

STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION
TRENTON, NEW JERSEY

NOTICE TO CONTRACTORS

Notice is hereby given that bid proposals will be received from Bidders classified under N.J.S.A. 27:7-35.2 via the Internet until 10:00:59 A.M. on 7/13/17, downloaded, and publicly opened and read, in the CONFERENCE ROOM-A, 1st Floor F & A Building, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, NJ 08625; for:

Maintenance Dredging and Channel Improvements for Monmouth Beach, Rumson Country Club Y and Oceanport Creek Entry Channels, Contract No. 016201702, Borough of Monmouth Beach, Borough of Rumson, Borough of Oceanport and Borough of Sea Bright, Monmouth County, 100% State, PE No: 6110108, CE No: 6700351, DP No: 15431.

Project Advertisement Date	6/22/17
Project Bid Date	7/13/17
Estimated Completion Date on	11/17/2017
Estimated Range	Range up to \$5,000,000
Cost of Plans and Contract Documents	Available at www.bidx.com .
Contractors Prequalified in one of these	
Work Types are eligible to bid this project:	12

The principal items of work consist of:

<u>Quantity</u>	<u>Unit</u>	<u>Description</u>
17,367	CY	Dredging, Transportation and Place to Beachfill

Pursuant to N.J.S.A. 52:25-24.2, no corporation, partnership, or limited liability company shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, unless prior to the receipt of the bid or proposal, or accompanying the bid or proposal of said corporation, said partnership, or said limited liability company there is submitted a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be.

It is the policy of the New Jersey Department of Transportation that Small Business Enterprises, as defined in N.J.A.C. 17:14-1.2 et seq., shall have the maximum opportunity to participate in the performance of this contract.

Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 (P.L 1975, c. 127); N.J.A.C. 17:27.

Pursuant to N.J.S.A. 19:44A-20.19, contractors must provide a Certification and Disclosure of Political Contribution Form prior to contract award.

Pursuant to N.J.S.A. 52:32-44, contractor must submit the Department of Treasury, Division of Revenue Business Registration of the contractor and any named subcontractors prior to contract award or authorization.

Pursuant to N.J.S.A. 34:11-56.51, contractors must be registered with the New Jersey Department of Labor and Workforce Development, Division of Wage and Hour Compliance at the time of bid. Bids for the above project will be downloaded from the Bid Express website on the Project Bid date (subject to change by addenda) at 10:00:59 a.m. prevailing time, and will be read immediately thereafter. The Bidder must upload their bid prior to the hour named so that it is included in the letting download. Late bids can not be accepted.

This is the only vehicle to bid this project; paper bids will not be accepted. Minimum wage rates for this project shall be as specified in the "Prevailing Wage Determination of the New Jersey Department of Labor and Workforce Development" on file with this Department. The attention of bidders is directed to the provisions covering subletting or assigning the contract to Section 108-Prosecution and Completion of the New Jersey Department of Transportation Standard Specifications. The entire work is to be completed on or before the ESTIMATED COMPLETION DATE STATED ABOVE.

Plans, specifications, any addenda to the specifications and all bidding information for the proposed work are available at Bid Express website www.bidx.com. You must subscribe to use this service. To subscribe, follow the instructions on the web site. Fees apply to downloading documents and plans and bidding access. The fee schedule is available on the web site. All fees are directly payable to Bid Express.

DOT reserves its right to reject any and/or all bids in accordance with N.J.S.A. 27:7-30 and N.J.S.A. 27:7-33

PLEASE CHECK THE EXPIRATION DATE OF YOUR ASSIGNED CLASSIFICATION

Copies of the current Standard Specifications may be acquired from the Department at the prevailing fee. Drawings and supplementary specifications may also be inspected (**BUT NOT OBTAINED**) by contracting organizations at our Design Field Offices at the following locations:

200 Stierli Court

Mt. Arlington, NJ 07856

Phone: 973-601-6690

One Executive Campus Rt. 70 West

Cherry Hill, NJ 08002

Phone: 856-486-6623

New Jersey Department of Transportation
Division of Procurement
Bureau of Construction Services
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625

SPECIAL PROVISIONS

**MAINTENANCE DREDGING AND CHANNEL IMPROVEMENTS FOR
MONMOUTH BEACH, RUMSON COUNTRY CLUB Y,
AND OCEANPORT CREEK ENTRY CHANNELS
CONTRACT NO. 016201702
BOROUGH OF MONMOUTH BEACH, BOROUGH OF RUMSON, BOROUGH OF OCEANPORT,
ANDBOROUGH OF SEA BRIGHT
MONMOUTH COUNTY**

AUTHORIZATION OF CONTRACT

The Contract is authorized by the provisions of Title 27 of the Revised Statutes of New Jersey and supplements thereto.

SPECIFICATIONS TO BE USED

The 2007 Standard Specifications for Road and Bridge Construction, of the New Jersey Department of Transportation (Department) as amended herein will govern the construction of this Project and the execution of the Contract.

These Special Provisions consist of the following:

Pages 1 to 57 inclusive.

State wage rates may be obtained from the New Jersey Department of Labor & Workforce Development (Telephone: 609-292-2259) or by accessing the Department of Labor & Workforce Development's website at http://lwd.dol.state.nj.us/labor/wagehour/wage/prevaling_wage_determinations.html. The State wage rates in effect at the time of award are part of this Contract, pursuant to Chapter 150, Laws of 1963 (N.J.S.A. 34:11-56.25 et seq.).

If an employee of the Contractor or subcontractor has been paid a rate of wages less than the prevailing wage, the Department may suspend the Work, and declare the Contractor in default.

The following information is located at the end of these Special Provisions:

1. Small Business Enterprise Utilization on Wholly State Funded Projects. (State Funded Project Attachment 1)
2. State of New Jersey Equal Employment Opportunity Special Provisions for Wholly State Funded Projects. (State Funded Project Attachment 2)
3. Requirements for Affirmative Action to Ensure Equal Employment Opportunity on Wholly State Funded Projects. (State Funded Project Attachment 3)
4. Investigating, Reporting and Resolving Employment Discrimination and Sexual Harassment Complaints on Wholly State Funded Projects. (State Funded Project Attachment 4)
5. Payroll Requirements for Wholly State Funded Projects. (State Funded Project Attachment 5)
6. Americans with Disabilities Act Requirements for Wholly State Funded Contracts. (State Funded Project Attachment 6)
7. Notice of Executive Order 125 requirement for posting of winning proposal and contract documents.

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The following additional project specific Attachments are located at the end of these Special Provisions:

1. Sample Equipment Schedule
2. Sample Relevant Project Experience

The following additional project specific Attachments are posted for download on BidX:

1. Example of a Contractor's Daily Production Report – Hydraulic Cutterhead Dredging (ExampleDailyProductionCutterhead.xlsx)
2. State of New Jersey Department of Transportation Plans of Shrewsbury River Dredge Pipe Chambers for State Highway No. 36. Contract No. 6733301
3. Department of the Army, U.S. Army Corps of Engineers, New York District, Jacob K. Javits Federal Building 26 Federal Plaza, New York, NY 10278-0090, Regulatory Branch Maintenance Dredging Permit. Permit Number NAN-2016-00987-EYR
4. State of New Jersey Department of Environmental Protection Office of Dredging and Sediment Technology Permit for Waterfront Development Permit – IP In-Water/Water Quality Certificate/Acceptable Use Determination, Permit Number 1300-16-0003.1 WFD 160001, Site Location: Shrewsbury River Complex & Borough of Seabright, Monmouth County, New Jersey
5. Technical Report on the Sampling and Testing of Sediment from Ten (10) State Channels in the Shrewsbury River System: #16, Monmouth Beach; #17, Rumson Y Channel; #18, Rumson Y Channel Spur; #19, Rumson Country Club; #22, Silver Creek Spur 2; #23, Silver Creek Spur 1; #24, Town Neck Creek; #25, Oceanport Creek Entry; #27, Parker Creek; #31, Blackberry Creek Spur East; Dated January 15, 2015; ASI Job No. 34-132

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DIVISION 100 – GENERAL PROVISIONS

SECTION 101 – GENERAL INFORMATION

101.02 ABBREVIATIONS

THE FOLLOWING TERMS ARE ADDED.

The following abbreviations are used in the contract:

AD	after dredge
ADA	Americans with Disabilities Act
AIWW	Atlantic Intracoastal Waterway
BCE	Bureau of Coastal Engineering
BD	before dredge
CDF	Confined Disposal Facility
CFR	Code of Federal Regulations
CUF	Commercially Useful Function
DCR/AA	New Jersey Department of Transportation, Division of Civil Rights and Affirmative Action
EEO	Equal Employment Opportunity
GFE	Good Faith Effort
MHW	Mean High Water
MLW	Mean Low Water
NAD '83	North American Datum 1983 (Horizontal)
NAVD'88	North American Vertical Datum 1988 (Vertical)
NJICWW	New Jersey Intracoastal Waterway
OJT	On-The-Job-Training
OMR	Office of Maritime Resources
RE	Resident Engineer
SAV	Submerged Aquatic Vegetation
USC	United States Code
USDOL	United States Department of Labor

101.03 TERMS

THE FOLLOWING TERMS ARE CHANGED.

Contractor. The individual, firm, partnership, corporation, joint venture, or any acceptable combination thereof contracting with the Department for performance of the Contract. For the purpose of carrying out the Contract, it also means the Contractor's representative.

pavement structure. The combination of pavement, base courses, and when specified, a subbase course, placed on a subgrade to support the traffic load and distribute it to the roadbed (see Figure 101-1). These various courses are defined as follows:

1. **pavement.** One or more layers of specified material of designed thickness at the top of the pavement structure.
2. **base course.** One or more layers of specified material of designed thickness placed on the subgrade or subbase.
3. **subbase.** One or more layers of specified material of designed thickness placed on the subgrade.

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Subcontractor. An individual, firm, partnership, corporation, joint venture, or any acceptable combination thereof, to which the Contractor subcontracts part of the Work pursuant to 108.01.

THE FOLLOWING TERM IS ADDED.

Discrimination. That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, creed, color, national origin, age, ancestry, nationality, sex (including pregnancy and sexual harassment), marital status, domestic partnership or civil union status, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for military service, or disability has been otherwise subjected to unequal treatment.

Federal Aid Project. Any agreement or modification thereof between NJDOT and any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Federal government or borrowed on the credit of the Federal government pursuant to any program involving a grant, contract, loan, insurance or guarantee under which the NJDOT itself participates in the construction work.

Federal Aid Project Attachments. Attachments to the Contract Special Provision document, used for Federal aid projects.

ITS commissioning. Completion of Level A testing of an Intelligent Transportation System per 704.03.01. This does not constitute Acceptance by the Department of the work.

State Funded Project Attachments. Attachments to the Contract Special Provision document, used for wholly state funded contracts.

Special Provisions. Project specific specifications, non-standard specifications, and requirements for the performance of prescribed work which, in addition to the Standard Specifications, is part of the Contract documents.

101.04 INQUIRIES REGARDING THE PROJECT

1. Before Award of Contract.

THE FIRST PARAGRAPH IS CHANGED TO:

Submit inquiries and/or view other questions/answers by following the format prescribed on the project's electronic bidding web page.

THE SECOND PARAGRAPH IS CHANGED TO:

The deadline for submitting inquiries is 12:00 noon, 7 days before the opening of bids.

2. After Award of Contract.

Office of Maritime Resources
Mr. W. Scott Douglas
1035 Parkway Avenue
Trenton, NJ 08625
Telephone: 609-530-4773

SECTION 102 – BIDDING REQUIREMENTS AND CONDITIONS

102.01 QUALIFICATION TO BID

SECOND CRITERIA IS CHANGED TO:

2. Before the receipt of the bid or accompanying the bid, the Bidder has disclosed ownership as required by N.J.S.A. 52:25-24.2.

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102.02 BIDDER REGISTRATION AND DOWNLOADING OF THE PROPOSAL DOCUMENTS

THE LAST SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

The Bidder shall not alter or in any way change the software.

102.03 REVISIONS BEFORE SUBMITTING A BID

THE SECOND PARAGRAPH IS CHANGED TO:

The Bidder shall acknowledge all addenda posted through the Department's website. The addenda acknowledgement folder is included in the Department's electronic bidding file. The Department has the right to reject the bid if the Bidder has not acknowledged all addenda posted.

102.04 EXAMINATION OF CONTRACT AND PROJECT LIMITS

THE FOLLOWING IS ADDED AFTER THE FIRST PARAGRAPH:

Data and information furnished or referred to in the Contract Documents is for the Contractor's information. The Contractor is to rely on the technical data only. The Department is not responsible for any interpretation of or conclusion drawn by the Contractor from the data or information provided.

The indications of physical conditions on the plans and in the specifications are the result of review of earlier project documents at the same or nearby sites, site visits, site investigations by land and hydrographic surveys, sediment sampling, and laboratory tests on the dates indicated.

1. Evaluation of Subsurface and Surface Conditions.

THE FOLLOWING IS ADDED:

The materials to be excavated are shoal deposits that have formed since the areas were last dredged. . Available information from sampling and analyses is included as an attachment to these Special Provisions. In addition, expect debris commonly found abandoned or deposited by storms in a channel – i.e., tires, ropes, roots, pilings, etc.

3. Existing Plans and As-Built.

ENTIRE PART IS CHANGE TO:

Existing Plans as-built plans used are as follows:

- a. Shrewsbury River Dredge Pipe Chambers for State Highway No. 36
Contract No. 6733301
Borough of Monmouth Beach, Monmouth County
September 2015
Sheets 1-15
- b. US Army Corps. Of Engineers
Atlantic Coast of New Jersey
Sea Bright to Manasquan Beach Erosion Control Project
Flood Control and Coastal Emergency (FCCE)
Repairs Due to Hurricane Sandy
Long Branch, New Jersey
IFB NO. W912DS-13-B-0017

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102.07 PREPARATION OF THE BID

THE FOLLOWING IS ADDED AFTER THE FIFTH PARAGRAPH:

On Federal aid projects, all Bidders shall keep records of all DBE and non-DBE firms that provide a bid or quote to the Bidder for the Contract for use in providing the information to the Department in the development of a Bidder's List. The records will include the name, address, phone number, E-mail address, DBE/ESBE status of the firm, NAICS Code(s) applicable to the kind of work the firm would perform on the project and type of work for subcontracted work for each DBE and non-DBE firm that provides a bid or quote for the Contract. This information shall be made available to the Department upon request.

For each Federal aid contract that they submit a Bid, each Bidder shall prepare a CR-261 - DBE and non-DBE Firms Providing a Bid or Quote for the Contract form. All Bidders are required to submit this information on a yearly basis to the Department, with the information submitted to the Division of Civil Rights and Affirmative Action by September 30 of each year.

102.09 PROPOSAL BOND

THE FIFTH PARAGRAPH IS CHANGED TO:

The Department will not accept Proposal Bonds that do not comply in all respects with the provisions of N.J.A.C. 16:44-7.3(e) and that are not substantiated by a valid power of attorney executed by the Surety.

102.10 SUBMISSION OF BIDS

THE SECOND PARAGRAPH IS CHANGED TO:

The Bidder shall ensure delivery of its bid with all required components and attachments, including, but not limited to the following:

1. Schedule of Items.
2. Proposal Electronic Bidding File with Bidder's Certification.
3. A CR-266 – Schedule of Disadvantaged Business Enterprise/Emerging Small Business Enterprise/Small Business Enterprise Participation, for any project having a DBE, ESBE or SBE Contract goal.
4. For wholly State funded contracts, acknowledgement of compliance with the registrations specified in 102.01.
5. For wholly State funded contracts, acknowledgement of compliance with N.J.S.A. 19:44A-20.13, et seq.
6. Proposal Bond form.
7. Other related documents as specified in the Contract.
8. On the Disclosure of Investment Activities in Iran (Form DC-16) provided by the Department, certify pursuant to N.J.S.A. 52:32-58, that neither the bidder, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the bidder is unable to so certify, the bidder shall provide a detailed and precise description of such activities to the Department.
9. For Federal Aid Projects exceeding a bid amount of \$100,000 or more, Bidder shall certify to the Byrd Anti-Lobbying Act requirements under 31 USC 1352.

THE FOLLOWING IS AFTER ADDED AFTER THE SECOND PARAGRAPH:

A directory of certified Disadvantaged Small Businesses Enterprise firms can be found in the New Jersey BizNet UCP Directory, online at <http://www.njucp.net/>.

A directory of certified Emerging Small Business Enterprise firms can be found in the State of New Jersey Emerging Small Business Program online directory at http://50.62.131.238/Productions/NJDOT_ESBE/biz_esbe/.

A directory of registered Small Businesses Enterprise firms can be found in the New Jersey Selective Assistance Vendor Information (NJSAVI) database online at https://www20.state.nj.us/TYTR_SAVI/vendorSearch.jsp.

All of the above directories are to be used as a source of information only and does not relieve the Bidder of their responsibility to seek out Enterprises not listed, prior to bidding.

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102.13 CONSIDERATION OF BIDS

THE FOLLOWING SUBPART IS ADDED:

102.13.01 Bidder Pre-Award Requirements

A. Federal Aid Projects

1. **Contract DBE Goal.** On projects having a Contract DBE goal, the Bidder shall ensure that DBEs have an equal opportunity to receive and participate in the performance of contracts and subcontracts in Federal aid projects with the Department. The Bidder shall take all necessary and reasonable steps in accordance with 49 CFR, Part 26 to ensure that DBEs are given equal opportunity to compete for and to perform on the Department's Federal aid projects. The Bidder shall not discriminate in the award and performance of any Contract obligation including, but not limited to, its performance of its obligations on USDOT assisted contracts as specified in Section 107.

- a. The Bidder shall demonstrate commitment of meeting the Contract DBE goal that is specified in the Contract.

- (1) Submit with the bid as a matter of responsiveness, a completed Form CR-266- Schedule of DBE/ESBE Participation. Revisions to the CR-266 will not be accepted before award of the Contract. At time of Bid, or within 5 days after bid opening, submit to DCR/AA:

- (i) a completed and signed Verification of DBE/ESBE/SBE Firm (Form CR-273) for each firm listed on the CR-266 to demonstrate direct written confirmation from each DBE firm of willingness to participate on the Contract, confirming the kind and amount of work that was provided on the Contractor's CR-266 and if applicable,
- (ii) a completed and signed DBE/ESBE/SBE Regular Dealer/Supplier Verification (Form CR-272) for all Regular Dealers/Suppliers listed on the CR-266 form, and, if applicable,
- (iii) a completed and signed DBE/ESBE/SBE Trucking Verification (Form CR-274) for all DBE trucking firms listed on the CR-266.

Firms listed on the CR-266 will not be counted toward the Contract DBE goal unless completed and signed CR-273 form(s), and applicable CR-272 and CR-274 form(s) are submitted to the DCR/AA within the 5 days after bid opening.

These forms must be submitted through a designated email - DOT-CR.Verifications@dot.nj.gov.

- (2) If, at time of Bid, the commitment to meet the Contract DBE goal is not shown on the CR-266, the Bidder must submit at time of Bid, or within 5 days after bid opening, documented evidence of good faith effort(s) to attain the Contract DBE goal, for review and approval by the DCR/AA. Submittal of such information does not imply DCR/AA approval. The Department's DCR/AA has sole authority to determine whether the Bidder met the Contract DBE goal or made adequate good faith efforts to do so.

- (i) Good faith efforts are actions taken to achieve a DBE goal or other requirement of the DBE Program which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement, including affirmative action measures designed to implement the established objectives of an affirmative action plan that a Bidder may utilize to obtain DBE participation. Efforts to include firms not certified as DBEs in New Jersey are consequently not good faith efforts to meet the DBE Contract goal. Good faith effort actions include, but are not limited to:

- (a) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the Contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals,

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written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project. The Bidder shall solicit this interest as early in the bidding process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The Bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

- (b) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the Bidder might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.
- (c) Providing interested DBEs with adequate information about the Plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.
- (d)i Negotiating in good faith with interested DBEs. It is the Bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.
- (d)ii Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as Contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a Bidder's failure to meet the Contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a Bidder to perform the work of a Contract with its own organization does not relieve the Bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- (e)i Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the Bidder's efforts to meet the Contract DBE goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Bidder to accept unreasonable quotes in order to satisfy the Contract goals.
- (e)ii A Bidder's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the Bidder has the ability and/or desire to perform the Contract work with its own forces does not relieve the Bidder of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.
- (f) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Bidder.

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- (g) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, but not directly or indirectly providing equipment, supplies or materials to the DBE.
 - (h) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- (3) If the Department determines that the apparent lowest responsive Bidder has failed to meet the Contract DBE Goal and made adequate good faith efforts to do so, the Department must, before awarding the Contract, provide the Bidder an opportunity for Administrative Reconsideration.

The apparent lowest responsive Bidder will have the opportunity to provide written documented evidence or argument concerning the issue of whether it met the Contract DBE goal or made adequate good faith efforts to do so to an official who did not take part in the original determination that the Bidder failed to meet the Contract DBE goal or made adequate good faith effort to do so, pursuant to 49 C.F.R. 26.53(d). The apparent lowest responsive bidder has the opportunity to meet in person with the Reconsideration Official to discuss the issue of whether it met the Contract DBE goal or made adequate good faith efforts to do so.

Within 1 State business day of being notified by the Department that it is not a responsible bidder because it failed to meet the Contract DBE goal and made adequate good faith efforts to do so, a Bidder may make a request for administrative reconsideration in writing to the New Jersey Department of Transportation, Director, Division of Procurement, PO Box 605, Trenton, New Jersey, 08625-0605. The Bidder must specify one of the following types of administrative reconsideration in its request:

- (i) **Written Review by the Department.** If the Bidder seeks written review by the Department it must submit written documented evidence or argument proving the Bidder met the Contract DBE goal at time of Bid, or submitted adequate good faith efforts to do so within 5 days after bid opening, to the Department within 2 State business days of the Bidder's request for Administrative Reconsideration.
- (ii) **In-Person Meeting.** If the Bidder seeks an in-person meeting by the Department it must submit written documented evidence or argument proving the Bidder met the Contract DBE goal at time of Bid, or submitted adequate good faith efforts to do so within 5 days after bid opening, to the Department within 2 State business days of the Bidder's request for Administrative Reconsideration. The in-person meeting will be scheduled by the Department as soon as time permits.

If the timeframe for a Bidder's request for Administrative Reconsideration, or submission of written documented evidence or argument proving the Bidder met the Contract DBE goal or submitted adequate good faith effort to do so falls on a weekend or holiday, the written requests are due to the Department on the next State business day. The Department, at its discretion, may not review or consider any documentation or argument in its administrative reconsideration that was not contained in the Bidder's request for written review or in-person meeting with the Department.

Once the Reconsideration Official has made a determination, the Department will send the Bidder a written decision on reconsideration, explaining the basis for finding that the Bidder did or did not meet the DBE goal or make an adequate good faith effort to do so.

Failure to follow this request procedure may result in the Bidder's waiver of the right for Administrative Reconsideration under this Section.

The result of the reconsideration process is not administratively appealable to the USDOT.

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2. **Contract ESBE Goal.** Where a Contract ESBE goal is set, the Bidder shall follow all requirements and the same administrative reconsideration procedures of Section 102.13.

B. State Funded Projects

1. **Contract SBE Goal.** On wholly State funded contracts having a Contract SBE goal, the Bidder shall ensure that SBEs have an equal opportunity to receive and participate in the performance of contracts and subcontracts financed in whole with state funds in performing work with the Department. The Bidder shall take all necessary and reasonable steps to ensure that SBEs are given equal opportunity to compete for and to perform on the Department's wholly state funded projects. The Bidder shall not discriminate in the award and performance of any Contract obligation including, but not limited to, its performance of its obligations on wholly state funded contracts as specified in Section 107.
 - a. The Bidder shall demonstrate commitment of meeting the Contract SBE goal that is specified in the Contract.
 - (1) Submit with the bid as a matter of responsiveness, a completed Form CR-266 - Schedule of DBE/ESBE/SBE Participation. Revisions to the CR-266 will not be accepted before award of the Contract. At time of Bid, or within 5 days after bid opening, submit to DCR/AA:
 - (i) a completed and signed Verification of DBE/ESBE/SBE Firm (Form CR-273) for each firm listed on the CR-266 to demonstrate direct written confirmation from each SBE firm of willingness to participate on the Contract, confirming the kind and amount of work that was provided on the Contractor's CR-266, and, if applicable,
 - (ii) a completed and signed DBE/ESBE/SBE Regular Dealer/Supplier Verification (Form CR-272) for all Regular Dealers/Suppliers listed on the CR-266 form, and, if applicable,
 - (iii) a completed and signed DBE/ESBE/SBE Trucking Verification (Form CR-274) for all SBE trucking firms listed on the CR-266.

Firms listed on the CR-266 will not be counted toward the Contract SBE goal unless completed and signed CR-273 form(s), and applicable CR-272 and CR-274 form(s) are submitted to the DCR/AA within the 5 days after bid opening.

These forms must be submitted through a designated email: DOT-CR.Verifications@dot.nj.gov.

- (2) If, at time of Bid, the commitment to meet the Contract SBE goal is not shown on the CR-266, the Bidder must submit at time of Bid, or within 5 days after bid opening, documented evidence of good faith effort(s) to attain the Contract SBE goal, for review and approval by the DCR/AA. Submittal of such information does not imply DCR/AA approval. The Department's DCR/AA has sole authority to determine whether the Bidder met the Contract SBE goal or made adequate good faith efforts to do so.
 - (i) Good faith efforts are actions taken to achieve a SBE goal or other requirement of the SBE Program which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement, including affirmative action measures designed to implement the established objectives of an affirmative action plan that a Bidder may utilize to obtain SBE participation. Efforts to include firms not registered as SBEs in New Jersey are consequently not good faith efforts to meet the SBE Contract goal. Good faith effort actions include, but are not limited to:
 - (a) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified SBEs that have the capability to perform the work of the Contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all SBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the SBE directory) and which are

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located in the area or surrounding areas of the project. The Bidder shall solicit this interest as early in the bidding process as practicable to allow the SBEs to respond to the solicitation and submit a timely offer for the subcontract. The Bidder should determine with certainty if the SBEs are interested by taking appropriate steps to follow up initial solicitations.

- (b) Selecting portions of the work to be performed by SBEs in order to increase the likelihood that the SBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate SBE participation, even when the Bidder might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates SBE participation.
- (c) Providing interested SBEs with adequate information about the Plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.
- (d)i Negotiating in good faith with interested SBEs. It is the Bidder's responsibility to make a portion of the work available to SBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available SBE subcontractors and suppliers, so as to facilitate SBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of SBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for SBEs to perform the work.
- (d)ii A Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including SBE subcontractors, and would take a firm's price and capabilities as well as Contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using SBEs is not in itself sufficient reason for a Bidder's failure to meet the Contract SBE goal, as long as such costs are reasonable. Also, the ability or desire of a Bidder to perform the work of a Contract with its own organization does not relieve the Bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from SBEs if the price difference is excessive or unreasonable.
- (e)i Not rejecting SBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the Bidder's efforts to meet the Contract SBE goal. Another practice considered an insufficient good faith effort is the rejection of the SBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Bidder to accept unreasonable quotes in order to satisfy the Contract goals.
- (e)ii A Bidder's inability to find a replacement SBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original SBE. The fact that the Bidder has the ability and/or desire to perform the Contract work with its own forces does not relieve the Bidder of the obligation to make good faith efforts to find a replacement SBE, and it is not a sound basis for rejecting a prospective replacement SBE's reasonable quote.
- (f) Making efforts to assist interested SBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
- (g) Making efforts to assist interested SBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, but not directly or indirectly providing equipment, supplies or materials to the SBE.

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- (h) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of SBEs.

The above pre-award requirements shall be followed on projects where a Contract SBE goal is set.

102.15 DISQUALIFICATION OF BIDDERS

THE ENTIRE SUBSECTION IS CHANGED TO:

The Department will disqualify a Bidder and reject a bid submitted by that Bidder if the Bidder is determined by the Department to lack responsiveness. Failure of a Bidder to follow the requirements of 102.10 demonstrates a lack of responsiveness.

The Department will disqualify a Bidder and reject a bid submitted by that Bidder if the Bidder is determined by the Department to lack responsibility. Factors demonstrating a lack of responsibility include, but are not limited to:

1. Evidence of collusion among Bidders.
2. Uncompleted work, which in the opinion of the Department, might hinder or prevent completion of additional work if awarded.
3. Failure to submit a completed and signed CR-266 – Schedule of Disadvantaged Business Enterprise/Emerging Small Business Enterprise/Small Business Enterprise Participation at time of Bid.
4. Failure to submit within 5 days of bid opening, proof of documented evidence of good faith efforts to meet the Contract goal, if the Bidder fails to meet the Contract DBE, ESBE or SBE goal.
5. Failure to submit within 5 days of bid opening, a completed and signed Confirmation of DBE/ESBE/SBE Firm (Form CR-273) for each DBE/ESBE/SBE firm listed on the CR-266.
6. Failure to submit within 5 days of bid opening, a completed and signed DBE/ESBE/SBE Trucking Verification (Form CR-274) for each DBE/ESBE/SBE firm listed on the CR-266, if applicable.
7. Failure to submit within 5 days of bid opening, a completed and signed DBE/ESBE/SBE Regular Dealer/Supplier Verification (Form CR-272) for each DBE/ESBE/SBE Regular Dealer/Supplier listed on the CR-266, if applicable.
8. Failure of the bidder to meet the Contract DBE, ESBE or SBE goal, or make adequate good faith efforts to do so.
9. Submission of a materially unbalanced bid. A materially unbalanced bid is a bid where there is a reasonable doubt that award to the Bidder submitting a mathematically unbalanced bid, which is structured on the basis of nominal prices for some work and inflated prices for other work, will result in the lowest ultimate cost to the Department.
10. Lack of competency or lack of adequate machinery, plant, or other equipment.
11. Unsatisfactory performance on previous or current contracts.
12. Questionable moral integrity as determined by the Attorney General of New Jersey or the Department.
13. Any other outward actions or lack of action that demonstrates the Bidder is not responsible.
14. Disqualification, suspension, or debarment of an individual, firm, partnership, corporation, joint venture, or any combination as required by N.J.A.C. 16:44-11.1 for state projects.
15. Disqualification, suspension, or debarment of an individual firm, partnership, corporation, joint venture, or any combination as required by N.J.A.C. 16:44-11.1 or Federal Government's System for Award Management (SAM), located at <https://www.sam.gov/portal/SAM/#1> for federally assisted contracts.

SECTION 104 – SCOPE OF WORK

104.03.01 Authority to Make Changes

THE FOLLOWING PARAGRAPHS ARE ADDED AFTER THE THIRD PARAGRAPH:

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DBE, ESBE or SBE goals apply to work performed through Field Orders and Change Orders. On Federal aid projects, the Contractor is responsible for complying with the DBE program, rules and regulations of 49 CFR Part 26, the requirements as specified in 105.02.05, Federal Aid Project Attachments 1 through 7, and FHWA-1273 for this work. On State funded projects, the Contractor is responsible for complying with SBE program rules and regulations, the requirements as specified in 105.02.05, and State Funded Project Attachments 1 through 6 for this work.

Contractor resubmission of CR-266, CR-273, CR-272 and CR-274 may be required on the work performed through Field Orders and Change Orders.

104.03.03 Types of Changes

3. Changes in the Character of Work.

a. Differing Site Condition.

THE SECOND PARAGRAPH IS CHANGED TO:

The Department will make payment for increased costs resulting from a Type 1 or Type 2 Differing Site Condition as a change in the character of work; however, the Department will not consider making payment for a differing site condition unless the resulting change in cost exceeds \$7,500. Except, if the Contractor incurs cost as the result of multiple differing site conditions, with the cost of each separate differing site condition having a value of at least \$1,500 but not more than \$7,500, the Department will consider making payment for such costs if the aggregate cost of the multiple differing site conditions exceeds \$7,500. If the change in cost exceeds these amounts, the Department will base the modification on the total cost of the change, and the Department will not deduct the threshold amount of \$7,500 from the cost of the change.

104.03.04 Contractual Notice

THE SECOND PARAGRAPH IS CHANGED TO:

Immediately provide written notice to the RE of a circumstance that is believed to be a change to the Contract. If notice is not provided on Contractual Notice (Form DC-161), include the following in the initial written notice:

1. A statement that this is a notice of a change.
2. The date when the circumstances believed to be a change were discovered.
3. A detailed and specific statement describing the nature and circumstances of the change.
4. If the change will or could affect costs to the Department.
5. If the change will or could affect Contract Time as specified in 108.11.01.C.

In addition to the hard copy of the notice, email the notice to the RE. It is not necessary to attach listed documents to the email.

104.03.08 Force Account

7. Equipment.

a. Contractor-Owned Equipment.

PART 1 IS CHANGED TO:

1. The Department will calculate the "rental" hourly rates by dividing the monthly rate by 176. The Department will not use weekly, daily, or hourly rates. The Department will apply rental hourly rates for every hour the equipment is in active use, except that for any 30-day period, the Department will limit the total amount paid for each piece of equipment to a maximum of the monthly rate.

THE FOLLOWING PART IS ADDED:

6. The Department will make payment for costs for transporting equipment to and from the work site, if said costs are solely required as a direct result of the Force Account activity.

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THE SECOND PARAGRAPH IS CHANGED TO:

The payment established is full payment for all equipment costs, including the cost of fuel, repairs, maintenance, depreciation, storage and incidentals.

10. Subcontractors.

THE SECOND PARAGRAPH IS CHANGED TO:

The Department will make payment for markup on subcontracted work at the rate of 5 percent applied on the total amount of all costs for subcontracted force account work up to \$500,000 and 2% applied on the total amount of all costs for subcontracted force account work over \$500,000.

104.03.09 Delay Damages

1. Non-Productive Activity.

e. Equipment.

THE FIRST SENTENCE IS CHANGED TO:

If as the result of the delay, equipment cannot be used for any active work, and is directed by the RE to remain on the work site during the delay, the Department will make payment as specified in 104.03.08.7.a.5.

SECTION 105 – CONTROL OF WORK

105.01 AUTHORITY OF THE DEPARTMENT

105.01.01 RE

THE LAST PARAGRAPH IS CHANGED TO:

The RE has the authority to suspend the Work wholly or in part and to suspend Estimates, as specified in 109.05, for failure of the Contractor to correct conditions unsafe for the workers or the general public, for failure to carry out provisions of the Contract, including but not limited to DBE/ESBE/SBE program regulations in the administration of the Contract, or for failure to comply with RE direction. The RE also has the authority to suspend the Work wholly or in part for unsuitable weather, for conditions considered unsuitable for the prosecution of the Work or portion of the Work, or for any other condition or reason deemed to be in the interest of the public.

THE FOLLOWING NEW SUBPART IS ADDED:

105.01.03 Contractor Performance Evaluation

Pursuant to N.J.A.C. 16:44-1 et seq., the Department will assign Performance Evaluation ratings to determine the Contractor's Work Classification Limit.

The RE will perform a Contractor Performance Evaluation using the Department's form DC-83 that is current at the time of bid. The Department's form DC-83 is available at <http://www.state.nj.us/transportation/eng/forms/>. The RE will perform the Contractor Performance Evaluation at the end of the annual rating period, which extends from January 1 through December 31, if the value of work performed is at least 25% of the Total Adjusted Contract Price or has a value of more than \$1 million. If a Project is completed prior to the end of the regular annual rating period, the RE will perform the Contractor Performance Evaluation when the Department initiates a Certificate of Completion. The Department may extend the rating period or decide to not perform a Contractor Performance Evaluation Rating at its sole discretion, and will provide the Contractor with written notification of a decision to extend a rating period or to not

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perform a Contractor Performance Evaluation Rating. The RE will provide the Contractor with the breakdown and weighting of the Quality/Contract Compliance subcategories at the preconstruction conference. The Contractor Performance Evaluation process is not an administrative process and is contractual in nature.

Meet with the RE to review the Contractor Performance Evaluation rating when requested by the RE. A protest regarding the Performance Evaluation rating will be resolved through the Rating Review meeting process specified in this Subpart and not through the Contractual Claim Resolution Process specified in Subsection 107.12.

The Contractor may only protest a Contractor Performance Evaluation rating of less than 70. If the Contractor receives a Contractor Performance Evaluation rating of less than 70, the Contractor may protest the assigned rating by submitting a request for a Rating Review meeting with the Department Manager as specified in Subsection 101.04 (2) of the Special Provisions, responsible for the administration of the construction. Submit a written request for a Rating Review meeting to the Department Manager within 15 days of receiving the Contractor Performance Evaluation Rating from the RE. Provide with the request for a Rating Review Meeting a specific and detailed statement of the reasons for the protest and provide a copy of any documents that the Contractor wants the Department to consider. The Contractor waives its right to protest a Contractor Performance Evaluation Rating if it does not submit a written request for a Rating Review meeting within 15 days of the Contractor's receipt of the Contractor Performance Evaluation Rating.

The Department Manager will schedule and hold a meeting to review the Contractor's Performance Evaluation with the Contractor and hear the Contractor's protest within 30 days of receiving the Contractor's request for a Rating Review meeting. The Department Manager will issue a written decision upholding or adjusting the Performance Evaluation rating within 10 days of conducting the Rating Review meeting.

105.02 RESPONSIBILITIES OF THE CONTRACTOR

105.02.01 Labor and Equipment

THE FIRST PARAGRAPH OF PART 1 IS CHANGED TO:

- 1. Labor.** Employ workers that have sufficient skill and experience to properly perform the work assigned to them. Do not engage or employ current Department employees or workers that would cause the worker to be in violation of N.J.S.A. 52:13D-17. Do not engage or employ any former federal, state, or municipal worker who has been personally or individually debarred or subject to a forfeiture of public office pursuant to N.J.S.A. 2C:51-2.

THE FOLLOWING IS ADDED AFTER THE LAST PARAGRAPH OF PART 1:

Field Management Personnel - Provide Field Management Personnel to perform the functions of Supervisor, Quality Engineer/Inspector, and Safety/Environmental Engineer/Inspector. The Field Management Personnel are required on-site when this Contract has active on-going work. Field Management Personnel must be available by phone, email, text, or other electronic media during all work periods. Submit the names, contact information and description of responsibility for Field Management Personnel prior to start of mobilization activities. Provide sufficient supervisory personnel to oversee multiple shifts as appropriate to work schedule.

Workmanship - Accomplish all work using the best standard practices for the type of work being performed. Utilize only skilled and qualified workmen appropriate to the task being performed. Install all materials and equipment in accordance with plans, specifications, and manufacturers' instructions, and conform to contract documents.

Safety and Reliability - It is the responsibility of the Contractor's Supervisor, to ensure the safety and productivity of the craftsmen and technicians working on this subcontract. Failure of Contractor personnel to fulfill their duties safely and within the expected quality and professionalism as could reasonably be expected of workers skilled and qualified in the type of work being performed, will result in a formal notice to the Contractor's management to replace personnel.

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THE FOLLOWING SUBPART IS ADDED:

105.02.05 Civil Rights Requirements

The Contractor is obligated to comply with Title VI of the Civil Rights Act of 1964, 49 CFR Part 21 and 28 CFR Section 50.3, 2 C.F.R. Part 200 and 2 C.F.R. Part 200 Appendix II and any other Rules relative to Nondiscrimination as they may be amended from time to time, which are herein and incorporated by reference and made part of the Contract. The Contractor in the performance of the Contract agrees to comply with nondiscrimination regulations and other requirements as specified in Section 107. Failure of a Contractor to comply with the nondiscrimination provisions of the Contract may result in the actions as set forth as specified in Sections 105, 108 and 109.

The source of funding determines which EEO regulations and goals (Federal and/or State goals) apply to a specific project.

1. **Federal Aid Projects.** On contracts containing Federal funding, Federal EEO regulations and goals apply as specified in Federal Aid Project Attachments 1 through 11. The DCR/AA monitors and reviews these projects on behalf of the Federal Highway Administration (FHWA), under Federal statutes (23 USC 140) and rules (23 CFR 230, 2 CFR Part 200).

Comply with the DBE/ESBE program, rules and regulations of 49 CFR Part 26 in the administration of the Contract. Failure to do so is a material breach of the Contract and may result in termination of the Contract, or other such actions that the Department or the FHWA deem appropriate which may include, but are not limited to, denial or limit of credit toward the Contract goal, payment being delayed or withheld as specified in Section 105, assessing sanctions as set forth in 49 CFR Part 26, and default as specified in Section 108. Deliberate attempts by the Contractor or subcontractors to circumvent or commit fraud in the DBE/ESBE program may result in termination of the Contract as specified in Section 108, investigation by the Department's Inspector General, and prosecution by the State Attorney General's Office.

Ensure compliance with the labor standards provisions of the Contract. Submit weekly certified payrolls as required in the Contract. Monitor and verify the owner-operator status of all DBE and non-DBE truckers working on Federal aid projects used for the Contract. Submit the DBE Trucking Verification (Form CR-274) to the Department. Failure of a Contractor to meet the requirements of this paragraph may result in payment being delayed or withheld as specified in Section 105, default as specified in Section 108, disqualifying the Contractor from future bidding as non-responsible, or termination of the Contract as specified in Section 108.

Obtain subcontract agreements as specified in Section 108. Failure of a Contractor to meet this requirement may result in payment being delayed or withheld as specified in Section 105, default as specified in Section 108, disqualifying the Contractor from future bidding as non-responsible, or termination of the Contract as specified in Section 108.

The Contractor is responsible for compliance by any subcontractor, lower tier subcontractor as specified in Section 108. On Federal aid construction contracts, utilize a DBE that performs a commercially useful function (CUF) and performs the work committed to at the time of Contract award. Monitor and report DBE participation on the Contract, on a monthly basis.

The Contractor is required to make good faith effort as defined in 23 CFR Part 230 and 41 CFR Part 60 in meeting the Equal Employment Opportunity, Affirmative Action, on-the-job training and female and minority work hour goals. Ensure compliance by subcontractors and lower tier subcontractors. Failure of the Contractor, subcontractor or lower tier subcontractor to meet these requirements may result in the denial or limit of credit toward the Contract goal, payment being delayed or withheld as specified in Section 105; default as specified in Section 108, or termination of the Contract as specified in Section 108.

Utilize the specific DBEs listed to perform the work and supply the materials for which each is listed on the CR-266 unless prior written consent from the DCR/AA is obtained. Unless DCR/AA consent is provided, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

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The Contractor is responsible for Equal Employment Opportunity requirements of the Contract, including Affirmative Action, EEO workforce and On-The-Job Training. Failure by the Contractor to meet the requirements of the Affirmative Action Program for Equal Employment Opportunity may result in payment being delayed or withheld as specified in Section 105 pending corrective and appropriate measures by the Contractor to the satisfaction of the Department.

The Contractor is responsible for compliance with the Trainee program. Failure to meet this requirement may result in payment being delayed or withheld as specified in Section 105, default as specified in Section 108, disqualifying the Contractor from future bidding as non-responsible, or termination of the Contract as specified in Section 108.

The Contractor and subcontractors are required to provide all information and reports as specified in Section 107.

a. Disadvantaged Business Enterprise/Emerging Small Business Enterprise Goals for this Contract

This Contract includes a goal of awarding a percentage of the Total Contract Price to subcontractors, transaction expeditors, regular dealers, manufacturers and truckers qualifying as certified DBEs/ESBEs as specified in Federal Aid Project Attachment 1 – Disadvantaged Business Enterprise Utilization on Federal Aid Projects or Federal Aid Project Attachment 1 – Emerging Small Business Enterprise Utilization on Federal Aid Projects, of the Special Provisions.

To receive DBE credit toward meeting a contract goal in the context of the contract award process, a DBE firm must be certified before the due date for bids or offers on the Contract, as stated in 49 CFR Part 26.81(c). There may be situations after the award of the Contract, however, in which it is appropriate to count DBE credit for the use of a DBE firm certified after the contract is executed. To be eligible to obtain DBE credit, a DBE firm must be certified before the subcontract on which it is working is executed.

A Contractor is deemed to have satisfied the requirements of the DBE Program if the Contractor meets the Contract DBE goal or the approved DBE commitment, or demonstrates an adequate GFE. Failure to meet the Contract DBE goal or the approved DBE commitment, without demonstrating an adequate GFE, is considered a material breach of the Contract.

The Contract DBE goal or the approved DBE commitment may be changed by the Department based on changes in the Work that increase or decrease work assigned to approved DBEs, or to create potential DBE subcontracting opportunities regarding the Contract. The Department's DCR/AA will evaluate these changes in the Work in the same manner that the original Contract DBE goal or the approved DBE commitment was established. Submit a Revised CR-266 when the Contract DBE goal or the approved DBE commitment is increased or decreased; in such circumstances, the Contractor shall meet the Modified DBE goal or demonstrate an adequate GFE.

If the Contractor fails to meet the Contract DBE goal, without demonstrating an adequate GFE, the Department will make a payment reduction from the total amount of payments made to the Contractor equal to the value of the DBE goal not attained as follows:

$$\text{DBE Goal Payment Reduction} = (\text{CG} - \text{AG}) \times \text{CP}$$

Where:

CG = Contract DBE Goal percentage, or approved DBE commitment, or if modified by the Department, the Modified DBE Contract Goal percentage.

AG = Attained DBE Goal percentage = (total dollar amount paid to DBE suppliers and DBE subcontractors divided by CP) plus the percent value attributed to the Contractor's GFE approved by the Department.

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CP = Total Adjusted Contract Price less the payment adjustments for FINAL LAYOUT, PERFORMANCE BOND AND PAYMENT BOND, and DBE Goal Payment Reduction.

b. Trainees

This Contract includes a trainee goal which is part of the Contractor's equal employment opportunity affirmative action program, on-the-job training aimed at developing full journey people in the type of craft or job classification involved on the project as specified in Section H of Federal Aid Project Attachment 2 – Specific Equal Employment Opportunity Responsibilities on NJDOT Federal Aid Projects, of the Special Provisions.

- 2. Wholly State Funded Contracts.** On contracts containing wholly State funding, State EEO regulations and goals apply as specified in State Funded Project Attachments 1 to 6 of the Special Provisions. The DCR/AA monitors and reviews these projects in conjunction with the New Jersey Department of Labor under New Jersey Statutes N.J.S.A. 10:5-31 et seq. and P.L. 1975 Chapter 27 and their accompanying rules.

The Contractor is obligated to comply with the SBE program, rules and regulations in the administration of the Contract. Failure to do so is a material breach of the Contract and may result in termination of the Contract, or other such remedy that the Department deems appropriate which may include, but is not limited to, rejection of bids, denial or limit of credit toward the Contract SBE goal, payment being delayed or withheld as specified in Section 105, assessing sanctions, liquidated damages as specified in Section 108, default as specified in Section 108, disqualifying the Contractor from future bidding as non-responsible, or termination of the Contract as specified in Section 108. Deliberate attempts by the Contractor or subcontractor to circumvent or commit fraud in the SBE program may result in termination of the Contract as specified in Section 108, investigation by the Department's Inspector General, and prosecution by the State Attorney General's Office.

Ensure compliance with the labor standards provisions of the Contract. Submit weekly certified payrolls as required in the Contract. Monitor and verify the status of all truck owner-operators working on wholly State funded highway construction projects used for the Contract. Failure of a Contractor may result in payment being delayed or withheld as specified in Section 105; default as specified in Section 108, or termination of the Contract as specified in Section 108.

Obtain subcontract agreements as specified in Section 108. Failure of a Contractor may result in payment being delayed or withheld as specified in Section 105, default as specified in Section 108, disqualifying the Contractor from future bidding as non-responsible, or termination of the Contract as specified in Section 108.

The Contractor is responsible for compliance by any subcontractor, lower tier subcontractor as specified in Section 108. Utilize a SBE that performs a commercially useful function (CUF) and performs the work committed to at the time of contract award. Monitor and report SBE participation on the project, on a monthly basis. Failure of a subcontractor or lower tier subcontractor may result in denial or limit of credit toward the Contract SBE goal, payment being delayed or withheld as specified in Section 105; default as specified in Section 108, or termination of the Contract as specified in Section 108.

The Contractor is required to make good faith effort as defined in N.J.A.C. 17:27-1.1, et seq. in meeting the Equal Employment Opportunity, Affirmative Action, on-the-job training and female and minority work hour goals. Failure of a subcontractor or lower tier subcontractor may result in denial or limit of credit toward the Contract SBE goal, payment being delayed or withheld as specified in Section 105; default as specified in Section 108, or termination of the Contract as specified in Section 108.

Utilize the specific SBEs listed to perform the work and supply the materials for which each is listed on the CR-266 unless prior written consent from the DCR/AA is obtained. Unless DCR/AA consent is provided, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed SBE.

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The Contractor is responsible for Equal Employment Opportunity requirements of the Contract, including Affirmative Action. EO workforce and On-The-Job Training. Failure by the Contractor to meet the requirements of the Affirmative Action Program for Equal Employment Opportunity may result in payment being delayed or withheld as specified in Section 105 pending corrective and appropriate measures by the Contractor to the satisfaction of the Department.

The Contractor and subcontractors are required to provide all information and reports as specified in Section 107.

a. Small Business Goals for This Project

NOTE: SUBCONTRACTING GOALS ARE NOT APPLICABLE IF THE CONTRACTOR IS A REGISTERED SMALL BUSINESS ENTERPRISE (SBE) FIRM.

This Contract includes a goal of awarding a percentage of the Total Contract Price to subcontractors, transaction expeditors, regular dealers, manufacturers and truckers qualifying as SBEs as specified in State Funded Project Attachment I – Small Business Enterprise Utilization Attachment for Wholly State Funded Projects, of the Special Provisions.

To receive SBE credit toward meeting a contract goal in the context of the contract award process, a SBE firm must be registered before the due date for bids or offers on the Contract. There may be situations after the award of the Contract, however, in which it is appropriate to count SBE credit for the use of a SBE firm registered after the contract is executed. To be eligible to obtain SBE credit, a SBE firm must be registered before the subcontract on which it is working is executed.

If a prospective Small Business Enterprise fails to meet the eligibility standards for participation the department's Small Business Program, the Contractor shall, make reasonable outreach efforts to replace that ineligible subcontractor with a registered Small Business whose participation is sufficient to meet the goal for the contract.

Prospective Small Businesses whose registration applications are denied or rejected by the New Jersey Commerce and Growth Commission are ineligible for participation on the project to meet Small Business goals, regardless of any pending appeal action in progress.

A Contractor is deemed to have satisfied the requirements of the SBE Program if the Contractor meets the Contract SBE goal or the approved SBE commitment, or demonstrates an adequate GFE. Failure to meet the Contract SBE goal or the approved SBE commitment, without demonstrating an adequate GFE, is considered a material breach of the Contract.

The Contract SBE goal or the approved SBE commitment may be changed by the Department based on changes in the Work that increase or decrease work assigned to approved SBEs, or to create potential SBE subcontracting opportunities regarding the Contract. The Department's DCR/AA will evaluate these changes in the Work in the same manner that the original Contract SBE goal or the approved SBE commitment was established. Submit a Revised CR-266 when the Contract SBE goal or the approved SBE commitment is increased or decreased; in such circumstances, the Contractor shall meet the Modified SBE goal or demonstrate an adequate GFE.

If the Contractor fails to meet the Contract SBE goal, without demonstrating an adequate GFE, the Department will make a payment reduction from the total amount of payments made to the Contractor equal to the value of the SBE goal not attained as follows:

$$\text{SBE Goal Payment Reduction} = (\text{CG} - \text{AG}) \times \text{CP}$$

Where:

CG = Contract SBE Goal percentage, or approved SBE commitment, or if modified by the Department, the Modified SBE Contract Goal percentage

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AG = Attained SBE Goal percentage = (total dollar amount paid to SBE suppliers and SBE subcontractors divided by CP) plus the percent value attributed to the Contractor's GFE approved by the Department.

CP = Total Adjusted Contract Price less the payment adjustments for FINAL LAYOUT, PERFORMANCE BOND AND PAYMENT BOND, and SBE Goal Payment Reduction.

105.05 WORKING DRAWINGS

THE SECOND PARAGRAPH IS CHANGED TO:

Ensure that working drawing submissions also conform to the Department design manuals and other Department standards for the proposed work. After Award, the Department will provide additional formatting information, the number of copies required, and the address of the receiving designated design unit.

THE THIRD PARAGRAPH IS CHANGED TO:

Submit working drawings on 22 × 36-inch sheets. The Department may approve the use of 8-1/2 × 11 inch sheet on a case by case basis. Submit design calculations required for the working drawings on 8-1/2 × 11-inch paper. Submit 7 copies of the working drawings to the designated design unit for review with a copy of the transmittal letter to the RE. For railroad-carrying structures, submit 4 additional copies to the designated design unit. Submit an additional copy for each outside testing agency or authority involved in the Project.

THE NINTH PARAGRAPH IS CHANGED TO:

Submit working drawings for certification or approval as specified in Table 105.05-1. This list is not all inclusive. Ensure that the working drawings submitted for approval are signed and sealed by a Professional Engineer. The working drawings submitted for certification are not required to be signed and sealed by a Professional Engineer unless they alter the original Contract

THE FOLLOWING IS ADDED:

1. Work Plan

Prepare and submit for approval a work plan drawing that shows the locations and intended sequential order of dredging work in detailed increments of no greater than 10 calendar days duration prior to commencement of dredging operations. Indicate the length and width of dredge cuts to be made for each incremental segment and show the relationship of dredging location with the discharge pipe and fill locations for each work segment shown. Include in the work plan a description demonstrating that the dredging plant to be used will meet the requirements for the minimum size standard as described in Section 202.02.02 of these specifications. Include booster pumps and general pipeline descriptions. Utilize the forms provided as an attachment to these Special Provisions.

2. Pipeline Route Plan

Prepare and submit for approval a Pipeline Route Plan, detailing the locations and method of placement of all dredge discharge pipelines prior to commencement of dredging operations. Include in the Pipeline Route Plan the method by which the pipeline will be placed to avoid interference with commercial and recreational marine traffic and detailed descriptions of the type of pipeline proposed (floating, submerged, shoreline). Also include in the Pipeline Route Plan drawings indicating the clearances for navigation, anticipated booster placement locations, details of road crossing arrangements (if applicable), details for connecting to existing pipe crossing under Rt. 36 and details of pipe placement at the placement site.

Obtain written approval of the Pipeline Route Plan from the RE prior to start of mobilization.

3. Channel Closure Plan

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Prepare and submit for approval a Channel Closure Plan prior to commencement of dredging operations. Include description of allowable closure dates and times of day. Include a log of correspondence and proof of coordination with any affected marinas and the US Coast Guard. Allowable channel closure schedule is to be in accordance with Section 105.08 – 7d.

TABLE 105.05-1 IS CHANGED TO:

Table 105.05 1 – Working Drawing Submission Category	
Certified	Approved
Work Plan	
Pipeline Route Plan	
Channel Closure Plan	

THE FIRST PARAGRAPH UNDER PART 1 OF TENTH PARAGRAPH IS CHANGED TO:

1. **Certified Working Drawings.** For working drawings requiring certification, include 2 blank blocks directly above the title block. Designate one block for design unit certification, and designate the other block for the Contractor's approval stamp and a signed statement stating that the Contract has not been altered. The Department will require 14 days for review and certification or rejection and return of certified working drawings.

105.07.01 Working in the Vicinity of Utilities

A. Initial Notice.

The corporations, companies, agencies, or municipalities owning or controlling existing utilities located within the project limits, and the names, titles, address, and telephone number of their local representative are as listed below:

ELECTRIC

Jersey Central Power & Light of New Jersey

Harvey Lockley
One River Centre
331 Newman Springs Road, Building 3
Red Bank, NJ 07701
Phone No.: (732) 212-4262
E-Mail - hlockley@firstenergycorp.com

CABLE

Comcast Cable Communications Management, LLC

Sal Dimaggio – Region Central and Region South
403 South Street
Eatontown, NJ 07724
Phone No.: (732) 652-2720
E-Mail: salvatore_dimaggio@cable.comcast.com

TELEPHONE

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Verizon New Jersey, Inc.
Frank Antisell - Manager
6000 Hadley Road
South Plainfield, NJ 07080
Phone No.: (908) 412-6160
E-Mail: frank.t.antisell@verizon.com

GAS

New Jersey Natural Gas Company
John Wyckoff
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719
Phone No.: (732) 938-7864
E-Mail: jbywyckoff@njng.com

WATER

New Jersey American Water Company, Inc.
Brad Cole
Engineering Project Manager
1025 Laurel Oak Road
Voorhees, NJ 08043
Phone No.: (856) 782-2379
Cell No.: (856) 287-9958
E-Mail: bradley.cole@amwater.com

SANITARY SEWER

Borough Of Rumson Department Of Public Works
Mark Wellner
Superintendent of Public Works
80 East River Road
Rumson, New Jersey
Phone No.: (732) 842-8941
Email: mwellner@rumsonnj.gov

Two Rivers Water Reclamation Authority
Dennis J. Galvin, P.E.
Engineering Manager
1 Highland Avenue
Monmouth Beach, NJ 07750
Phone No.: (732) 229-8578 x13
Email: dgalvin@trwra.org

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105.08 ENVIRONMENTAL PROTECTION

THE FOURTH SENTENCE OF THE FIFTH PARAGRAPH IS DELETED. THE FOLLOWING IS ADDED AFTER THE FIFTH PARAGRAPH:

This section also covers prevention of environmental pollution and damage as the result of construction operations under this contract and for those measures set forth in other sections of these specifications. For the purpose of this specification, environmental pollution and damage are defined as the presence of chemical, physical, or biological elements or agents which adversely affect human health or welfare; unfavorably alter ecological balances of importance to human life; affect other species of importance to man; or degrade the utility of the environment for aesthetic, cultural, and/or historical purposes. The control of environmental pollution and damage requires consideration of air, water, and land, and includes management of visual esthetics, noise, solid waste, radiant energy and radioactive materials, as well as other pollutants.

There are necessary measures for protection of the environment. Environmental protection requirements under this contract are as important to overall completion of work as other technical aspects. Failure to meet the requirements of these specifications for environmental protection may result in work stoppages, or termination for default. No claims for extension of time or damages due to any such work stoppages are permitted. Promptly perform any repairs from damages caused by the violation of the provisions of these specifications at no additional cost to the State.

Also, comply with the following:

SUB-PARTS 1 THRU 4 ARE DELETED AND REPLACED WITH THE FOLLOWING:

1. Quality Control - Establish and maintain quality control oversight for all items of the work. Report any deviations of the work with respect to the Contract Specifications or Plan Drawings to the RE by the close of business on the day of occurrence.

2. Permits and Authorizations - Comply with all requirements under the terms and conditions set out in the following permit(s) and authorization(s) listed below. Copies of these permit(s) and authorization(s) are attached.

1. State of New Jersey Department of Environmental Protection Office of Dredging and Sediment Technology Permit for Waterfront Development Permit – IP In-Water/Water Quality Certificate/Acceptable Use Determination, Permit Number 1300-16-0003.1 WFD 160001, Site Location: Shrewsbury River Complex & Borough of Seabright, Monmouth County, New Jersey
2. Department of the Army, U.S. Army Corps of Engineers, New York District, Jacob K. Javits Federal Building 26 Federal Plaza, New York, NY 10278-0090, Regulatory Branch Maintenance Dredging Permit. Permit Number NAN-2016-00987-EYR

3. Environmental Protection Plan - Within 10 days after the date of Notice of Award, submit in writing an Environmental Protection Plan containing detailed plans for compliance with all Federal, State and Local permit conditions. Approval of the Contractor's plan will not relieve the Contractor of its responsibility for adequate and continuing control of pollutants and other environmental protection measures. Include the following in the Environmental Protection Plan:

- a) Methods for protection of features to be preserved within authorized work areas. Prepare a listing of methods to protect resources needing protection, i.e., trees, shrubs, vines, grasses and ground cover, landscape features, air and water quality, fish and wildlife, soil, historic, archeological, and cultural resources.

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- b) Procedures to be implemented to provide the required environmental protection and to comply with the applicable laws and regulations. Provide a written assurance that immediate corrective action will be taken to prevent pollution of the environment due to accident, natural causes, or failure to follow the procedures set out in accordance with the Environmental Protection Plan.
- c) Plans showing locations of any proposed temporary excavations or embankments for haul roads, stream crossing, material storage areas, structures, sanitary facilities, and stockpiles of excess or spoil materials. Indicate the features designed to protect the road structure and the environment from dredged material spills or pipeline leaks for all pipeline road crossings or tunnels.
- d) Methods of protecting surface and ground water during construction activities.
- e) A description of the methods and measures for the prevention of oil spills (i.e., ground cover, containment, absorbent, etc.) Include detailed procedures for dealing with any oil or contaminant spill to include but not be limited to required notifications to regulatory agencies, a spill procedure checklist, spill procedure action diagram showing activities to be performed, Contractor's staff of responsible parties, subcontract or service companies and detailed 24-hour contact information for anyone in the Contractor's activity chain.
- f) Work area plan showing the proposed activity in each portion of the work area and identifying the areas of limited use or nonuse. Include measures for marking the limits in the Environmental Protection Plan

4. Environmental Protection Logs/Final Summary Report - Submit any logs and/or final summary report of sightings and incidents with endangered species or other reports and submittals as may be required by the permits.

5. Subcontractors - Compliance with this section by subcontractors is the responsibility of the Contractor.

6. Notification - The RE will notify the Contractor in writing of any observed noncompliance with the aforementioned federal, state, or local laws or regulations, permits and other elements of the Environmental Protection Plan. After receipt of such notice, inform the RE of proposed corrective action and take such action as may be approved. The Department will not grant time extensions, additional costs or damages allowed to the Contractor for any suspension of work resulting from noncompliance with the environmental protection requirements of the contract.

7. Protection of Environmental Resources - Protect the environmental resources within the project boundaries and those affected outside the limits of permanent work under this contract during the entire period of this contract. Confine activities to areas defined by the plans and specifications.

- a) **Historical and Archeological Sites.** Ensure that locations eligible for or listed on the State or National Registers of Historic Places are not used for disposing, storing, or obtaining borrow excavation. For information about historical places, consult the New Jersey Department of Environmental Protection Historic Preservation Office website at www.state.nj.us/dep/hpo.

If, during construction activities, the Contractor observes items that may have prehistoric, historic or archeological value, immediately cease construction activities in that area and report such observations immediately to the RE so that the appropriate authorities may be notified and a determination made as to their significance and what, if any, special disposition of the finds should be made. Cease all activities that may result in the destruction of these resources and prevent employees from trespassing on, removing, or otherwise damaging such resources. Do not resume construction operations until the Department provides direction.

- b) **Forests.** When performing work within or adjacent to State or National Forests or Parks, comply with the regulations of the State Fire Warden, State Division of Parks and Forestry, or other authority having jurisdiction.

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Take reasonable precautions to prevent forest fires caused by construction operations and also other precautions requested by Forestry officials. If a wild fire occurs, immediately notify a Forestry official and the RE of the location and extent of the fire.

- c) **Navigable Waters.** If work is required over, on, or adjacent to navigable waters, do not interfere with the free navigation of the waterways, and ensure that the existing navigable depths are not reduced, except as allowed by permits issued for the Project. Before beginning work in or over a navigable waterway for which maintenance dredging permits have been issued, notify the Coast Guard and other agencies specified by permit condition. Refer to the permit conditions in the environmental permits listed in section 105.08 2. and provided as attachments to these Special Provisions for notification requirements and other restrictions.
- d) **Obstruction of Channel -** The Department is not responsible for keeping the channel free from vessels or other obstructions. Marine traffic in the immediate project area consists of pleasure and commercial vessels, including fishing vessels, and occasional barge and tug traffic. Local marine traffic has precedence over the dredging operations, except as approved in the Channel Closure Plan. Channel closures must be performed in accordance with the following schedule:

April 1 – September 30 of any given year (Except as listed below)

- Monday 9 AM through Thursday 9 PM – Anytime
- Thursday 9 PM through Monday 9 AM – No Channel closures allowed

October 1 – March 31 of any given year

- Monday through Sunday – Anytime

In addition Channel Closures will not be permitted during the following holidays or events:

- Easter Sunday (Including 6:00 AM Saturday until Noon Monday)
- Memorial Day (See Note Below)
- July 4th (See Note Below)
- Labor Day (See Note Below)
- Election Day (See Note Below)

Note:

If The Holiday Falls On	No Channel Closures Permitted
Sunday Or Monday	6:00 AM Friday until Noon Tuesday
Tuesday	6:00 AM Friday until Noon Wednesday
Wednesday	6:00 AM Tuesday until Noon Thursday
Thursday	6:00 AM Wednesday until Noon Monday
Friday or Saturday	6:00 AM Thursday until Noon Monday

All channel closure restrictions are subject to the approval of the RE, NJDOT Office of Maritime Resources and the U.S. Coast Guard. Channel closures must also be in accordance with the approved Channel Closure Plan.

Upon completion of the work promptly remove plant, including ranges, buoys, piles, and other marks in navigable waters or on shore.

Prior to commencement of work on this Contract, notify the Commander, Fifth U.S. Coast Guard District of the intended operations and request that the project be published in the Local Notice to Mariners at least one week prior to the commencement of the construction operations. Furnish to OMR copies of correspondence with the U. S. Coast Guard regarding these issues and a copy of the published Notice to Mariners.

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Describe the location of marker buoys, turbidity curtains, and other potential interferences with navigation in the initial Notice to Mariners submittal and updated by direct communication between the Contractor and the USCG. Submit copies of all correspondence and summaries of any telephone conversations relating to these matters to OMR in a timely manner

- e) **Hazardous Material.** If evidence of hazardous material not specified in the Contract is discovered, immediately cease construction operations and notify the RE. Do not resume construction operations in that area until the Department provides direction.
- f) **Disposal of Solid Wastes.** Place solid wastes (excluding clearing debris) in containers that are emptied on a regular schedule. Conduct all handling and disposal in accordance with Federal, State, and local regulations.
- g) **Disposal of Discarded Materials.** Handle discarded materials other than those that can be included in the solid waste category as directed by the RE.
- h) **Protection of Water Resources.** Keep construction activities under surveillance, management, and control to avoid pollution of surface and ground waters.

Turbidity - Conduct dredging and disposal operations in a manner to minimize turbidity and conform to all water quality standards as prescribed by the applicable permits.

Oil Spill Prevention - Prevent oil or other hazardous substances from entering the ground, drainage, or local bodies of water. Provide containment, diversionary structures, or equipment to prevent discharged oil from reaching a watercourse. Take immediate action to contain and clean up any spill of oily substances, petroleum products, and hazardous substances. Immediately report such spills to the RE and appropriate authorities as outlined in the Environmental Protection Plan.

- i) **Protection of Fish and Wildlife Resources.** Keep construction activities under surveillance, management, and control to minimize interference with, disturbance to, and damage of fish and wildlife. List species that require specific attention along with measures for their protection in the Environmental Protection Plan prior to the beginning of construction operation.
- j) **Protection of Air Resources.** Keep construction activities under surveillance, management, and control to minimize pollution of air resources. Perform all activities, equipment, processes and work operations in strict accordance with the applicable air pollution standards of the State of New Jersey and all Federal emission and performance laws and standards.
- k) **Sound Intrusions.** Keep construction activities under surveillance and control to minimize damage to the environment by noise.
- l) **Preservation and Restoration of Landscape and Marine Vegetation Damages.** Restore all landscape features and marine vegetation damaged or destroyed during construction operations outside the limits of the approved work areas. Place swing anchors at the minimum distance outside the channel toes to provide for efficient maneuvering of the dredge, and to avoid damage to vegetation.

THE FOLLOWING SUBSECTION IS ADDED:

105.11 ACCESS TO THE WORKSITE

Water access to the dredging sites is from the Atlantic Ocean, Sandy Hook Bay, and NJICWW. Access to shore side work and to watercraft transport locations may be made via the interstate highway system, the New Jersey

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Turnpike, Garden State Parkway, N.J. Route 36, and local streets in Monmouth Beach and Shrewsbury Township, all in Monmouth County. Access the beach placement area via Valentine Street access point.

SECTION 106 – CONTROL OF MATERIAL

106.01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS

THE FIRST PARAGRAPH IS CHANGED TO:

Ensure that materials furnished for the Project are new, unless otherwise specified in the contract. Comply with 2 CFR 200.322 Procurement of Recovered Materials “to the highest percentage of recovered materials practicable” where the purchase price of the covered item listed exceeds \$10,000. Use materials that conform to the requirements of the contract. When required by the Contract, use only products and suppliers listed on the QPL. Use sources of materials that have been approved by the Department on a Materials Questionnaire as specified in 106.04.

SECTION 107 – LEGAL RELATIONS

107.02 DISCRIMINATION IN EMPLOYMENT ON PUBLIC WORKS

THE TITLE AND ENTIRE SUBSECTION IS CHANGED TO:

107.02 NONDISCRIMINATION

It is the policy of the Department that anyone performing work under any program, activity, or Contract with the Department, shall not discriminate on the basis of race, creed, color, national origin, age, ancestry, nationality, marital or domestic partnership status, gender, disability, affectional or sexual orientation, gender identity or expression, religion, liability for military service, veteran’s status, income level or ability to read, write or speak English.

Pursuant to N.J.S.A. 10:2-1, the Contractor agrees that in the hiring of persons for the performance of work under the Contract or any subcontract, or for the procurement, manufacture, assembling, or furnishing of materials, equipment, supplies, or services to be acquired under the Contract, the Contractor, subcontractor, or any person acting on their behalf shall not discriminate against any person who is qualified and available to perform the work to which the employment relates by reason of race, creed, color, national origin, age, ancestry, marital or domestic partnership status, gender, disability, liability for military service, veteran’s status, or affectional or sexual orientation.

The Contractor, subcontractor, or any person acting on their behalf shall not, in any manner, discriminate against or intimidate any employee engaged in the performance of the Work under the Contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling, or furnishing of any such materials, equipment, supplies, or services to be acquired under such Contract, by reason of race, creed, color, national origin, age, ancestry, nationality, marital or domestic partnership status, gender, disability, liability for military service, veteran’s status, or affectional or sexual orientation.

The Department has the right to deduct a penalty of \$50 for each person for each day that the person is discriminated against or intimidated in violation of the provisions of the Contract pursuant to N.J.S.A. 10:2-1. The Department has the right to terminate the Contract, and any monies due the Contractor under the Contract may be forfeited, for any violation of this Subsection occurring after notice to the Contractor from the Department of any prior violation of this Subsection.

Standard Title VI Assurance. During the performance of this Contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), in accordance with Title VI /Nondiscrimination Assurance – Appendix A, USDOT Order 1050.2A agrees as follows:

- 1. Compliance with Regulations:** The Contractor will comply with the Acts and Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which herein incorporated by reference and made a part of this Contract.

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2. **Nondiscrimination:** The Contractor, with regard to the Work performed by it during the Contract, will not discriminate on the grounds race, creed, color, national origin, age, ancestry, nationality, marital or domestic partnership status, gender, disability, affectional or sexual orientation, gender identity or expression, religion, liability for military service, veteran's status, income level or ability to read, write or speak English in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and Regulations, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations, either by competitive bidding, negotiation made by the Contractor for Work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Contract and the Acts and Regulations relative to nondiscrimination on the grounds of race, creed, color, national origin, age, ancestry, nationality, marital or domestic partnership status, gender, disability, affectional or sexual orientation, gender identity or expression, religion, liability for military service, veteran's status, income level or ability to read, write or speak English.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-Compliance:** In the event of a Contractor's noncompliance with the Nondiscrimination provisions of this Contract, the Recipient will impose such Contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. Withholding payments to the Contractor under the Contract until the Contractor complies; and/or
 2. Cancelling, terminating, or suspending a Contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interest of the United States.

During the performance of this Contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") in accordance with the Title VI /Nondiscrimination Assurance – Appendix E, USDOT Order 1050.2A, agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252); and 49 CFR Part 21.
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601);
3. Section 162(a) of the Federal Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended; and 49 C.F.R. Part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.);
6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended;
7. The Civil Rights Restoration Act of 1987, (PL 100-209);

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8. Title II and III of the Americans with Disabilities Act (42 U.S.C. § 12131- - 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
9. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123);
10. Executive Order 12898, Federal Actions to address Environmental Justice in Minority Populations and Low Income Populations;
11. Executive Order 13166, Improving Access to services for Persons with Limited English Proficiency (70 Fed. Reg. at 74087 to 74100);
12. 23 CFR Part 230 (EEO, Affirmative Action & OJT)
13. 49 CFR Part 26
14. Executive Order 11246 as amended
15. Section 503 of the Rehabilitation Act of 1973 as amended
16. Section 4212 of the Vietnam Era Veteran's Readjustment Assistance Act, as amended
17. New Jersey Statutes N.J.S.A. 10:5-31 et seq.
18. New Jersey P.L. 1975 Chapter 27

107.03 AFFIRMATIVE ACTION, DISADVANTAGED BUSINESS ENTERPRISES, OR EMERGING SMALL BUSINESS ENTERPRISE

THE TITLE AND ENTIRE SUBSECTION IS CHANGED TO:

107.03 AFFIRMATIVE ACTION, DISADVANTAGED BUSINESS ENTERPRISES OR EMERGING SMALL BUSINESS ENTERPRISES, AND SMALL BUSINESS ENTERPRISES

It is the public policy of the State and of the United States that no individual, group, firm, corporation or joint venture working on or seeking to work on a Public Works Project should be discriminated against on the basis of race, creed, color, national origin, age, ancestry, nationality, marital or domestic partnership status, gender, disability, liability for military service, affectional or sexual orientation, atypical cellular or blood trait, or genetic information (including the refusal to submit to genetic testing). The Department has developed Affirmative Action, Disadvantaged Business Enterprise, or Emerging Small Business Enterprise Programs to implement this policy, and the regulations and requirements applicable to the Contract are contained in the Special Provisions. The Department will resolve conflicts between these regulations and requirements and the other provisions of the Contract to further the above stated public policy.

Contract Assurance. The Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this contract or such other remedy as the Department deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the Contractor from future bidding as non-responsive.

107.04 NEW JERSEY CONTRACTUAL LIABILITY ACT

THE FOURTH PARAGRAPH IS CHANGED TO:

For purposes of determining the date of "completion of the contract" pursuant to N.J.S.A. 59:13-5, "completion of the contract" occurs on the date that the Contractor provides written notice to the Department of acceptance of the Proposed Final Certificate or conditional acceptance of the Proposed Final Certificate or the 30th day after the Department issues the Proposed Final Certificate, whichever event occurs first.

107.09 INDEPENDENT CONTRACTOR

THE ENTIRE SUBSECTION IS CHANGED TO:

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The relationship of the Contractor to the State is that of an independent contractor. Conduct business consistent with such status. Do not hold out or claim to be an officer or employee of the Department by reason hereof. Do not make a claim, demand, or application to or for the rights or privileges applicable to an officer or employee of the Department, including, but not limited to, Workers Compensation Insurance, unemployment insurance benefits, social security coverage, or retirement membership or credit.

107.12.01 Satisfying the Notice Requirements

THE FOLLOWING IS ADDED TO THE SECOND PARAGRAPH:

Upon request, provide the RE with 3 copies of all documentation submitted in support of the claim.

107.12.02 Steps

3. Step III, Claims Committee.

THE SECOND PARAGRAPH IS CHANGED TO:

The Claims Committee will not review a claim or combination of claims valued less than \$250,000 until after the receipt of conditional release as specified in 109.11. If the Contract is 75 percent complete or greater as measured by Contract Time or Total Adjusted Contract Price, the Claims Committee will not review a claim or combination of claims valued more than \$250,000 until after receipt of conditional release as specified in 109.11. If the Claims Committee does not review a claim or combination of claims before Completion, the Claims Committee will review the claim or combination of claims at a single session of the Claims Committee after the receipt of the conditional release as specified in 109.11 and all claims have been reviewed at Steps I and II of the Claims Resolution Process. When reviewing a combination of claims, the Claims Committee will not review any individual claim valued less than \$20,000.

107.14 PATENTED DEVICES, MATERIALS, AND PROCESSES

THE FOLLOWING IS ADDED

Observe 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements" and any implementing regulations set forth by the USDOT, FHWA or FAA if State contract is for the performance of experimental, developmental, or research work funded under a Federal Aid Project.

THE FOLLOWING SUBSECTION IS ADDED

107.17 COMMUNICATION WITH THE NEWS MEDIA

Do not communicate with the news media or issue a news release without obtaining a prior written approval from the Department.

SECTION 108 – PROSECUTION AND COMPLETION

108.01 SUBCONTRACTING

THE FOLLOWING PARAGRAPH IS ADDED BEFORE THE FIRST PARAGRAPH:

Do not discriminate on the grounds of race, creed, color, national origin, age, ancestry, nationality, marital/domestic partnership/civil union status, gender, disability, religion, affectional or sexual orientation, gender identity or expression, family status, atypical cellular or blood trait, genetic information, military service, or veterans status, in the selection and retention of subcontractors, including procurement of materials and leases of equipment. In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential subcontractor or firm will be notified by the Contractor of the Contractor's obligations under this Contract and the Acts and Regulations relative to Nondiscrimination.

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THE FOLLOWING IS ADDED AFTER THE THIRD SENTENCE IN THE FIRST PARAGRAPH:

Ensure that DBEs/ESBEs have an equal opportunity to receive and participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds in performing work with the Department. Ensure that SBEs have an equal opportunity to receive and participate in the performance of contracts financed in whole with State funds in performing work with the Department.

THE FOLLOWING SUBPART IS ADDED TO THE FIRST PARAGRAPH:

4. Prior to mobilization provide a current list of all Subcontractors and a detailed description of their scopes of work.

THE FOLLOWING IS ADDED AFTER THE FIRST PARAGRAPH:

On Federal aid projects, the Contractor shall not terminate a DBE subcontractor, lower tier DBE subcontractor, DBE transaction expeditor, DBE regular dealer, DBE supplier, DBE manufacturer and DBE trucker or an approved substitute DBE firm without prior written consent of DCR/AA. Prior to replacement of the DBE or ESBE firm, the Contractor shall in writing, notify the DBE or ESBE firm and the DCR/AA of its intent to terminate and/or substitute a DBE or ESBE firm, and the reason for the request. The Contractor must give the DBE or ESBE 5 days to respond to the Contractor's notice and advise the DCR/AA and the Contractor of reasons why, if any, it objects to the proposed termination of its subcontract and why the Department should not approve the Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the DCR/AA may provide a response period shorter than five days. At the time the Contractor requests termination or replacement of a DBE or ESBE firm, the Contractor must submit documentation to the DCR/AA of its good faith efforts in accordance with 49 CFR Part 26.53 if they are replacing the terminated DBE/ESBE with a non-DBE or non-ESBE firm. The DCR/AA must approve the termination and substitution of all DBE or ESBE subcontractors, lower tier subcontractors, transaction expeditors, regular dealers, suppliers, manufacturers and truckers. The Contractor needs to show they began good faith efforts to replace or substitute with another DBE or ESBE well in advance of the request to terminate or substitute. The Department's DCR/AA has sole authority to approve the termination, replacement or substitution of DBE/ESBE subcontractors, lower tier subcontractors, transaction expeditors, regular dealers, suppliers, manufacturers and truckers.

On wholly state funded projects, the Contractor shall not terminate a SBE subcontractor, lower tier SBE subcontractor, SBE transaction expeditor, SBE regular dealer, SBE manufacturer and SBE trucker, or an approved substitute SBE firm, without prior written consent of DCR/AA. Prior to replacement of the SBE firm, the Contractor shall in writing, notify the SBE firm and the DCR/AA of its intent to terminate and/or substitute a SBE firm, and the reason for the request. The Contractor must give the SBE 5 days to respond to the Contractor's notice and advise the Department and the Contractor of reasons why, if any, it objects to the proposed termination of its subcontract and why the Department should not approve the Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the DCR/AA may provide a response period shorter than 5 days. At the time the Contractor requests termination or replacement of a SBE firm, the Contractor must submit documentation to the DCR/AA of its good faith efforts if they are replacing the terminated SBE firm with a non-SBE firm. The DCR/AA must approve the termination and substitution of all SBE subcontractors, lower tier subcontractors, transaction expeditors, regular dealers, suppliers, manufacturers and truckers. The Contractor needs to show they began good faith efforts to replace with another SBE well in advance of the request to terminate or substitute. The Department's DCR/AA has sole authority to approve the termination, replacement or substitution of SBE subcontractors, lower tier subcontractors, transaction expeditors, regular dealers, suppliers, manufacturers and truckers.

1. Values and Quantities.

THE FOLLOWING IS ADDED TO FIRST PARAGRAPH

1. There are no Specialty Items in this Project.

THE THIRD PARAGRAPH IS CHANGED TO:

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If a partial quantity of work for a unit price Item is subcontracted, the Department will determine the value of the work subcontracted by multiplying the price of the Item by the quantity of units to be performed by the subcontractor.

THE FOURTH PARAGRAPH IS CHANGED TO:

If only a portion of work of an Item is subcontracted, the Department will determine the value of work subcontracted based on the value of the work subcontracted as indicated in the subcontract agreement and as shown in a breakdown of cost submitted by the Contractor.

2. Limits and Restrictions.

PART 3 IS CHANGED TO:

3. The Contractor is barred from subcontracting to firms and individuals suspended or debarred by the Department or included in the State of New Jersey Consolidated Debarment Report maintained by the Department of the Treasury, Division of Building and Construction, Bureau of Contractor Prequalification. The Contractor must certify that neither the individual, partnership, corporation, joint venture, or limited liability corporation applying to do subcontract work nor any of its corporate officers, stockholders, partners, or members are collectively or individually suspended, debarred, proposed for debarment, disqualified, declared ineligible, or voluntarily excluded from doing business by this or any other State or sub-division thereof or listed in the Federal Government's System for Award Management (SAM), located at: <https://www.sam.gov/portal/SAM/#1>.

3. Subcontract Requirements.

THE ENTIRE PART 3 IS CHANGED TO:

3. **Subcontract Requirements.** Ensure that subcontract agreements include the following Contract provisions:
 - a. **Federal Aid Projects.** When subcontracting work on a Federal Aid project, ensure the following are included in the subcontract agreement.
 1. Disadvantaged Business Enterprise Utilization (Federal Aid Project Attachment 1), or Emerging Small Business Enterprise Utilization (Federal Aid Project Attachment 1).
 2. Specific Equal Employment Opportunity Responsibilities on NJDOT Federal Aid Projects (Federal Aid Project Attachment 2).
 3. Requirements for Affirmative Action to Ensure Equal Employment Opportunity on NJDOT Federal Aid Projects (Federal Aid Project Attachment 3).
 4. Federal Equal Employment Opportunity Contract Specifications for NJDOT Federal Aid Projects (Federal Aid Project Attachment 4).
 5. State of New Jersey Mandatory Equal Employment Opportunity Language on NJDOT Federal Aid Projects (Federal Aid Project Attachment 5).
 6. Investigating, Reporting, and Resolving Employment Discrimination and Sexual Harassment Complaints on NJDOT Federal Aid Projects (Federal Aid Project Attachment 6).
 7. Payroll Requirements for NJDOT Federal Aid Projects (Federal Aid Project Attachment 7).
 8. FHWA-1273 Required Contract Provisions, Federal Aid Construction Contracts as amended or supplemented (Federal Aid Project Attachment 8).
 9. State Mandatory Addendum to FHWA-1273 Required Contract Provisions, Federal Aid Construction Contracts as Amended or Supplemented (Federal Aid Project Attachment 9).
 10. Federal Mandatory Equal Opportunity Language on Federal Aid Projects (Federal Aid Project Attachment 10).
 11. Byrd Anti-Lobbying Certification (Federal Aid Project Attachment 11).
 12. The Standard Title VI Assurance found in Subsection 107.02, as amended or supplemented.
 13. General Wage Determinations Issued Under the Davis-Bacon and Related Acts.
 14. New Jersey Department of Labor Prevailing Wage Rate Determination.
 15. New Jersey Department of Transportation Code of Ethics for Vendors.

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16. Subsection 107.04 as amended or supplemented.
17. Subsection 106.10 as amended or supplemented.
18. The Contract Assurance found in Subsection 107.03, as amended or supplemented.

b. Wholly State Funded Projects. When subcontracting work on a wholly State funded project, ensure the following are included in the subcontract agreement.

1. Small Business Enterprise Utilization on Wholly State Funded Projects (State Funded Project Attachment 1).
2. State of New Jersey Equal Employment Opportunity Special Provisions for Wholly State Funded Projects (State Funded Project Attachment 2).
3. Requirements for Affirmative Action to Ensure Equal Employment Opportunity on Wholly State Funded Projects (State Funded Project Attachment 3)
4. Investigating, Reporting and Resolving Employment Discrimination and Sexual Harassment Complaints on Wholly State Funded Projects (State Funded Project Attachment 4)
5. Payroll Requirements for Wholly State Funded Projects (State Funded Project Attachment 5).
6. Americans with Disabilities Act Requirements for Wholly State Funded Projects (State Funded Project Attachment 6).
7. New Jersey Department of Labor Prevailing Wage Rate Determination.
8. New Jersey Department of Transportation Code of Ethics for Vendors.
9. Subsection 107.04 as amended or supplemented.
10. The Standard Title VI Assurance found in Subsection 107.02, as amended or supplemented.

108.02 COMMENCEMENT OF WORK

THE SUBPART 4 IN THE FIRST PARAGRAPH IS CHANGED TO:

4. Progress schedule as specified in 153.03

THE FOLLOWING IS ADDED TO THE FIRST PARAGRAPH:

5. Within 10 days of Contract Award, Notify the RE of the proposed starting date for dredging operations.
6. Notify the RE at least ten (10) days before dredging operations commence so that a before-dredging survey can be completed prior to the start of dredging

108.03 DAILY COMMUNICATIONS

THIS SUBSECTION IS REPLACED WITH THE FOLLOWING:

For any dredge utilized, prepare and submit a "Daily Report of Operations" each contract day in an approved electronically-transmitted format. An example daily production report with the categories and types of data required is included as an attachment to these Special Provisions. Report additional information as directed by the RE, on the daily report to match the work being performed on the project. Submit for approval the format of the Daily Report of Operations and the submittal process prior to the start of dredging operations. For reporting purposes, the work day runs from midnight to midnight. Submit this report on a daily basis (by 11:00 AM the following work day) and not in groups for multiple days. Include copies of the original leverman's delay log with each Daily Report of Operations. Describe and record delays for any period when the dredge pump is not operating and pumping dredged material. Record operating delays in 5 minute intervals. Include descriptions of work at both the dredging and placement sites and for any mobilization/demobilization or other preparatory or final clean-up activities.

Additionally, maintain one up to date copy of all the daily reports on the dredge (or another location agreeable to the RE). Prepare and submit similar daily reports of construction activity and progress for work on the beachfill. Include in these reports a description of the work performed in sufficient detail so that the RE can review the progress of the work and include a listing of the equipment and man-hours expended on this phase of work.

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Failure to submit acceptable Daily Production Reports will result in suspension of work by the RE pending corrective action by the Contractor. No compensable time extension will be awarded for any delay due to such failure to submit acceptable Daily Production Reports.

Further instructions on the preparation of the reports will be furnished at the Pre-Construction Meeting.

108.06 NIGHT OPERATIONS

2. Visibility Requirements for Workers and Equipment.

THE FIRST PARAGRAPH IS CHANGED TO:

Ensure that workers wear a 360° high-visibility retroreflective safety garment meeting ANSI/ISEA Class 3, Level 2 standards.

108.07.02 Changes to the Traffic Control Plan (TCP)

THE FIRST SENTENCE IN THE FIRST PARAGRAPH IS CHANGED TO:

Submit requests for changes to the TCP to the RE for approval at least 30 days before the change is needed.

108.10 CONTRACT TIME

- A. Complete all work required for Substantial Completion on or before December 31, 2017.
- B. Achieve Completion on or before January 21, 2018

Adhere to the environmental timing restrictions included in the approved environmental permits and modifications listed in section 105.08 2.

108.11.01 Extensions to Contract Time

B. Types of Delays.

2. Excusable, Non-Compensable Delays.

c. Extreme Weather

THIS SUBSECTION IS REPLACED WITH THE FOLLOWING:

Both the dredging and placement site areas are exposed and subject to severe weather conditions and extreme tidal occurrences. Weather information for the area can be obtained from the National Weather Service (NOAA). The types of weather delays referenced in Table 108.11.01-1 of the Standard Specifications are not applicable to dredging and placement activities associated with dredging operations. The RE will assess any delay claims due solely to weather and will extend Contract Time for excusable, non-compensable delays due to extreme weather at his sole discretion.

THE LAST PARAGRAPH IS CHANGED TO:

If approved excusable, non-compensable delays exceed a total of 90 days, the time in excess of 90 days will become excusable and compensable as specified in 108.11.01.B.3.

108.14 DEFAULT AND TERMINATION OF CONTRACTOR'S RIGHT TO PROCEED

THE FOLLOWING LISTS UNDER THE FIRST PARAGRAPH IS CHANGED TO:

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11. Fails to comply with Contract requirements regarding minimum wage payments, 49 CFR Part 26 et seq., the DBE program requirements, SBE program requirements, and equal employment opportunity requirements.

THE FOLLOWING IS ADDED AFTER THE 2ND PARAGRAPH:

If the Department directs the Surety to complete the Contract, and the Surety elects to use a completion-contractor to perform the Work, the Surety must promptly submit to the Department a request for approval of the proposed completion-contractor as a subcontractor as per Section 108.01. The Department has the right to reject a request by the Surety to use the Contractor as the completion-contractor, either directly or under the direction of a consultant to the Surety. In addition, the Department has the right to reject a request by the Surety to contract with employees of the Contractor, directly or under the direction of a consultant to the Surety, to complete the Contract. The Department's right to reject contained in this paragraph is based on the sole discretion of the Department.

108.18 SUBSTANTIAL COMPLETION

THE FOLLOWING IS ADDED AFTER THE SECOND SENTENCE IN THE FIRST PARAGRAPH:

As part of the inspection, the Department will perform one after-dredge survey at each channel reach as specified in Section 202.04.

THE LAST SENTENCE IN THIS SECTION IS CHANGED TO:

The date of Substantial Completion is the date of receipt of a contractor supplied progress survey that demonstrates full clearance at each channel reach of the required dredging template or Department-performed AD survey at each channel reach demonstrating full clearance, whichever occurs first.

108.19 COMPLETION AND ACCEPTANCE

THE FOLLOWING IS ADDED:

No Incentive Payment for Early Completion is specified for this project.

108.20 LIQUIDATED DAMAGES

Liquidated damages are as follows:

- A. For each day that the Contractor fails to complete the work as specified in Subsection 108.10 of these Special Provisions, for Substantial Completion, the Department will assess liquidated damages in the amount of \$1,200
- B. For each day that the Contractor fails to complete the work as specified in Subsection 108.10 of these Special Provisions, for Completion, the Department will assess liquidated damages in the amount of \$600.

THE FOLLOWING IS ADDED:

When the Contractor may be subjected to more than one rate of liquidated damages established in this Section, the Department will assess liquidated damages at the higher rate.

SECTION 109 – MEASUREMENT AND PAYMENT

109.01 MEASUREMENT OF QUANTITIES

THE SECOND PARAGRAPH IS CHANGED TO:

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The Department will designate Items as Measured Items or as Proposal Items by having a suffix of M or P in the Item number respectively. The Department will measure quantities of Measured Items for payment.

THE LAST SENTENCE OF THE LAST PARAGRAPH IS CHANGED TO:

The Department will measure quantities for Proposal Items that are designated on the Plans as "if and where directed" for payment when the RE directs work using the "if and where directed" quantity.

109.02 SCOPE OF PAYMENT

THE THIRD SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

The Department will not make additional or separate payment for work or portion of work unless specifically provided for in the "Measurement and Payment" Subsection.

109.05 ESTIMATES

THE FOLLOWING IS ADDED AFTER THE FIRST PARAGRAPH:

Pay subcontractors and suppliers for satisfactory performance of their work no later than 30 days from receipt of each payment made by the Department.

Pay subcontractors and suppliers the full amount of retainage no later than 30 days from receipt of payment made by the Department for the subcontractor's or supplier's work.

THE SECOND PARAGRAPH IS CHANGED TO:

The RE will provide a summary of the Estimate to the Contractor. Before the issuance of each payment, certify, on forms provided by the Department, that:

1. Each subcontractor or supplier has been paid the amount due, including retainage, from the previous progress payment and will be paid the amount due from the current progress payment, including retainage, for the subcontractor or supplier's work that was paid by the Department.
2. There exists a valid basis under the terms of the subcontractor's or supplier's contract to withhold payments from the subcontractor or supplier, and therefore payment is withheld.

THE FOLLOWING IS ADDED AFTER THE FOURTH PARAGRAPH:

If the Contractor fails to pay the subcontractor or supplier within 30 days after the subcontractor or supplier satisfactorily completes the specified work, the Department may withhold progress payments from the Contractor, until the Contractor pays the subcontractor or supplier all delinquent amounts due, or the Contract is terminated, or the matter is resolved under N.J.S.A. 52:32-40 and N.J.S.A. 52:32-41.

If the Department receives an allegation from a subcontractor or a supplier that the Contractor has not paid the subcontractor or supplier the amount due from a previous progress payment, including retainage, submit to the RE within 10 days of a request made by the RE, evidence that payment has been made.

THE EIGHTH PARAGRAPH IS CHANGED TO:

From the total Estimate amount, excluding amounts for subcontracted work on Federal aid projects, the Department will deduct and retain 2 percent until Substantial Completion.

THE NINTH PARAGRAPH IS CHANGED TO:

In the first Estimate following Substantial Completion, the Department will reduce the retainage withheld to one percent of the Total Adjusted Contract Price, excluding subcontracted work on Federal aid projects, unless it has been determined by the Department that the withholding of additional retainage is required. If retainage is held in cash

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withholdings, the reduction is to be accomplished by payment under the next Estimate. If retainage is held in bonds, the Department will authorize a reduction in the escrow account.

THE TENTH PARAGRAPH IS CHANGED TO:

The RE has the right to not process an Estimate when, in the judgment of the RE, the Work is not performed or proceeding as specified in the Contract or following the Department giving the Contractor and Surety notice of default as specified in 108.14.

109.06 MATERIALS PAYMENTS AND STORAGE

THE TEXT BEFORE THE LIST UNDER THE FIRST PARAGRAPH IS CHANGED TO:

The Contractor may request payment for the cost of materials, including the storage cost, not incorporated into the Work. If approved by the RE, the Department will make payment for the cost of materials, including storage costs if such payment exceeds \$25,000; however, the amount of payment may not exceed 85 percent of the bid price for the associated Item. The Department will not make payment for such materials until the RE is satisfied that:

109.07 BONDS POSTED IN LIEU OF RETAINAGES

THE FIRST PARAGRAPH IS CHANGED TO:

The Contractor may deposit negotiable bonds of the State or any of its political subdivisions, which have been approved by the Department, in an escrow account to secure release of all or a portion of the retainage withheld as specified in 109.05. Establish the account under the provisions of an escrow agreement to be entered into between the Contractor, the Department, and a bank located in the State that is an authorized depository with a trust department. Pay the charges of the bank for services rendered according to the terms and conditions of the escrow agreement.

109.09 AUDITS

THE FOLLOWING IS ADDED:

Pursuant to N.J.S.A. 52:15C-14(d), relevant records of private vendors or other persons entering into contracts with the Department are subject to audit or review by the New Jersey Office of the State Comptroller. Therefore, the Contractor shall maintain all documentation related to products, transactions or services under the Contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

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DIVISION 150 – CONTRACT REQUIREMENTS

SECTION 151 – PERFORMANCE BOND AND PAYMENT BOND

151.03.01 Performance Bond and Payment Bond

THE LAST SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

Submit the broker's fees, the certified rate schedule, paid invoices and the report of execution for the bond to the RE.

151.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM'S PAY UNIT IS REVISED TO:

<i>Item</i>	<i>Pay Unit</i>
PERFORMANCE BOND AND PAYMENT BOND	DOLLAR

SECTION 152 – INSURANCE

152.03.01 Owner's and Contractor's Protective Liability Insurance

A. Policy Requirements.

THE FOURTH SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

Ensure that policies are underwritten by companies with a current A.M. Best rating of A- with a Financial Size Category of VII or better.

B. Types

3. Owner's and Contractor's Protective Liability Insurance.

THE ENTIRE TEXT IS CHANGED TO:

Procure a separate Owner's and Contractor's Protective Liability Insurance Policy with a minimum limit of liability in the amount of \$4,000,000 per occurrence as a combined single limit for bodily injury and property damage. Ensure the policy is endorsed to include Severability of Interest/Separation of Insureds clause. Ensure the policy names the State, its officers, employees, and agents as additional insured. Provide documentation from the insurance company that indicates the cost of the Owner's and Contractor's Protective Liability Insurance Policy.

Ensure the policy is endorsed to include per project aggregate.

6. Marine Liability Insurance.

THE ENTIRE TEXT IS CHANGED TO:

If construction operations require the Contractor to use a boat, procure Marine Liability Insurance with a minimum limit of liability in the amount of \$2,000,000 per occurrence. Ensure the policy is endorsed to include:

1. Personal injury.
2. Contractual liability.
3. Waiver of Subrogation for all claims and suits, including recovery of any applicable deductibles.
4. Per project aggregate.

Ensure the policy names the State, its officers, employees, and agents as additional insured.

152.03.03 Pollution Liability Insurance

SUBPART 9 IS ADDED TO THE THIRD PARAGRAPH:

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9. Per project aggregate.

152.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEMS' PAY UNITS ARE REVISED TO:

<i>Item</i>	<i>Pay Unit</i>
OWNER'S AND CONTRACTOR'S PROTECTIVE LIABILITY INSURANCE	DOLLAR
POLLUTION LIABILITY INSURANCE	DOLLAR

THE LAST PARAGRAPH IS CHANGED TO:

The Department will make initial payment for OWNER'S AND CONTRACTOR'S PROTECTIVE LIABILITY INSURANCE, and POLLUTION LIABILITY INSURANCE at the lesser of the bid amount, or actual costs as documented from paid invoices. If the Bid amount is greater than the amount indicated on the documented paid invoices, the Department will make payment for any remainder, up to the Bid amount, with the final monthly Estimate.

SECTION 153 – PROGRESS SCHEDULE

153.03.03 Bar Chart Progress Schedule and Updates

A. Schedule.

THE THIRD SENTENCE OF THE THIRD PARAGRAPH IS CHANGED TO:

Provide 3 color paper copies of a bar chart progress schedule or similar type that is acceptable to the RE for approval as follows:

SUBPARTS 1 THROUGH 8 AT THE END OF THE THIRD PARAGRAPH ARE DELETED AND REPLACED WITH THE FOLLOWING:

Prior to commencement of dredging operations, submit a fully developed construction schedule within 7 days after Award. Indicate on the bar-chart schedule or equivalent type schedule in detail each construction activity for dredging, beachfill. Assign dredging activities in segments related to the various channel reaches or in groups of work not longer than 10 days duration. Identify dredged material placement locations for beach fill. Assign the duration, man-hour loading, and Contractor's dollar value to each activity. Indicate the work calendar for each activity. Include separately a detailed list of the equipment to be utilized. The format and details of the Bar Chart Progress Schedule must be approved by the RE prior to commencement of any work.

Perform the dredging in a continuous manner from the chosen starting point to completion point of each entire channel reach or in appropriate sequential segments so as to minimize average pipeline pumping distances. Provide a schedule of beachfill and grading operations. Provide a detailed description of the order of work in the schedules and working drawings submitted to the RE for approval. Perform the work in the order described and as approved by the RE. Changes in the approved order of work must be requested of the RE in writing and receive written approval prior to the change being implemented.

THE FOLLOWING IS ADDED:

If the project falls behind schedule for nonexcusable delays, as specified in 108.11.01 B, so that the schedule indicates that the Work will not be completed by the Completion date, as specified in 108.10, take the necessary steps to improve progress. Under such circumstances, the RE may direct the Contractor to increase the number of shifts, begin overtime operations, work extra days including weekends and holidays, and supplement its construction plant. Furthermore, the RE may require the Contractor to submit for approval a recovery schedule showing how the Contractor proposes to meet the directed acceleration.

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SECTION 154 – MOBILIZATION

154.03.01 Mobilization

THIS SECTION IS REPLACED WITH THE FOLLOWING:

The work includes furnishing all materials and equipment and performing all labor necessary to assemble and set up for the project and for cleanup and removal at the finish of the project. This includes the initial and any interim movement of personnel and equipment to/from each project site, the establishment of the contractor's offices, shops, storage areas, sanitary and other equipment or facilities required by the Specifications and General Conditions of the Contract as well as by Federal, Local, or State law and all other work and operations which must be performed prior to beginning work on other items. The cost of required insurance and any other initial expense required for the start of work on this project and not included in other payment items is included in the item Mobilization.

The work covered by this section also includes the following:

1. Mobilization, demobilization and relocation of dredging, towing, transport, attendant plant and equipment required for performance of all specified dredging work.
2. Mobilization, demobilization and relocation of boosters, pipelines, shore valves, tractors, loaders and any other equipment required to perform the placement of dredged material at the designated placement location.
3. Any re-mobilization and demobilization required to meet the schedules in the Federal or State permit conditions encountered by the contractor.
4. Satisfactory submittal of all pre-work submittals.

154.04 MEASUREMENT AND PAYMENT

THE FOLLOWING SECTION IS REPLACED WITH THE FOLLOWING:

The Department will make payment for the Item as follows:

<i>Item</i>	<i>Pay Unit</i>
MOBILIZATION	LUMP SUM

Payment for MOBILIZATION is included in and covered by the Lump Sum price bid under this Item. Payment will be made on the following schedule:

- 1) 60% of the lump sum price upon completion of the Contractors mobilization at the work site and commencement of actual dredging as determined by the RE.
- 2) Payment of the remaining 40% of the lump sum bid price upon completion of the work.

Mobilization is deemed complete after the first 24 hour period in which the Contractor places the first 1000 CY per day for the dredged plant prescribed in Section 202.

Should the amount represented by 60% of this bid item "MOBILIZATION" be in excess of that determined to be reasonable by the RE, the Contractor is required to substantiate actual Mobilization costs to the satisfaction of the RE in order to be paid at the first partial payment period. Should it be determined that 60% of this bid item is in excess of actual mobilization costs, the actually substantiated cost amount will be paid at the time of mobilization and the remaining amount of the bid item will be paid with the payment for completion of the work.

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SECTION 155 – CONSTRUCTION FIELD OFFICE

155.03.01 Field Office

4. Communication Equipment.

- a. **Telephones.** Provide 1 cordless phones with auto-switching.
- c. **Cell Phones.** Provide 2 cellular phones. Ensure the cellular phone plan provides for unlimited mobile to mobile in-network usage, unlimited push-to-talk/ walkie-talkie usage and an anticipated monthly usage of 900 any-time minutes for each phone. Ensure the phones are on the same plan. Ensure the cellular phone plan has a home rate with no roaming charges within the state. Ensure each cellular phone has the following features:
 - 1. Push to Talk / Walkie-Talkie capable
 - 2. Camera with 4 megapixel picture capability
 - 3. Battery life capable of 180 minutes of continuous use and 72 hours of standby use
 - 4. Equipped with a hands-free headset
 - 5. Base charger and car charger
- d. **Computer System.** Provide a computer system meeting the following requirements:
 - 1 computer configurations each meeting the following:
 - 1. Equipped with an Intel Premium IV processor with Hyper Threading technology or equal having a clock speed of 3.5 GHz or faster, 4 GB RAM, 512 MB Video RAM, 200 Gigabyte hard drive designated as drive C, one DVD (+/-) Writer Drive, one CD-R Recordable Drive. Ensure the system is USB 3.0 compatible and has at least two front USB ports Include Keyboard, optical mouse and 2 piece desktop speakers.
 - 2. Wired Router with appropriate number of ports and cables and a print server. Ensure there is at least one wired Ethernet switch.
 - 3. High-speed broad band connection and service with a minimum speed of 3 Megabits per second (mbps) with dynamic IP address for the duration of the project.
 - 4. 19 inch or larger Flat Screen LCD monitor with tilt/swivel capabilities.
 - 5. 40 Gigabyte or larger external drive with backup software for MS-Windows, and fifteen corresponding formatted data cartridges corresponding to the tape drive size.
 - 6. 1 Flatbed USB version 2.0 or greater Color Scanner with automatic document feed.
 - 7. Uninterruptible power supply (UPS).
 - 8. Surge protector for the entire computer configuration to be used in conjunction with the UPS.
 - 9. 1 Computer workstation, chair, printer stand, and/or table having both appropriate surface and chair height.
 - 10. One can of compressed air and screen cleaning solution every other month of the duration of the contract.

Ensure one computer has a 56K baud data/fax modem. If more than one computer configuration is specified, provide one network interface card for the base computer configuration and hardwire connections between computer configurations as directed by the RE.

Also provide:

5 USB 8 GB Flash/Jump memory drives

1 color laser printer and supplies as follows:

- 1. HP PCL 6 emulation or equal, with a minimum of 192 Megabytes of expanded memory, printer cable, and legal size paper tray.
- 2. One set of printer ink cartridges every other month for the duration of the construction project for each printer.

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Software as follows:

1. Microsoft Windows, latest version with future upgrades for the duration of the entire project.
2. Microsoft Office Professional, latest version.
3. Norton's System Works for Windows, latest version, or compatible software package with future upgrades and latest virus patches.
4. Anti-Virus software, latest version with monthly updates for the duration of the contract.
5. Primavera Project Management, latest version
6. Adobe Acrobat Professional, latest version, or compatible software for Scanner

THE THIRD PARAGRAPH IS CHANGED TO:

When the computer system is no longer required by the RE, the Department will remove and destroy the hard drive, and return the computer system to the Contractor. The Department will retain other data storage media.

- e. **Marine Radios.** Provide 2 Waterproof handheld marine VHF two-way radio that is capable of transmitting and receiving on channel 13 (ship-to-ship), channel 16 (hailing/emergency) and channel 22A (USCG Liaison and Marine Safety Information Broadcasts) as well as any contractor working channel to be used. Provide two (2) spare batteries and a charging station sufficient to ensure available charged batteries as needed.

6. Office Equipment. Provide the following:

PART (1) IS CHANGED TO:

1. A copier with automatic document feed, 15 pages per minute copy speed, variable reduce/enlarge capability, and letter, legal, and ledger size capabilities. Erase the copier hard drive before removing the copier from the field office and provide the RE with a certification stating that the copier hard drive has been erased.
2. Two (2) digital cameras. Such as Canon PowerShot SX20 or approved equal, GPS enabled, integrated flash, auto focus, 12.1 mega pixel, 20x optical zoom, 3.0" LCD screen, USB port and any required accessories, such as adaptors, and battery charging module.
 - i. Two (2) Camera carrying cases
 - ii. Replacement Batteries as requested by the RE
 - iii. Two (2) Sets of 16 GB compatible memory cards

7. Inspection Equipment.

1. 1 Calculator with trigonometric capability
2. 1 Date/ Received stamp and ink pad
3. 1 Cloth tape, 100 feet
4. 1 Illuminated measuring wheel
5. 4 Hard hats - orange, reflectorized hard hats according to ANSI Z89.1.
6. 4 Safety garments – orange, reflectorized, 360° high visibility safety garments according to ANSI/ISEA Class 3, Level 2 standards. To be replaced yearly for the duration of the contract.
7. 2 sets of Mustang Survival Model No. MS2175 22 survival suits or approved equal
8. 4 Sets of rain gear with reflective sheeting
9. 4 Sets of hearing protection with a NRR rating of 22 dB
10. 4 Sets of eye protection according to ANSI Z87.1
11. 4 Lantern flashlights, 6V with monthly battery replacements

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12. 2 Hard Bound Daily Diaries, 5-1/2" X 8" minimum with one day per page. To be provided yearly for the duration of the contract.
13. 25 Legal size hanging folders
14. 25 Legal size manila file folders – three tab
15. 6 Adult Sized USCG Approved Floatation Devices
16. 1 Means of marine transportation, capable of transporting at least four passengers at a time. Provide a boat and licensed operator for the use of the RE and his representatives for inspection and survey purposes throughout the life of the Contract. Provide a boat that is a minimum of 18 ft in length and powered by a minimum 70 horsepower engine. The boat must be in compliance with the U.S. Coast Guard's Boating Safety Division, as well as all Federal and State laws and regulations. Equip the boat with all applicable safety features and all required Coast Guard safety equipment (including but not limited to life jackets, fire extinguishers, running lights, throwable flotation devices, etc.). Provide a boat that complies with all applicable OSHA regulations. Keep the boat seaworthy and in first class operating condition and ready for use at all times throughout the contract. In the event the boat becomes inoperable, provide a comparable replacement boat satisfying all contract requirements. Provide a licensed boat operator to be responsible for the operation of the boat. Be responsible for any damage that may be caused to the boat, for maintaining the boat and accessories in good repair and operating condition, for providing all necessary fuel, safety equipment and other supplies and parts, and for paying any permits, licenses, insurance premiums or fees that may be required in connection with the operation of the boat for the entire period that the boat is required under this contract. No separate payment will be made for any and all costs incurred by the Contractor in providing the boat, Operator and accessories as described, including payment for rental cost and insurance that may be necessary, and allowances for depreciation. All costs associated with the operation and maintenance boat are included in the item Field Office Maintenance.

155.03.02 Field Office Maintenance

THE FOLLOWING IS ADDED:

Maintain the boat and accessories in good repair and operating condition, and provide all necessary fuel, safety equipment and other supplies and parts, obtain any permits, licenses and pay all insurance premiums or other fees that may be required in connection with the operation of the boat for the entire period that the boat is required under this contract. The boat and operator are required for the duration that the Field Office is required. Repair or replace inoperable or defective boats, accessories and related supplies within 24 hours.

155.03.03 Telephone Service

THE CONTENT OF THIS SUBSECTION IS DELETED

155.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM IS DELETED:

<i>Item</i>	<i>Pay Unit</i>
TELEPHONE SERVICE	LUMP SUM

THE THIRD PARAGRAPH IS DELETED.

SECTION 157 – CONSTRUCTION LAYOUT AND MONUMENTS

157.03.01 Construction Layout

THE FOURTH PARAGRAPH IS CHANGED TO:

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From the monuments, control data and elevations referenced in the Contract plans and specifications, complete the layout of the work and be responsible for all measurements that may be required for the execution of the work to the location and limit marks prescribed in the specifications or on the contract plans. Perform Layout under the direct supervision of a New Jersey Licensed Land Surveyor.

The Project Vertical Datum for dredging is MLW. MLW is 1.61 feet below the NAVD88 datum, based on information obtained from National Oceanic & Atmospheric Administration VDatum datum transformation program. Survey control plan is included in the contract plans. The project vertical datum for the beach fill placement area is the North American Vertical Datum of 1988 (NAVD '88). The Project Horizontal Datum is to be referenced to North American Datum 1983 (2011) NJ State Plane Grid Coordinate System.

Furnish such stakes, templates, platforms, equipment, tools and material, and all labor as may be required in laying out any part of the work from the monuments, control data and elevations referenced in the Contract plans and specifications. Maintain and preserve all stakes and other marks established until authorized to remove them, and if such marks are destroyed by the Contractor or through its negligence, prior to their authorized removal, they may be replaced by the Department, at its discretion, and the expense of replacement will be deducted from any amounts due or to become due the Contractor. The RE may require that work be suspended at any time when location and limit marks established by the Contractor are not reasonably adequate to permit checking of the work.

Any stakes, markers or devices used in the guidance of the construction of beach fill placement to the specified lines and grades shall be identified, recorded in a written register, marked with an identifying number or code and be of a material so that they can be found with a metal detector or similar instrument if buried beneath the sand during construction. All such stakes, markers or devices shall be recovered from the beach area and recorded as recovered in the written register when recovery is completed. The register shall be submitted to the RE for the project records.

Perform progress surveys of the work in the dredge area(s) and in any beach fill areas to confirm that the work conforms to the lines, grades and dredge template as shown on the Contract Plans, and as directed by the RE.

157.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM'S PAY UNIT IS REVISED TO:

<i>Item</i>	<i>Pay Unit</i>
CONSTRUCTION LAYOUT	DOLLAR

THE SECOND PARAGRAPH IS CHANGED TO:

The Department will adjust payment for CONSTRUCTION LAYOUT based on the final contract amount and will calculate as follows:

$$CL = \frac{CL_B \times (C_F - E_F)}{C_O - E_O}$$

Where:

CL = Adjusted payment for CONSTRUCTION LAYOUT.

CL_B = Bid price for CONSTRUCTION LAYOUT.

C_O = Original Contract Price.

C_F = Final Contract Price.

E_F = Total of CL_B and the final cost for PERFORMANCE BOND AND PAYMENT BOND, Incentive/Disincentives for completion/interim completion, and claim settlements.

E_O = Total of CL_B, and PERFORMANCE AND PAYMENT BOND.

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SECTION 158 – SOIL EROSION AND SEDIMENT CONTROL AND WATER QUALITY CONTROL

158.03.02 SESC Measures

15. Construction Driveway

THE FOLLOWING ADDED AFTER THE FIRST PARAGRAPH:

Prior to construction of the Construction Driveway, prepare and submit to the RE a report documenting the existing conditions at the driveway site location. The report is to include written descriptions and photographs of the site sufficient to document all existing structures, curbing, pavement, signage, utility work, and any items of private property that exist. Further included are to be records documenting pre-construction location inspections for all underground or existing utilities performed by a third party utility location service. Physically stake out the location and limits of the planned construction driveway and notify the RE when ready for inspection and approval prior to any clearing or construction of the driveway.

Upon completion of the project work and removal of the construction driveway, document in a similar report.

19. Oil-Only Emergency Spill Kit.

THE SECOND SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

Include Oil-only Emergency Spill Kit, Type 1 consisting of the following:

158.03.04 Biological Survey for Piping Plover

Complete a biological survey for the presence of piping plover by a qualified ornithologist and submit reports as detailed in the permits prior to any work commencing. Perform weekly survey for piping plovers during all periods in which beach placement is performed by the contractor. Ensure qualified nesting shorebird monitor is present during biological surveys for Piping Plover. Detailed contact information and procedures if piping plovers are observed are detailed in the project permits (noted in 105.08).

158.03.05 Biological Survey for Seabeach Amaranth (*Amaranthus Pumilus*)

Complete a biological survey for the presence of the Seabeach Amaranth (*Amaranthus Pumilus*) by a qualified botanist one week prior to performing any work. If there is a presence of the Seabeach Amaranth, detailed contact information and procedures are detailed in the project permits (noted in 105.08). Construct symbolic fencing where necessary as described in the project permits (noted in 105.08).

158.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM IS ADDED:

Item
BIOLOGICAL SURVEYS

Pay Unit
LUMP SUM

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Symbolic fencing will be paid for under the SAND FENCE item as specified in section 605.03.05.

SECTION 159 – TRAFFIC CONTROL

159.03.02 Traffic Control Devices

1. Construction Signs

THE FOLLOWING IS ADDED AFTER THE LAST PARAGRAPH

Furnish, install and maintain project sign throughout the project duration. Construct the sign as shown in the Contract Plans. Place the sign at a location directed by the RE.

6. Traffic Control Truck with Mounted Crash Cushions.

THE LAST SENTENCE IS CHANGED TO:

Submit drawings to the RE detailing the manner of securing the ballast, signed and sealed by a Professional Engineer, certifying that it is capable of withstanding the impact forces for which the impact attenuator is rated.

159.03.08 Traffic Direction

B. Police.

THE FOURTH PARAGRAPH IS DELETED.

159.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEMS ARE ADDED:

THE SECOND PARAGRAPH IS CHANGED TO:

For traffic control devices measured by the linear foot or unit basis that are specified in 159.03.02, the Department will make payment for the maximum quantity in service at one time as required by the Contract. For CONSTRUCTION SIGNS, the Department will make payment for the maximum quantity of specific sign types in service at one time as required by the Contract. If a particular sign type has more than one unique text, each sign with a unique text will be considered to be a specific sign type. The Department will make payment for 50 percent of the Contract bid price for traffic control devices specified in 159.03.02 that are measured on a linear foot, square foot or unit basis upon approved placement. The Department will prorate the balance of payment over the duration of the Contract.

SECTION 160 – PRICE ADJUSTMENTS

THE ENTIRE TEXT OF THIS SECTION IS DELETED.

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SECTION 161 – FINAL CLEANUP

161.03.01 Final Cleanup

THE FOLLOWING IS ADDED AFTER THE FIRST PARAGRAPH:

Remove all of the Contractor's plant and equipment either for disposal or reuse. Unless otherwise approved, the Contractor will not be permitted to abandon any equipment in the disposal area for dredged materials or other areas adjacent to the worksite.

DIVISION 200 – EARTHWORK

SECTION 201 – CLEARING SITE

201.03.01 Clearing Site

B. Clearing and Grubbing.

THE FOLLOWING IS ADDED:

Dispose of material and debris as specified in 201.03.09.

201.04 MEASUREMENT AND PAYMENT

THE FOLLOWING IS ADDED:

The Department will not make payment for the Item CLEARING SITE in excess of \$25000 until Completion.

SECTION 202 – EXCAVATION

THE TITLE OF THIS SECTION IS CHANGED TO THE FOLLOWING:

SECTION 202 – EXCAVATION AND DREDGING

202.01 DESCRIPTION

THE FOLLOWING IS ADDED:

This Section also describes the requirements for performing all dredging and the transportation, placement and disposal of all dredged material.

This section also describes the work that includes dredging, hydraulic transport of dredged materials, and construction/beachfill.

202.02 MATERIALS

THE FOLLOWING SUBPART IS ADDED:

202.02.02 Equipment

Provide equipment as specified:

The minimum size standard of the dredge plant is:

1. Proven capacity of the proposed vessel(s), including associated booster pumps, to produce the average daily productions indicated in the schedule and work plans under conditions similar to this project including material types, pipeline lengths, dredging constraints (such as pilings, docks, etc.), placement area type and discharge constraints due to permit conditions or physical conditions, weather conditions, sea state, tidal currents, operating hour constraints and other permit or site conditions. Provide historic references of production by the equipment designated for use on the project that meets the average productions shown in the work plan submittal for a referenced period on at least two projects involving 30 days of dredging work each. Minimum production capacity of the dredging plant shown as estimated for this project is to be for the submitted schedule of work (days/month, total

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working hours) and is to be adequate to complete the work within the specified contract period. Submit historic production references in the format provided.

2. Measure the capacity of the dredge for purposes of schedule review and progress assessment during the project by the actual production of the work performed.

202.03 CONSTRUCTION

THE FOLLOWING SUBSECTIONS ARE ADDED:

202.03.10 Method of Dredging

Only dredging, transport, and placement by a hydraulic pipeline dredge is allowed under this contract.

Excavate all dredged material within the channels to the required depths using a hydraulic cutter suction dredge and transport through pipelines to the beach fill placement area shown on the plans. Furnish additional equipment for removal of trash and debris such as a barge-mounted excavator or crane in order to remove and transport for disposal the material that the cutter suction dredge cannot excavate and transport to an approved placement site.

202.03.11 Continuity of Work

Sequence the dredging such that the channel depth is completed in a continuous manner. Submit requests for changes in this sequence in writing to the RE along with the supporting reasons for the request. No change in sequence is to be executed without the written approval of the RE.

202.03.12 Pumping of Bilges

Do not pump or release oil or bilge water containing oil into any waterway. Pumping of oil or bilge water containing oil into a navigable water, or into areas which would permit the oil to flow into such water, is prohibited by Section 13 of the River and Harbor Act of 1899, approved 3 March 1899 (30 Stat. 1152; 33 U.S.C. 407). Violation of this prohibition is subject to the penalties under the referenced Acts.

202.03.13 Historical Period Shipwreck Sites

If any shipwreck, artifact, or other objects of antiquity that have scientific or historical value, or are of interest to the public, are discovered, located and/or recovered, immediately notify the RE. The Contractor acknowledges that the site(s), articles, or other materials are the property of the State of New Jersey.

202.03.14 Fuel Oil Transfer Operations

Perform fuel oil transfer operations in accordance with U.S. Coast Guard regulations (33 CFR 156.120.) To fuel any vessel with a capacity of 250 or more barrels of oil, use a bolted or full-threaded connection; or an approved quick-connect coupling or an automatic back-pressure shutoff nozzle during fuel oil transfer operations.

202.03.15 Signal Lights

Display signal lights and conduct operations in accordance with the General Regulations of the Department of the Army and of the US Coast Guard governing lights and day signal to be displayed; vessels working on wrecks, dredges, and vessels engaged in laying cables or pipe or in submarine or bank protection operations, lights to be displayed on dredge pipe lines, and day signals to be displayed by vessels of more than 65 feet in length moored or anchored in a fairway or channel, and the passing by other vessels of floating plant working in navigable channels, as set forth in Commandant U.S. Coast Guard Instruction M16672.2, Navigation Rules: International - Inland (COMDTINST M16672.2), or 33 CFR 81 Appendix A (International) and 33 CFR 84 through 33 CFR 89 (Inland) as applicable.

202.03.16 Inspection

Inspection requirements:

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- 1) Furnish the use of such boats, boatmen, laborers, and material forming a part of the ordinary and usual equipment and crew of the dredging plant as may be necessary in inspecting and supervising the work. Such facilities are not required for the hydrographic surveys performed by the Department.
- 2) Furnish suitable transportation from all points on shore designated by the RE to and from the various pieces of plant.

202.03.17 Notification of Coast Guard and the NJDEP Bureau of Coastal Engineering

1. **Navigation Aids** – Only the U.S. Coast Guard or Bureau of Coastal Engineering is permitted to remove navigation aids located within or near the areas required to be dredged in advance of dredging operations. Do not remove, change the location of, obstruct, willfully damage, make fast to, or interfere with any aid to navigation.
2. **Dredging Aids** - Obtain approval from the U.S. Coast Guard for all buoys, dredging aid markers to be placed in the water, and dredging aid markers affixed with a light prior to the installation. Do not color or place dredging aid markers and lights in a manner that they will obstruct or be confused with navigation aids.

202.03.18 Work Area

Exclude the public from the work areas in the immediate vicinity of dredging, transporting, and disposal operations. Coordinate with local boating, commercial fishing interests, or other interested parties to affect suitable arrangements for maintenance of marine or other traffic during the dredging operations. Should enforcement assistance be required, coordinate with local enforcement agencies. Take measures, including but not limited to temporary fencing, to exclude the public from the beach fill placement site and active work areas.

1. **Access** - Access to the dredge area is by water only. Provide safe, well-lighted, 24-hour, access to the dredge for employees as needed and for personnel as requested by the RE. Obtain all necessary permissions for use of landing areas to load and offload crews and supplies. Provide adequate parking at the access area for a minimum of 3 automobiles for RE use.

Provide and maintain safe access necessary for equipment and plant to and from the work site, mooring area, and disposal area. Ascertain the environmental conditions that can affect the access such as climate, winds, current, waves, depths, shoaling, and scouring tendencies.

2. **Protection of Existing Waterways** - Conduct operations in such a manner that material or other debris are not placed outside of dredging limits or otherwise deposited in existing side channels, the AIWW, or other areas being utilized by vessels. Promptly remove and properly dispose of any bottom material or other debris placed into areas described above as a result of the work.

202.03.19 Utility Crossing

Verify the locations and depths of any utility crossings and take precautions against damages which might result from its operations, especially the sinking of dredge spuds and/or anchors into the channel bottom, in the vicinity of utility crossings. If any damage occurs as a result of its operations, suspend dredging until the damage is repaired. Costs for repair of the damaged utilities and downtime of the dredge and attendant plant are not compensable and are the responsibility of the Contractor.

202.03.20 Dredge Pipelines

1. **Dredge Discharge Pipeline** - Plainly mark the pipeline locations with conspicuous stakes, targets, and/or lighted buoys, and maintain them throughout the contract operations. Maintain a watertight dredge discharge pipeline to prevent spilling of dredged material or slurry outside of the intended placement area. During dredging operations, conduct continual inspections of the full length of the pipeline. Should breaks, spillage, leaks in the pipeline, or excessive turbidity occur, cease dredging immediately and do not resume dredging until the necessary pipeline repairs have been completed. Inform the RE at what time the problems were found, time

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when action was taken to correct the problems and time that dredging resumed. Include a detailed description of the incident on the Daily Production Report.

2. **Submerged Pipeline** - In the event the Contractor elects to submerge its pipeline, rest the pipeline on the bottom. Place the pipeline so that the top of the submerged pipeline and any anchor securing the submerged pipeline is no higher than the required project depth within the channel. Should a pipeline material, which is buoyant or semi-buoyant (such as HDPE pipe, or similar materials) be used, securely anchor the pipeline to prevent the pipeline from lifting off the bottom under any conditions. Remove all anchors when the submerged pipeline is removed. Mark the location of the entire length of submerged pipeline with signs, buoys, and lights, conforming to U.S. Coast Guard regulations. Provide and maintain a location drawing of the dredge pipeline from the dredge discharge to the shore landing on the dredge, and update daily in order to provide the RE with current pipeline location information at all times.
3. **Floating Pipeline** - Consider a pipeline as floating if it is not placed and anchored on the bottom. Clearly mark and maintain visibility of the floating pipeline on the surface. Do not, in any case, allow the pipeline to fluctuate between the surface and the bottom, or lie partly submerged. Install lights on the floating pipeline as required under Subsection 202.03.15. Properly support and display the lights according to USCG regulations. Where the pipeline does not cross a navigable channel, space the flashing yellow all-around lights not over 200 feet apart, unless closer spacing is required by U.S. Coast Guard rules and regulations, in which case the requirements of the U.S. Coast Guard shall govern.
4. **Road Crossings** - Submit a Pipeline Route Plan to the RE for approval in accordance with Section 105.05 prior to installing any road crossings. Submit details of any road crossings of the pipeline as part of the required plan.
5. **Pipe Connections** - Connect to existing pipe under Rt. 36 using flanged end sections detailed in attached record plans of Project titled State of New Jersey Department of Transportation Plans of Shrewsbury River Dredge Pipe Chambers for State Highway No. 36, Contract No. 6733301. Ensure pipe is flushed clean of dredged material when finished with dredging operations. Perform a video inspection of the existing pipe crossing under Rt. 36 after dredging operations are completed as specified in section 601.03.04.
6. **Pipeline layout on beach** - Avoid any delineated resources when constructing the pipeline on the beach. Locate the pipeline such that it is between the toe of slope of the existing dune and the high tide line, avoid vegetation to the maximum extent possible. Obtain final approval on the complete pipeline route from the RE prior to pipeline placement.

202.03.21 Dredge Template

Project Depth - Payment will be made for the material actually removed to the template lines and widths to a required depth of -6 feet MLW and material within an over depth tolerance (measured vertically) of one (1) foot below the required dredging template for the maintenance dredging of Monmouth Beach Channel.

Payment will be made for the material actually removed to the template lines and widths to a required depth of -5 feet MLW and material within an over depth tolerance (measured vertically) of one (1) foot below the required dredging template for the maintenance dredging of Rumson Country Club Y Channel.

Payment will be made for the material actually removed to the template lines and widths to a required depth of -4 feet MLW and material within an over depth tolerance (measured vertically) of one (1) foot below the required dredging template for the maintenance dredging of Oceanport Creek Entry Channel.

Side Slopes - Form side slopes by dredging along the side slope. Material actually removed, within the limits approved by the RE, to provide for final side slopes not flatter than that shown on the contract plans, but not in excess of the amount originally lying above this limiting side slope, will be measured in accordance with the provisions contained in Section 202.04.

Excessive Dredging - Materials taken from beyond the limits as described above under Project Depth and Side Slopes, are deducted from the total amount dredged as excessive overdepth dredging, or excessive side slope dredging, and payment will not be made therefore. Nothing herein is to prevent payment for the removal of shoals identified by the RE and dredged in accordance with the applicable provisions of Completion and Acceptance.

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Position Monitoring – Limit the excavation area as shown on the plans. The Contractor is solely responsible for any penalties or fines due to permit violations which may arise from over-excavation, or excavation beyond the limits of dredging shown on the plans.

Noise Control – Provide all equipment, dredge/barges, boats, and tugs used on this work with satisfactory mufflers or other noise abatement devices. Conduct operations so as to comply with all federal, state, and local laws pertaining to noise. Minimize the use of horns and whistle signals to absolute necessity in order to perform as quiet an operation as possible.

202.03.22 Placement of Dredged Material to Beach Fill

Deposit all materials transported from the channel dredging into the beach fill placement area within the lines and grades shown on the plans except as may be modified by the RE.

For acceptance, place and grade the beach fill berm and slope as shown on the plans to a tolerance of plus or minus 0.5' in areas above elevation +2.25 NAVD88. Grading of the slope in the water below elevation +2.25 NAVD88 will not be required. Sufficient material shall be placed below elevation +2.25 NAVD88 to provide the quantity represented by the design section.

Take care not to damage any existing private or public structures, specifically including, but not limited to piers, shoreline protection, crosswalks, walkways, curbs, pavements, drainage structures, chain-link fencing and/or sand fencing. Jointly inspect the entire work site with the RE prior to construction. Immediately repair any damage to existing structures at no cost to the State.

In the beach fill placement area, control fill placement by the use of dredge discharge pipe placement and constructed training dikes. Maintain the fill in a satisfactory condition at all times until final completion and acceptance of the work. Place fill so as to drain and so that no ponded water remains after filling.

Remove and redeposit any material placed elsewhere than in designated or approved places, where directed by the RE. Should the material be allowed to remain in place as misplaced material, the quantity of the misplaced material will be deducted from the contract quantity.

Maintain pedestrian and vehicular access to the public areas of Monmouth Beach. Take measures to restrict access to the general public from the active work site. Including but not limited to temporary fencing.

202.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEMS ARE ADDED:

<i>Item</i>	<i>Pay Unit</i>
DREDGING, TRANSPORT AND PLACEMENT TO BEACHFILL	CUBIC YARD

THE FOLLOWING IS ADDED:

The total amount of material dredged, transported, and placed in the designated placement sites and to be paid for under the respective pay items is measured by the cubic yard (CY) in place by computing the volume between the bottom surface shown by the soundings of the last survey performed immediately before dredging and the bottom surface shown by the soundings of an after-dredge survey made as soon as practicable after dredging has been completed for the project minus any amount dredged outside the design template including allowable tolerances specified in Section 202.03.21. Division of the project into channel segments for purposes of after dredging surveys and payment quantity calculations and the timing of after dredging surveys will be as determined by the RE.

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The Department will perform the immediate before and an after dredging survey within each RE approved channel segment in accordance with the requirements of Section 202.04 Dredge Quantity Surveys, of these Special Provisions. The Department will compute the volume removed and paid for under this portion of the contract by using the Digital Terrain Model (DTM) method. Determination of the quantities removed after having once been made, will not be reopened, except on evidence of collusion, fraud, or obvious error.

Dredge Quantity Surveys

The before dredging (BD) and after dredging (AD) hydrographic surveys are required for payment and for final acceptance of the project. Only one AD survey per RE approved channel segment will be performed by the Department. BD and AD quantity surveys will be conducted by the Department, and the Department will utilize the data derived from these surveys in computing the quantities of work performed and the actual construction completed and in place. Surveys will be performed according to the latest edition of the U.S. Army Corps of Engineers Engineering Manual (EM) 1110-2-1003 entitled "HYDROGRAPHIC SURVEYING." The RE will review the AD survey data to determine if the dredging performed by the Contractor is in accordance with the proposed lines and grades shown on the plans. If the RE determines that the dredging does not conform to the plans, take corrective measures and perform the work necessary to remedy the deficiencies identified by the RE. Upon completion of the corrective work, notify the RE of the need for an additional AD survey. If acceptability is not achieved after performing an additional AD survey of the work, or a segment of the work (if the Contract is divided into segments), a meeting will be held between the Contractor and the RE to expeditiously resolve the issue causing rejection of the survey. Costs of Contractor equipment and personnel standby time, if any, to resolve any deficiencies including failure to meet the proposed lines and grades of the dredge template is at the Contractor's expense. Contractor standby time to allow completion of the final Department AD survey at the end of the dredging work will be allowed as non-compensable extension of the Contract Period. No payment will be made to the Contractor for such standby time. Such allowance will not be made for any delays elected by the Contractor for interim phases between initial AD surveys and acceptance AD surveys.

1. **Before-Dredge Survey.** Hydrographic survey of the dredging areas will be conducted by the Department prior to the start of dredging activity. The before-dredge (BD) survey data will be used as information for computing the payment quantity of dredging pay items. Provide ten (10) days notice in advance of commencement of dredging operations to allow for completion of the BD survey.

BD survey data and the results of volume calculations of the estimated material to be dredged to the maximum depth will be furnished to the Contractor after award and prior to commencement of dredging. Perform a detailed review of the BD survey data and available estimated volume calculations and report any discrepancies in writing prior to start of dredging. No dredging is to be performed in any area where a BD survey has not been performed, reviewed by the contractor, and accepted as having no discrepancies.

2. **After-Dredge Survey.** Hydrographic survey of the dredging sites will be conducted by the Department upon completion of dredging activity. The after-dredge survey data will be used as information for acceptance of the dredging work and for computing the payment quantity of dredging pay items. Provide ten (10) days advance notice, in writing, and regular updates to the RE of the need for an after-dredge survey for the completed work or any divisible portion of the work separated for payment. The surveys are required for payment and for final acceptance of the project or of divisible portions of the project to be approved for payment.

The Department will make volume computations based on the BD and AD surveys of the dredging areas using the Digital Terrain Model (DTM) method. The volume of material dredged for payment is defined as the difference between the before-dredge (BD) and after-dredge (AD) surveys minus any amount dredged outside the design template including allowable tolerances specified in Section 202.03.21.

The Department will perform the BD Survey and one initial AD survey of each RE-approved channel segment. The Contractor may perform interim AD surveys, at no additional cost to the State, and seek interim payment from the State for the segmented dredged areas. Final pay volumes will be made based on initial BD and final AD surveys, with any interim payments being subtracted from the monies due the Contractor for performing the dredging work. The cost

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incurred by the Department for performing any additional AD surveys, subsequent to the initial AD survey per RE-approved channel segment, as a result of the Contractor not meeting the lines, grades or design dredge template shape as determined by the RE, will be deducted from the monies owed the Contractor for performing the dredging work.

DIVISION 600 – MISCELLANEOUS CONSTRUCTION

SECTION 605 – FENCE

605.01 DESCRIPTION

THE FOLLOWING IS ADDED AFTER THE FIRST PARAGRAPH:

The work covered by this section consists of furnishing all labor, materials and equipment, and performing all operations required for the erection of sand fence, as specified herein.

References

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

ASTM INTERNATIONAL (ASTM)

ASTM F537

(2001; R2007) Standard Specification for Design, Fabrication, and Installation of Fences Constructed of Wood and Related Materials
(2009a) Standard Specification for Zinc-Coated (Galvanized) Carbon Steel Wire

ASTM A641/A641M

605.02 MATERIALS

THE FOLLOWING IS ADDED:

Provide materials as specified:

Sand Fence.....913.02.04

605.03 CONSTRUCTION

THE FOLLOWING SUBSECTION IS ADDED:

605.03.05 Sand Fence

Delivery, Storage, and Handling

Deliver products to the project site in undamaged condition.

Storage

Store products out of contact with the ground, and protect against damage.

Handling

Do not drop or dump materials from vehicles.

Construction

Prior to placement of the beachfill, erect sand fence in locations directed by the RE to serve as public exclusionary fencing for the work site or to protect identified environmentally sensitive areas. Set posts and pickets/slats vertical. If debris is encountered when excavating to install posts, excavate at an adjacent location. Set posts plumb, in proper alignment, at intervals not exceeding 10 feet, and place so that the top of the post is even with the top of the pickets/slats. Moisten backfill to optimum condition and compact with hand tampers. Set the posts such that the number of protrusions, i.e. knots, are minimized on the side to which the fence is to be attached. Place the sand fence on alternating sides of the posts and attach by pulling fence taut and securely wrapping with minimum fourteen (14) gauge galvanized wire around fence post and picket. Twist wire ends together to secure fence picket to post at each of the post locations. Splice fence by overlapping a minimum of two pickets/slats and wrapping with wire at each of the locations as the fence

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picket bindings and twisting ends securely. Tuck wire ends in at all locations to prevent injury to workers and the public. Attach warning signs at maximum fifty foot (50') intervals with minimum fourteen (14) gauge galvanized wire with the top of the warning sign six inches (6") below the top of the fence. At the completion of the project, remove all warning signs from the sand fence that is to remain at the beachfill placement site.

605.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM IS ADDED:

<i>Item</i>	<i>Pay Unit</i>
SAND FENCE	LINEAR FOOT

DIVISION 900 – MATERIALS

SECTION 913 – GUIDE RAIL, FENCE, AND RAILING

THE FOLLOWING SUBSECTION IS ADDED:

913.02.04 Sand Fence

1. **Sand Fence.** Use ASTM F537, Type III, wire-bound wood picket fence. Use pickets/slats of No. 1 White Cedar, Aspen, Douglas Fir or Spruce, minimum 0.375 inches thick, 1.5 inches wide, 48 inches long, square cut both ends, substantially free from excessive wane, knots, short pickets/slats and unsquare ends. Use fence free of decay, broken wire, and missing or broken pickets/slats. Use a minimum 12.5 gauge galvanized wire for fence binding wire. Stretch fence weaving to ensure the pickets/slats are tightly bound by the wire. Furnish fence in unpainted fifty (50)-foot minimum lengths.
2. **Fence Posts.** Use fence posts that are a minimum of 3-inch diameter of cedar wood, and of a length as shown on the drawings, free of large knots and structural defects.
3. **Post Binding Wire.** Use ASTM A641/A641M, soft temper, galvanized, 14 gauge minimum wire for attaching the fence to the posts.
4. **Warning Signs.** For warning signs indicating that the area is off limits to the public use eighteen inch by 10 inch (18" x 10") rectangular galvanized steel, 18 gauge, with painted white background and painted black one inch (1") letters stating in the first line "NJDOT WORK SITE" and in the second line "NO ACCESS". Drill four one-eighth inch (1/8") holes located at the four sign corners on the eighteen inch lengths at distances one-half inch (1/2") from the top and bottom edges and one inch (1") from each ten inch (10") side edge to accommodate the attachment wires.

STATE FUNDED PROJECT ATTACHMENT 1

SMALL BUSINESS ENTERPRISE UTILIZATION ON WHOLLY STATE FUNDED PROJECTS

- A. Utilization of Small Business Enterprises Businesses as Subcontractors, Transaction Expeditors, Regular Dealers, Manufacturers and Truckers.** The Department advises the Contractor and subcontractor that failure to carry out the requirements set forth in this attachment constitutes a material breach of Contract and, after notification to the applicable State agency, may result in termination of the agreement or Contract by the Department or such remedy as the Department deems appropriate. Requirements set forth in this section shall also be physically included in all subcontract agreements in accordance with State of New Jersey requirements.
- B. Policy.** It is the policy of the Department that Small Business Enterprises (SBE), as defined in N.J.A.C. 12A: 10A-1.2 et seq., and N.J.A.C. 17:14-1.2 et seq., shall have the maximum opportunity to participate in the performance of contracts financed wholly with State funds. In this regard, the Department and all Contractors shall take all necessary and reasonable steps to ensure that registered Small Business Enterprises are utilized on, compete for, and perform on NJDOT construction contracts.

C. Definitions

- 1. Small Business Enterprise.** A businesses which has its principal place of business in the State of New Jersey; is independently owned and operated; has no more than 100 full-time employees; has gross revenues that do not exceed the applicable Federal revenue standards referenced at N.J.A.C. 17:14-2.1; and satisfies any additional eligibility standards under this chapter.

Small businesses with no more than 100 full-time employees will be registered in one of the following three categories:

- a. Small business with gross revenues that do not exceed \$3 million.
- b. Small businesses with gross revenues that do not exceed 50 percent of the applicable annual revenue standards set forth in federal regulation at 13 CFR 121.201, incorporated herein by reference, and as may be adjusted periodically.
- c. Small business with gross revenues that do not exceed the applicable annual revenue standards set forth in federal regulation at 13 CFR 121.201, incorporated herein by reference, as may be adjusted periodically.

The business must be independently owned and operated, with management being responsible for both its daily and long-term operation, as well as owning at least 51 percent interest in the business.

Businesses must be incorporated or registered with the Division of Revenue & Enterprise Services to do business in the State and have its principal place of business in New Jersey, defined when:

- a. 51 percent or more of its employees work in New Jersey supported by paid New Jersey unemployment taxes or;
 - b. 51 percent or more of its business operations/activities occur in New Jersey supported by income and/or business tax returns.
 - c. The business must be a sole proprietorship, partnership, limited liability company or corporation with 100 or fewer employees in full-time positions, not including:
 1. Seasonal and part-time employees employed for less than 90 days, if seasonal and casual part-time employment are common to that industry and
 2. Consultants employed under contracts for which the business wants to be eligible as a small business.
- 2. Commercially Useful Function (CUF).** A SBE performs a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibility by actually performing, managing and supervising the work involved. To perform a commercially useful function, the SBE must also be responsible, with respect to materials and supplies used on the contract, for preparing the estimate, negotiating price, determining quality and quantity, ordering the material, arranging delivery, installing (where applicable), and paying for the material and supplies itself for the project.

3. **Transaction expeditor (broker).** A SBE who arranges or expedites transactions and who arranges for material drop shipments.
 4. **SBE regular dealers.** A firm that must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. In addition, a regular dealer must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment required under this Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
 5. **SBE manufacturer.** A firm that operates or maintains a factory or establishment that produces on the premises, the materials, supplies, articles, or equipment required for the Contract.
 6. **Good faith effort (GFE).** Efforts to achieve a SBE goal or other requirement of N.J.A.C. 12A: 10A-1.2 et seq., and N.J.A.C. 17:14-1.2 et seq., which by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Efforts to include firms not certified as SBEs in the state where the contract is being let are consequently not good faith efforts to meet a SBE contract goal.
- D. Compliance.** The Contractor is responsible for compliance as specified in Section 105.
- E Contractor SBE Goal Obligations.** Ensure that SBEs have an equal opportunity to receive and participate in contracts and subcontracts financed in whole with State funds in performing work with the Department. Take all necessary and reasonable steps in accordance with the Contract to ensure that SBEs are given equal opportunity to compete for and to perform on the Department's wholly State funded projects. Do not discriminate in the award and performance of any Contract obligation including, but not limited to, performance of obligations on wholly State funded contracts, as specified in Section 107.
1. **Post Award Obligations**
 - a. Give SBEs equal consideration with non-small business firms in negotiation for any subcontracts, purchase orders or leases.
 - b. Attempt to obtain qualified SBEs to perform the work. A directory of registered Small Businesses Enterprise firms can be found in the New Jersey Selective Assistance Vendor Information (NJSAVI) database online at: https://www20.state.nj.us/TYTR_SAVI/vendorSearch.jsp
 2. **Affirmative Action After Award of the Contract**
 - a. **Subletting.** If at any time following the award of the Contract, the Contractor intends to sublet any portion(s) of the work under said Contract, or intends to purchase material or lease equipment not contemplated during preparation of bids, take affirmative action:
 - (1) Notify the RE, in writing, of the type and approximate value of the work which the Contractor intends to accomplish by such subcontract, purchase order or lease.
 - (2) Submit the Post-Award SBE Certification Form to the Regional Supervising Engineer with the application to sublet, or prior to purchasing material or leasing equipment. Obtain Post Award SBE Certification forms from the RE.
 - (3) Efforts made to identify and retain a SBE as a replacement subcontractor, lower tier subcontractor, transaction expeditor, regular dealer, supplier, manufacturer or trucker when the arrangements with the original SBE prove unsuccessful, shall be followed as specified for SBE subcontractors in Section 108. Work in the category concerned shall not begin until such approval is granted in writing by the Department.
 - (4) Notification of a SBE subcontractor's termination will be the same as for SBE subcontractors, specified in Section 108. Send notice in writing to the Department through the RE. Said termination notice will include the firm's ethnic classification, whether the firm is a SBE and the detailed reason(s) for termination.
 - b. **Selection and Retention of Subcontractors.** Do not discriminate in the selection and retention of subcontractors, including procurement of materials and leases of equipment as specified in 108.01. Provide the RE with a listing of firms, organizations or enterprises solicited and those utilized as subcontractors on the proposed project. Such listing shall clearly delineate which firms are classified as SBEs. Provide the RE with subcontract agreements for all subcontractors performing work on the Contract as specified in Section 108.

- (1) Efforts made to identify and retain a SBE as a replacement subcontractor, lower tier subcontractor, transaction expeditor, regular dealer, supplier, manufacturer or trucker when the arrangements with the original SBE prove unsuccessful, shall be the same as for SBE subcontractors and submitted as specified in Section 108. Work in the category concerned shall not begin until such approval is granted in writing by the Department.
 - (2) Notification of a SBE firm's termination will be as specified in Subsection 108.01. Send notice in writing to the Department through the RE. Said termination notice will include the firm's ethnic classification, whether the firm is a SBE and the detailed reason(s) for termination.
- c. **Meeting Contract SBE Goal.** Demonstrate attainment toward meeting the Contract SBE goal by reporting monthly, all SBE participation, to the Department's RE and DCR/AA Contract Compliance Unit using the CR-267 – Monthly SBE Utilization Form. The form is due by the 5th of the month, and must list all SBEs used on the Contract, the specific Contract work items each SBE is performing, whether the SBE is performing full or partial work on the items, and the amount paid to each SBE each month. Failure to report the information, and accurately report it may result in payment being delayed or withheld as specified in Section 105, assessing sanctions, or termination of the Contract as specified in Section 108.
 - d. **Termination, Substitution or Replacement of SBEs.** Make good faith efforts to replace a SBE that is terminated or has otherwise failed to complete its work on the Contract with another registered SBE, to the extent needed to meet the Contract SBE goal. Notify the DCR/AA immediately of the SBE's inability or unwillingness to perform and provide reasonable documentation. Prior to termination, substitution or replacement of a SBE subcontractor, lower-tier subcontractor, transaction expeditor, regular dealer, supplier, manufacturer or trucker, submit a Revised Form CR-266 to the Department naming the replacement SBE firm(s), type of work performed, specific Contract work items, whether the SBE is performing full or partial work on the items, dollar value and percent of total Contract for each SBE firm. Submit detailed written explanation of why each change is being made, including documented evidence of good faith effort(s) with the submission of the revised Form CR- 266. Submit along with the revised CR-266: 1) a completed Confirmation of SBE Firm (Form CR-273) to demonstrate direct written confirmation from each SBE firm participating on the Contract, confirming the kind and amount of work that was provided on the Contractor's CR-266, and if applicable; 2) a completed SBE Regular Dealer/Supplier Verification (Form CR-272) for all SBE Regular Dealers/Suppliers listed on the revised CR-266; and if applicable, 3) a completed SBE Trucking Verification (Form CR-274) for all SBE truckers listed on the revised CR-266. Termination, substitution or replacement of SBEs shall be made as specified in Section 108. Termination or replacement of SBE cannot be made without prior written approval of the Department as per 108.01.
 - e. **Submission of Good Faith Effort Documentation.** If the Contractor is unable to meet the Contract goal for SBE participation, submit to the DCR/AA for review and approval, documented evidence of good faith efforts along with the monthly CR-267 form. This submission must include written details addressing each of the good faith efforts outlined in the Contract. Submittal of such information does not imply DCR/AA approval.
- F. SBE Goals for this Contract.** This Contract includes a goal of awarding six (6%) percentage of the Total Contract Price to subcontractors qualifying as SBEs.

NOTE: SUBCONTRACTING GOALS ARE NOT APPLICABLE IF THE PRIME CONTRACTOR IS A REGISTERED SMALL BUSINESS ENTERPRISE (SBE) FIRM.

The Department's DCR/AA has sole authority to determine whether the Contractor met the Contract goal or made adequate good faith efforts to do so. If the DCR/AA determines that the Contractor has failed to meet the Contract SBE goal or made adequate good faith efforts to do so, the Department will follow Section 105.

G. Counting SBE Participation.

1. Each SBE is subject to a registration procedure to ensure its SBE eligibility status prior to the award of Contract. All SBEs working on the Contract must be registered SBEs. Only Small Business Enterprises registered prior to the date of bid, or prospective Small Business Enterprises that have submitted to the New Jersey Commerce and Economic Growth Commission on or before the day of bid, a completed "State of New Jersey Small Business Vendor Registration Form" and all the required support documentation, will be

considered in determining whether the Contractor has met the established Contract SBE goal. Early submission of required documentation is encouraged.

2. The Department determines the percentage of SBE participation that will be counted toward the Contract SBE goal. Once a firm is determined to be a bona fide SBE by the New Jersey Commerce and Growth Commission, the total dollar value of the contract awarded to the SBE is counted toward the applicable goal.
3. The Contractor will count SBE participation toward the Contract SBE goal only the value of the work actually performed by a SBE when that SBE performs a commercially useful function in the work of a contract as per Section H of this Special Provision Attachment.
4. If a Contractor is part of a Joint Venture and one or more of the Sole Proprietorships, Partnerships, Limited Liability companies or Corporations comprising the Joint Venture is a registered SBE, the actual payments made to the Joint Venture for work performed by the SBE member, will be applied toward the Contract SBE goal. Payments made to the Joint Venture for work performed by a non-small business firm will not be applied toward the Contract SBE goal.
5. If the Contractor is a registered SBE, payments made to the Contractor for work performed by the Contractor will be applied toward the Contract SBE goal. Payments made to the Contractor for work performed by non-SBEs will not be applied toward the Contract SBE goal.
6. When a SBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted towards the SBE goal only if the subcontractor itself is a SBE. Work that a SBE subcontracts to a non-SBE firm does not count toward the Contract SBE goal.

H. Commercially Useful Function

1. **Performance of Work.** The SBE must perform the work with their own permanent employees, or employees recruited through traditional recruitment and/or employment centers. SBEs must employ and control their own workforce, and cannot share employees with the Contractor, other subcontractors on the present project, or the renter-lessor of equipment being used on the present project. The SBE firm must be responsible for all payroll and labor compliance requirements for all of their employees performing work on the Contract. Direct or indirect payments by any other contractor are not allowed.
2. **Managing Work.** The SBE must manage the work themselves including the scheduling of work operations, ordering of equipment and materials, hiring/firing of employees, including supervisory employees, and preparing and submitting certified payrolls. The SBE must supervise their portion of daily work operations of the project. With respect to materials and supplies used on the Contract, the SBE must be responsible for preparing the estimate, negotiating price, determining quantity and quality, ordering the material, arranging delivery, installing, (where applicable), and paying for the material and supplies for the project.
3. **Responsibility of Work.** A SBE must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own workforce. The SBE must not subcontract a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved.
4. **Equipment of SBE.** The SBE must perform the work stated in the subcontract with their own equipment, whether owned or leased and operated on a long term agreement, not an ad hoc or contract by contract agreement. The equipment must be owned by the SBE firm, or leased/rented from traditional equipment lease/rental sources. The equipment will not belong to the Contractor, any other subcontractor or lower tier subcontractors on the current project, or supplier of materials being installed by the SBE firm.
5. **Lease of Equipment.** A SBE firm may lease specialized equipment from a contractor, but not from the Contractor, if it is consistent with normal industry practices and at rates competitive for the area. Rental agreements must be for short periods of time, specify the terms of the agreement and involve specialty equipment to be used at the job site. The lease may allow the operator to remain on the lessor's payroll, if it is the generally accepted industry practice but the operation of the equipment must be subject to full control by the SBE. The SBE shall provide the operator for non-specialized equipment, and is responsible for all payroll and labor compliance requirements. A separate lease agreement is required.
6. **SBE Trucking.** SBE trucking companies must perform a commercially useful function. Contrived arrangements for the purpose of meeting SBE goals will not be allowed. The SBE must be responsible for the management and supervision of the entire trucking operation on a contract-by-contract basis, and must own and operate at least one fully, licensed, insured and operational truck used on the Contract.

The SBE trucking firm is not permitted to obtain trucks from the Contractor to perform work on the project. The SBE may lease trucks from a subcontractor working on the project, provided the trucks are obtained from the subcontractor prior to the project letting. Bona fide lease agreements must be for the length of time

needed by the SBE on the Contract and signed by both the SBE and the firm(s), either certified SBE or non-SBE, from which the trucks will be leased. Leases must indicate that the SBE has exclusive use and control over the truck. All leased trucks must display the name and USDOT identification number issued for interstate commerce, of the SBE firm, on the outside of the truck. SBE firms are expected to use the same trucks for SBE credit on all projects so use of leased vehicles on a project-by-project basis is not permitted.

The Contractor shall have signed Hiring Agreements. Submit copies of these signed Hiring Agreements, and copies of all signed lease agreements to the RE prior to the trucking firm's commencing work on the project. Prior to the SBE trucking firm beginning work on the Contract, SBE Trucking firms will be required to complete the SBE Trucking Verification (Form CR-274). The SBE and Contractor must sign the form and the Contractor submit the original CR-274 form directly to the Department's RE, with a copy submitted to the DCR/AA. The Contractor must prepare, sign and submit along with the CR-267, a Monthly Trucking Verification form (CR-271), identifying each truck owner, SBE Certification number, company name and address, truck number, and commission or amount paid for all SBE and non-SBE truckers performing work on the project. Also, submit the form to the Department as per Section E of this Special Provision for the DCR/AA's review, approval and determination of credit toward the Contract goal. Failure to submit the forms may result in denial or limit of credit toward the Contract SBE goal, payment being delayed or withheld as specified in Section 105, assessing sanctions or termination of the Contract as specified in Section 108.

7. **SBE Regular Dealers.** SBE regular dealers must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. In addition, a regular dealer must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under this Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
8. **SBE Manufacturers.** SBE manufacturers must be a firm that operates or maintains a factory or establishment that produces on the premises, the materials, supplies, articles, or equipment required for this Contract.
9. The Contractor shall not use a SBE solely for the purpose of acting as an extra participant in a transaction, a contract or the Contract through which funds are passed in order to obtain the appearance of SBE participation.

I. Good Faith Effort. To demonstrate good faith efforts to meet the Contract SBE goal, a Contractor shall, on an ongoing basis, adequately document the steps it takes to obtain SBE participation, including but not limited to the following:

1. Conducting market research to identify qualified potential small business subcontractors and suppliers and soliciting through all reasonable and available means, the interest of registered SBEs that have the capability to perform the work of the Contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all registered SBEs listed in the New Jersey Selective Assistance Vendor Information (NJSAVI) database that specialize in the areas of work desired (as noted in SAVI) and which are located in the area or surrounding areas of the project.

Solicit this interest as early in the acquisition process as practicable to allow the SBEs to respond to the solicitation and submit a timely offer for the subcontract. Determine with certainty if the SBEs are interested by taking appropriate steps to follow up initial solicitations.

Request a listing of small businesses from the New Jersey Department of the Treasury, Division of Property Management and Construction if none are known to the Contractor

2. Selecting portions of the work to be performed by SBEs in order to increase the likelihood that the SBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate SBE participation, even when the Contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates SBE participation.
3. Providing all potential SBE subcontractors with detailed information about the plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation with their offer

for the subcontract. Attempt to contact all potential subcontractors on the same day and use similar methods to contact them.

4. Negotiating in good faith with interested SBEs. Make a portion of the work available to SBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available SBE subcontractors and suppliers, so as to facilitate SBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of SBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for SBEs to perform the work.

Consider a number of factors in negotiating with subcontractors, including SBE subcontractors. Take a firm's price and capabilities as well as Contract goals into consideration. The fact that there may be some additional costs involved in finding and using SBEs is not in itself sufficient reason for failure to meet the Contract SBE goal, as long as such costs are reasonable. The ability or desire of a Contractor to perform the work of a Contract with its own organization does not relieve the responsibility to make good faith efforts. Contractors are not, however, required to accept higher quotes from SBEs if the price difference is excessive or unreasonable.

5. Not rejecting SBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the Contract SBE goal. Another practice considered an insufficient good faith effort is the rejection of the SBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Bidder to accept unreasonable quotes in order to satisfy the Contract SBE goal.

Inability to find a replacement SBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original SBE. The fact that the Contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the Contractor of the obligation to make good faith efforts to find a replacement SBE, and it is not a sound basis for rejecting a prospective replacement SBE's reasonable quote. Attempt, wherever possible, to negotiate prices with potential subcontractors which submitted higher than acceptable price quotes.

Keep a record of efforts, including the names of businesses contacted and the means and results of such contacts.

6. Making efforts to assist interested SBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
7. Making efforts to assist interested SBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

If the Contractor fails to meet the Contract SBE goal, they must submit documented evidence of good faith effort(s) to meet the goal with the CR-268 final SBE Report to the DCR/AA for review and approval. Submittal of such information does not imply DCR/AA approval. The Department's DCR/AA has sole authority to determine whether the Contractor met the Contract SBE goal or made adequate good faith efforts to do so. If the DCR/AA determines that the Contractor has failed to meet the Contract SBE goal or made adequate good faith effort to do so, the Department will follow Section 105.

J. Submission of Affirmative Action Program

Contractors, subcontractors and professional service firms performing work for the Department are required to submit their company's Affirmative Action Program annually to the DCR/AA. Contractors must have an **approved** Affirmative Action Program on file in the DCR/AA no later than seven (7) State business days after the date of bid opening. No recommendations to award will be made without an approved Affirmative Action Program on file in the DCR/AA.

The Annual Affirmative Action Program will include, but is not limited to the following:

1. Copy of company's comprehensive EEO/Affirmative Action Plan.
2. Copy of document designating the company's corporate EEO Officer, including the name, address and contact telephone number for the officer.
3. Copy of the company's EEO Policy Statement.

4. Copy of the company's Sexual Harassment Policy.
 5. The name of the company's SBE Liaison Officer to administer the firm's Small Business Program.
 6. SBE Affirmative Action Plan which is an explanation of affirmative action methods intended to be used to seek out and consider SBEs as subcontractors, material suppliers or equipment lessors. This refers to the Contractor's ongoing responsibility, i.e., Small Business Enterprise/Affirmative Action activities after the award of the Contract and for the duration of the Contract.
- K. SBE Liaison Officer.** Designate a SBE Liaison Officer who shall be responsible for the administration of your SBE program in accordance with the Contract, and ensuring that the Contractor complies with all provisions of the SBE Program.
- L. Consent by Department to Subletting.** The Department will not approve any subcontract proposed by the Contractor unless and until said Contractor has complied with the terms of the Contract.
- M. Conciliation.** In cases of alleged discrimination regarding these and all equal employment opportunity provisions and guidelines, investigations and conciliation will be undertaken by the DCR/AA.
- N. Documentation**
1. **Requiring of Information.** The Department or the State funding agencies may at any time require information as specified in Section 107.02 and deemed necessary in the judgment of the Department to ascertain the compliance of any Bidder, Contractor or subcontractor with the terms of the Contract.
 2. **Record and Reports.** The Contractor, subcontractors and other sub-recipients will keep such records as are necessary to determine compliance with its SBE obligations. These records kept will be designed to indicate:
 - a. The names of SBE contractors, subcontractors, transaction expeditors and material suppliers contacted for work on the Contract, including when and how contacted, and the specific Contract work items and other information provided to each.
 - b. Work, services and materials which are not performed or supplied by the Contractor.
 - c. The actual dollar value of work subcontracted and awarded to SBEs, including specific Contract work items and cost of each work item.
 - d. The progress being made and efforts taken in seeking out and utilizing SBEs to include: solicitations, specific Contract work items and the quotes and bids regarding those specific Contract work items, supplies, leases, or other contract items, etc.
 - e. Detailed written documentation of all correspondence, contacts, telephone calls, etc., including names and dates/times, to obtain the services of SBEs on the Contract.
 - f. Records of all SBEs and non-SBEs who have submitted quotes/bids to the Contractor on the Contract.
 - g. Monthly reports required for submission to the Department, hiring agreements, subcontracts, lease agreements, supply tickets and other records documenting SBE utilization on the Contract.
 - h. Documentation outlining EEO workforce information for the Contract.
 - i. Documentation outlining EEO and Affirmative Action efforts made in the administration and performance of the Contract.
 3. **Submission of Reports, Forms and Documentation.** Submit reports, forms and documentation, as required by the Department, on those contracts and other business transactions executed with SBEs in such form and manner as may be prescribed by the Department. Failure to submit the required forms, reports or other documentation as required may result in payment being delayed or withheld as specified in Section 105, assessing sanctions, or termination of the contract as specified in Section 108. Submission of falsified forms, reports or other required documentation may result in termination of the Contract as specified in Section 108, investigation by the Department's Inspector General, and prosecution by the State Attorney General's Office.
 4. **Maintaining Records.** All records must be maintained for a period of three (3) years following acceptance of final payment and will be available for inspection by the Department, or the State funding agencies.
- O. Prompt Payment to Subcontractors.** Payment to subcontractors, equipment lessors, suppliers and manufacturers is made in accordance with Section 109.
- P. Non-Compliance.** Failure by the Contractor to comply with the SBE program, rules and regulations in the administration of the Contract may result in denial or limit of credit toward the Contract SBE goal, payment being delayed or withheld as specified in Section 105, assessing sanctions, liquidated damages as specified in Section

108, default as specified in Section 108, debarment, or termination of the Contract as specified in Section 108. The Contractor may further be declared ineligible for future Department contracts.

STATE FUNDED PROJECT ATTACHMENT 2

STATE OF NEW JERSEY EQUAL EMPLOYMENT OPPORTUNITY SPECIAL PROVISIONS FOR WHOLLY STATE FUNDED PROJECTS

- A. General.** It is the policy of the New Jersey Department of Transportation (hereafter "NJDOT") that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Department to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The Contractor must demonstrate to the Department's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Department's contract with the Contractor. Payment may be withheld from a Contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the New Jersey career connections website, managed by the Department of Labor and Workforce Development, available online at http://careerconnections.nj.gov/careerconnections/for_businesses.shtml
2. The Contractor shall keep detailed documented evidence of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Department with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media;
4. The Contractor shall provide evidence of efforts described at 2 above to the Department no less frequently than once every 12 months; and
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27-1.1 et seq.

The Contractor is required to implement and maintain a specific Affirmative Action Compliance Program of Equal Employment Opportunity in support of the New Jersey "Law Against Discrimination", N.J.S.A. 10:5-31 et seq., and according to the Affirmative Action Regulations set forth at N.J.A.C. 17:27-1.1 et seq.

The provisions of N.J.S.A. 10:2-1 through 10:2-4 and N.J.S.A. 10:5-31 et seq., as amended and supplemented) dealing with discrimination in employment on public contracts, and the rules and regulations promulgated pursuant thereunto, are hereby made a part of this contract and are binding upon the Contractor.

Noncompliance by the Contractor with the requirements of the Affirmative Action program for Equal Employment Opportunity may be cause for delaying or withholding monthly and final payments pending corrective and appropriate measures by the Contractor to the satisfaction of the Department.

The Contractor will cooperate with the State agencies in carrying out its Equal Employment Opportunity obligations and in their review of its activities under the contract.

The Contractor and all its subcontractors, not including material suppliers, holding subcontracts of \$2,500 or more, will comply with the following minimum specific requirement activities of Equal Opportunity and Affirmative Action set forth in these special provisions. The Contractor will include the following mandatory equal employment opportunity language in every subcontract of \$2,500 or more with such modification of language in the provisions of such contracts as is necessary to make them binding on the subcontractor.

During the performance of this Contract, the contractor agrees as follows:

1. The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. The Contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, veteran's status, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following:

employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

2. The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.
3. The Contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.
5. When hiring or scheduling workers in each construction trade, the Contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, a, b, and c, as long as the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program is satisfied that the Contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The Contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:
 - a. If the Contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the Contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the Contractor or sub-contractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the Contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the Contractor or sub-contractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the Contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the Contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the Contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
 - b. If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (a.) above, or if the Contractor does not have a referral agreement or arrangement with a union for a construction trade, the Contractor or subcontractor agrees to take the following actions:
 - (1) To notify the public agency compliance officer, the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

- (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the Contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
 - (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the Contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
 - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
 - (6) To adhere to the following procedure when minority and women workers apply or are referred to the Contractor or subcontractor:
 - i. The Contractor or subcontractor shall interview the referred minority or women worker.
 - ii. If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the Contractor or subcontractor shall in good faith determine the qualifications of such individuals. The Contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a Contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program. If necessary, the Contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (c) below.
 - iii. The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in 6(1) above, whenever vacancies occur. At the request of the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program, the Contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
 - iv. If, for any reason, said Contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the Contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program.
 - (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program and submitted promptly to the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program upon request.
- c. The Contractor or subcontractor agrees that nothing contained in (b.) above shall preclude the Contractor or subcontractor from complying with the union hiring hall or apprentice-ship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the Contractor or subcontractor shall consider for employment persons referred pursuant to (b) above without regard to such agreement or arrangement; provided further, however, that the Contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in

the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the Contractor or subcontractor agrees that, in implementing the procedures of (b) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

The Contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

The Contractor and its subcontractors shall furnish such reports or other documents to the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program as may be requested by the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq..

The Contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and off-the-job programs for outreach and training of minority and female trainees employed on the construction projects.

- B. Equal Employment Opportunity Policy.** The Contractor agrees that it will accept and implement during the performance of this contract as its operating policy the following statement which is designed to further the provision of Equal Employment Opportunity to all persons without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex and to promote the full realization of Equal Employment Opportunity through a positive continuing program:

"It is the policy of this company that it will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex and that it will take Affirmative Action to ensure that applicants are recruited and employed and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."

- C. Equal Employment Opportunity Officer.** Designate and make known to the Department's contracting officers, an Equal Employment Opportunity Officer (hereafter "EEO Officer") who will have the responsibility for and must be capable of effectively administering and promoting an active Equal Employment Opportunity program and be assigned adequate authority and responsibility to do so.

D. Dissemination of Policy.

- 1. Implementation.** All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, will be made fully cognizant of, and will implement, the Contractor's Equal Employment Opportunity Policy and contractual responsibilities to provide Equal Employment Opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Initial Project Site Meeting.** Conduct an initial project site meeting with supervisory and personnel office employees before the start of work and then not less often than once every 6 months, at which time the Contractor's Equal Employment Opportunity Policy and its implementation will be reviewed and explained. The EEO Officer will conduct the meetings.
- b. EEO Obligations.** Give all new supervisory or personnel office employees a thorough indoctrination by the EEO Officer covering all major aspects of the Contractor's Equal Employment Opportunity obligations within 30 days following their reporting for duty with the Contractor.
- c.** All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the Contractor's procedures for locating and hiring minority and women workers.

2. Take the following actions in order to make the Contractor's Equal Employment Opportunity Policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc.,:
 - a. Place notices and posters setting forth in the Contractor's Equal Employment Opportunity policy, as set forth in Section 2 of these Equal Employment Opportunity Special Provisions in conspicuous places readily accessible to employees, applicants for employment and potential employees.
 - b. Bring the Contractor's Equal Employment Opportunity Policy and the procedures to implement such policy to the attention of employees by means of meetings, employee handbooks, or other appropriate channels.

E. Recruitment

1. In all solicitations and advertisements for employees placed by or on behalf of the Contractor, the Contractor will state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, veterans status, disability, nationality or sex. All such advertisements will be published in newspapers or other publications having a large circulation among minorities and women in the area from which the project workforce would normally be derived.
2. Unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority and women applicants, including, but not limited to state employment agencies, schools, colleges and minority and women organizations. Through their EEO Officer, identify sources of potential minority and women employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the Contractor for employment consideration.
3. In the event the Contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the Contractor's compliance with Equal Employment Opportunity contract provisions. (The US Department of Labor has held that where implementations of such agreements have the effect of discriminating against minorities or women, or obligates the Contractor to do the same; such implementation violates Executive Order 11246, as amended).
4. In the event that the process of referrals established by such a bargaining agreement fails to provide the Contractor with a sufficient number of minority and women referrals within the time period set forth in such an agreement, the Contractor shall comply with the provisions of "Section I Unions" of this "State Of New Jersey Equal Employment Opportunity for Wholly State Funded Projects" Special Provision Attachment.

F. Personnel Actions. Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to age, race, color, creed, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, veterans status, disability, nationality or sex. The following procedures shall be followed:

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

G. Training and Promotions.

1. Assist in locating, qualifying, and increasing the skills of minority group and women workers, and applicants for employment.
2. Consistent with the Contractor's workforce requirements and as permissible under State regulations, make full use of training programs, i.e., apprenticeship, and on-the-job training programs, for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.
3. Advise employees and applicants for employment of available training programs and entrance requirements for each.
4. Periodically review the training and promotion potential of minority group and women workers and encourage eligible employees to apply for such training and promotion.

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

1. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding, a notice advising the labor union or workers' representative of the Contractor's commitments under both the law against discrimination and this contract and shall post copies of the notice in conspicuous places readily accessible to employees and applicants for employment. Further, the notice will request assurance from the union or worker's representative that such union or worker's representative will cooperate with the Contractor in complying with the Contractor's Equal Employment Opportunity and Affirmative Action obligations.
2. The Contractor will use their best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
3. The Contractor will use their best efforts to incorporate an Equal Employment Opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their age, race, color, creed, sex, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, or nationality.
4. The Contractor is to obtain information as to the referral practices and policies of the labor union except to the extent that such information is within the exclusive possession of the labor union and such labor unions refuse to furnish this information to the Contractor, certify to the Department and shall set forth what efforts have been made to obtain this information.
5. In the event the union is unable to provide the Contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Contractor will, through independent recruitment efforts, fill the employment vacancies without regard to age, race, color, creed, sex, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, or nationality making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The US Department of Labor has held that it shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees). In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these Special Provisions, such Contractor shall immediately notify the Department.

I. Subcontracting. The Contractor will use his best efforts to solicit bids from and to utilize minority group and women subcontractors or subcontractors with meaningful minority group and women representation among their employees. Contractors may use lists of minority owned and women owned construction firms as issued by the NJDOT and/or the New Jersey Unified Certification Program (NJUCP).

Ensure subcontractor compliance with the Contract's Equal Employment Opportunity obligations.

J. Records and Reports

1. Keep such records as are necessary to determine compliance with the Contractor's Equal Employment Opportunity obligations. Records kept will be designed to indicate:

- a. The work hours of minority and non-minority group members and women employed in each work classification on the project;
 - b. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Contractors who rely in whole or in part on unions as a source of their workforce);
 - c. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and women workers; and
 - d. The progress and efforts being made in securing the services of minority group and women subcontractors or subcontractors with meaningful minority and women representation among their employees.
2. All such records must be retained for a period of 3 years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the NJDOT.
3. Submit monthly reports to the NJDOT after construction begins for the duration of the project, indicating the work hours of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on a form supplied by the NJDOT.

STATE FUNDED PROJECT ATTACHMENT 3

REQUIREMENTS FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY ON WHOLLY STATE FUNDED PROJECTS

- A. **Minority and Women Employment Goal Obligations.** The Department has established, pursuant to N.J.A.C. 17:27-7.2, the minority and women goals for each construction contractor and subcontractor based on availability statistics as reported by the New Jersey Department of Labor, Division of Planning and Research, in its report, "EEO Tabulation - Detailed Occupations by Race/Hispanic Groups." The goals for minority and women participation, in the covered area, expressed in percentage terms for the Contractor's aggregate work force in each trade, on all construction work are:

Minority and Women Employment Goal Obligations for Construction Contractors and Subcontractors on Wholly State Funded Projects		
County	Minority % Participation Percent	Women % Participation Percent
Atlantic	18	6.9
Bergen	22	6.9
Burlington	15	6.9
Camden	19	6.9
Cape May	5	6.9
Cumberland	27	6.9
Essex	53	6.9
Gloucester	9	6.9
Hudson	60	6.9
Hunterdon	3	6.9
Mercer	30	6.9
Middlesex	24	6.9
Monmouth	15	6.9
Morris	16	6.9
Ocean	7	6.9
Passaic	36	6.9
Salem	10	6.9
Somerset	20	6.9
Sussex	4	6.9
Union	45	6.9
Warren	5	6.9

The NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program has interpreted Section 7.2 of the State of New Jersey Affirmative Action Regulations as applicable to work hour goals for minority and women participation.

If a project is located in more than one county, the minority work hour goal will be determined by the county which serves as the primary source of hiring or, if workers are obtained equally from one or more counties, the single minority goal shall be the average of the individual goal for the affected counties.

The NJ State Department of Labor and Workforce Development, Construction EEO Monitoring Program may designate a regional goal for minority membership for a union that has regional jurisdiction. No regional goals shall apply to this project unless specifically designated elsewhere herein.

When hiring workers in the construction trade, the Contractor and/or subcontractor agree to attempt, in good faith, to employ minority and women workers in each construction trade, consistent with the applicable county or, in special cases, regional goals.

It is understood that the goals are not quotas. If the Contractor or subcontractor has attempted, in good faith, to satisfy the applicable goals, they will have complied with their obligations under these EEO Special Provisions. It is further understood that if the Contractor shall fail to attain the goals applicable to this project, it will be the Contractor's obligation to establish to the satisfaction of the Department that it has made a good faith effort to satisfy such goals. The Contractor or subcontractor agrees that a good faith effort to achieve the goals set forth in these special provisions shall include compliance with the following procedures:

- B. Requests for Referrals from Unions to Meet Contract Workforce Goals.** Requests shall be made by the Contractor or subcontractor to each union or collective bargaining unit with which the Contractor or subcontractor has a referral agreement or arrangement for the referral of minority and women workers to fill job openings. Requests shall also be made for assurances for the referral of minority and women workers to fill job openings. Requests shall also be made for assurances from such unions or collective bargaining units that they will cooperate with the Contractor or subcontractor in fulfilling the Affirmative Action obligations of the Contractor or subcontractor under this contract. Such requests shall be made prior to the commencement of construction under the contract.
 1. The Contractor and its subcontractors shall comply with Section I, Unions of these EEO Special Provisions and, in particular, with Section I, Paragraph D, if the referral process established in any collective bargaining arrangement is failing to provide the Contractor or subcontractor with a sufficient number of minority and women referrals.
 2. The Contractor and its subcontractors shall notify the Department's Compliance Officer, the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program and at least one approved minority referral organization of the Contractor's or subcontractors work force needs and of the Contractor's or subcontractor's desire for assistance in attaining the goals set forth herein. The notifications should include a request for referral of minority and women workers.
 3. The Contractor and its subcontractors shall notify the Department's Compliance Officer and the NJ Department of Labor and Workforce Development, Construction EEO Monitoring Program in the event that a union or collective bargaining unit is not making sufficient minority and women referrals to enable the Contractor or subcontractor to attain the workforce goals for the Contract.
 4. The Contractor and its subcontractors shall make standing requests to all local construction unions, the State's training and employment service and other approved referral sources for additional referrals of minority and women workers until such time as the project workforce is consistent with the work hour goals for the Contract.
- C.** In the event that it is necessary to lay off some of the workers in a given trade on the construction site, the Contractor and its subcontractors shall ensure that fair layoff practices are followed regarding minority, women and other workers.
- D.** Comply with the other requirements of these EEO Special Provisions.
- E. Reporting Requirements.**
 1. Directly provide the NJ Department of Labor and Workforce Development, Office of Diversity Compliance, Construction Contract Compliance Unit with workforce data for the Contract.
 - a. After notification of award, but prior to signing the Contract, submit to the Department and the Department of Labor and Workforce Development, Construction EEO Monitoring Program an AA-201 – Initial Project Workforce Report Construction form in accordance with N.J.A.C. 17:27-7. Also, submit the info within 10 working days of award of any construction subcontract in excess of \$10,000 at

any tier for construction work under the Contract. This form is available online at the New Jersey Department of the Treasury's website at: http://www.nj.gov/treasury/contract_compliance/pdf/aa201.pdf.

Instructions for completing the form can be found online at: http://www.state.nj.us/treasury/contract_compliance/pdf/aa201ins.pdf.

- b. Monthly, complete and submit an AA 202 - Monthly Project Workforce Report – Construction form for the duration of the Contract. This form may be completed:
 - (1) Manually and mailed to the Department of Labor & Workforce Development, Construction & EEO Monitoring Program, P.O. Box 209, Trenton, NJ 08625-0209, or:
 - (2) Input electronically directly onto the AA-202 form via the Department of the Treasury's Premier Business Services Online Forms web application, located at: http://www.nj.gov/treasury/contract_compliance/. Instructions for setting up online access to the web application can be found at: http://www.nj.gov/treasury/contract_compliance/pdf/PBS-Introduction-Page.pdf. Follow all instructions to set up online access to the web application.
 - (3) Submit a printed copy of the AA-202 form to the Department along with the hard copy of the CC-257R and confirmation e-mail of the successful submission of Monthly Employment Utilization Report.
2. Directly provide the Department with employment workforce data of the number and work hours of minority and non-minority group members and women employed in each work classification for the Contract. The Contractor, subcontractors, professional service firms and others working on the project must submit this information via a web-based application through the New Jersey portal, Vendor Workforce Reporting Manager. Instructions on how to complete Form CC-257R are provided within the web application. Instructions for registering and receiving the authentication code to access the web based application can be found at the Contractor Manpower Project Reporting CC-257R website at: <http://www.state.nj.us/transportation/business/civilrights/pdf/cc257.pdf>.
 - a. On a monthly basis, submit Form CC-257R through the web based application within 10 days following the end of each reporting month.
 - b. In addition to the above, submit a hard copy of the electronic Form CC-257R to the RE within 10 days following the end of each reporting month
 - c. Submit a copy of the confirmation e-mail of the successful submission of Monthly Employment Utilization Report to the RE within 10 days following the end of each reporting month.
3. All employment data must be accurate and consistent with certified payroll records. The Contractor is responsible for ensuring compliance with these reporting requirements. Failure of the Contractor, subcontractors, professional service firms and others working on the Contract to report monthly employment and wage data may result in payments being delayed or withheld as per 105.01, or impact the Contractor's prequalification rating with the Department.

STATE FUNDED PROJECT ATTACHMENT 4

INVESTIGATING, REPORTING AND RESOLVING EMPLOYMENT DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINTS ON WHOLLY STATE FUNDED PROJECTS

The Contractor hereby agrees to the following requirements in order to implement fully the nondiscrimination provisions of the Supplemental Specifications:

The Contractor agrees that in instances when it receives from any person working on the project site a verbal or written complaint of employment discrimination, prohibited under N.J.S.A. 10:5-1 et seq. 10:2-1 et seq., 42 U.S.C. 2000 (d) et seq., 42 U.S.C. 2000(e) et seq. and Executive Order 11246, it shall take the following actions:

- A. Within one (1) working day commence an investigation of the complaint, which will include but not be limited to interviewing the complainant, the respondent, and all possible witnesses to the alleged act or acts of discrimination or sexual harassment.
- B. Prepare and keep for its use and file a detailed written investigation report which includes the following information:
 - 1. Investigatory activities and findings.
 - 2. Dates and parties involved and activities involved in resolving the complaint.
 - 3. Resolution and corrective action taken if discrimination or sexual harassment is found to have taken place.
 - 4. A signed copy of resolution of complaint by complainant and Contractor.

(In addition to keeping in its files the above-noted detailed written investigative report, the Contractor shall keep for possible future review by the Department, all other records, including, but not limited to, interview memos and statements.)

- C. Upon the request of the Department, provides to the Department within ten (10) calendar days a copy of its detailed written investigative report and all other records on the complaint investigation and resolution.
- D. Take appropriate disciplinary actions against any Contractor employee, official or agent who has committed acts of discrimination or sexual harassment against any Contractor employee or person working on the project. If the person committing the discrimination is a subcontractor employee, then the Contractor is required to attempt to effectuate corrective and/or disciplinary action by the subcontractor in order to establish compliance with the Contract.
- E. Take appropriate disciplinary action against any Contractor employee, official or agent who retaliates, coerces or intimidates any complainant and/or person who provides information or assistance to any investigation of complaints of discrimination or sexual harassment. If the person retaliating, coercing or intimidating a complainant or other person assisting in an investigation is a subcontractor's employee, then the Contractor is required to attempt to effectuate corrective and/or disciplinary action taken by the subcontractor in order to establish compliance with the Contract.
- F. Ensure to the maximum extent possible that the privacy interests of all persons who give confidential information in aid of the Contractor's employment discrimination investigation are protected.
- G. In conjunction with the above requirements, the Contractor herein agrees to develop and post a written sexual harassment policy for its workforce.
- H. The Contractor also agrees that its failure to comply with the above requirements may be cause for the Department to institute against the Contractor any and all enforcement proceedings and/or sanctions authorized by the Contract or by State and/or Federal law.

STATE FUNDED PROJECT ATTACHMENT 5

PAYROLL REQUIREMENTS FOR WHOLLY STATE FUNDED PROJECTS

- A. Payroll Reports.** Each Contractor and subcontractor shall furnish the RE with payroll reports for each week of contract work. Such reports shall be submitted within 10 days of the date of payment covered thereby and shall contain the following information:
1. Each employee's full name, address and the social security number of each such employee.
 2. The ethnicity and gender of each employee.
 3. Each employee's specific work classification (s).
 4. Entries indicating each employee's basis hourly wage rate(s) and, where applicable, the overtime hourly wage rate(s). Any fringe benefits paid to approved plans, funds or programs on behalf of the employee must be indicated. Any fringe benefits paid to the employee in cash must be indicated.
 5. Each employee's daily and weekly hours worked in each classification, including actual overtime hours worked (not adjusted).
 6. Each employee's gross wage.
 7. The itemized deductions made.
 8. The net wages paid.
- B. Statement of Wages.** Each Contractor or subcontractor shall furnish a statement each week to the RE with respect to the wages paid each of its employees engaged in contract work covered by the New Jersey Prevailing Wage Act during the preceding weekly payroll period. The statement shall be executed by the Contractor or subcontractor or by an authorized officer or employee of the Contractor or subcontractors who supervises the payment of wages. Contractors and subcontractors must use the certification set forth on NJ Department of Labor Payroll Certification for Public Works Project (R-08-12-08), or any form with identical wording.
- C. Maintaining Records.** Contractor and subcontractor shall maintain complete social security numbers and home address for employees. Government agencies are entitled to request or review all relevant payroll information, including social security numbers and addresses of employees. Contractors and subcontractors are required to provide such information upon request.
- D. Lack of Compliance.** Failure of the Contractor or subcontractor to comply with the payroll requirements may result in payment being delayed or withheld as specified in Section 105, default as specified in Section 108 or termination of the Contract as specified in Section 108.

STATE FUNDED PROJECT ATTACHMENT 6

AMERICANS WITH DISABILITIES ACT REQUIREMENTS FOR WHOLLY STATE FUNDED PROJECTS

Equal Opportunity for Individuals with Disabilities.

The CONTRACTOR and the STATE do hereby agree that the provisions of Title II of the American With Disabilities Act of 1990 (the "ACT") (42 U.S.C. Section 12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the STATE pursuant to this contract, the CONTRACTOR, agrees that the performance shall be in strict compliance with the Act. In the event that the CONTRACTOR, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the STATE in any action or administrative proceeding commenced pursuant to this Act. The CONTRACTOR shall indemnify, protect, and save harmless the STATE, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend, and pay any and all charges for legal services and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the STATE'S grievance procedure, the CONTRACTOR agrees to abide by any decision of the STATE which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the STATE or if the STATE incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the CONTRACTOR shall satisfy and discharge the same at its own expense.

The STATE shall, as soon as practicable after a claim has been made against it, give written notice thereof to the CONTRACTOR along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the STATE or any of its agents, servants, and employees, the STATE shall expeditiously forward or have forwarded to the CONTRACTOR every demand, complaint, notice, summons, pleading, or other process received by the STATE or its representatives.

It is expressly agreed and understood that any approval by the STATE of the services provided by the CONTRACTOR pursuant to this contract will not relieve the CONTRACTOR of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the STATE pursuant to this paragraph.

It is further agreed and understood that the STATE assumes no obligation to indemnify or save harmless the CONTRACTOR, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the CONTRACTOR expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the CONTRACTOR'S obligations assumed in this Agreement, nor shall they be construed to relieve the CONTRACTOR from any liability, nor preclude the STATE from taking any other actions available to it under any other provisions of this Agreement or otherwise at law.

STATE ATTACHMENT NO. 7

NOTICE OF EXECUTIVE ORDER 125 REQUIREMENT FOR POSTING OF WINNING PROPOSAL AND CONTRACT DOCUMENTS 100% STATE-FUNDED CONTRACTS

Pursuant to Executive Order No. 125, signed by Governor Christie on February 8, 2013, the Office of the State Comptroller ("OSC") is required to make all approved State contracts for the allocation and expenditure of federal reconstruction resources available to the public by posting such contracts on an appropriate State website. Such contracts are posted on the New Jersey Sandy Transparency website located at:

<http://nj.gov/comptroller/sandytransparency/contracts/sandy/>.

The contract resulting from this RFQ/RFP is subject to the requirements of Executive Order No. 125. Accordingly, the OSC will post a copy of the contract, including the RFQ/RFP, the winning bidder's proposal and other related contract documents for the above contract on the Sandy Transparency website.

In submitting its proposal, a bidder may designate specific information as not subject to disclosure. However, such bidder must have a good faith legal and/ or factual basis to assert that such designated portions of its proposal (i) are proprietary and confidential financial or commercial information or trade secrets or (ii) must not be disclosed to protect the personal privacy of an identified individual. The location in the proposal of any such designation should be clearly stated in a cover letter, and a redacted copy of the proposal should be provided.

The State reserves the right to make the determination as to what is proprietary or confidential, and will advise the winning bidder accordingly. The State will not honor any attempt by a winning bidder to designate its entire proposal as proprietary, confidential and/or to claim copyright protection for its entire proposal. In the event of any challenge to the winning bidder's assertion of confidentiality with which the State does not concur, the bidder shall be solely responsible for defending its designation.

SAMPLE EQUIPMENT SCHEDULE
FORM TO BE SUBMITTED WITH WORK PLAN

State below the number and types of equipment to be used for the Project. This schedule shall include equipment owned and/or operated by the Contractor and by any Subcontractor.

Dredge Name/Discharge Dia./Pump HP/Cutter HP:	/	/	/
Booster Used/Discharge Dia./Pump HP:	/	/	
Booster Used/Discharge Dia./Pump HP:	/	/	
Booster Used/Discharge Dia./Pump HP:	/	/	

SAMPLE RELEVANT PROJECT EXPERIENCE
FORM TO BE SUBMITTED WITH WORK PLAN

List below any dredging projects completed in the last (5) five years with equipment used. For USACE multi-task contracts please list total combined size and number of project areas.

Project Name:			
Owner or Agency:			
Contact Information:			
Dredge Used/Discharge Dia./Pump HP/Cutter HP:	/	/	/
Booster Used/Discharge Dia./Pump HP:	/	/	
Avg. Pipeline Length (feet):			
Gen'l Material Type (% by Vol of Mud/Gravel/Sand/Clay):	/	/	/
Dredging Duration (Calendar Days) :			
Avg. Production (CY/Cal. Day):			

Project Name:			
Owner or Agency:			
Contact Information:			
Dredge Used/Discharge Dia./Pump HP/Cutter HP:	/	/	/
Booster Used/Discharge Dia./Pump HP:	/	/	
Avg. Pipeline Length (feet):			
Gen'l Material Type (% by Vol of Mud/Gravel/Sand/Clay):	/	/	/
Dredging Duration (Calendar Days) :			
Avg. Production (CY/Cal. Day):			