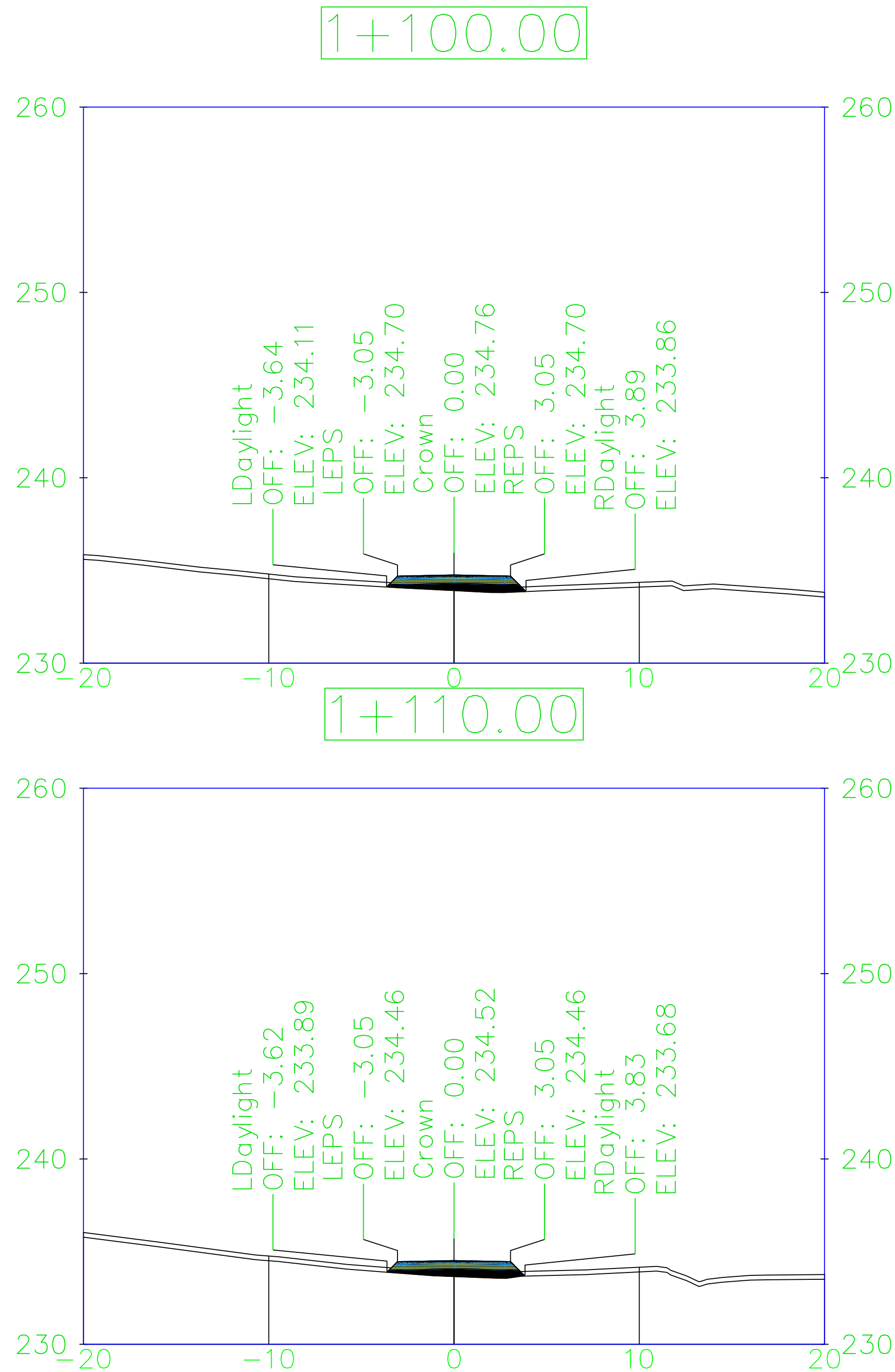
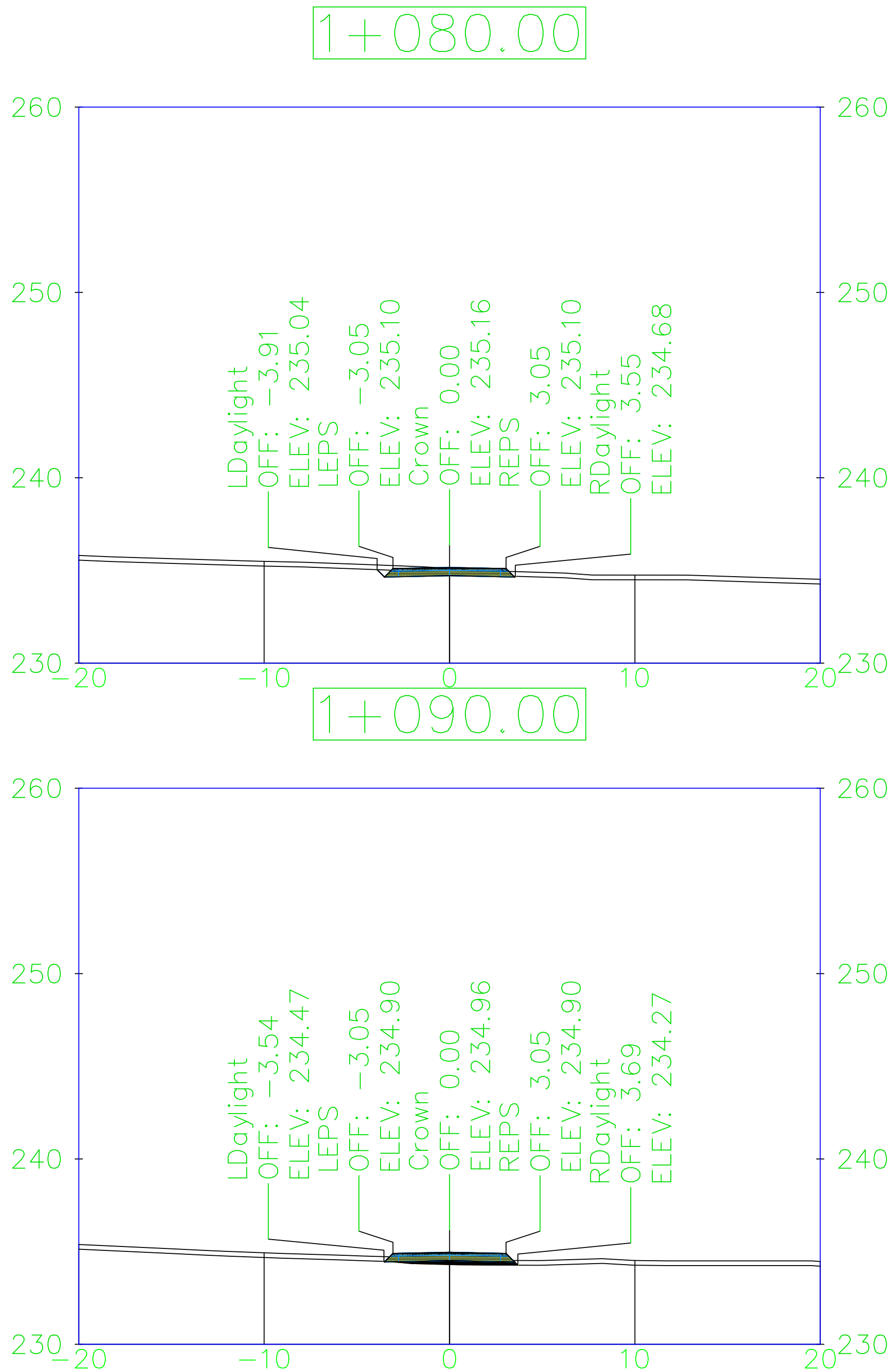


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Jul 28/206
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0	ISSUED FOR TENDER	CAC	BG	JUL 28/2026
No.	DESCRIPTION	BY	CHK'D	DATE
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100500437
ENG REG NUMBER
Jul 28/206
ORIGINAL DATE
REG. PROFESSIONAL

SIGNATURE
ENG REG NUMBER
REVISION DATE
ORIGINAL DATE
REG. PROFESSIONAL

							DRAFTSPERSON	CAC
							DESIGNER	CAC
							CHECKER	BG
							RESP. ENG.	CAC
							PROJ. MANAGER	CAC
0	ISSUED FOR TENDER			CAC	BG	JUL 28/2026		
No.	DESCRIPTION			BY	CHK'D	DATE	ROLE	NAME
REVISIONS							DRAWING APPROVAL STATUS:	



Wayne Weber Driveway
CROSS SECTIONS
STA 1+080 TO 1+110

SCALE
1:200
OR AS NOTED

DWG. No.

C17

REV
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NE A.



			CHAD CHENETTE NAME														
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			-							DESIGNER	CAC						
			REVISION DATE		REVISION DATE					CHECKER	BG						
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							REVISIONS				DRAWING APPROVAL STATUS:						
KEY PLAN	REFERENCE DRAWINGS		REG. PROFESSIONAL	REG. PROFESSIONAL													

APPENDIX I – POLICIES AND PROCEDURES

The policies and procedures outlined below will be provided to the successful Proponent prior to project commencement or during the project kick-off meeting.

Description
Contractors Working Near Rail Property
Flagging Protection Policy