



OFFER AND ACCEPTANCE PAGE

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

BID SOLICITATION # AND TITLE: **Technical, Managerial & Financial Capacity Assessment of Trenton Water Works**

TO THE STATE OF NEW JERSEY:

Name of Bidder/Contractor **H2M Associates Inc**

Address **119 Cherry Hill Rd, Suite 110**

City, State, Zip Code **Parsippany, NJ 07054**

Phone Number **862-207-5900**

Fax Number

Email Address **pcole@h2m.com**

FEIN

Print Name & Title of Authorized Representative **PATRICK K. COLE, P.E. -- VICE PRESIDENT**

Signature Authorized Representative

By submitting a Quote the Bidder certifies and confirms that:

1. It has read, understands, and agrees to all terms, conditions, and specifications set forth in the Bid Solicitation and the State of New Jersey Standard Terms and Conditions and agrees to furnish the goods, products, and/or services in compliance with those terms;
2. It has complied, and will continue to comply, with all applicable laws and regulations governing the provision of State goods and services, including the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 to 28;
3. The price(s) and amount of its Quote have been arrived at independently and without consultation, communication or agreement with any other Contractor/Bidder or any other party;
4. Neither the price(s) nor the amount of its Quote, and neither the approximate price(s) nor approximate amount of this Quote, have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before the Quote submission;
5. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Contract, or to submit a Quote higher than this Quote, or to submit any intentionally high or noncompetitive Quote or other form of complementary Quote;
6. The Quote is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Quote;
7. The Bidder, its affiliates, subsidiaries, officers, directors, and employees are not, to Bidder's knowledge, currently under investigation by any governmental agency for alleged conspiracy or collusion with respect to bidding on any Contract and have not in the last five (5) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction involving conspiracy or collusion with respect to bidding on any Contract;
8. The Bidder's failure to meet any of the terms and conditions of the Contract shall constitute a breach and may result in suspension or debarment from further State bidding; and
9. A defaulting Contractor may also be liable, at the option of the State, for the difference between the Blanket P.O. price and the price bid by an alternate Vendor {Bidder} of the goods or services in addition to other remedies available.

ACCEPTANCE OF OFFER (For State Use Only)

The Offer above is hereby accepted and now constitutes a Contract with the State of New Jersey. The Contractor is now bound to sell the goods, products, or services in accordance with the terms of the Bid Solicitation and the State of New Jersey Standard Terms and Conditions. The Contractor shall not commence any work or provide any good, product, or service under this Contract until the Vendor Contractor complies with all requirements set forth in the Bid Solicitation and receives written notice to proceed.

Contract/Master Blanket Purchase Order Number

24-WSUPP-50835

Award Date

07/12/2023

Effective Date

07/12/2023

State of New Jersey Authorized Signature

Print Name and Title

REQUEST FOR PROPOSALS

Technical, Managerial & Financial Capacity Assessment of Trenton Water Works

BACKGROUND

Trenton Water Works (TWW) is a public community surface water system located in Mercer County, New Jersey that provides water to over 200,000 people residing in the City of Trenton and in portions of the surrounding municipalities in Ewing Township, Hamilton Township, Lawrence Township and Hopewell Township. The system relies upon surface water from the Delaware River to meet demand and provide an average of 28 million gallons per day (MGD) with summer peaks of 33 MGD.

The water is treated at a conventional filtration plant along Route 29 in the City of Trenton consisting of the Delaware river intake, raw water pumps, coagulation, flocculation, clarification, filtration, disinfection, corrosion control treatment, and a high lift pumping station.

Treated water from the plant is distributed in two different ways: 1) After treatment with zinc orthophosphate for corrosion control, through a 36-inch water main to a gravity zone in downtown Trenton that serves approximately 30% of the customers in the TWW service area; and 2) Through a 48-inch water main to the Pennington Reservoir, an uncovered finished water reservoir with a capacity of 100 million gallons (MG), of which 78 MG is available for use. The reservoir serves as a balancing tank for pressure purposes and provides up to three days of water during emergencies affecting the intake or treatment plant. Water leaving the reservoir is pumped through Central Pump Station to serve 70% of TWW customers in the high service area including portions of Trenton, Ewing, Lawrenceville, Hamilton, and Hopewell. When the water treatment plant is offline, the reservoir can supply the gravity zone by opening gate valves which normally isolate the two pressure zones.

The TWW service area system consists of approximately 683 miles of transmission and distribution piping. TWW supplies water to Aqua Hamilton through three (3) interconnections and maintains an interconnection with Aqua Lawrenceville. TWW also maintains an interconnection with New Jersey American Water – Raritan (NJAW) that could potentially supply TWW with 11.5 MGD.

ESSENTIAL REQUIREMENTS

The Consultant must have an in-depth understanding of TMF Evaluations. Experience conducting TMF evaluations of larger, municipally owned water systems is preferred.

The Consultant must have an in-depth understanding of federal, state, and local requirements and permitting procedures, for public drinking water systems.

The Consultant expert(s) must possess a Bachelor of Science or higher degree (preferred) in chemistry, engineering, environmental science, or a closely related field with experience in the preparation of TMF evaluations for public drinking water systems.

The Consultant shall provide staff with suitable experience and qualifications to perform the activities that will be performed under each task and subtask.

The Consultant shall arrange for and attend meetings with TWW staff, the New Jersey Department of Environmental Protection (Department) and the Department's Consultant, as required. Each meeting shall have an agenda and minutes of each meeting shall be provided to the Department. The minutes of meetings shall include a listing of all meeting attendees and a detailed summary of discussions. Minutes shall be provided within 7 days of the meeting date.

The Consultant shall arrange meetings with the Department to discuss the draft reports and review comments and feedback. A copy of the draft reports shall be submitted to the Department a minimum of 7 days prior to the date of the scheduled review meeting.

The Consultant shall not subcontract any of the tasks/services identified in this Scope of Work to a third-party without prior permission from the Department.

The Consultant shall maintain confidentiality of all materials provided and reviewed under this Scope of Work.

The Consultant may work with in partnership with other identified Department consultants to review and integrate additional findings into this TMF evaluation, as needed.

The Consultant shall declare any conflict of interest in their proposal, and subsequently when identified. No work shall be conducted without prior permission from Department when a conflict of interest is identified.

DELIVERABLES

1. A TMF evaluation report for TWW which provides a detailed breakdown of the TMF evaluation conducted by the Consultant. The report shall include a list of recommendations to improve TMF capacity based on the evaluation.
2. The Consultant shall provide to the Department a draft copy of the TMF evaluation report after 60 days and 90 days of authorization to proceed for review and comment.
3. Copies of the draft TMF evaluation report shall be distributed in electronic format to the Department a minimum of seven (7) days prior to the date of all scheduled review meetings.
4. The Consultant shall provide an electronic copy and ten (10) bound copies of the final report.

TERM of CONTRACT

The TMF shall be completed, including provision of the final report within 120 days of authorization to proceed with the possibility of a 30-day extension to submit the final report upon approval from NJDEP.

The Respondent shall provide a general proposal and quote via email to kristin.tedesco@dep.nj.gov, no later than 5:00 PM on Friday, April 14, 2023.

Questions may be directed to Kristin.tedesco@dep.nj.gov and must be received by 5:00 PM on Thursday, April 6, 2023. Answers will be posted publicly at the same website as this RFP.

SCOPE OF SERVICES

Capacity is the ability of a water system to plan for, achieve and maintain compliance with all applicable drinking water standards. Evaluating a system's Technical, Managerial, and Financial (TMF) Capacity helps measure whether the system has adequate capacity to sustain its long-term viability. The Consultant shall perform a detailed assessment of the TWW system within the three categories of Technical, Managerial and Financial in accordance with the scope detailed below. The Consultant shall prepare a TMF evaluation report detailing this evaluation. This report shall include recommendations for improving TMF capacity based on the evaluation conducted.

The evaluation shall include all components outlined in N.J.A.C. 7:10-13, which establishes the minimum technical, managerial, and financial capacity requirements for new public community water systems. In addition, the Consultant shall utilize the "[Criteria and Benchmarks for Technical, Managerial, and Financial \(TMF\) Capacity](#)" document when assessing TMF capacity. The descriptions noted below are not intended to be fully comprehensive but cover the basic scope of work included in each category.

Task 1 - Technical Assessment

Technical capacity refers to the adequacy of the source, infrastructure, operation, and maintenance of a water system. Infrastructure refers to the physical/mechanical components of the source, treatment, storage, and distribution network of the water system.

In general, the Technical Assessment shall include an assessment of the various components of the TWW system to determine whether the system demonstrates adequate technical capacity. This evaluation must include, but is not limited to, determining if TWW has adequate source water, infrastructure, and qualified personnel. These individual components are expanded upon below.

Source Water Adequacy

The Consultant shall determine current and future projected use/demand and review current Department/Delaware River Basin Commission water allocation permits, including permit conditions and limitations in order to determine the adequacy of TWW's source water supply to meet these demands. TWW's six (6) interconnections will also be considered when evaluating whether the system has adequate supply.

Infrastructure and Operations

The TWW system infrastructure is extensive, and operation of the system is complex. The Consultant shall inspect all key infrastructure and treatment components and meet with system operators and personnel in order to develop a thorough understanding of the operations of the system. The Consultant shall evaluate system knowledge of location, age, construction, general condition, and anticipated service life remaining for all existing infrastructure associated with its source, treatment, storage, and distribution network. The Department will be retaining a consultant to conduct a Comprehensive Performance Evaluation (CPE) of TWW's treatment and therefore, a detailed condition assessment of system components is not expected under this scope of work. However, the Consultant shall assess the adequacy of current system infrastructure to meet federal and state drinking water laws

and regulations and identify factors that may be limiting system capacity. The Consultant shall review the system's recordkeeping processes and examine all required permits to ensure approvals were obtained and all conditions stipulated in those permits/approvals were met.

Additional details are provided below to further define how the Consultant shall evaluate TWW's technical capacity.

- Conduct an assessment of all key source water, treatment, storage, and distribution system infrastructure.
- Review the adequacy of TWW's Operation and Maintenance Manual and all associated procedures for system operation and process control.
- Identify conditions with the potential to affect water quality or service, such as service interruptions, water pressure issues, water quality complaints, leaks/breaks, and improper/unauthorized connections and evaluate TWW's procedures to minimize these conditions.
- Review water system monitoring procedures, monitoring equipment capability, and water quality results to determine whether TWW has the capacity to make informed decisions about treatment needs and meet regulatory requirements.
- Evaluate system procedures to maintain, inspect, upgrade, refurbish, or replace existing infrastructure to determine whether these components are within their useful life, properly designed, well equipped, and properly maintained.
- Evaluate adequacy of TWW's procedures to maintain a sufficient and accurate inventory of chemicals, materials, and parts required to properly operate the system.
- Evaluate adequacy of security and safety measures at the intake, plant, and reservoir.

Technical Knowledge

The Consultant shall perform an assessment to determine if all system personnel involved with the operation and maintenance of the system are qualified to perform the level of assigned work. The Consultant shall assess whether system staff have necessary technical knowledge, skill, training, and familiarity with plant policies and procedures to operate the plant and identify gaps. The Consultant shall also assess the system operators' understanding of TWW's obligations under federal and state statutory and regulatory requirements.

Task 2 - Managerial Assessment

Managerial capacity refers to the expertise required of the personnel who administer the overall water system operations. Under Task 2, the scope of work shall include a review and assessment of TWW to determine if the system maintains adequate managerial capacity and recommendations for improvement. Under this element, the consultant will evaluate whether TWW has clear ownership, proper and organized staffing, clear interaction with regulators, and effective interaction with customers.

There are a number of elements under the overall "Managerial" umbrella that link to both the Technical and Financial portions of this TMF evaluation. Under Task 2, the Consultant shall evaluate how TWW

performs and manages the linked elements and work with identified Department consultants as needed to incorporate their reviews.

Ownership Accountability

The Consultant shall review and evaluate the ownership structure and authority of TWW, including the role of the City Council and Mayor's office. As part of the review, the Consultant shall evaluate procedures for the dissemination of information to and from the public. The Consultant shall undertake a thorough review of existing organizational policies and make recommendations to improve transparency and accountability.

Staffing and Organization

The Consultant shall review the existing organizational structure to determine if it is appropriate for the overall management and operation of TWW. The evaluation should consider and be compared to similar utilities of the same size and type. Organizational charts for TWW's operational units should be reviewed to determine whether there are sufficient staff positions in each unit with the appropriate qualifications to support the roles of each operational unit. The Consultant shall evaluate the number of vacancies and the impact of vacancies on achieving the requirements of the position and operational unit. The Consultant shall review TWW's hiring and succession planning efforts and identify other limiting factors to plant and field personnel productivity, such as morale and/or compensation. Any recommendations to changes in staffing and organizational structure should be linked to the financial capacity evaluation, as needed.

Training

In the context to the existing organizational structure, the Consultant shall review existing training programs including those for the governing body, management staff, engineering staff, and operational staff. The review shall include whether sufficient and regular training exists for all staff, whether training is consistently administered and tracked, the adequacy of training, and the need for additional and/or improved training programs. The Consultant shall make recommendations for any changes needed to the training program, taking into account any recommended organization structure changes.

Water System Planning

Water system planning is a key aspect of operating and maintaining the water system to ensure that it is meeting current and future needs. TWW has a Water System Master Plan that was completed in 2015. The Consultant shall review the available Water System Master Plan to determine if it includes all aspects of the system and provides for an evaluation of future system needs. The review shall determine if the Master Plan provides a capital improvement plan and if the plan is still appropriate for current operating conditions and future capital improvements. As part of the review, the Consultant shall identify any areas of need that the Master Plan did not consider that may be important considering issues like regulatory changes, water quality changes or other relevant areas of need. It is not the intent for the Consultant to prepare a new Water System Master Plan, but the Consultant shall review the existing Plan to identify additional planning aspects for inclusion, modifications required due to changes since the preparation of the Plan and identifying a priority ranking for water system improvements.

Asset Management Planning

The Consultant shall review TWW's current system for cataloging and managing the various assets of the water system. The review shall include all elements of the water system and also include the interfacing of routine maintenance, repair and replacement of assets. The Consultant shall make recommendations for the improvement to existing systems used to collect asset inventory data and to analyze the data for the efficient planning and execution of operation, maintenance and asset replacement.

Emergency Response Planning

The Consultant shall review the adequacy of TWW's emergency management and response procedures and whether these procedures meet all federal and state regulatory obligations. This evaluation shall include whether TWW's is adequately prepared to respond in a timely fashion to emergencies which may impact water quality and/or supply.

Compliance

TWW has been the subject of regulatory compliance issues over many years. The Consultant shall review the last five-year history of regulatory compliance problems and assess technical and managerial capacity issues that may contribute to TWW's reoccurring compliance issues. The Consultant shall evaluate potential causes of prior violations and recommend improvements to address these deficiencies. The Consultant shall also review TWW's policies and procedures for interaction/communication with regulators.

Water Loss

Maintaining adequate revenue is tied directly non-revenue water that is lost within the water system. The Consultant shall review TWW records for non-revenue water for the last five-year period and develop a trend analysis. The Consultant shall also review all programs that TWW has in place for the on-going review of non-revenue water and the results of steps taken to reduce non-revenue water in the system. As part of the review, the Consultant shall make recommendations for improvements to TWW's programs for reducing non-revenue water.

Customer Education/Support

Lastly a key element of TWW's mission is customer support services and education. As part of this task, the Consultant shall review all existing customer support policies and procedures including educational materials prepared by TWW for distribution to the public. The Consultant shall make recommendations for changes to improve customer service and education. This shall include, but not be limited to the use of generic materials prepared by the Department, USEPA, AWWA and other industry sources.

Task 3 - Financial Capacity Assessment

Financial capacity refers to the monetary resources available to a public water system to support the cost of operating, maintaining, and improving the water system. To assure adequate financial capacity, a water system must demonstrate it has sufficient revenues, credit worthiness, and fiscal management/controls to cover these costs. Task 3 will include an assessment of the ability to TWW to plan and manage the financial aspects of the water utility. Task 3 will link technical and managerial aspects of TWW's operation to analyze TWW's fiscal condition. Items to be linked to the fiscal

assessment include, but are not limited to the capital improvement plan, operating budget and overall system planning.

In general, the Financial aspects of the TMF shall include the following:

- Budgeting, Fiscal Management and Controls
- Revenue sufficiency, Rate structure and Reserve Accounts
- Credit worthiness

Budgeting, Fiscal Management and Controls

Under Task 3, the Consultant shall undertake a financial review of the TWW budget to determine if the budgeting process includes all the required elements and is appropriate for similar size and type utilities. The review shall include interviews with the individual(s) responsible for budget preparation and various department leads to understand the budgeting process and to ensure that inputs from all key areas of the organization are received and implemented as part of the budgeting process.

Revenue sufficiency, Rate Structure & Reserve Accounts

The Consultant shall review the TWW rate structure to assess the adequacy of the rates to meet the proposed budgets, including expenses associated with current and future capital improvements, critical staffing needs, and on-going operations and maintenance. In addition, a review of how budgeting for reserve accounts is performed by TWW and the adequacy of same shall also be undertaken.

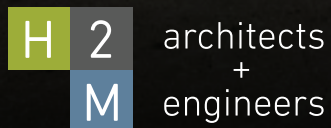
Credit Worthiness

The consultant shall review credit worthiness by evaluating if TWW has an Operating Ratio and a Debt Service Coverage Ratio of greater than 1.0. Other ratios may be utilized to evaluate TWW as discuss in the “Criteria and Benchmarks for Technical, Managerial, and Financial (TMF) Capacity” document



Proposal for

Technical, Managerial, & Financial Capacity Assessment of Trenton Water Works





Proposal for

Technical, Managerial,
& Financial Capacity
Assessment of Trenton
Water Works



04.14.2023

Contact

Patrick K. Cole, P.E., CME,
CPWM
Vice President
Deputy Market Director of
Water and Wastewater

H2M Associates, Inc.
4810 Belmar Boulevard
Wall Township, NJ 07753



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April 14, 2023

Ms. Kristin Tedesco
Manager, Bureau of Water System Engineering
Department of Environmental Protection
PO Box 420
29 Artic Parkway
Trenton, NJ 08625

RE: Proposal for Technical, Managerial, & Financial Capacity Assessment of Trenton Water Works

Dear Ms. Tedesco:

H2M Associates, Inc. (H2M) appreciates the opportunity to submit our proposal to provide an assessment of the technical, managerial, and financial functions of Trenton Water Works (TWW) for the New Jersey Department of Environmental Protection (NJDEP).

Our multidisciplinary firm is proficient in providing consulting services to water supply and wastewater treatment facilities owned by municipalities and private utilities in New Jersey and New York. Building on 90 years of experience, with water as our founding technical practice, H2M has grown to a staff of over 500 employees. We bring the professional confidence, ability, and history of a large firm while staying attentive to the specific details of the challenges facing our water supplier clients, including their efforts in meeting or exceeding compliance regulations at the local, state, and federal levels.

H2M proposes two industry leaders in water supply engineering with more than 55 years of experience between them: James J. Roberts, a Senior Vice President at H2M and former Deputy Commissioner of the NYC Department of Environmental Protection, where he was responsible for sustaining New York City's water supply and distribution, and myself, Patrick K. Cole, P.E., CME, CPWM, having made a career of enhancing and rehabilitating water supply and distribution infrastructure and addressing water quality issues in the State of New Jersey. I will serve as the Principal-in-Charge, and Mr. Roberts will serve as a subject-matter expert of infrastructure and operations.

H2M proposes to utilize **the Canning Group, LLC**, as a teaming partner for their industry expertise in assisting municipalities improve their financial management practices. As a management consultancy specializing in the evaluation of operating budgets, systems planning, and the total operational costs of keeping specific municipal divisions running efficiently and cost-effectively, the Canning Group will use their financial management resources to optimize the TWW's financial capabilities in running its public water system.

H2M and the Canning Group, LLC have worked together in a similar capacity for the City of Newark. Together, we successfully provided a full-scale evaluation of the technical, managerial, and financial capacities of the City of Newark's water and sewer utilities as well as delivered a report of our findings to the NJDEP's Division of Water Supply. Following this project and outlining of the goals required for the progressive improvement of the Newark Department of Water and Sewer Utilities, we conducted an audit to measure the City's advancement over time, as per the request of the relevant water supply regulators.

H2M looks forward to working alongside the NJDEP for the betterment of TWW's overall performance as a public water supplier. Please feel free to contact me at (732) 414-2661 ext. 2104 or via email at pcole@h2m.com. Thank you for your consideration.

Very truly yours,

H2M Associates, Inc.

A handwritten signature in black ink, appearing to read "Patrick K. Cole". The signature is stylized with a large, sweeping initial "P" and "K".

Patrick K. Cole, P.E., CME, CPWM
Vice President
Deputy Market Director of Water and Wastewater

A handwritten signature in black ink, appearing to read "James J. Roberts". The signature is stylized with a large, sweeping initial "J" and "R".

James J. Roberts, P.E. (NY)
Senior Vice President
Market Director of Water and Wastewater

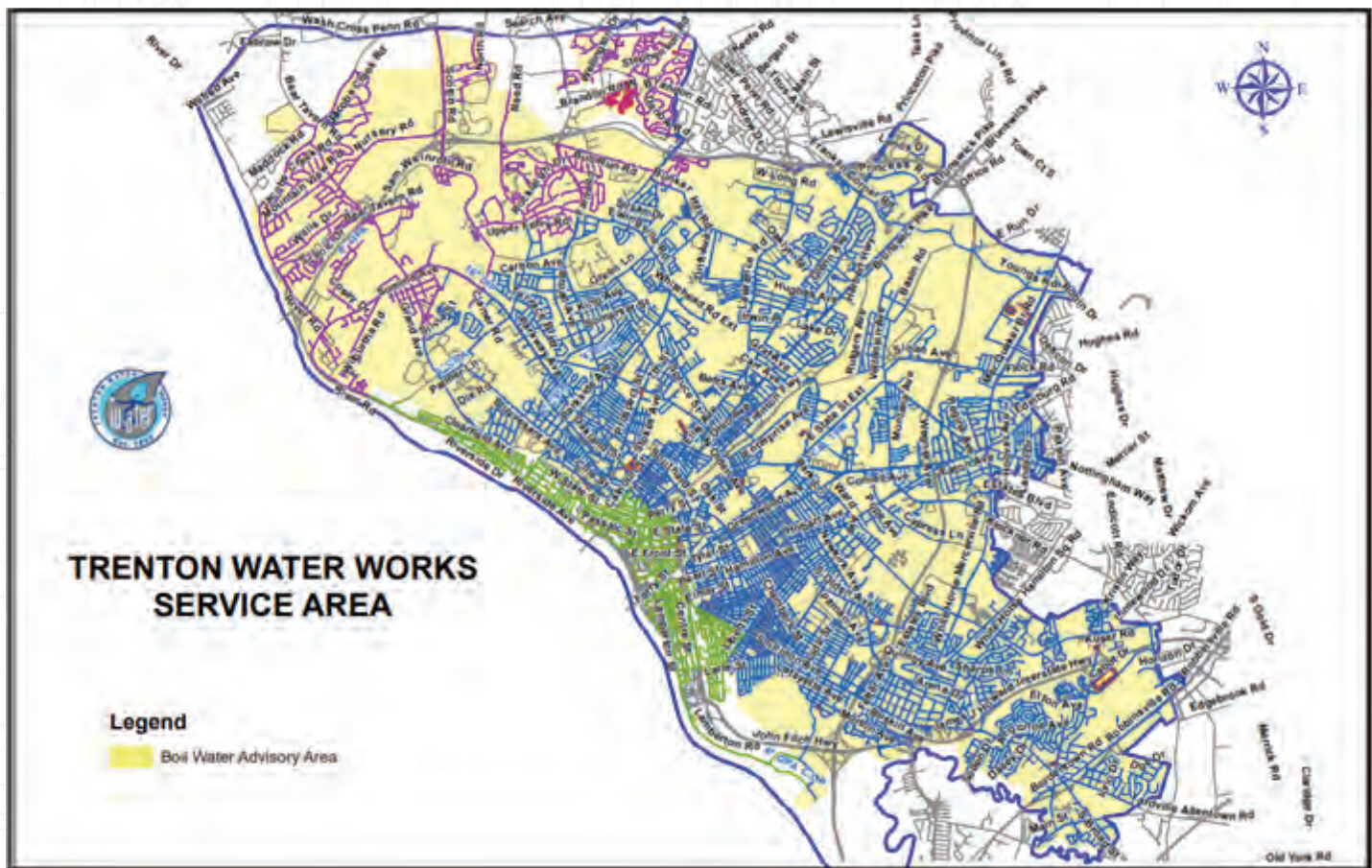


Figure No. 1 – TWW Service Area

Project Understanding

The City of Trenton owns and operates a public water system, regulated under PWSID No. NJ1111001, addressed as the Trenton Water Works (TWW). As one of the largest publicly owned water suppliers in the State of New Jersey, TWW serves a population approaching a quarter of a million residents, exhibiting a peak day demand of approximately 35 million gallons per day (MGD).

TWW manages water supply, treatment, transmission, and distribution of potable water for residents, business customers, and municipal bulk sale interconnection agreements. Its service area includes residents in the city proper, in addition to the Townships of Hamilton, Ewing, Lawrence, and Hopewell – all located in Mercer County.

TWW serves over 60,000 metered connections via a network of approximately 630 miles of transmission and distribution mains. The TWW distribution system is composed of the following major storage and pumping assets:

- Central pump station – 40 MGD nominal firm pumping capacity
- Two 1.4 MG ground storage tanks
- Four 1.0 MG ground storage tanks

- One 0.6 MG elevated storage tank (hydropillar format)
- One 1.2 MG standpipe
- One seventy-eight MG open-air finished water reservoir

The TWW distribution system is composed of four service zones:

- Gravity area
- High service gradient
- Booster 3 area
- Klockner booster area

TWW is managing a major program of capital improvements, which is critical to approaching any TMF analyses and/or audits. The primary driver of the capital program is the covering and/or retirement of the water reservoir. TWW is considering replacing the reservoir with two nearby ground tanks, each with an approximate storage capacity of 8.0 MG. Additionally, TWW proposes to increase its interconnection capacity with the adjacent NJ American Water from 10 to 20 MGD. Improvement work is also being proposed at the central pump station, with the goal of improving its performance, reliability, and renewing its physical layout and useful service life for the coming decades.

Understanding the extent of the capital improvement program is necessary to make sure the results of the TMF analysis includes tracking metrics to measure an established system status target. This will allow us to make data-driven recommendations to operators and regulators for the enhanced management of the system.

Given this understanding, and under the supervision of the NJDEP, H2M proposes to evaluate the technical, managerial, and financial capacities of TWW via the guidance given at N.J.A.C. 7:10-13, and the content and format of the NJDEP-published document “Criteria and Benchmarks for Technical, Managerial, and Financial Capacity.” This evaluation will enable NJDEP to better understand TWW’s strengths and weaknesses in relation to the codified requirements for drinking water utility operational regulatory compliance in New Jersey.

Scope of Services

H2M proposes to perform a technical, managerial, and financial evaluation of the Trenton Water Works. We will specifically utilize NJAC 7:10-13.3 to 13.6 as the intent/basis for our evaluation and utilize the scoring rubric guidance given under NJDEP’s “Criteria and Benchmarks, etc.” document, as cited above. Our documentation standards will reflect the requirements of this code, and make use of the “Technical, Managerial, and Financial Capacity Evaluation and Benchmark Criteria Assessment Form” (to conduct the initial assessment). H2M will approach the evaluation as follows:

► Phase 1 - Technical Assessment

H2M will perform an asset review of the Trenton Water Department’s water supply infrastructure and regulatory compliance document portfolios. H2M will initiate its technical assessment with a kick-off meeting and a detailed request for copies of all historical and applicable regulatory documents pertaining to and/or constraining the operation of TWW infrastructure and water quality. In addition, record drawings and water quality records will be requested for raw, process, finished, and distributed flows. Finally, copies of documents demonstrating pumping demand, as well as corresponding planning documents, will be requested. In its technical assessment, H2M will focus on the following major categories of review:

- Source Water Adequacy – H2M will compare current and future demand projections to the capacities exhibited through the range of seasonal operations and flow conditions from both TWW’s raw water sources and its interconnections (both for bulk sale and emergency response). H2M will review NJDEP/Delaware River Basin Commission water allocation permits, including permit conditions and limitations, and review the specific flow capacities, restrictions, and distribution system locations for six active interconnections.

- Infrastructure and Operations – Key to the technical component of a TMF assessment is determining the status of existing water infrastructure. H2M will review and document location, age, construction, general condition, and anticipated service life remaining for all major infrastructure that comprise source of supply, treatment, storage, and distribution (including pumping, storage, interconnections, and vaulted valving in excess of 24” size). The objective is not detailed performance testing, but rather an assessment of the adequacy of current system infrastructure to meet federal and state drinking water laws, regulations, and identify factors that may be limiting system capacity. Additionally, we will review the format and frequency of recordkeeping processes and all active permits to ensure approvals were obtained and all conditions stipulated in those permits/approvals were met. Moreover, the following aspects of TWW will be documented and evaluated:

- » O&M Manuals – H2M will verify the existence and applicability of TWW’s operations and maintenance manuals for each major infrastructure point asset. Efficacy of each asset will be compared to its operating purpose, and (considering all assets working in concert) their adequacy and reliability for intended systems operation and process control.
- » Risk Analysis – H2M will review the system of water infrastructure for points of potential failure regarding water quality and/or supply of finished water, including, but not limited to, lack of redundancy (“bottlenecking”), potential points of imminent failure via approach to end of service life, and the existence of non-compliant connections.
- » Monitoring Procedural Review – H2M will review the composition of process and water quality instruments, as well as the HMI (human-machine interface) format commonly used to communicate regular and emergent criteria for flow and water quality conditions. The process of information generation, handling, and alerts, and their flow into normal and emergency operational decisions (i.e., operating flow paths) will be reviewed against industry best practices and applicable regulations.
- » Asset Management Procedures – H2M will review TWW’s typical approach to asset management, specifically procedures utilized to review built asset physical condition and process efficacy, and the efficacy of workflows that direct staff toward routine maintenance, the issuance of repair work orders, and/or in the alerting engineering and executive management of assets nearing failure for the purpose of evaluation, refurbishment, or replacement.
- » Inventory Management Procedures – H2M will review TWW’s procedures for sufficient inventory status management and replenishment for bulk



Figure No. 2 – Trenton Water Treatment Plant

chemicals, spare parts, and construction materials used regularly at the plant and distribution system.

- » Security – H2M will benchmark the safety measures utilized at all major point assets included in the technical assessment, and review compliance status with all state and federal regulations related to utility security compliance.
- » Cybersecurity – H2M will benchmark the safety measures utilized at all major point assets included in the technical assessment and review compliance status with all state and federal regulations related to utility security compliance, including adherence to the recent EPA guidance related to cybersecurity.
- Technical Knowledge – Essential to a TMF is evaluating the qualifications of critical staff who are entrusted with responsibilities necessary for effective operations. To that end, H2M will perform a series of interviews to assess depth of knowledge and working experience, as compared to applicable NJDEP requirements, and to industry standards in general. H2M and our teaming partner, the Canning Group, will compare staff knowledge and experience to the minimum requirements needed for the effective management of TWW. H2M will review the system operators' understanding of TWW's obligations under federal and state statutory and regulatory requirements.

Critically, H2M limits its review to the aggregation, organization, and evaluation of existing information regarding the configuration, componentry, and operations of the Trenton Water Department. Our proposed scope of work specifically excludes detailed operational evaluations or inspections of the infrastructure assets listed above.

H2M's staff will spend approximately one continuous week of effort (five business days) performing a comprehensive tour of all TWW infrastructure assets and reviewing their condition for familiarity and validation of prior reported data. It is anticipated that the City of Trenton has already completed inspections and detailed functional evaluations of its major infrastructure assets, and will provide the following during the execution of Phase 1:

- Guided access to all water supply, treatment, transmission, and distribution facilities as listed in the project RFP
- Detailed and complete copies of all inspection reports and equipment standard operating procedures (SOP) and O&M manuals. This includes inspections and characterization of the existing storage assets, treatment plant, central pump station, transmission infrastructure conditional assessments, finished water reservoir conditional assessments, inspection reports regarding pump station configuration and condition, and inspection reports regarding conditions, characteristics, and/or representative samples of distribution system assets such as valves, hydrants, pipelines, WQAA documentation, and LSL inventories. This includes other relevant information, including, but not limited to:
 - » Copies of all operating permits
 - » Copies of water quality compliance reporting data for a minimum of five years prior to 2023
 - » Access to any and all system mapping (such as GIS) and/or asset management files, software, reports, or similar information

► Phase 2 - Managerial Assessment

H2M will perform a review of the Trenton Water Department's administrative framework, review the Department's charter, purpose, funding mechanisms for capital projects and regular operating expenses, maintenance programs, institutional and technical knowledge, and managerial capacity as benchmarked against New Jersey Administrative Codes (NJAC) and against institutions of similar size and scope within the municipal utility industry. H2M anticipates that many of the Phase 2 evaluations will be performed via interviews with TWW staff and management, and will include the following:

- Ownership Accountability – Document and evaluate the ownership and authority structures of TWW, up through and including the mayor and council. This shall include an evaluation procedure for the dissemination of information from utility leadership to consumer public, including, but not limited to, the issuance of a Consumer Confidence Report (CCR), voluntary reporting of water quality/quantity status, and methods for disseminating emergent status information. Recommendations for improvement and optimization will be provided accordingly.
- Staffing and Organization – Review of the existing TWW organizational structure, and benchmark against industry regulations, such as the Safe Drinking Water Act (SDWA), NJAC, and New Jersey Department of State (NJSA), and AWWA best practices comparing structure and complexity to utilities of similar scale, geography, and format. Cross-examination of outcomes from the Phase 1 (Technical Assessment) technical knowledge interviews, and process analyses to verify the competency of current staff against their assigned responsibilities within the organization's hierarchy.

Evaluation of staff count and vacancies, and determining whether vacancies, especially those that have been reoccurring, affect the efficacy of plant operations as per regulatory commitments and responsibilities. Review hiring practices, succession planning, redundancy objectives within the organizational structure, and identify limiting factors within the organizational structure that slow or prevent the achievement of goals. Deliver suggestions for improvement and optimization; relate the predicted results of recommendations to the Phase 3 (Financial Assessment) analyses.

- Training – Review structure and sufficiency of employee and leadership training mechanisms, as per applicable regulatory requirements, industry standards, and best practices for staff training, across TWW. This will include assessing the effectiveness of assignment, tracking, completion, and validation of targeted competencies among trained employee classes. Provide recommendations for improvement, as necessary.
- Water System Planning – Review of 2015 TWW Water Supply Master Plan. Determine its completeness according to regulatory requirements, industry standards, and opine on its adequacy for creating an infrastructure planning framework for all the needs specific to the TWW system. Review TWW's capital program and the applicability to its system, both at its issue date and in the present. Identify gaps in format and/or content in the composition of the water supply master plan – including water quality, regulatory changes, climate change, and other aspects of utility planning best practices that may be valuable to TWW in achieving compliance and its general operating goals. Provide recommendations for improvement/optimization.
- Asset Management Planning – H2M will review the TWW system for inventory and management of various water infrastructure assets. Additionally, H2M will review the information gathering and transfer mechanism that allows equipment status from O&M employees' daily activities to be documented, compiled, and drive results in terms of either detailed expert evaluation, routine overhaul/replacement based on chronic wear or failure, or acute overhaul/replacement based on emergent failure mode(s). We will provide recommendations for improvements as required.
- Emergency Response Planning – Review of emergency identification, communication, and response procedures, and compare against regulatory requirements. Link findings with review of security compliance from Phase 1 (Technical Assessment). Review the decision tree of responsibility and standardized responses, and time-constraints specified therein. Evaluate adequacy of TWW preparation for emergencies typical to water utility operation and provide recommendations for improvement/optimization.
- Compliance – Review the history of TWW regulatory compliance, with a focus on the past five years of operation. Review compliance history and evaluate potential causes of prior violations – in the specific context of knowledge derived from the ongoing TMF assessment. Evaluate communication protocol between TWW leadership and regulators with purview over system configuration, operation, and compliance. Provide recommendations for improvement/optimization of TWW practices regarding regulatory compliance review, communication practices with regulators, and the evaluation of executive and managerial focus with regard to proactivity vs. reactivity, and responsibility toward



Figure No. 3 – TWW Pennington Reservoir

customers as a guiding principle. Connect the results of this assessment with Phase 3 (Financial Assessment) to evaluate the history and current practice of ensuring that rate structures and planned increases are sufficient to meet compliance measures through a combination of funding streams to continuous O&M workflows, and to support the capital improvement program.

- **Water Loss** – One of the aspects of drinking water operation tied directly to efficiency of both operations and financial systems is the control of “non-revenue water” or “unaccounted-for water” (UAW) – finished water flows that are lost either to chronic pipe leaks or unmetered connections. H2M will review the past five years of UAW for TWW and develop a trend analysis of that same data. H2M will review UAW mitigation programs currently managed by TWW and provide recommendations for improvement/optimization.
- **Customer Education/Support** – H2M will review TWW tools for customer outreach, customer support, and routing incoming requests to ensure accountability for same. The results will be benchmarked against industry best practices, such as AWWA standards of practice, and corresponding suggestions for improvement will be provided.

► Phase 3 - Financial Capacity Assessment

Underpinning all the ongoing deployment of operational and human resources for any utility is the management of its funding stream, on both an immediate and long-term basis. The evaluation of financial capacity refers to an assessment of “the monetary resources available to a public water system to support the cost of operating, maintaining, and improving the water system. To assure adequate financial capacity, a water system must demonstrate it has sufficient revenues, credit worthiness, and fiscal management/controls to cover these costs.” To inform such an assessment, H2M proposes the following categories of information gathering, analysis, and reporting:

- **Budgeting, Fiscal Management, and Controls** – Via benchmarking against utilities of similar size and operating scope, H2M will review TWW’s operating and capital budgets to make a determination as to completeness of budget categories, regularity of updates, accuracy in accounting, and normality of accounting practice (i.e., benchmarking against Generally Accepted Accounting Principles [GAAP], as issued by the Financial Accounting Standards Board [FASB] and the Governmental Accounting Standards Board [GASB]).
- **Revenue Sufficiency, Rate Structure and Reserve Accounts** – Via comparison to AWWA and New Jersey Board of Public Utilities (NJBPUI) standards for ratemaking, H2M will evaluate the adequacy of TWW’s rate structures, to verify sufficiency against operating and capital budgets (both immediate and long-term).

As a complement to the rate analysis, the H2M team will review diversity and size of reserve account(s) maintained by TWW, compare to industry standards, and deliver recommendations for improvement/optimization.

- **Credit Worthiness** – The H2M team will review TWW utility creditworthiness, specific to the metrics of operating ratio and debt service coverage ratio (i.e., establishment of ratio > 1.0). In addition, to the current debt picture, H2M will review the potential debt ranges to be incurred from the capital improvements program and connect the evaluation to the assessment of rate sufficiency discussed above at Phase 3, Sub-Task 2 (Revenue Sufficiency, etc.).

With regard to evaluation of managerial and financial capacities, H2M plans to utilize the services of the Canning Group (TCG). TCG is a municipal management consulting firm with decades of experience optimizing operations for municipal government and utilities. The efforts proposed under Phases 2 and 3 will be led by TCG managing partner, Sean Canning, CPWM, and supported on technical matters by H2M’s team of water industry experts. Note that TCG will be supported on an advisory basis by H2M’s Senior Vice President and former NYCDEP Deputy Commissioner, James J. Roberts, P.E. (NY). Mr. Roberts holds 30+ years of experience as a top executive for the largest combined water and wastewater utility in the country.

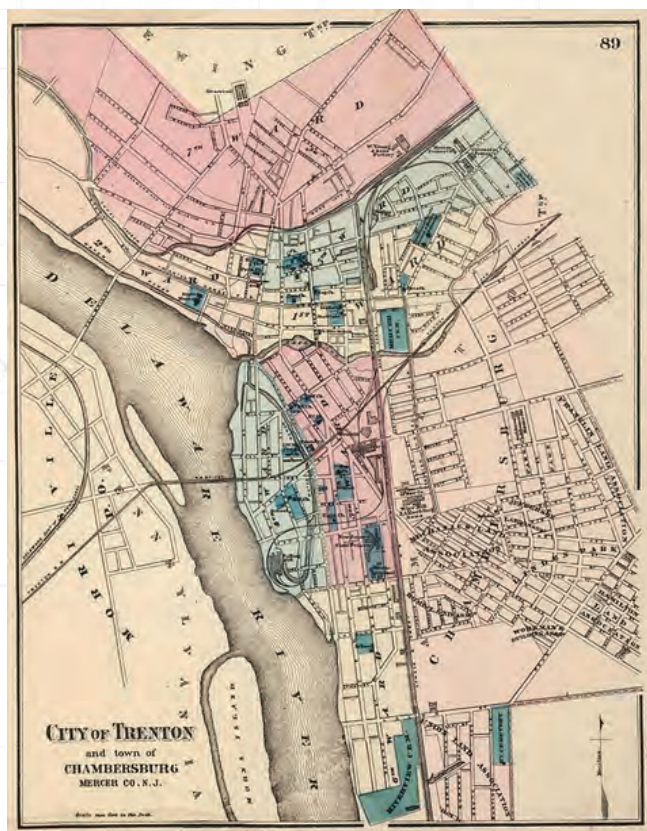


Figure No. 4 – Historic Map of Trenton and Vicinity

Similar to the documentation and assistance expectations



as outlined for Phase 1, H2M and TCG anticipate the City's full support in expediting the process of documenting existing system program management and maintenance practices. It is anticipated that Phases 2 and 3 will be accomplished via a series of interviews and operational documentation handoffs, which will occur at Trenton Water Department facilities. This documentation may include the TWW's operating charter, copies of the TWW's permits to operate various treatment works and distribution infrastructure, copies of the TWW's financial records for the prior 10 years, copies of organizational charts, employee manuals, SOPs, and any other information available to the City that may expedite and assist in fulfilling NJDEP's directive.

Deliverables

The primary deliverable of this project will be the research, composition, and integrated production of a technical, managerial, and financial report for TWW, in accordance with NJAC 7:10-13.3 to 13.6. The final document will be an Adobe PDF, including the report and any reference documents included as appendices. Drafts will be provided according to the attached proposed project schedule. Ten bound copies of the final report, with digital appendices, will be produced upon receipt of final written authorization by NJDEP product leadership. The bound reports will bear the signature and seal of a professional engineer licensed to practice in the State of New Jersey, with detailed experience in the matter of drinking water supply. We propose the following additional deliverables:

- Meeting Administration and Document Management –

Agendas, minutes, and attendance records

- Source Information – For source information gathered by H2M during TMF assessment phases of the proposed work, the same will be scanned digitally, indexed, referenced where appropriate in the report, and included as appendices

Notes, Exceptions, and Limitations

- Limits of Information Generation – The intent behind a TMF analysis is primarily an analysis and subsequent synthesis of existing information sets. To that point, while H2M's technical assessment will include conditional snapshots of each major infrastructure point asset, it is anticipated that all detailed data (i.e., to greater technical depth than would be provided by superficial visual inspection) for point assets would be provided by TWW to H2M. This means granting access to any current or historic inspection and/or asset conditional or performance testing documents. In addition, it is anticipated that TWW will provide access to existing and future demand projections, and that H2M would make use of such information in its analysis – that includes water supply master planning efforts, source-specific hydrologic and hydrogeologic investigations, and other studies excluded from the project scope.
- Security – Specific to the subject of security, H2M proposes to verify the presence of security measures at each evaluated point asset, and (upon superficial visual analysis) their composition of materials and physical condition. Additionally, H2M will verify the status, completeness, and date of most recent update for vulnerability assessments and/or AWIA (American Water Infrastructure Act) evaluations and compliance measures. The performance of such assessments is beyond H2M's proposed scope of services.
- Job Title Descriptions – In support of the performance of the technical knowledge assessments, H2M requests that TWW provide copies of its formal job/title descriptions for each employee retained in positions throughout the TWW staff roster.
- Limitations of Technical Knowledge Interviews – H2M limits its proposed interview scope to employees working in executive, engineering, laboratory/water quality, operational, and maintenance capacities at TWW. It is anticipated that subject-specific knowledge, experience, and decision-making responsibilities are encapsulated in such job titles, and individual staff member interviews of rank-and-file employees is excluded from H2M's



proposed scope.

- Water Loss / UAW Analyses – H2M's scope specific to water loss is limited to the evaluation of existing data. UAW analyses, leak detection, or similar services are excluded from H2M's proposed scope.

Project Schedule

H2M understands the following project delivery schedule expectations, as excerpted from the RFP:

The Consultant shall provide to the Department a draft copy of the TMF evaluation report after 60 days and 90 days of authorization to proceed for review and comment.

The TMF shall be completed, including provision of the final report, within 120 days of authorization to proceed with the possibility of a 30-day extension to submit the final report upon approval from NJDEP.

H2M considers this schedule to be deliverable as requested, but only in an optimal scenario. Given the benchmarks described in NJDEP's TMF guidance document and given the scope and scale of the City of Trenton's potable water infrastructure and operational systems, H2M anticipates a more likely project delivery window of six months, roughly equivalent to 180 calendar days, from authorization to final report delivery, with the potential for extension based on the responsiveness of City stakeholders. TMF data collection is an inherently interactive process and is predicated on the active participation of members of the utility's primary operations and auxiliary support teams. Recognizing this constraint, H2M advises that NJDEP account conservatively for the probability that the contract will require a minimum of six months to deliver, upon issue of authorization. H2M anticipates the following schedule of activity:

- Month 1 – Receipt of authorization; project kickoff and initial stakeholders meeting; discussion of NJDEP guidance documents, project format, and review of example documents; request for records information and performance of initial documents review; compose data collections documentation and report outlines; and hold progress meeting.
- Month 2 – Performance of field work, research, and initial

data acquisitions for technical, managerial, and financial components of TWW support infrastructure and human/financial resources; conduct initial round of interviews related to technical knowledge, organization, planning, compliance, and customer education; conduct parallel interviews related to fiscal controls and financial metrics; and hold progress meeting.

- Month 3 – Build scoring rubrics for TWW's support assets; perform detailed analyses and comparisons of systems conditions to regulatory and industry standards for infrastructure composition, condition, and capacity; hold progress meeting; initiate report narrative structure and establish outline of supporting documents and their appendices; hold an additional progress meeting, which will include a review of the overall draft report outline structure.
- Month 4 – Revisit components found to be deficient or that require additional research into infrastructure componentry; conduct secondary interviews related to technical, managerial, and financial SOPs to verify description of systems structures and detailed analyses; continue creation of report narrative content; and hold progress meeting.
- Month 5 – Update of all technical inspection, interview information, and scoring rubrics; create final draft report narrative and finalization of all supporting documents and citation structure; and hold a progress meeting, which includes a review discussion toward the completion of narrative draft.
- Month 6 – Incorporate stakeholder feedback; and format, print, and bind final TMF Report.



Here at H2M, we value people.



H2M was organized in 1933 and founded on the principles of professional excellence, hard work, and integrity.

Practical Approach. Creative Results.

H2M is a multi-disciplined professional consulting, and design firm, proud of our long history of client service and consistent ability to meet tough architectural, engineering, and environmental challenges head-on. Since 1933, H2M has helped plan, design, and build many of our local communities: from water treatment facilities to firehouses, schools to road reconstruction, and Environmental Site Assessments (ESAs) to groundwater remediation. Since our early roots, our focus has remained steadfast: to provide quality service with sound judgment and serve our clients as an honest and professional resource. We offer a practical approach with creative results.

Our Staff

H2M prides itself on the breadth of its comprehensive in-house service capabilities. With a diverse staff of more than 500 engineers, architects, scientists, surveyors, planners, landscape architects, and technical support specialists, we offer our clients the benefit of a full “under one roof” consulting network.



65
Registered
Architects



103
Professional
Engineers



02
Registered
Landscape
Architects



07
Professional
Geologists



04
Professional
Planners



02
Professional
Land Surveyors



38
LEED
Accredited
Professionals



10
LEED
Green
Associates



06
Licensed Site
Remediation
Professionals

OPERATING PHILOSOPHY

MISSION

Our People

We commit to developing our people and rewarding hard work with growth opportunities in an inclusive professional environment.

Our Clients

We commit to being trusted advisors for our clients and delivering problem solving value and quality on every project.

Our Communities

We commit to creating thriving and healthy communities by giving of ourselves and developing sustainable solutions that benefit everyone.

VISION

We exist to improve the quality of life for everyone in our reach by empowering our diverse talent to sustainably solve the challenges of the built environment.

VALUES

We Stand as One H2M

Inclusive. Supportive. Collaborative.
No matter where you are.

We Challenge One Another

We show up curious and push boundaries.

We Do the Right Thing

Our character is built on doing what is right and ethical.

We Work Safely

We care for the lives of our people and their families.

We Own it

We hold ourselves accountable for team success and personal achievement.

We Embrace Diversity

We acknowledge and honor the fundamental value and dignity of all individuals.



H2M Services

Architecture

- Architectural design
- Comprehensive grant programs
- LEED design processes
- Interior design
- Removal of barriers to the handicapped
- Master plans and revisions
- Needs assessments
- Planning studies
- Building conditions surveys
- Restoration of historic structures
- Restaurant and kitchen design
- Zoning ordinance review
- Educational facilities design
- Assisted living facilities design

Civil/Site & Structural Engineering

- Roadway reconstruction and resurfacing
- Site plan design
- Street lighting
- Flood control and drainage
- Irrigation systems
- Sidewalks and curbs
- Storm drainage systems
- Water mains
- Local roadway study and design
- Subdivision design
- Streetscape design and improvements
- Parks, playgrounds, athletic fields
- Parking fields
- Highway planning studies
- Intersection design and improvements
- Visual impact analyses
- Resident engineering inspections
- Geographic Information Systems (GIS)
- Green infrastructure design
- Structural conditions assessments
- Structural building design
- Structural renovations/alterations
- Cause and origin investigations
- Retaining walls, bulkhead, and culvert design
- Storm hardening/resiliency
- Expert testimony

Construction Phase Services

- Inspection
- Shop drawing review
- Scheduling
- Construction administration
- Site safety plans
- Grant administration
- MWBE/SDVOB compliance
- Startup
- Commissioning
- Drone progress photos
- O&M manuals
- Utility coordination
- Response to RFIs
- Job progress meetings
- Prepare punch list
- Project closeout
- Record drawings

Environmental Services

- Air and water pollution control
- Hazardous waste management
- Hazardous materials storage design
- Waste minimization

- Environmental Impact Statements (EISs)
- Wetland delineation
- Environmental Site Assessments (ESAs)
- Environmental compliance audits
- Environmental permitting
- Site investigations
- Brownfield assessments
- Remedial investigations/feasibility studies
- Risk assessments
- Above and underground tank management
- Soil and groundwater remediation
- Soil vapor intrusion studies
- Regulatory compliance programs
- Industrial hygiene
- Indoor air quality
- CM/LBP/mold inspections and abatement
- Computer modeling
- Asbestos investigation and removal
- Geographic Information Systems (GIS)

Land Surveying

- Boundary and title surveys
- Topographical surveys
- Horizontal and vertical control surveys
- Hydrographic surveys
- Route surveys
- Subdivision planning
- Sanitary and drainage study maps
- Legal descriptions
- Construction layout services
- As-built surveys
- Architectural surveys
- Structural surveys
- Under-construction inspection surveys
- Easement survey and description

Landscape Architecture

- Tree inventory and assessment
- Tree mitigation
- Landscape design and restoration
- Conceptual site design
- Landscape planning
- Illustrative renderings
- Landscape architectural detailing
- Streetscape and urban design
- Parks and playgrounds design
- Campus landscape design
- Private estate and residential design
- Planting design
- Wetlands mitigation
- Green infrastructure

MEP Services

- Electrical systems design
- Feasibility and implementation studies
- Power supply
- Exterior and interior building services
- Closed-circuit television security systems
- Emergency power generation
- Site/systems and load evaluations
- Energy studies
- Site lighting design
- Fire and security systems
- SCADA systems
- Utility company rebates and incentives
- HVAC systems design
- Heat and cooling load analysis
- Steam systems
- Hydronics

- Heat recovery systems
- Chillers and cooling towers
- Laboratory ventilation systems
- Site/systems evaluations
- Feasibility/implementation studies
- Energy conservation
- Cost/benefit analysis
- Commissioning/testing

Planning

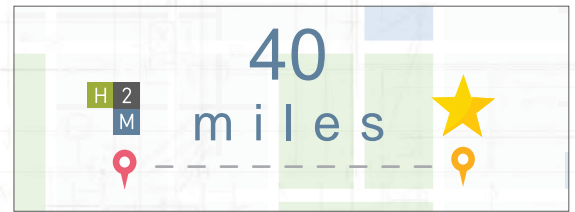
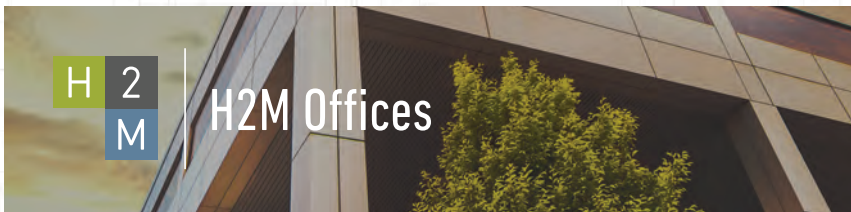
- Comprehensive Master Planning
- Parks, Open Space and Recreation Planning
- Environmental and Natural Resource Planning
- SEQRA and EIS Documentation and Process Support
- Community Visioning
- Zoning Ordinances and Analysis
- Redevelopment Studies and Plans
- Geographic Information Systems (GIS)
- Urban Design
- Design Guidelines
- Renderings
- Feasibility Studies and Conceptual Plans
- Downtown Revitalization
- Expert Private Testimony
- Municipal Board Representation

Wastewater Engineering

- Characterization/quantification of waste
- Treatment facility evaluation
- Scavenger waste facility design
- Outfalls and leaching systems design
- Chemical feed systems design
- Monitoring and control systems
- Nutrient removal treatment systems design
- Facility planning studies
- Wastewater treatment studies
- Wastewater treatment plant design
- Wastewater reuse design
- Standby power systems
- Sludge thickening, dewatering
- Sludge treatment, disposal
- Odor control
- UV and chemical disinfection systems
- Sewer system extension planning
- User cost analysis
- Sanitary sewer design
- Sewer rehabilitation studies and design
- Infiltration/Inflow evaluation
- Pump station evaluations and design
- Odor control
- Security systems
- Geographic Information Systems (GIS)
- Discharge monitoring reports
- Plant performance monitoring
- Preparation of O&M manuals
- Facility start-up and operations
- Groundwater/effluent monitoring programs
- Operator training
- Industrial pretreatment programs
- Prepare/revise sewer use ordinance

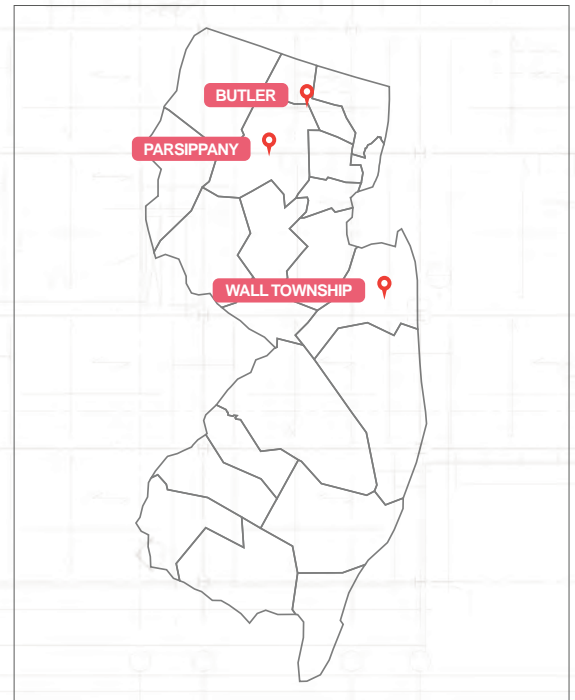
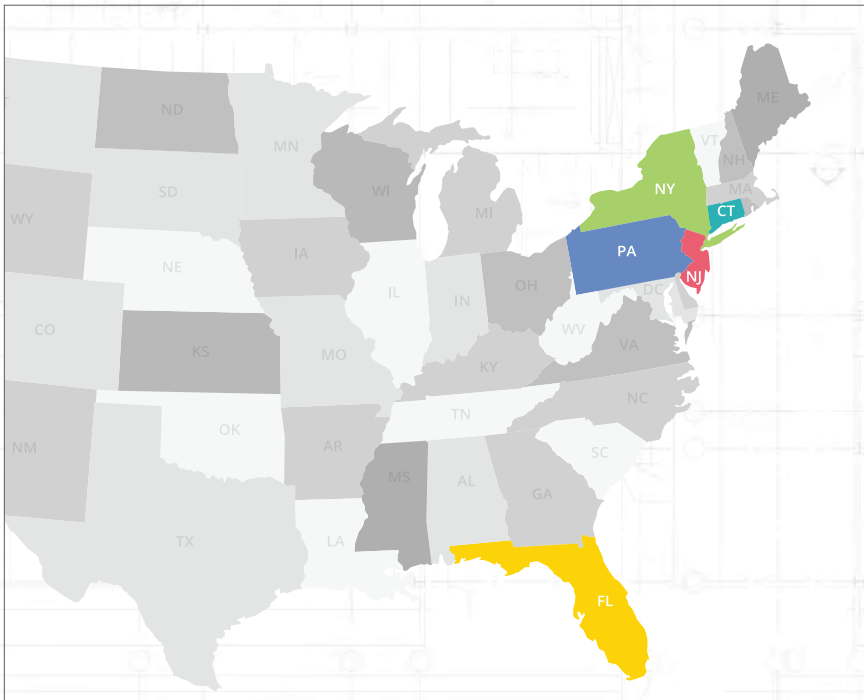
Water Engineering

- Supply well design
- Plant rehabilitation design
- Water treatment systems
- Water filtration systems design
- VOC removal treatment systems design
- Distribution system analysis and design
- Distribution hydraulic modeling
- Automated mapping/facilities mapping
- Storage tank rehabilitation/repainting
- Storage tank design
- Tank and coatings inspection
- Instrumentation and computer control designs
- Comprehensive groundwater modeling
- Geographic Information Systems (GIS)
- Aquatics and park design
- Public swimming pool design
- O&M programs
- Training programs
- Asset management







Distance from our Wall Township, NJ office to
Trenton, NJ

H2M Office Locations | New Jersey Offices



-  538 Broad Hollow Road, 4th Floor East
Melville, NY 11747
-  230 West 38th Street, 14th Floor
New York, NY 10018
-  737 Roanoke Avenue
Riverhead, NY 11701
-  2 Executive Boulevard, Suite 401
Suffern, NY 10901

-  2700 Westchester Avenue, Suite 415
Purchase, NY 10577
-  433 River Street, Suite 8002
Troy, NY 12180
-  119 Cherry Hill Road, Suite 110
Parsippany, NJ 07054
-  4810 Belmar Boulevard
Wall Township, NJ 07753

-  1250 Route 23 North
Butler, NJ 07405
-  360 Bloomfield Avenue, Suite 301
Windsor, CT 06095
-  880 SW 145th Avenue, Suite 106
Pembroke Pines, FL 33027
-  301 Grant Street, Suite 270,
Pittsburgh, PA 15219

"H2M" refers to H2M Architects, Engineers, Land Surveying and Landscape Architecture, D.P.C. and/or its subsidiary H2M Associates, Inc., and/or its affiliate H2M Architects & Engineers, Inc., as appropriate to the context. Each company's professional resources are available to the others to the maximum extent permitted by applicable state laws. H2M will not practice, and should not be interpreted to be offering to practice, any professional service for which it and its cognizant employees are not properly licensed.

H2M Architects, Engineers, Land Surveying and Landscape Architecture, DPC (dba: H2M architects + engineers) is a NYS Design Professional Corporation. It maintains New York Certificates of Authorization to provide professional architecture, engineering, land surveying, and landscape architecture services.

H2M Associates, Inc. is a New Jersey business corporation. It is a wholly owned subsidiary of the parent company. It maintains New Jersey Certificates of Authorization to provide professional engineering, land surveying, and landscape architecture services.

H2M Architects & Engineers, Inc. is a New Jersey business corporation. It is an affiliate of the parent company, being under the ownership and control of a group of appropriately licensed officers of the parent company. It maintains New Jersey Certificates of Authorization to provide architecture and professional engineering services. It is also appropriately structured to maintain certificates of authority to provide architecture and professional engineering services in Connecticut, Delaware, Florida, Louisiana, Massachusetts, Pennsylvania, and Virginia.



The Core of Excellence is an H2M exclusive initiative that sets us apart from the competition with a focus on excellence and quality as a core element of our services. It's a firm-wide commitment to deliver excellence through innovative and best-in-class service to our clients, colleagues, and ourselves. H2M's Core of Excellence is comprised of five key components:

<div data-bbox="136 512 212 590"></div> <div data-bbox="253 533 349 567">QA/QC</div> <p>We demonstrate our commitment to ensuring quality at the corporate level through our appointment of a full-time Director of Corporate QA/QC to lead the development, implementation, and oversight of H2M's Quality Management System (QMS). This commitment is further reinforced by established quality assurance team members who, independent of the project design team, assure that H2M's components of quality are incorporated. H2M's QMS is comprised of a combination of processes, tools and resources available to all H2M staff. These include Quality Control Checklists, established QA/QC communication channels, and templates all made accessible thorough H2M's comprehensive Project Management Framework.</p>	<div data-bbox="617 512 693 590"></div> <div data-bbox="734 533 927 567">SCHEDULING</div> <p>We recognize the importance of timely project delivery and take great pride in our ability to quickly mobilize, assign staff, and complete projects on time. H2M developed a custom scheduling interface allowing for consistent data inputs from the entire firm on a bi-weekly basis. This is transitioning to a centralized scheduling database that allows real-time total team scheduling updates and awareness, allowing H2M to actively adapt our resources to meet the needs of even the most demanding project schedules. We can share detailed, easy to read graphic schedules with our clients, allowing them to always have their finger on the pulse of their project's timeline.</p>	<div data-bbox="1092 520 1182 590"></div> <div data-bbox="1214 533 1458 567">SPECIFICATIONS</div> <p>Our focus and commitment to excellence and quality is further reflected in our Master CSI-based Specifications Library. A dedicated, full-time Specifications Manager oversees the continual development, standardization, and maintenance of our Master Specifications. H2M utilizes a cloud-based specification software platform that allows all users direct access to our Master Specifications Library to develop project-specific spec books. This process ensures that our project specifications include the latest updates in product data and reference standards.</p>
<div data-bbox="136 1197 212 1274"></div> <div data-bbox="253 1218 378 1251">BIM/CAD</div> <p>Building Information Modeling (BIM) has revolutionized the A/E/C industry. By using intelligent 3-D digital models to generate our designs, H2M can achieve a higher level of quality, consistency, and efficiency in our production process, minimizing the potential for change orders during construction. We employ a full-time, dedicated, and independent team comprised of design professionals and BIM-CAD specialists whose primary responsibilities are to create, deploy, and maintain company-wide standards, templates, procedures, and workflows. Our adoption of BIM has been the single most important change in how we design and manage our projects.</p>	<div data-bbox="617 1197 693 1274"></div> <div data-bbox="734 1218 849 1251">SAFETY</div> <p>Safety is essential at H2M. We employ a dedicated corporate health and safety manager within the Core of Excellence. H2M has established mandatory safety training and is actively implementing the Plan-Do-Check-Act methodology. By incorporating safety into our overall quality management systems, we ensure that all of our staff can get home safely each day and that we proactively respond to our clients' health and safety requirements.</p>	<div data-bbox="1117 1197 1193 1274"></div> <div data-bbox="1214 1218 1479 1251">CLIENT BENEFITS</div> <ul style="list-style-type: none"> ★ Well-coordinated construction documents that reduce project change orders and minimize cost overruns ★ Consistent quality and proven performance ★ Optimized resource allocation to meet project demands ★ Increased compliance with the latest industry and regulatory standards ★ Enhanced project visualization via 3D modeling ★ Improved collaboration among all project stakeholders

Technical, Managerial, and Financial Capacity Follow-Up Audit



City of Newark

Newark, NJ

Construction Cost: N/A

SERVICES
PROVIDED

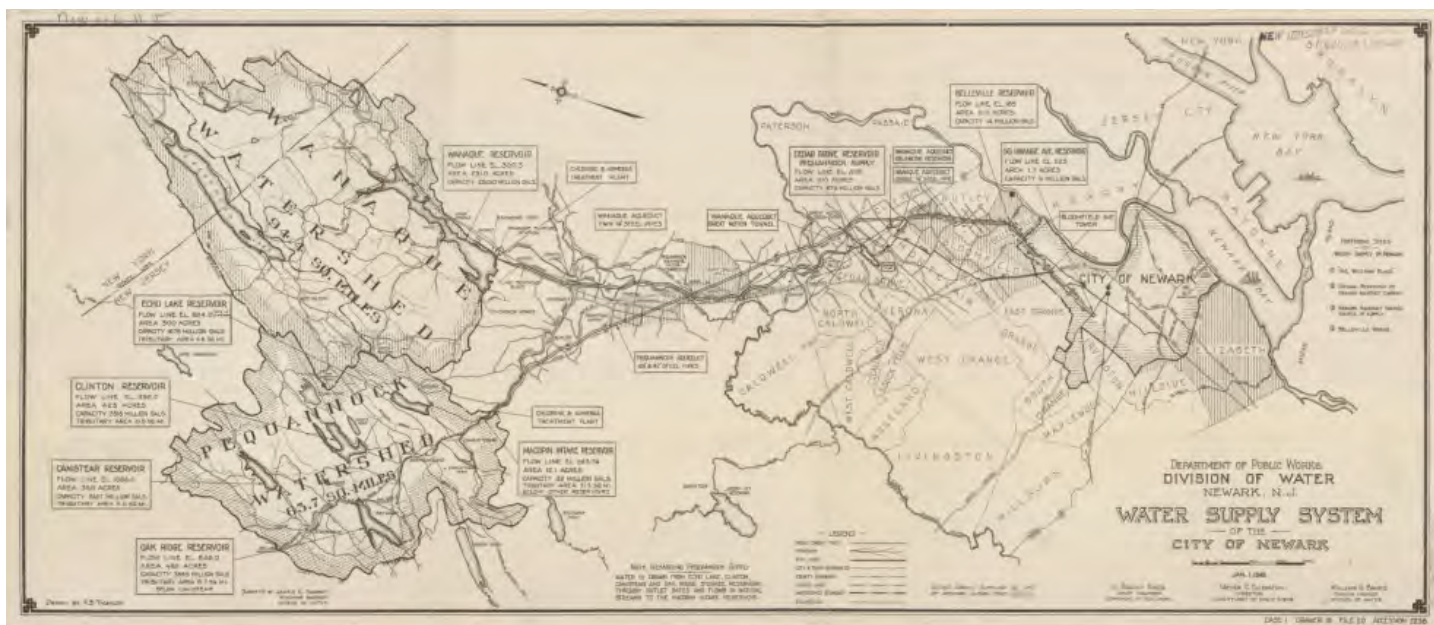
Water Resource Management

Distribution System

Water Systems

GIS Strategy/Planning

Capital Improvement
Planning

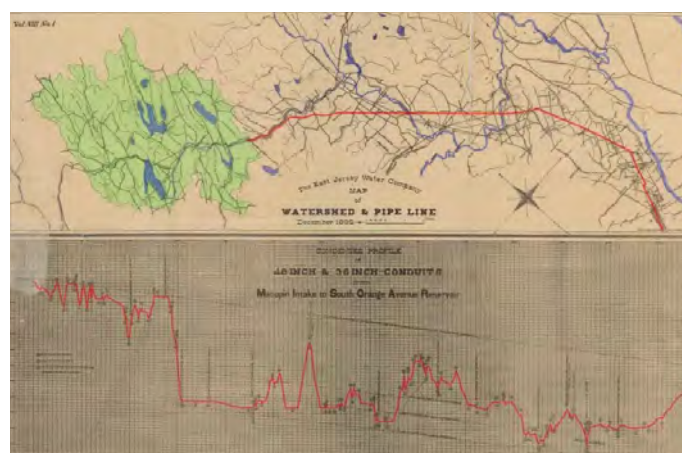


H2M was retained by the City of Newark to perform a comprehensive follow-up audit of the public water system.

The City of Newark manages a public water system, serving a large urban municipality. In 2016, H2M prepared an audit and capacity analysis of the system's various resources, with a set of recommendations for optimization. This included review of the City's extensive portfolio of water supply assets, technical operational procedures, along with managerial, and financial standards.

H2M was retained to provide a follow-up audit, to document progress against those optimization goals, and to review and narrate changes to the regulatory environment and other operating constraints associated with the water system. As part of this process, H2M revisited an inventory of all the public water system assets and resources, documenting their capacities, and comparing these capacities to a combination of industry standards and functional requirements. This inventory of assets included both physical operating assets and human resources.

H2M reviewed and documented the capital improvements and operational optimization steps undertaken by the City in the interim between the issuance of the original Technical, Managerial, and Financial Capacity (TMF) report and present day. The project was delivered on schedule and within budget. The report provided affirmation to regulators of continued improvement of the public water system's operations and management.



Technical, Managerial, and Financial Capacity Evaluation



City of Newark Department of Water and Sewer Utilities

Newark, NJ

Construction Cost: N/A

SERVICES PROVIDED

Water Supply Evaluation

Water Supply Assessment

Management Review

Financial Review



Pursuant to NJDEP directive, and following the City of Newark's assumption of overall responsibility for its Public Water System from the Newark Watershed Development Corporation, H2M was brought under contract to audit the City's extensive portfolio of water supply assets, technical operational procedures, along with managerial, and financial standards.

The City's operating framework was compared to NJDEP's published criteria for technical, managerial, and financial capacity (as promulgated under NJAC 7:10).

We took the lead in inspecting and evaluating the technical capacity of the City's utility infrastructure and day-to-day operating procedures for drinking water supply, treatment, pumping, distribution, storage, and lab services. Additionally, we reviewed Newark's position amongst the interconnected large-scale water suppliers operating in the Passaic River Basin, seeking to document the web of water rights and supply responsibilities that weave them into a supportive working relationship with many of the key municipalities of Northern New Jersey.

The H2M team also evaluated the City's financial and management hierarchies, rate base, and revenue base, comparing these structures to State legal standards and best management practices for municipal operation of utilities.

We delivered a series of recommendations aimed at strengthening the City's system resiliency and asset redundancy (in terms of both physical systems and human resources), and outlining the operational and managerial steps necessary to support the City's potential expansion of production and bulk sale operations in geographic area between the NJ Highlands and Downtown Newark. Our deliverable was a comprehensive report summarizing the findings of the evaluation, prepared in cooperation with the NJDEP Division of Water Supply.

Water Supply Master Plan Update

Brick Township Municipal Utilities Authority

Brick, NJ

Construction Cost: N/A

SERVICES PROVIDED

Master Planning

Source-Water
Asset Management

Water Supply Evaluation

Operations Optimization

Water Quality



H2M is currently engaged with Brick Township Municipal Utilities Authority (BMUA) to provide comprehensive master planning. Services provided under this engagement included system evaluation, condition assessments, inventory analysis, field interviews, planning growth projections, compliance evaluations, permit compliance review, and long term sustainable planning.

The H2M team, utilizing a system model constructed for this engagement, will provide BMUA with an operational support tool designed to facilitate planning and operational decision making at the field and executive levels. Master planning, including robust regulatory status and future compliance evaluations are part of the deliverable. The analytical efforts conceived under this master planning effort is diverse. Once the existing conditions have been evaluated and a potential future state is defined, the H2M led team will assist BMUA in conducting a gap analysis, which identifies any differences between existing assets and goals for the planning period. The results of the condition assessment, supply source analysis, and water resources projections will be used to arrive at one of three potential outcomes:

1. A component meets its standard both now and at the end of the planning period.
2. A component meets its standard now, but may not meet it by the end of the planning period, either due to anticipated deterioration or different performance/capacity requirements in the future.
3. A component does not meet its standard now. The components that are not expected to meet their standards by the end of the

planning period will then be assigned criticality scores, which will be combined with the magnitudes of the gaps to develop risk priorities. The components will be compared to two primary sets of constraints or regulatory stressors: performance criteria with regard to supply resiliency, and performance criteria with regard to finished water quality and quantity. The regulatory framework established by the MUA's Water Allocation Permit and various Permits-to-Operate (via Bureau of Water System Engineering) will provide a clear picture of existing constraints, and a starting point for evaluating the effects of future environmental changes and finished water quality requirements.

Finally, a triple-bottom-line framework will be applied to project alternatives. In order to streamline the planning and execution of sustainable practices, our team has employed the triple bottom line framework of the Envision Sustainable Rating System as a powerful project guidance and decision-making tool, successfully using it as a vehicle to address the full spectrum of disciplines under the umbrella of sustainability. Envision was developed by the Zofnass Institute of the Kennedy School of Government at Harvard University, in collaboration with the American Society of Civil Engineers, American Council of Engineering Companies, and the Institute for Sustainable Infrastructure.

Sewer Collection System Valuation Analysis



Borough of Fanwood

Fanwood, NJ

Construction Cost: \$34,000

SERVICES
PROVIDED

Engineering

Municipality Management
Structure

Financial Analysis

State of New Jersey WIPA
Applicability Analysis



The Borough of Fanwood retained H2M to perform a sewer collection system valuation analysis that included a records retrieval and evaluation of sewer system components.

The Borough of Fanwood Sewer Collection System Valuation Analysis was designed to consider the possibility of pursuing a sale of the sewer system in accordance with the provisions of the Water Infrastructure Protection Act (WIPA or the Act), which is regulated by the New Jersey Department of Environmental Protection (NJDEP).

The Borough of Fanwood provides a municipal sanitary sewer collection system to about 2,667 residential and 70 commercial entities. Fanwood assigns sewer utility responsibilities to the D.P.W. and does not have a comprehensive user fee structure to pay for sanitary sewer service. The age of 26 miles of pipe is between 60 to 80 years old and is subject to increasing problems of system deterioration. Collected sanitary wastes are delivered to adjacent agencies and municipalities for conveyance to the Middlesex County Utilities Authority (MCUA) for treatment and disposal.

Fanwood does not closely monitor all the costs to operate and maintain the system. Based upon our estimates, annual expenditures are in the range of \$200,000 - \$300,000. Residential users are paying for services in their property taxes. The commercial sanitary sewer accounts contribute an annual combined revenue of \$57,000 which is on average about \$815 per account. Disposal costs to third parties are about \$500,000

annually, which computes to about \$185.00 annually per user which is also in their property taxes.

Our evaluation included a records retrieval and evaluation of sewer system collection system components. We field verified a selected number of manholes and sewer pipes and interviewed the licensed operator to gain insights into system performance and repair history.

Our analysis considered the capabilities of the Fanwood Sewer Department to operate and maintain the sewer collection system. Regulatory issues and financial capability to support the system were investigated. Agreements with sewage receiving entities were evaluated in terms of cost and ability to continue under the current arrangements or the potential for increased costs.

A system valuation was computed based upon system age, facility components, and replacement cost. Replacement cost considered the original cost, the cost to replace new and the cost of a new system depreciated to the ages of the system components.

The report concluded with an Implementation Plan to either sell the system under WIPA rules or to establish a long term capital improvement and operational plan.

Rapid Deployment Capacity Evaluation

New Jersey American Water

Colonia, NJ

Construction Cost: N/A

SERVICES PROVIDED

Water Supply Planning

Water Treatment

Alternatives Analysis

Capital Costs Analysis

Operations Consulting



H2M evaluated the various source, treatment, and property assets of New Jersey American Water (NJAW) in the Coastal North service area.

The New Jersey American Water (NJAW) Coastal North Service Area supplies approximately 300,000 customers in Monmouth and Ocean counties. In Winter 2014, NJAW Operations and Engineering identified a combination of planning trends that indicated a possible occurrence of peak demands for a series of two to four days during the system's Summer operating season in excess of the system's firm capacity.

H2M was chosen to evaluate the various source, treatment, and property assets of NJAW in the Coastal North service area. The objective was to identify and rank logistical options for Coastal North Operations to rapidly deploy a range of 2-4 MGD of additional capacity to the existing 78 MGD total capacity. The intent was to mitigate prolonged, multi-day peak demands, and guard against the possibility of acute losses of system operating pressure.

We investigated several dozen property assets and performed detailed logistical evaluations at three major surface water treatment plants as possible staging locations to implement additional sources of supply. Additionally, we evaluated various combinations of process water (raw water, chemically mixed water, and settled water) and an array of treatment technologies (bag filters, granular filters, and membranes), along with the constraints of all ancillary support systems (electrical power, controls, vehicular access, and environmental planning).

After reporting on the logistic constraints and engaging in risk management reviews with NJAW, H2M acted as design engineer, permitting agent, and construction manager/inspector during the implementation and pilot-scale testing of two 1.15 MGD trailerized ultrafiltration (UF) membrane treatment plants.

Water District GIS Mapping

Borough of Sea Girt

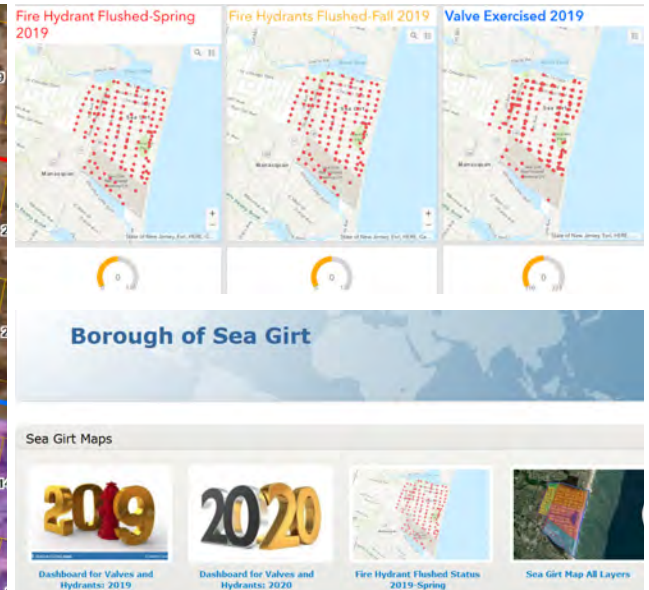
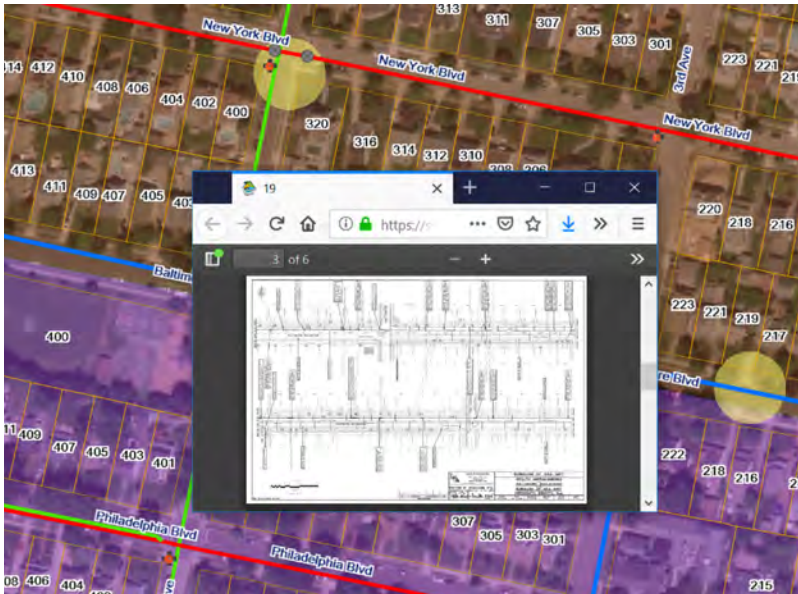
Sea Girt, NJ

Construction Cost: N/A

SERVICES PROVIDED

Mapping/Online mapping
GIS Strategy/Planning
Needs and Requirements
Municipal Asset Management
Mobile Application Development

Computerized Distribution System
Backflow Prevention Design and Analysis
SCADA System Design



For WQAA compliance, H2M performed a comprehensive inventory and digitization of The Borough of Sea Girt's water system components for easier access to infrastructure data in the field for District personnel.

The Borough of Sea Girt reached out to H2M to produce and implement an asset management plan (AMP) for their water infrastructure because of Water Quality Accountability Act (WQAA) compliance requirements. This included digitization of the District's GIS system, updating the existing GIS map to ensure that it is a comprehensive inventory of system components: pipes, valves, tanks, pumps, wells, treatment facilities, and hydrants. This inventory included determining the condition and establishing the remaining useful life of each identified and catalogued component.

Steps to performing the comprehensive inventory included:

- Update of existing GIS Map/Asset Identification
- Establish, Configure and Administer ArcGIS Online account
- Develop mobile mapping and maintenance toolset
- Develop web-based maintenance dashboard
- Digital photographs
- Develop numbering system/nomenclature (unique identifier)
- Perform condition assessment

Each water asset had to be assigned a unique identifier and maintenance tables for fire hydrants and valves needed to be created based on AWWA standards with links to the appropriate asset. An Operational Dashboard was set up to keep track of valve exercising and fire hydrant flushing.

H2M limits our condition assessment to the large facilities and assets, excluding distribution system componentry, however, the scope above includes setup of a mobile based system to allow asset conditions, maintenance work, and other information to be updated directly from the field via Borough personnel.

H2M moved the District's GIS to the ArcGIS online cloud and created valve and fire hydrant maintenance tables based on AWWA standards. H2M loaded the data and created maps for viewing and editing in the field. Uploading and maintaining the District's GIS in the Esri ArcGIS Online cloud is a cost effective and user-friendly solution to provide mobile access to GIS for District personnel.

The Borough is now in compliance with WQAA requirements and has access to their infrastructure data in the field. Maintenance data can be created by District personnel, utilizing the Collector app. This system allows for a centrally located digital data repository for infrastructure data and maintenance information.

Queens Groundwater Rehabilitation



NYCDEP

Queens, NY

Construction Cost: \$200 million

SERVICES PROVIDED

Structural Engineering
Mechanical Engineering
Electrical Engineering
Civil/Site Engineering

Architectural
Environmental Engineering
HVAC



H2M was retained by the New York City Department of Environmental Protection (NYCDEP) to provide design services and support for the rehabilitation of the Queens Groundwater System, as part of the Water for the Future Program.

To support the RWBT shutdown and provide additional supply capacity, this project was launched. The Queens Groundwater System consists of 68 public supply wells located at 44 stations. The majority of the wells have not been in operation for approximately 20 years, and significant improvements in the form of station rehabilitations and wellhead treatment are necessary to place these wells into service and comply with current regulations. Initial goals were to restore 20 supply wells to establish a firm potable water capacity of 33 million gallons per day. The following services were provided:

- Preparation of a Project Management Plan, a Quality Management Plan; Work Plans and Health & Safety Plans to outline the project procedures to be employed during the execution of our services.
- Evaluation of well, water quality, equipment, and site conditions at pump stations throughout Queens to identify which are most viable for rehabilitation.
- Environmental sampling and surveying of the stations targeted for rehabilitation.
- Preparation of site specific basis of design reports for each station, summarizing the wellhead treatment systems necessary to meet city, state and federal drinking water standards.
- Preparation of preliminary architectural design concept for presentation to the Public Design Commission.
- Detailed design for the stations to be rehabilitated, including demolition, new building construction, electrical systems, mechanical systems, wellhead treatment systems, chemical treatment, and site work. Wellhead treatment systems include iron removal, volatile organic chemical removal by granular activated carbon filters or packed tower aeration, and perchlorate removal by ion exchange process. 30% design was completed prior to project termination.
- The challenges encountered on this project have been many including a temporary cessation of the contract and adjustments to delivery requirements, including significant support of EIS development. What was reinforced in this process is the critical importance of communication with the client, maintaining a clear understanding of requirements and schedule in order to fulfill the needs of the project.



water supply
engineering

water supply systems are the backbone of any community

Water supply systems are the backbone of any community. For over 80 years, H2M has built its engineering practice around its service to municipal water clients. Our engineers work directly with municipal water suppliers and private water utilities to ensure drinking water safety and efficient distribution to the communities they serve. With staff dedicated solely to public water supply, we have designed complete water systems, including sources of supply, treatment facilities, pump stations, storage facilities, and distribution systems.



water storage



water treatment



rehabilitation



new construction



inspection



non-destructive testing



drilling/water mains



distribution

services include

Water supply wells/rehabilitation

Ground water/surface water

Water treatment plants for:

Perfluorinated Compounds

Cryptosporidium/giardia/viruses

Disinfection by product precursors

VOC's, SOC's, Pesticides

Iron/Manganese

Nitrate/Perchlorate

1,4-Dioxane

Turbidity management

Water resource development

New water storage tank

Water storage tank rehabilitation

Distribution systems / analysis

Master planning

Construction services

Spill Prevention Reports

Annual Water Quality Reports

Water Conservation Plans

Packed Tower air emission certification

Supervisory Control and Data Acquisition (SCADA)

Chemical and petroleum bulk storage systems

Federal and State grant applications

Emergency response plans/vulnerability assessments

Emergency water quality situations

GIS mapping

For over 80 years, we have been committed to providing quality water supply service. We have designed over 20 new water storage tanks, and we conduct annual inspections for nearly 100 tanks per year throughout the Northeast.



water resource development

H2M is a multi-disciplined professional consulting and design firm, proud of our long history of client service and our consistent ability to meet tough architectural, engineering and environmental challenges head-on. Since 1933, H2M has helped design and build many of our local communities: from water treatment facilities to firehouses, from schools to road reconstruction, from environmental site assessment to groundwater remediation. Since our early roots, our focus has remained steadfast: to provide quality service with sound judgment and to serve our clients as an honest and professional resource.

We offer a practical approach with creative results.



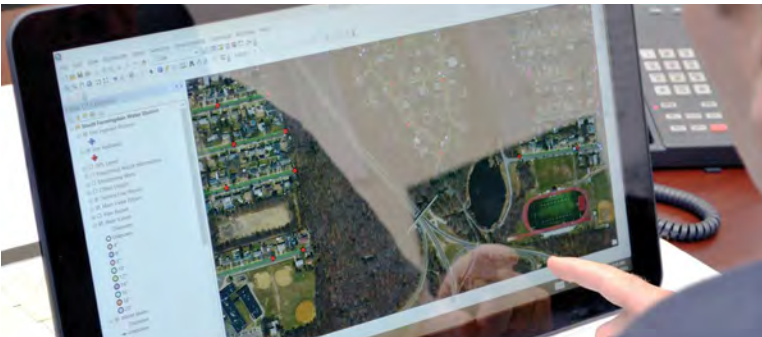
ion exchange perchlorate/nitrate



AOP/1,4 Dioxane



GAC/PFOA/VOC's



GIS mapping

We prepare contract documents for the installation of transmission mains, water mains, meter vaults and backflow prevention devices. Our designs include site surveys, utility location verification, hydraulic evaluation and design, layout design and preparation of contract specifications.

We evaluate and determine the most viable and cost effective treatment technologies for the removal of iron, nitrate, VOCs, 1,4 Dioxane, PFOS, and other common contaminants from water supplies.



filtration/iron, manganese



Corporate Headquarters

Melville, NY ☎ 631.756.8000 🌐 h2m.com



New York

New York City | Riverhead | Suffern | Troy | Westchester

New Jersey

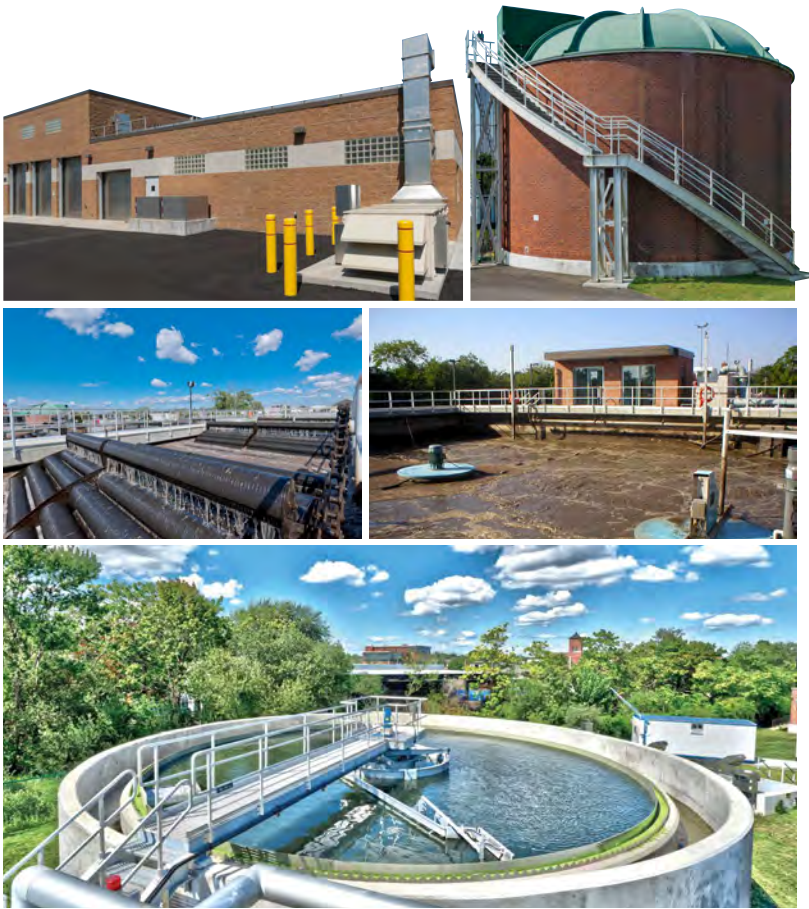
Butler | Central Jersey | Parsippany

Connecticut

Windsor

Florida

Pembroke Pines



wastewater
engineering

clean waters, clean environment...

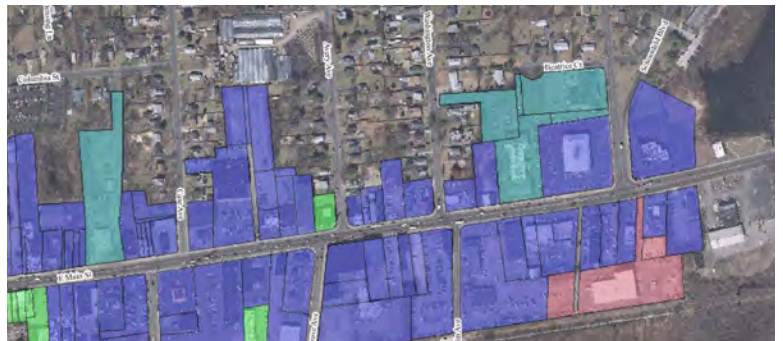
H2M's team of seasoned professionals continues to develop pioneering solutions that reduce the cost of wastewater infrastructure projects. For clients dealing with issues related to nitrogen removal, rehabilitation or updating aging infrastructure for regulatory compliance, resiliency concerns, new septic to sewer sanitary collection systems for the elimination of on-site/failing septic systems, impacts of developments and system expansions, H2M's experienced leadership in the wastewater field make us ideally suited to resolve challenges on all levels.



water resource recovery facility



odor control



collection system planning



sewer upgrades



biosolids processing



pump stations + upgrades



reuse water



GIS mapping



sewer rehab + inspection

services include

- Biosolids handling + processing
- Biosolids reuse
- Collection system design
- Collection system capacity analysis + modeling
- Permitting + discharge monitoring reports
- GIS mapping
- Pretreatment monitoring + design
- Commissioning
- Innovative alternative onsite treatment systems
- Odor control
- Operation + maintenance manuals + training
- Nutrient removal
- Pump station design + upgrades
- Water resource recovery facility
- Operations + maintenance consultation
- Sewer district formation + planning
- Sewer system evaluation studies
- Sewer upgrades
- Treatment plant design, expansion + upgrades
- Wastewater reclamation/reuse

H2M is a multi-disciplined professional consulting and design firm, proud of our long history of client service and our consistent ability to meet tough architectural, engineering and environmental challenges head-on. Since 1933, H2M has helped design and build many of our local communities: from wastewater and water treatment facilities to firehouses, from schools to road reconstruction, from environmental site assessment to groundwater remediation. Since our early roots, our focus has remained steadfast: to provide quality service with sound judgment and to serve our clients as an honest and professional resource. **We offer a practical approach with creative results.**



pretreatment system evaluation



existing pumps upgrade



water reclamation



biosolids dewatering



new bar screens

The successful completion of a project requires a diverse pool of experienced personnel capable of performing tasks within their area of expertise. H2M's management and project managers are also aware that the success of any project is dependent upon the close cooperation required between the H2M staff and the project personnel of the NJDEP and TWW. The proposed organization of personnel and resources is intended to bring together a team of professionals that can focus on project objectives as well as respond to unanticipated circumstances or issues.



* - Licensed in the state of NJ

** - Licensed in Other States

TCG - the Canning Group, LLC



Resumes for the above referenced key personnel are provided following this page.





Patrick K. Cole P.E., CME, CPWM



Vice President
Deputy Market Director of Water/Wastewater

With more than 20 years of experience, Mr. Cole is the Deputy Water Market Leader, and a Vice President in the firm's Water Division. He leads H2M's efforts in the water and wastewater markets in the State of New Jersey. The New Jersey Water team focuses on utility infrastructure projects, with a practice specialty in major system asset rehabilitation. Mr. Cole's areas of personal practice expertise lie in the optimization of treatment processes, distribution system hydraulic analysis, water quality troubleshooting and construction contract administration. He is a past Chair of the AWWA NJ Section, on the Board of Trustees, and a current contributor to the following AWWA Manual of Practice Workgroups: M31- Distribution System Requirements for Fire Protection; M64- Aeration and Air Stripping.

Additionally, Mr. Cole is a graduate of the Institute in Drinking Water Treatment certification program conducted by UMass Amherst. He typically acts as engineer of record and/or signatory engineer in responsible charge of all phases of project delivery. An example of Mr. Cole's work includes the 2013 Steel Tank Institute's Tank of the Year, a 1.5MG hydropillar delivered in a design-build project format.

Education

M.S., Civil/Environmental Engineering;
Rutgers University

B.S., Mechanical Engineering; University
of Delaware

Institute in Drinking Water Treatment;
UMass Amherst

Licenses/Certifications

Professional Engineer: NJ, NY

Certified Municipal Engineer: NJ

Certified Public Works Manager

Offices Held

AWWA-NJ, Section Chair, 2022-Present

AWWA-NJ, Member, Board of Trustees,
2018-Present

AWWA National, Distribution and Plant

Operations Division, Trustee 2012-2015

AWWA Manual of Practice M64, Co-Author

Memberships

American Water Works Association

Water Environment Federation

National Fire Protection Association

Honors

AWWA NJ Fresh Ideas Award, 2007

Next Generation Award, 2009

Steel Tank Institute: 2013 Tank of the Year
(Signatory Engineer)

Selected project experience

- Atlantic City Municipal Utilities Authority PFAS Mitigation Emergency Deployment: Project Director for the emergency design, permitting, construction, and operational startup of GAC reactor pairs at three critical ACMUA well stations, plus re-bedding of the Pleasantville WTP gravity filter boxes, to support the ongoing compliance of finished water quality with NJDEP MCLs.
- NJ American Water Coastal North Rapid Deployment Capacity Expansion: Project Manager in responsible charge of alternatives analysis and construction delivery of process improvements to increase treatment capacity on an accelerated basis for the NJAW Coastal North Service Area. Scope included analyses of siting, treatment process, costs, and O&M logistics for three existing surface water treatment plants.
- Bancroft NeuroHealth Corrosion Control Analysis and Report; Upper Pittsgrove Township, NJ: Project Manager and engineer in responsible charge for analysis and operational recommendations for distribution system corrosion control requirements related to the Lead and Copper Rule, at a regulated Public Water System serving a neurological campus facility in Upper Pittsgrove Township, NJ.
- SUEZ New Jersey Cottonwood Tank Rehabilitation; Franklin Lakes, NJ: Project Manager and engineer in responsible charge of tank conditional inspection, rehabilitation design (including heavy metals remediation), bid services, construction administration, and construction observation for a 1.25MG steel standpipe located in Franklin Lakes, NJ.
- NJ American Water Mountain Station Rehabilitation; Bound Brook, NJ: Project Manager and engineer in responsible charge for the rehabilitation and reconstruction of treatment process for a treatment plant handling three existing wells exhibiting high hardness. Scope of work includes alternatives analysis, hydrogeologic investigation, process improvements (civil, mechanical, electrical, controls, and chemical feeds), in addition to permitting, construction management and construction observation.
- Harborside Plaza Hydraulic Analysis; Jersey City, NJ: Project Manager in responsible charge for hydraulic calculations, modeling, and distribution system component sizing and configuration alternatives analysis for novel connection options for a high-rise residential subdivision proposed for construction in Jersey City, NJ.
- NJ American Water Chambers Brook Crossing Improvements; Somerset County, NJ: Project Manager and engineer in responsible charge of design, permitting, bid, construction management, and construction observation services for a 16 inch diameter stream crossing in Somerset County, NJ.

Next →

Patrick K. Cole

P.E., CME, CPWM

Vice President,
Deputy Market Director of
Water/Wastewater

- NJ American Water Pennsauken Creek HDD; Burlington and Camden counties, NJ: QA/QC engineer for a 1,200 linear feet, 16-inch diameter horizontal directional drill crossing of the Pennsauken Creek for a major private water utility in Southern NJ. Project included iterative if-then analysis of several distribution system configuration options, focused on capital cost and constructability.
- West Hempstead Water District Wells No. 6 and 8 Iron Removal; West Hempstead, NY: Project manager in charge of the design phase for a 2 MGD capacity increase at an existing groundwater treatment plant in West Hempstead, Long Island. Scope of work included re-staging of existing wells, and design of separate treatment infrastructure (including Greensand Plus-based pressure filters, chemical feed accessories, and instrumentation/control/SCADA improvements).
- Borough of Keansburg WTP Desalination Plant Permitting, Construction, and Startup; Monmouth County, NJ: Construction manager, permitting manager, and SRF/ARRA/NJEIT funding manager for \$3 million process upgrades to a 1.0MG municipal groundwater treatment plant, located in a coastal community in northern Monmouth County. Permitting scope included oversight of WQMP Consistency Determination permitting, and new TWA and NJPDES permits for discharge of RO concentrate (brine) to a nearby ocean outfall pipeline (operated by MCBOA).
- Jackson Township MUA Legler Water System Hydraulic Analysis, Design, Permitting, and Bid; Jackson Township, NJ: Project manager for planning analysis, design, and bid of connection from the JTMUA Central Service Area to a newly acquired satellite system, the Legler Service Area. Scope included detailed WaterCAD-based Hardy Cross analysis of possible routing options, with modeled background systems for Central Service Area and Legler Service Area, including existing pumping, storage, and distribution systems. New pump station design (domestic and fire pumps, all with VFD's), environmental permitting, municipal land use permitting, MEP and structural design, instrumentation and controls coordination, and design of approximately 2.5 miles of new 12" CLDIP, including two 12-inch HDPE directional drills. Pump station included re-chlorination equipment.
- Ridgewood Water Corrosion Control Study (Response to LCR-AL Exceedances); Ridgewood, NJ: Working in a teaming arrangement with Dr. Orren Schneider (American Water's Innovation and Environmental Stewardship Group), led an effort to provide the regulatory response to a series of Pb Action Level exceedances in the Village of Ridgewood water distribution system. Worked in conjunction with in-house engineers to document compliance and operational practice history with regard to the Lead and Copper Rule (LCR). Performed water chemistry optimization analysis in accordance with EPA guidance (EPA Revised Guidance Manual for Selecting Lead and Copper Control Strategies). Proposed, constructed, and executed a series of field tests at representative well stations, to demonstrate LCR-optimized nature of existing finished water. Coordinated for review of operational improvements recommendations with NJDEP.
- City of Salisbury 2.0MG Southside Water Storage Tank; Salisbury, MD: Project manager for design, permitting, bid, CA/CO and state SRF funding management for a 200,000 gallon capacity elevated water storage tank, constructed in composite format (concrete column with steel reservoir).





Stephanie L. DeCotiis P.E.

Associate, Department Manager - Water Resources



Ms. DeCotiis has over 10 years of experience as a Mechanical Engineer, Field Engineer, and Project Manager. Her experience includes both design and project management on a variety of water and wastewater projects, including water and sewage treatment and pumping, well construction and rehabilitation, elevated and ground storage, water distribution, sewer collections, and power generation. She has experience through the entire project life cycle, from conception to construction and commissioning.

Selected project experience

- Monroe Township Utility Department Well No. 25 Water Treatment Plant; Monroe Township, NJ: Project Manager of complete process design and permitting coordination for a new groundwater treatment plant consisting of iron and manganese removal pressure vessels and chemical feed systems for oxidation/disinfection, pH adjustment, and corrosion control. Plant designed with an initial rated capacity of 2.16 MGD with the capability to accommodate the flow of a second future well and expand to 3.6 MGD in treatment capacity.
- Brick Township Municipal Utilities Authority GAC Improvements at the William Miller WTP; Brick Township, NJ: Project Manager for the design and construction of new GAC filtration system to treat 16 MGD, consisting of the design of two buildings to house 24 GAC vessels as well as pumping and piping improvements to integrate the new treatment into the existing plant process. Construction services included management of public bid, award, and construction administration in an I-Bank funding environment.
- FEMA Hazard Mitigation Grant Reconstruction of Wastewater Pump Stations: Project Manager for enhancements at two wastewater pump stations, including installation of new pumping equipment and controls, new buildings, installation of a generator, and flood-proofing measures.
- Jackson Township MUA New Well No. 18 for London Drive WTP; Jackson Township, NJ: Project Manager of complete design and permitting coordination for a new 2.88 MGD supplementary production well and approximately two miles of new raw water transmission main.
- New Jersey American Water Chambers Brook Crossing Improvements; Somerset County, NJ: Project Manager for construction services for pipe bridge and valve vault for the construction of a parallel 16-inch transmission main to provide operational redundancy at a stream crossing in Somerset County, NJ.
- Brick Township Municipal Utilities Authority Main Crossings Conditional Assessment; Brick Township, NJ: Project Manager responsible for coordinating fieldwork inspection, soil sampling, laboratory analysis, and final report writing for seventeen transmission main crossings throughout Brick Township. Water main crossings conditional assessments included: corrosion analysis of pipe material, valves, fittings, and soil; determination of structural condition of pipes; determination of the estimated useful life of the pipe and appurtenances; and development of a conceptual replacement plan at a single crossing via directional drilling.
- Borough of Sea Girt GIS Creation and Development; Sea Girt, NJ: Project Manager responsible for coordinating the development of a GIS map for the entire Borough, which included water, sewer, storm, and beach utility system information.
- New Jersey American Water Summit PRV Interconnect; Summit, NJ: Project Manager responsible for the design, permitting, bidding and construction services for the installation of a new zonal interconnection in Summit, NJ.
- Middlesex County Permanent Restoration and Mitigation of the Sayreville Pump Station; Sayreville, NJ: Lead Engineer for the rehabilitation of 10 medium voltage pump motors ranging from 800-1000 HP, design of new SCADA network and controls system for the entire station, and design of hydraulic control valve systems. Prepared preliminary plans, specifications, and construction cost estimates for public bid for the full restoration effort at the 300 MGD wastewater pump station.

Education

B.S., Mechanical Engineering;
The College of New Jersey

Licenses/ Certifications

Professional Engineer: NJ, NY

Memberships

American Water Works Association
New Jersey Water Environment Association
Society of Women Engineers

Honors/Awards

FY17 SWE Distinguished New Engineer

Offices Held

Deputy Speaker to the Senate, Society of
Women Engineers

Next →



Stephanie L. DeCotiis

P.E.

Associate, Department Manager -
Water Resources

- Middlesex County Hurricane Recovery Program at the Sayreville Pump Station; Sayreville, NJ: Lead startup and troubleshooting efforts during emergency restoration of 300 MGD storm damaged pump station, tracked restoration progress, contractor schedules, and sewage bypass systems in order to bring full pre-storm pumping capacity back to the station in less than 150 days. Also coordinated the installation of a temporary control system and SCADA network.
- Dominion Energy North Anna Nuclear Generating Station; Mineral, VA: Revised the Combined Operating and Licensing Application for the new unit at North Anna as well as designed the Chemical and Volume Control System and performed independent quality control review of critical system calculations, including Main Steam, Containment Spray and Circulating Water.
- Next Generation Nuclear Plant (NGNP) Conceptual Design: Performed hydraulic calculations, updated system descriptions, and performed cost estimating for 4th Generation nuclear power plant conceptual design.
- Lagoon Creek Power Plant; Brownsville, TN: Designed and modeled pump and piping systems for various process needs, and supervised the construction and startup of a 550 megawatt natural gas combined cycle power plant .





James L. Neri P.E.

Senior Vice President, Discipline Director of Water



Mr. Neri is a water resources engineer with nearly 30 years of experience. He is responsible for managing the Water Resources Discipline, which includes 40 water supply engineers, scientists, inspectors, and specialists. As Discipline Director, he is responsible for the management, design, construction, and commissioning of water supply projects, including source development, wells, distribution systems, water treatment, and water storage facilities. Mr. Neri is also the client manager for several of H2M's water supply clients. As such, his duties include planning, engineering reports and studies, plans and specifications, evaluating and designing new and/or modified water supply facilities, building systems, mechanical and pumping stations, control systems, and treatment systems. He is responsible for being informed of emerging water quality and regulatory issues. He also has extensive experience in construction, groundwater and aquifer assessments, water quality, and regulatory requirements.

Selected project experience

- As client manager, oversaw:
 - West Hempstead Water District 1,4-Dioxane Removal at Plant No. 7, West Hempstead, NY: Pilot protocol preparation, pilot, and County and State approval of treatment systems. Design and permitting of VOC and emerging contaminant removal system for 4.0 MGD plant, including two low pressure UV reactors; 3,000 gallon hydrogen peroxide tanks; four granular activated carbon vessels; mechanical piping chemical treatment systems, instrumentation and control systems; and rehabilitation of well pumps.
 - Plainview Water District AOP Treatment at Plant No. 2; Plainview, NY: Engineering report, design, and construction administration for construction of a new treatment plant to remove emerging contaminants from drinking water.
 - Plainview Water District AOP Treatment at Plant No. 3; Plainview, NY: Engineering report, design, and construction administration for construction of a new treatment plant to remove emerging contaminants from drinking water.
 - Plainview Water District AOP Treatment at Plant No. 7; Plainview, NY: Engineering report, design, and construction administration for construction of a new treatment plant to remove emerging contaminants from drinking water.
 - Garden City Park Water District AOP Treatment at Plant No. 6; Garden City Park, NY: Engineering report, design, and construction administration for construction of a new treatment plant to remove emerging contaminants from drinking water.
 - Garden City Park Water District Wellhead Treatment for Emerging Contaminants at Plant No. 9; New Hyde Park, NY: Engineering report, design, and construction administration for construction of a 1,4-Dioxane and PFC treatment facility.
- West Hempstead Water District Replacement of Birch Street Elevated Water Storage Tank; West Hempstead, NY: As client manager, oversaw design of a 1.0 MGD composite elevated storage tank for potable water. Design included preparation of an engineering report comparing traditional tank styles and life-cycle costs, creation of bidding design documents for public bidding, construction administration and inspection of the project during construction, start-up and commissioning of the new tank, as well as regulatory approval.
- Rehabilitation of Queens Groundwater system: Project manager for the NYCDEP contract for the design and design services during construction of a \$180 million project to reactivate the 60+ supply wells in Queens, NY. Treatment system designs based on varying water quality.

Education

B.S., Environmental and Civil Engineering;
Cornell University

Applied Groundwater & Contaminant
Transport Modeling, Waterloo Hydrogeologic

Dynflow, Dyntrack, Dynplot Groundwater
Modeling Codes

Licenses/

Certifications

Professional Engineer: NY, NJ, DE, PA, CT,
FL, LA, HI

C-2 Specifying and Managing Protective
Coatings Projects-Advanced, SSPC

Memberships

American Water Works Association

Long Island Water Conference

Next →

James L. Neri

P.E.

Senior Vice President,
Discipline Director of Water

- Volatile Organics Removal system for the Plainview Water District Plant No.7. Construction schedule mandated complete of \$800,000 contract in four months requiring fast track project management and intense coordination oversight.
- Developed groundwater model for the Hicksville Water District, using Nassau County groundwater model to develop local model to evaluate the possible path of contaminants from a NYSDEC known hazardous waste site.
- Developed a local groundwater model to recommend the installation location of guardian wells to be installed by the responsible party of a known VOC plume approaching numerous South Farmingdale Water District and New York Water Service wells.
- Developed a local groundwater model to evaluate the net effect of constructing and operating four new wells on the Calverton Industrial Complex in Riverhead, New York. The model evaluated the effect of the pumping on the groundwater table specifically as it relates to its interface with the retention ponds on the southern side of the property and the Peconic River.
- Computerized groundwater flow model for Hicksville, South Farmingdale, Bethpage, and Riverhead Water Districts to determine potential impacts of possible contamination and groundwater movement into and out of new and existing well fields.
- Construction liaison between client and NYSDEC for remediation activities involved with the Franklin Cleaners hazardous waste site.
- New pump station design and construction administration for Riverhead and South Farmingdale Water Districts. Services include plans and specification preparation, bidding, multiple contractor coordination, obtaining Health Department approvals.
- Iron removal treatment system design and construction oversight for the New York Water Service. Services included pilot study report; confirming treatment efficiencies, permit approval expediting, and zoning board of appeals hearings representation.
- Elevated storage tank replacement design and construction administration for the West Hempstead-Hempstead Gardens Water District. Services include plans and specification, bidding, and contractor coordination with community involvement and input.
- Review and coordination of installations of cellular carriers on elevated storage tanks throughout Long Island. Scope includes review of plans and direction of field inspectors inspecting installation work of tanks.
- Rehabilitation and repainting of elevated storage tank for Riverhead Water District. Services included full containment, structural steel repairs and full interior and exterior coatings.
- Supervise inspection staff responsible for multiple water storage facilities on Long Island. Duties included scheduling providing cost opinions based on deficiencies identified and preparing RFP to perform repair work.
- Fire pump test header at State University of New York at Stony Brook Health Science Center. Prepared plans and specifications for the construction of a 6,000 gallon per minute test header allowing the center to document their fire preparedness and meet the insurance underwriter requirements.

Prior to joining H2M, Mr. Neri directed a \$10 million annual general contracting firm overseeing excavation, pump station construction, golf course and park construction, and landscaping and facilities maintenance projects, supervised contract bidding and fulfillment, negotiated and managed supply contracts, directed road widening, oversaw erosion control projects and ecologically sensitive land near construction sites. His experience also includes Master Plan studies, evaluation of existing and projected water and sewer requirements, residential subdivision plan and design review, and sewer and potable water system plans.



Karen Benson P.G.

Water Practice Leader



Ms. Benson is a hydrogeologist with nearly 25 years of experience working with a variety of water systems and assisting clients in responding to ongoing and ever-changing requirements. She offers significant experience working with New Jersey water purveyors for compliance with the Safe Drinking Water Act (SDWA). Ms. Benson also has experience conducting hydrogeologic investigations of aquifer and well yields for groundwater supply development. Her experience includes designing and implementing well rehabilitation programs; supervision and implementation of water production well design and installation; and planning, testing, and permitting of water allocation permits.

Selected project experience

- Park Ridge Water Hydrogeological Services; Park Ridge, NJ: Served as Project Manager for various hydrogeological services over a 10-year period that included completion and permitting of a replacement well; update of groundwater resource assessment for the service area; evaluation of water department regarding compliance with federal and state SDWA requirements; continuous review of water quality data to assist with operational and maintenance issues as well as to track any changing source quality issues; and assistance with preparation of sampling plans, permit renewals, and correspondence with the New Jersey Department of Environmental Protection (NJDEP) on a variety of issues.
- Ridgewood Water Hydrogeological Services; Ridgewood, NJ: Project Manager responsible for hydrogeological services for 10+ years. Res Assessing well operational and well performance data for a system with over 50 wells. Designed and worked to implement a phased plan of well assessment and rehabilitation, assessment of inactive wells as part of ongoing plan to restore them to service. Reviewed water quality data to ensure compliance with the SDWA and assess changes in source water quality.
- Ho-Ho-Kus Water Hydrogeological Services; Ho-Ho-Kus, NJ: Project Manager for hydrogeological services. Evaluated Water Department regarding compliance with federal and state SDWA requirements; conducted a continuous review of water quality data to assist with operational and maintenance issues, as well as to track any changing source quality issues, including emerging PFAS contaminants; and assisted with preparation of sampling plans, permit renewals, water conservation plans, and correspondence with the NJDEP on a variety of issues.
- Parsippany-Troy Hills Water Hydrogeological Services; Parsippany, NJ: Served as Project Manager for a variety of hydrogeological services. Project scopes involved developing well rehabilitation plans, including development of technical bid specifications, contractor selection, and project oversight. Completed a well assessment program, including well testing, rehabilitation, and plans for well replacements.
- East Orange Water Hydrogeological Services; Essex County, NJ: Served as Project Manager for various hydrogeological services over a 10-year period, starting with a desktop wellfield assessment of 18 wells completed in buried glacial valley deposits and bedrock aquifers. Developed and managed a comprehensive testing, rehabilitation, and well replacement program to allow for maximizing the well capacities while minimizing water quality issues. Developed an interim well operational protocol for maintaining water quality prior to completion of system treatment, and assisted operations in tracking blending of water from active wells to meet drinking water standards.
- Monroe Township Utility Department Hydrogeological Services; Monroe Township, NJ: Project Manager responsible for hydrogeological services for 10+ years. Responsibilities included coordination and management of the siting, drilling, testing, and permitting of a two supply wells for incorporation into a public community water supply system as part of a water allocation transfer.
- Confidential Client Water Supply Development; Moncks Corner, SC: Project Manager that coordinated and managed the siting, drilling, and testing of a deep supply well used to develop an industrial water supply source. Aquifer testing of the supply well was completed and the results used to develop a locale specific numerical model. The results of the modeling were used in conjunction with the analyses of the testing data in support of a groundwater withdrawal permit for use of the supply well.
- Township of New Windsor Water Supply Development; New Windsor, NY: Coordinated and assisted with the design of a groundwater exploration program to expand the existing public community water supply sources. Availability for developing additional groundwater supplies locations within the Town were limited, so the initial exploration program focused on the use of angle drilling to explore potential deposits underlying the Hudson River. Assisted with management of the exploration, development, and testing of a five MGD groundwater supply within a local river valley using three supply wells.

Education

B.A., Geology; Hartwick College

Licenses/ Certifications

Professional Geologist: PA

AWWA Utility Risk and Resilience Certified

OSHA 40-Hour HAZWOPER

Memberships

AWWA, New Jersey Sector



James J. Roberts P.E.

Senior Vice President
Market Director of Water and Wastewater



Mr. Roberts is an accomplished professional with more than 35 years of experience in the operations and maintenance of New York City's water supply, distribution, wastewater collection and storm water management, one of the most extensive water and sewage systems in the world. As the former Deputy Commissioner of the NYC Department of Environmental Protection, Mr. Roberts was responsible for overseeing approximately 1,300 employees, nearly 15,000 miles of water and sewer infrastructure, a capital improvement plan of \$1.5 billion and an annual operating budget of \$185 million, delivering over 1 billion gallons of water a day to 8.5 million New York City residents. As Market Director for Water and Wastewater, Mr. Roberts utilizes his technical background, familiarity with municipal infrastructure and government, and overall industry knowledge to provide guidance and leadership. Mr. Roberts brings a qualified perspective of what clients are seeking in a consulting experience.

Selected project experience

- Long Island Commission for Aquifer Protection/SCWA: Directed the development of Watershed Protection reports related to Long Island's sole source aquifer. The project focused on assessments of impacts to private wells, regional water contamination threats from existing plumes, potential threats from emerging contaminants (1,4 Dioxane, PFAS, PFOA, etc), environmental impacts such as climate change and sea level rise, impacts on water quantity and quality associated with plans to expand public water supply, wastewater collections, and treatment facilities. The overall report identified long-term and short-term opportunities and risks and creates a framework for the numerous public suppliers, regulators, and health officials to assess future strategic planning on both a local and regional level.
- Croton Water Filtration Plant (CWFP): Created the project transition team that established the operational organizational structure for the City of New York's first ever water filtration plant. At a cost of more than \$3.2 billion, the plant is rated at 290 MG and uses dissolved air floatation technology, full plant automation, and SCADA and CMSS systems. Established staffing, budgetary and training plans for the creation of a greenfield directorate responsible for operations, maintenance and repairs. With a staffing of approximately 60 persons and an operating budget of approximately \$35 million the plant was activated into service in May 2015.
- Executive Chief Engineer, City Tunnel #3 Stage II Manhattan: 8.5 miles of 12 foot diameter deep rock, concrete lined tunnel at elevations up to 500 feet below grade, carrying more than 50 MGD of Catskill/Delaware water to lower Manhattan, it was activated in October 2013. Responsibilities included ensuring regulatory compliance while commissioning four of 10 distribution chambers housing over 20 48" diameter butterfly valves, pump, elevator, HVAC, electrical, plumbing and instrumentation systems. Developed and implemented distribution plans and models to effectively integrate the new tunnel into the existing distribution system without disruption of service.
- Chief of Tunnel Operations and Maintenance, City Tunnel #3 Stage I Manhattan: 13 miles of 24 foot diameter deep rock, concrete lined tunnel activated in 1998 and capable of carrying up to two BGD of flow, this section of tunnel provided critical redundancy and replacement for the northern section of City Tunnel #1, which went into service in 1917. Responsibilities included ensuring regulatory compliance, commissioning all associated mechanical, electrical, pumping, elevator and HVAC systems in 14 distribution chambers including three main control chambers built up to 250 feet below grade in bedrock.
- Director of Capital Construction: QED935: \$35 million capital project that included more than 2.5 miles of 60 inch diameter steel water main and appurtenances, eight, 12 and 20 inch DIP water mains, cathodic protection systems, 15 inch through 48 inch combined sewers both ESVP and RCP and curb, sidewalk and roadway restoration. Included the major reconstruction of Shaft 11A off of City Tunnel No. 2 that included new 72 inch valves, HVAC, electrical, mechanical, plumbing and instrumentation systems.

Education

B.E., Civil Engineering; Manhattan College

Licenses/ Certifications

Professional Engineer: NY

NYS Certified Water Operator Grade D:
Distribution Systems

Memberships

American Water Works Association

NYWEA

Offices Held

NYS AWWA Past Trustee at Large

NYS AWWA Water Utility Council, Vice-Chair

NYWEA Executive Group

Next →

James J. Roberts

P.E.

Senior Vice President, Market Director of
Water and Wastewater

- Arden Heights Sewer Expansion and Bluebelt; Staten Island, NY: As part of the upgrade, more than a mile and a half of storm sewers and 100 catch basins were installed to help drain precipitation from the roadways. The stormwater will be diverted to a new bluebelt area where it will be stored and naturally filtered before it empties into the Arthur Kill. The project also included the installation of more than a mile and a half of sanitary sewers that will allow 114 homes to connect to the City's sewer system and discontinue the use of septic tanks. In addition, work included the installation of new water mains, the reconstruction of the roadways, and sidewalks.
- Senior Engineering Manager, QED933: Oversaw trunk water main improvements. 3.5 miles of 48-inch diameter RCCP trunk water main including a jack section across the Van Wyck Expressway, eight, 12, and 20 inch distribution water mains and 15 inch ESVP combined sewers.
- Senior Engineering Manager, QED 952: Oversaw 50,000 square feet of distribution water main installations including 8, 12 and 20 inch DIP in various neighborhoods of the borough of Queens. Project complexities included coordination of shutdowns, traffic coordination, regulatory compliance and sampling.
- Senior Engineer, QED864: Responsible for the program management of a borough wide valve capital replacement program which included valves from six to 48 inches in diameter. The project included construction of numerous pressure regulating facilities, trunk water main installations, cathodic protection systems, etc.
- Storm and Sewer Sanitary Reconstructions, Rockaway, Queens: The project included the installation of 12 inch to 36 inch storm and sanitary sewers and 20, 12, and eight inch diameter distribution water mains.
- First Avenue Manhattan, 106th Street to 125th Street: Highway led project entailed the installation of 48 inch diameter steel water mains, 12 inch through 54 inch combined sewers including pile supported sections and roadway improvements with reinforced concrete pavement, steel curbs and sidewalk.





Alison K. Auriemmo P.E., LEED AP

Assistant Vice President,
Deputy Division QA/QC Manager - Water Resources



Ms. Auriemmo is responsible for the internal quality assurance and quality control for all water projects conducted by H2M. Ms. Auriemmo is also responsible for design and construction administration tasks associated with the construction of water supply and treatment facilities. She is involved in the preparation of specifications and design plans, project bidding, shop drawing and payment request review, and project coordination with clients and contractors. Ms. Auriemmo has also prepared and assisted in the preparation of engineering reports which evaluate new well locations, existing distribution systems, and proposed VOC wellhead treatment systems.

Selected project experience

- Water System Rehabilitations: Plainview Water District Plant No. 5; Borough of Ringwood; City of Yonkers Water Treatment Plant, Low Service Pump Station and Hillview Pump Station.
- Air Stripping Treatment Systems: Inc. Village of Garden City Well Nos. 8 and 12; Plainview Water District Well No. 5-3
- Iron Removal and Air Stripping Treatment System: South Farmingdale Water District Plant No. 1; South Farmingdale Water District Plant No. 3.
- Granular Activated Carbon Treatment Systems: Garden City Park Water District Well No. 11; South Farmingdale Water District Well No. 5-1; Garden City Park Water District Well No. 6.
- Steel Ground Storage Tank Rehabilitation: West Hempstead Water District Birch Street Plant.
- Water Distribution System Evaluation and Hydraulic Model: Garden City Park Water District.
- Well Pump Replacements: West Hempstead Water District Well No. 7-1 and the City of Long Beach Well No. 17.
- Tablet Chlorinator Installation: All plants for the Locust Valley Water District.
- Emergency Chlorination Testing: Beaver Dam Winter Sports Facility Distribution System.
- New Well Construction: West Hempstead Water District Well No. 7-2.
- New Well Site Study: Garden City Park Water District.
- Engineering Reports: Locust Valley Water District perchlorate removal at Well No. 8, Plainview Water District MTBE removal at Plant No. 1, Plainview Water District MTBE removal at Plant No. 5, West Hempstead Water District MTBE removal at Birch Street.
- Hurricane Sandy Response: City of Long Beach Water Department, provided quality sampling assistance to return potable water service to the community.

Education

B.S., Biological and Environmental
Engineering; Cornell University

Licenses/

Certifications

Professional Engineer: NY

LEED Accredited Professional, USGBC

Memberships

American Water Works Association



John R. Collins P.E., LEED AP

Vice President,
Manager of Discipline Operations - Long Island
Water Resources Engineering



Education

B.S., Civil Engineering; Clemson University

Licenses/ Certifications

Professional Engineer: NY

LEED Accredited Professional, USGBC

Project Management Training Program, H2M

Memberships

American Water Works Association, New
York Section

Mr. Collins is a water resources engineer with more than 20 years of experience. His experience in water distribution includes numerous projects involving the extension of transmission and distribution mains for potable and raw water as well as projects, including the replacement of aging infrastructure. Projects include the design and oversight of new mains to service previously unincorporated areas or to provide a solution to specific pressure and flow deficiencies. He has developed engineering reports evaluating the effects new development has upon existing water systems and determines how best to provide public water to these developments. Specific responsibilities also include the design, layout, cost estimating and construction management of public and private water distribution systems.

Selected project experience

- Manhasset-Lakeville Water District Installation of Sanitary Sewer Main; Manhasset NY: Design and construction oversight of 1,000 feet of new sanitary sewer force main along Searingtown Road to provide process waste connection from Searingtown Road Water Treatment Plant.
- Bethpage and Hicksville Water Districts Installation of Sanitary Sewer Main; Bethpage and Hicksville NY: Design and construction oversight of new sanitary sewer gravity mains to provide process waste connection from Adams Avenue and Bethpage Road Water Treatment Plants.
- Hampton Bays Water District Installation of Transmission Main; Hampton Bays, NY: Design of 16,000 feet of 12" cement-lined ductile iron water main within existing roadways to increase fire flow and pressure in the southerly portion of the District. Design included a 600 foot directional bore beneath an existing railroad crossing utilizing 16" HDPE pipe.
- Riverhead Water District Boundary and Lateral Main Extensions; Riverhead, NY: Permitted, designed and oversaw the installation of over 30 miles of water distribution and transmission main ranging in size from 6" to 16" diameter and 225 hydrant assemblies to provide service to new development.
- Manhasset-Lakeville Water District Elm Sea Area Transmission Main; Plandome, NY: Design of 10,700 feet of 12" water main ductile iron water main to replace undersized and aged infrastructure, including two directional bores of 16" HDPE pipe beneath drainage culverts to service an isolated area of the District experiencing low flow and pressure conditions. Roles included permitting, design and construction oversight.
- Bethpage Water District Cherry Avenue Transmission Main; Bethpage, NY: Design of 3,600 feet of 20" cement-lined ductile iron water main within an existing County roadway to transmit water from source to storage.
- Town of Greenburgh Replacement of Asbestos Mains on Greenvale Circle; White Plains, NY: Design of 2,000 feet of new 8" cement-lined ductile iron water main to replace an existing asbestos cement main including provisions for transfer of services and hydrants.
- South Huntington Water District The Greens at Half Hollow; Melville, NY: Design and construction oversight of 44,300 feet of ductile iron water main, including a directional bore of 850 feet of 16" HDPE pipe and 60 hydrant assemblies to provide potable water service and fire protection to the Greens at Half Hollow residential development.
- Hicksville Water District Capital Improvements; Hicksville, NY: Designed the replacement of 22,000 feet of outdated infrastructure in a residential area which had reached the end of it's useful life with new facilities. Roles included analysis of existing infrastructure, temporary water facilities coordination with permitting agencies and construction oversight.
- Oyster Bay Water District Laurel Cove Extension; Oyster Bay, NY: Design of 18,500 feet of 8" and 12" cement-lined ductile iron water main within existing Village roads to provide potable water service and fire protection to a previously disenfranchised residential area.



Paul J. Ponturo P.E.

Senior Water Resources Engineer



As Senior Water Resources Engineer, Mr. Ponturo has been focusing on a number of regulatory and compliance issues relating to public water supplies, emerging contaminant review and monitoring program design. He is also currently involved in H2M's efforts in expanding education and outreach opportunities to water supply professional operational and planning staff.

Prior to H2M in 2008, Mr. Ponturo was the Chief of the Office of Water Resources, of the Suffolk County Department of Health Services' Division of Environmental Quality, where he served as a Public Health Engineer since 1972. The Office of Water Resources develops and enforces drinking water regulations controlling Suffolk's 400 community and non-community public water supplies, and monitor the drinking water supply as well as the quality and quantity of the groundwater resource, conducting surveys and investigations of the county's hydrogeology, participating in special studies, Suffolk's Comprehensive Water Resource Management Plan, and providing necessary technical assistance in activities to categorize the critical land use activities which effect the watershed areas of the county's public supply well sources in the completion of Source Water Assessment Program for Long Island. In addition to public and private wells sampled in the course of these activities, the Department's water resource monitoring is enhanced via an extensive network of monitoring wells and stream sampling points and test wells installed to track groundwater remediation and groundwater resource studies. As Chief, he supervised a staff of 34 engineers, hydrogeologists, sanitarians, well drillers and office support personnel. He provided training opportunities to public water supply professional staff on a wide variety of relevant issues including water supply regulations, facility requirements, water quality findings, emerging contaminants, safety, emergency planning and water resource planning.

Mr. Ponturo has been an instructor in a New York State-approved Grade IIB Water Treatment plant Operator Certification course, lecturing on the subjects of well construction, water supply disinfection, cross-connection control and regulatory requirements. He has also been a guest lecturer at Stony Brook University and Southampton College, providing students in environmental studies programs with presentations on diverse water supply and water resource topics.

More recently, he authored the Long Island Commission for Aquifer Protection's (LICAP) Groundwater Resource Management Plan chapter on Existing Regulations and Management Regime and contributed to expanded LICAP Plan Task Reports on Private Wells, Wastewater Management and Regional Contamination Threats.

Articles/Papers

- Water Distribution System O&M Workshop, NYSAWWA Training Course, 1/10/06.
- Maintaining Water Quality in the Distribution System, NYSAWWA Training Course, 12/1/04.
- UCMR Contaminant Occurrence, LIWC Education Workshop, 10/04.
- Operator Certification Issues, LIWC Education Workshop, 11/03.
- Emergency Plans and Vulnerability Assessments, NYS Rural Water Association, 10/30/03.
- Emerging Water Supply Issues, NYS Water Authorities, Annual Conference, 8/6/03.
- Federal/State Drinking Water Protection Efforts, VEEP Training, 6/26/03.
- Emerging Groundwater Contaminants, SUNY LI Groundwater Symposium, 6/6/03.
- SWAP Program Status, Nassau/Suffolk Water Commissioners Association, 4/12/03.

Education

M.S., Civil Engineering;
Polytechnic University
B.S., Civil Engineering; Lehigh University

Licenses/ Certifications

Professional Engineer: NY

Memberships

American Water Works Association
Long Island Water Conference
New York State Society of
Professional Engineers
Westchester Water Works Conference

Offices Held

American Water Works Association New
York Section; Chair 2020

Awards

NYS AWWA George Warren Fuller Award

Articles/Papers

NYSAWWA: Waterborne Disease and
Legionella 1/20, Sanitary Surveys 3/19, Lead
and Copper Rule After Flint, 3/17, UCMR3
Early Results 2/15, Customer Complaints
8/14, Distribution System Monitoring 7/13,
Hexavalent Chromium What You Need to
Know 9/12, Total Coliform Rule Revision
9/11, Monitoring Program Design Basics
8/11, SDWA and the Standard Setting
Process 4/10, Utilizing Indicator Organisms
3/09.

Paul J. Ponturo

P.E.

Senior Water Resources Engineer

NSWCA: Emerging Contaminants, UCMR3 and UCMR4 6/19.

LIWC Symposium: 1,4-Dioxane- NYS, LI, Nationwide data Occurrences 3/17
Pharmaceuticals and Personal Care Products, Suffolk County Water Resources Management Plan Program, 6/18/08.
Groundwater Rule and SWAP, LIWC Education Workshop, 3/20/08.

Water Quality & Food Processing, LI Food Technology, 6/07.

Regulatory Update, LIWC Education Workshop, 2007, 2004, 2003, 1999.

Water Distribution System O&M Workshop, NYSAWWA Training Course, 1/10/06.

Maintaining Water Quality in the Distribution System, NYSAWWA Training Course, 12/1/04.

UCMR Contaminant Occurrence, LIWC Education Workshop, 10/04.

Operator Certification Issues, LIWC Education Workshop, 11/03.

Emergency Plans and Vulnerability Assessments, NYS Rural Water Association, 10/30/03.

Emerging Water Supply Issues, NYS Water Authorities, Annual Conference, 8/6/03.
Federal/State Drinking Water Protection Efforts, VEEP Training, 6/26/03.

Emerging Groundwater Contaminants, SUNY LI Groundwater Symposium, 6/6/03.

SWAP Program Status, Nassau/Suffolk Water Commissioners Association, 4/12/03.

Groundwater Quality, Southampton College Community Water Supply Forum, 3/26/03.

- Groundwater Quality, Southampton College Community Water Supply Forum, 3/26/03.
- Groundwater Contamination Emerging Issues, Suffolk County Legislature Testimony, 8/14/02.
- Coliform Rule Issues, LIWC Education Workshop, 4/13/02.
- Private Well Surveys Near Landfills, Easthampton Town Board Presentation, 3/18/02
- Cross Connection Control Program and Backflow Investigations, SCDOH Staff Training Presentation, 3/16/07.
- Coliform Rule Monitoring & Sample Collection, LIWC Education Workshop, 12/06.
- Groundwater Quality, SUNY Stony Brook Environmental Issues Course (Guest lecturer), 12/6/01, 11/18/04, 12/7/06.
- Groundwater Rule, NYSAWWA Tift Symposium, 11/15/06.
- Distribution System Monitoring, NYSAWWA Training, 10/06.
- Water Treatment Plant Operator Certification Program, New Regulations, LIWC, 2/13/01.
- MTBE and L.I. Drinking Water Supplies, Southampton College Supply Forum, 4/01.
- Perchlorate Occurrence in Suffolk County, NYSAWWA Tift Symposium, 11/14/00.
- Groundwater Rule, NYSAWWA Fall Meeting, 10/12/00.
- Coliform and Groundwater Rule Issues, Nassau/Suffolk Water Commissioners Assoc., 12/15/97.
- Cross Connection Control Program and Principles, NYSAWWA Tift Symposium, 10/29/97.
- Groundwater Problems and Supply, NYS Assoc. of Conservation Commissions, Annual Meeting, 4/97.





Mr. Sean P. Canning, MPA, QPA

Technical Experience

Organizational Change Leadership/Management Expert

Public Procurement & Bidding Expert

State QPA Test Advisor for Purchasing Standards

CEO The Canning Group LLC

Township Administrator Mount Olive Township 2012-2015

Borough Administrator Borough of Lincoln Park 2009-2012

Chief of Police, Lincoln Park Police 2004-2009

Mr. Sean P. Canning, 32 years of public service spanning three (3) organizations of expert leadership. Mr. Canning is rightly proud of having been a change and reform agent in all organizations, leaving them in excellent shape for future operations and reforming each organization.

Mr. Canning is an expert at organizational management and leadership, management of operations and personnel as well as public procurement. Mr. Canning is an instructor for the Rutgers University Center for Government Services in the realm of public purchasing and municipal finance. He has spoken at the State of New Jersey Public Purchasing Conference, May 2015.

Mr. Canning serves on the advisory panel formulating the State of New Jersey Qualified Purchasing Agent Exam. Mr. Canning also co-chairs the "Yellow Book" sample procurement documents, for the State of New Jersey Department of Community Affairs through Rutgers Center for Government Services. Mr. Canning has served as the Qualified Purchasing Agent for seven (7) municipalities and has engaged in thousands of procurements and authored bids, RFP's and competitive contracts numbering over 400. Mr. Canning's strengths are problem solving, identifying organizational deficiencies and providing cost effective management reform, resulting in organizational stability.

- Managing Member – The Canning Group LLC 2013- current: As a team provide for effective interim administration, executive searches, efficiency studies for municipalities, water and sewer utilities. Provide for leadership and management seminars and public purchasing assistance to municipalities.

- Instructor Rutgers University Center for Government Services: As an instructor for professionals seeking to become qualified for the states licensing process through the topics of public purchasing and municipal finance. Mr. Canning has trained municipal professionals who have successfully passed the Qualified Purchasing Agent exam administered by the Department of Community Affairs.

- Township of Mount Olive 2012-2015: Transformed an organization of 165 employees, conducted organizational change in sanitation district to automation of pickup and \$300,000.00 yearly savings. Provided for \$0.00 tax increase 3 out of 4 years while building fund balance
- Borough of Lincoln Park 2009-2012: Assumed leadership on the heels of financial scandal, effectively led the Borough through the recession of 2009 with no adverse downsizing. Effectively restricted the recycling

Masters Public
Administration

QPA New Jersey

Instructor Rutgers
University
Public Purchasing

ICMA Member
NJMMA Member
NJGPA Member
NJSACOP Member
NIGP Member

pickup program saving \$200,000.00 annually.

- Chief of Police Lincoln Park Police Department 2004-2010 :Led 32 member police department through the New Jersey Accreditation process and national CALEA recognition within 18 months of taking over department on heels of a leadership scandal and crisis. Served as 2nd vice president of Morris Chief's association and served on authoring committee of State Chiefs Association on police consolidation.

Jon Rheinhardt

C.M.F.O., C.C.F.O., R.P.P.O., Q.P.A., M.P.A.



Jon offers more than twenty-three years of municipal finance experience from a variety of positions.

First, spending five years as a municipal auditor, Jon obtained a unique understanding of the financial, operational and regulatory side of county, municipal, joint insurance fund and school finances. Working for the County of Morris as the Assistant Treasurer for over seven years and the Borough of Wharton as the Administrator and Finance Officer for more than nine years has given Jon the ability to experience municipal government operations from both a large organizational view point down to a small town.

Jon served as the Chairman of the Morris County Municipal Joint Insurance Fund (MCMJIF) and also serves as the MCMJIF representative for the Municipal Excess Liability Joint Insurance Fund and the Residual Claims Fund Joint Insurance Fund at the statewide level.

Jon is also an instructor for Rutgers teaching the municipal finance courses to those seeking certification as CMFO's in the State of New Jersey. In addition to Rutgers, Jon has been a guest instructor for the Morris County Prosecutor's office for their Command School teaching finance to the law enforcement community. The County of Morris also enlisted Jon to teach a finance basics course as part of a county wide shared service educational seminar. Jon has also been a guest speaker for various League of Municipality seminars in the area of Shared Services. Jon was also involved in a public forum effort sponsored by Morris County to bring schools and municipalities together to identify shared services.

Jon earned his Bachelor of Science degree in Accounting from Rider College, Lawrenceville, NJ and his Masters in Public Administration from Fairleigh Dickinson University, Madison, NJ.

Jon was the Chairman of the Morris County Employees Federal Credit Union prior to their merger with Tri Co Federal Credit Union. Joining the Tri Co Board of Directors in 2000, Jon has been an active member of the Financial Management Committee, Personnel Committee, and Chairman of the Supervisory Committee. In May 2008 Jon became Chairman of the Board for Tri Co.

Jon serves on the Board for the Government Finance Officers Association of New Jersey as the Northern Area Chairman and also as the Chair of the Legislative Committee.

Professional Biography

Francis J. Bastone, MPA

Francis J.(Frank) Bastone's career in municipal management in northern New Jersey spanned four (4) decades over thirty-three (33) years in six (6) diverse local jurisdictions. Mr. Bastone is an innovative leader with vast management experience and a clear record of achievement in a complex, volatile, multi-tasking environment. In addition to excellence in general municipal management, Frank has developed specific expertise in areas of finance administration, contract negotiations, personnel organization, crisis control, environmental responsibility and insurance loss management. In addition, Mr. Bastone has been a consistent leader in municipal utility governance. He rounds out his public service by serving in various capacities, including long-term president, on a number of private, non-profit boards.

Record of Achievement

Management

- Managed regional electric utility
- Liaison to NJ Board of Public Utilities
- Managed regional water utility
- Chamber of Commerce Board of Directors
- Establishment of Regional Sewerage Authority

Financial

- Achieved Triple AAA bond rating - one of seven out of 566 NJ municipalities at the time
- Reversed deficit-ridden electric utility finances into self-sustaining utility
- Rate-making - develop long-range fiscal forecasts and implement corresponding rate structures
- Long-range capital planning
- Budget preparation

Contractual Negotiations

- Negotiated 15 year wholesale water contracts for regional water system
- Negotiated 10 year service contracts with capital contributions for regional animal shelter
- Personnel - Chief negotiator - union collective bargaining agreements
- Successful compulsory interest arbitration awards

Crisis Management

- Managed artificial turf lead content crisis - quoted in US Today
- Testified before US Congressional Committee on Solid Waste Crisis-transcript available
- Environmental Closure of a landfill

Insurance Management & Loss Control

- Chairman - State-wide excess liability insurance pool
- Charter member - County-wide self-insured general liability pool
- Vice Chairman - County-wide self-insured general liability pool
- Established regional self-insured medical insurance pool
- Workers Compensation loss control
 - 6 years - zero lost time
 - Reduced workers compensation loss time by 50%



Mr. Bastone served as CEO:

Township of Mount Olive
Borough of Hopatcong

Borough of Butler
Borough of Essex Fells

Township of Fairfield
Township of Montville

Educational Background

Pennsylvania State University – Masters of Public Administration
Fairleigh Dickinson University – Bachelor of Arts – Political Science

Private, Non-Profit Boards

Morris County Organization of Hispanic Affairs
Somerset Hills Village Condominium Association

Robert F. Casey



OVERVIEW OF SIGNIFICANT EMPLOYMENT ACTIVITIES

A. April 1999 to present, serving as a "municipal consultant" providing assistance to municipalities on a variety of management issues including various management studies, managing construction projects, recruitment, and providing shared service analyses and studies. (see attached summary)

B. Sept. 2001 – Aug. 2011, Executive Director, New Jersey Municipal Management Association.

C. Served as the Acting or Interim Manager / Administrator in Freehold Borough (Borough form, Fall 1999); Mount Olive Twp. (Mayor/Council govt., 2000-2001; also served as Acting Finance Dir. And Acting Dir. of Public Works); Oakland Borough (2000); Bedminster Twp (2000); Maplewood Twp (2002); City of Plainfield (Special strong mayor charter, also served as Director of Administration and Finance) (2003); Manalapan Twp. (2003-2004); Bound Brook Borough (2004); Mount Olive Twp. (Mayor/Council govt., 2005); Englewood City (City Manager in Special Charter (2007-2008)

BUSINESS ADMINISTRATOR, Borough of Freehold, New Jersey, 1989 - 1999.

CITY MANAGER, City of Hackensack, New Jersey, 1987 - 1989.

TOWNSHIP MANAGER, Township of Roxbury, New Jersey, 1982 – 1987

TOWNSHIP MANAGER, Mount Holly, New Jersey, 1972 - 1982.

OTHER ACTIVITIES

County and Municipal Study Commission, appointed by Governor Byrne as the first manager to serve on this nationally recognized panel, 1978 to 1991
N. J. League of Municipalities Legislative Review Committee specializing in Land Use, Environmental, Public Works, and Code Enforcement activities.

Member of the **Local Unit Alignment, Reorganization and Consolidation**

Commission and author of several reports of the Commission

Active participation in several committees of the N.J. League of Municipalities working with State officials and legislators on items of interest to municipalities.

RECOGNITIONS

Distinguished Service Award, New Jersey Municipal Management Association, 1995

Distinguished Service Award, New Jersey League of Municipalities, 1982

President of the New Jersey Municipal Management Association, 1977

EDUCATION

Masters of Public Administration, University of Michigan

Bachelor of Arts, College of William and Mary

April 14, 2023

Ms. Kristin Tedesco
Manager, Bureau of Water System Engineering
Department of Environmental Protection
PO Box 420
29 Artic Parkway
Trenton, NJ 08625

RE: Fee Proposal for Technical, Managerial, & Financial Capacity Assessment of Trenton Water Works

Dear Ms. Tedesco:

H2M proposes to perform the TMF assessment, as described in NJDEP's RFP, and according to the scope description attached hereto, under the following fee structure:

▪ Technical Assessment	\$123,900
▪ Managerial Assessment	\$97,500
▪ Financial Capacity Assessment	\$35,300

H2M's total proposed fee is in the amount of **\$256,700**. H2M proposes to invoice NJDEP monthly, on a lump sum percent-complete basis, in accordance with the attached Standard Terms and Conditions.

Sincerely,

H2M Associates, Inc.



Patrick K. Cole, P.E., CME, CPWM
Vice President
Deputy Market Director of Water and Wastewater



James J. Roberts, P.E. (NY)
Senior Vice President
Market Director of Water and Wastewater



H2M Standard Terms & Conditions

Client	New Jersey Department of Environmental Protection
Site	Trenton Water Works 333 Cortland, St., Trenton, NJ 08638
Services	Technical, Managerial, & Financial Capacity Assessment of Trenton Water Works

Client's Rep.	Ms. Kristin Tedesco
Phone/E-Mail	(609) 292-5550; kristin.tedesco@dep.nj.gov

H2M's Rep.	Patrick K. Cole, P.E., CME, CPWM
Phone/E-Mail	(732) 414-2661 ext. 2104

1. Applicability of Terms and Conditions.

1.1. Applicable to Scope of Services. The scope of services, pricing and schedules included with H2M's proposal are contingent upon the Client accepting the terms and conditions ("**Standard T&C**") herein. Any changes hereto which affect H2M's rights, obligations, or risk exposure shall entitle H2M to make appropriate adjustments to its pricing and proposal.

1.2. Applicable to Preliminary Services. These Standard T&C shall also apply to any services H2M performs prior to the Parties executing a written Contract. In such circumstances, Client's direction to H2M to render services shall constitute acceptance of these Standard T&C.

2. Authority of Signers and Parties.

2.1. Authority to Contract. The individuals signing the Contract each warrant that s/he is empowered to sign on behalf of and bind the indicated Party to these Standard T&C and all other components of the Contract.

2.2. Authority for Project. Client warrants that it has any authority and permission required from Owner to engage H2M in the Services concerning the Site, and to grant H2M physical access to the Site as needed to perform the Services.

3. Contractual Obligations

3.1. Designated Representative. Each Party shall designate a "Representative" in writing above. Each Representative shall have the authority to transmit and receive instructions and other information, and to render interpretations and decisions concerning the Project and Contract on behalf of the Party s/he represents. Each Party is entitled to rely on communications from the other Party's Representative as authoritative. Each Representative shall issue decisions, interpretations and communications promptly as to avoid unreasonable delays in delivery of the Services.

3.2. Commencement. H2M is not obligated to commence or continue rendering any Services until both Parties have signed the Contract and Client has paid any required Fee advance specified in the proposal.

3.3. Performance Standards. Each Party shall exercise its rights and perform its obligations in a reasonable and non-negligent manner. H2M shall perform its Services within the Standard of Professional Care. Client shall pay compensation for all Services so rendered. H2M makes nor implies any other warranties or guarantees, herein or otherwise, concerning the Services or the outcome of the Project.

3.4. "Standard of Professional Care" means the standard of care and skill recognized by law to apply to licensed professionals practicing the same profession, under the same circumstances, at the same time and location, as the Services rendered by H2M. Nothing in any part of the Contract is intended, nor shall anything be so interpreted as, to elevate the Standard of Professional Care beyond the definition included here.

3.5. Document Ownership. All information (including but not limited to drawings and specifications) developed by H2M are instruments of service only, and not products produced for sale nor works made for hire.

H2M reserves all of its copyright, ownership and other rights with respect to such information. Client shall not modify and shall not apply such information outside of the Project or for any purposes other than that for which it was created. Client shall defend and indemnify H2M against any claims, liabilities and costs associated with such unauthorized treatment of the information. Client may reuse the information for authorized purposes only with advance written consent from H2M that details the scope of, additional compensation for, and appropriate protections associated with such reuse.

3.6. Site Access. Client guarantees full and free H2M access to the Site and shall cooperate with H2M in gaining access to any other real property required for the performance of the Services.

3.7. Preliminary Information. Client shall provide to H2M in writing any pertinent information it possesses that might affect the Project requirements (including but not limited to design objectives and constraints, budgetary limitations, surveys, related reports and studies, environmental, geotechnical, and soil data, preliminary designs, etc.). H2M is entitled to rely on the accuracy of all information that the Client provides. H2M shall not be required to verify any such information, unless such task and information is specifically listed in the Scope of Services.

3.8. Hazardous Materials. Client warrants that to the best of its knowledge there are no constituents of concern on or adjacent to the Site, other than those previously disclosed in writing to H2M. Nothing in this Contract shall be interpreted to give H2M responsibility for the current existence or introduction (including by, but not limited to, dispersal, discharge, escape, release, or saturation, either sudden or gradual) to the Site of any hazardous materials (including but not limited to smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, or gases) by anyone other than H2M. Client shall therefore hold H2M harmless as to all such matters.

3.9. Claims Assistance. H2M shall be entitled to hourly compensation as Additional Services for all time spent analyzing, preparing, testifying, and otherwise assisting Client to pursue or defend claims and disputes to which H2M is not a named plaintiff or defendant.

4. Payment Terms

4.1. Fees. The "**Fees**" are the component of compensation to be paid by Client to H2M for its effort in providing the Services. The Fees pertaining to this Contract, are set forth in the proposal, and any Amendments to the Contract. Additional services, when required will be invoiced at hourly rates of compensation or a negotiated lump sum, plus reimbursable expenses.

4.2. Reimbursable Expenses. The "**Expenses**" are the costs H2M incurs in rendering the Services which are to be reimbursed by Client. Expenses authorized by this Contract include but are not limited to:

4.2.1. Transportation, lodging and subsistence incidental to the project, courier charges, reproduction, renderings or models, specialty field equipment and fees paid for securing approval of authorities having jurisdiction over the project;

4.2.2. Sub-contractor expenses, plus a ten (10) percent mark-up to compensate H2M for its handling and administration costs;

4.2.2. Any other expenses set forth in the proposal.

4.3. Taxes. The amount of any sales, excise, value added, gross receipts or any other type of tax that may be imposed by any taxing entity or authority shall be paid by Client in addition to the Fees and Expenses.

4.4. Invoices. H2M shall provide invoices to Client for all Fees and Expenses due under this Contract. Payment of invoices shall not be contingent upon the action of any third party. Client shall pay each invoice within thirty (30) days of the invoice date.

4.5. Interest on Past Due Amounts. Invoices, Fees, and Expenses will be past due as of the thirty first (31st) day following the date of the invoice. All past due amounts shall accrue interest at the maximum rate permissible by law until the date upon which they are finally paid.

4.6. Required Fee Advance. As security against the risks and costs of mobilizing to commence performing the Services, H2M may require a Fee advance. Any such Fee advance will be specified in the proposal. The fee advance will be deposited upon receipt and booked as an outstanding credit against accounts receivable from the Client. The Fee advance will be applied to Client's final invoice.

5. Project Risk Management

5.1. Mutual Waiver. Except as otherwise specifically provided for in these T&C, neither Party shall hold the other responsible for any consequential damages, nor any damages other than direct damages.

5.2. Mutual Indemnification. Subject to the applicable concepts of contributory and comparative fault, and in addition to any other compensation provided by law or this Contract, each Party shall indemnify the other Party's "Indemnitees" (the Party, its owners, directors, officers, employees and volunteers) against third-party claims and liabilities (including the reasonable costs of defending such claims) for death, bodily-injury, and property damage, but only to the extent such have been caused by the negligence of the indemnifying Party (including its owners, directors, officers, employees, volunteers, and those contractors for whom it is legally responsible), and not to the extent such are caused by any other means (including but not limited to the negligence of the Indemnitees themselves).

5.3. Insurance Coverage. H2M shall maintain the following insurance coverage while performing the Services. Upon request, H2M will provide a Certificate of Insurance to Client as Certificate Holder reflecting such coverage.

5.3.1. Workers' Compensation and Disability coverages with limits at least in the amount required by law.

5.3.2. Employers' Liability coverage with policy limits not less than one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) each employee, and one million dollars (\$1,000,000) policy limit.

5.3.3. Automobile Liability coverage for H2M owned and non-owned vehicles utilized in performance of its Contract obligations, meeting statutorily required coverage, and with policy limits not less than one million dollars (\$1,000,000) each accident for bodily injury, death of any person and property damage.

5.3.4. Commercial General Liability coverage with policy limits of not less than one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) in the aggregate for bodily injury and property damage.

5.3.5. Professional Liability coverage for negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate.

5.3.6. Pollution Liability coverage with policy limits of not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate, whenever such would apply to H2M's Services.

5.4. Additional Insured Coverage. Client shall be covered as Additional Insured under the terms of H2M's Commercial General Liability policy.

5.5. LIMITATION OF H2M LIABILITY. H2M's AGGREGATE LIABILITY FOR ALL CLAIMS ARISING FROM AND/OR RELATED TO THIS CONTRACT, THE SERVICES, THE PROJECT, AND/OR THE SITE, SHALL BE LIMITED TO THE GREATER OF THE AMOUNT OF FEES PAID UNDER THIS CONTRACT OR FIFTY THOUSAND DOLLARS (\$50,000.00).

6. Dispute Resolution

6.1. Notice of Claim or Dispute. An aggrieved Party shall give the other Party written notice of any claim or dispute arising from the Project, the Services, or this Contract. The Parties shall endeavor in good faith to resolve such matters fairly and amicably through negotiation. If the matter has not been resolved by negotiation within thirty (30) days of receipt of such written notice, either Party may demand mediation of the matter.

6.2. Mediation. Unless the Parties agree to other rules, any mediation shall be conducted under the auspices of the American Arbitration Association (AAA), pursuant to its Construction industry mediation rules. Each Party shall bear its own mediation costs (except as specified in the rules, and except that the AAA fees, mediator fees, and if agreed the venue fees, shall all be borne equally by the Parties). Except as otherwise specifically permitted herein, a prospective plaintiff Party may not file an action before giving the other Party ten (10) day's written notice and opportunity to demand mediation. Such notice, and a good faith effort in any mediation timely demanded, shall be a condition precedent to the prospective plaintiff Party commencing litigation.

6.3. Waiver of Jury Trial. The Parties hereby waive any and all rights to a trial by jury in any litigation pertaining to the Services or this Contract.

6.4. Certificate of Merit. As a condition precedent to filing any pleading containing a cause of action based on professional liability, Client must include a sworn Certificate of Merit from a similarly licensed professional explaining the applicable Standard of Professional Care and alleging the specific acts or omissions by which H2M violated the Standard.

6.5. Suspension of Services. Upon ten (10) days written notice, H2M may suspend delivery of the Services until any past due invoice is paid. Client shall hold H2M harmless for the impact of any such suspension.

6.6. Collection Efforts. Upon ten (10) days additional written notice, H2M may refer any past due invoice to inside or outside counsel for collection. H2M is entitled to reimbursement by Client for the time and cost involved in such collection efforts.

6.7. Liquidated Damages. Since the actual costs that H2M will suffer in such collection efforts is difficult to ascertain, the Parties agree that Client will pay H2M the following amounts as liquidated damages for such costs: two hundred dollars (\$200.00) when H2M refers a past due invoice for collection; plus either an additional six hundred dollars (\$600.00) when a collection action is filed in small claims court, or an additional two thousand dollars (\$2,000.00) when a collection action is filed in any other court. These liquidated damages are H2M's only remedy to recover such costs of collection.

6.8. Payment Disputes. H2M's collection efforts are not subject to the mediation requirements set forth above. In disputing any invoice, Client shall adhere to the Mediation and Certificate of Merit requirements set forth above.

6.9. Project Suspension. Upon seven (7) days' written notice to H2M, Client may suspend the Project for any reason. If the aggregate number of Project suspension days exceeds sixty (60) days, such will constitute cause for termination.

6.10. Termination. Either Party may terminate this Contract for cause if the other Party substantially fails to perform its obligations or otherwise breaches a material term of this Contract. Such termination will only be effective upon seven (7) days' written notice and opportunity to cure. This Contract may also be terminated by the Client without cause by providing H2M thirty (30) days written notice. If this Contract is terminated H2M shall be entitled to invoice and to be paid for any Services performed prior to the termination. Notwithstanding any other provisions of the Contract, if H2M terminates this Contract for cause, in addition to any direct damages for breach of contract, it shall be entitled to recover from Client any expenses demonstrably attributable to termination

7. Definitions *(additional definitions indicated by quotes in context).*

7.1. "Client" means the person/entity for which H2M is obliged to perform the Scope of Services set forth in the Contract (and/or for which H2M performs services described in 1.2. above). Client and H2M are each individually a **"Party"** and are collectively the **"Parties"** to the Contract.

7.2. "H2M" means the entity appropriately authorized to offer and render the services contained in the proposal and Contract. Specifically H2M Associates, Inc.; H2M Architects & Engineers, Inc.; or H2M Architects, Engineers, Land Surveying and Landscape Architecture, D.P.C. (d/b/a H2M architects + engineers), as appropriate. No proposal is intended as, and none should be interpreted to be, an offer to provide any services in any location where H2M is not authorized to provide such services.

7.3. "Contract" means the written agreement by which H2M is obligated to perform services for the Client, and includes all components specified in the proposal or otherwise incorporated by written reference.

7.4. "Services" means those services H2M is required by the Contract to perform for the Client, as such are reflected in the agreed **"Scope of Services"** set forth in the proposal and any amendments thereto agreed by the Parties in writing.

7.5. "Project" means the Client's overall endeavor at the Site, of which H2M's Scope of Services is a component.

7.6. "Site" means the real property to which the Project pertains, or where components of the Project are being built or disposed.

7.7. "Owner" means the owner(s) of the Site, whether or not such owner is also the Client.

7.8. "Contractor" means any person or entity (including the employees and subcontractors at every level thereof), other than H2M (including H2M's own employees and subconsultants), that provides materials and/or services for the Client relating to the Project or the Site. Any licensed professional or firm engaged by a Contractor, or by the Client directly (rather than as a subconsultant to H2M) is also a Contractor.

7.9. "Contractor Activity" means every activity performed by a Contractor that is in any way related to furthering the Project or otherwise performed on the Site, regardless of whether such activity is required by contract. Contractor Activity also includes a Contractor's failure to perform any activity required by law or contract.

8. General Terms

8.1. Headings. Paragraph numbering and headings are for navigational purposes only and shall be given no weight in construing the terms and conditions of this Contract.

8.2. Integration. This Contract, the components of which are specified in the proposal, represents the entire and integrated agreement between Client and H2M. This Contract supersedes all prior representations,

negotiations, and agreements, written or otherwise. In the event of any conflict between other Contract terms and these T&C, these T&C shall govern, unless the conflicting term specifically states that it is superior in precedence to this these T&C.

8.3. Severability. If any term or condition in this Contract is found to be unenforceable, the enforceable remainder shall be valid and binding upon the Parties. No waiver of any term or condition shall be construed to be a waiver of any subsequent breach.

8.4. Amendment. Any modification or addition to this Contract shall not be enforceable unless agreed upon in writing.

8.5. Delegation. Any delegation of a Party's right or obligation under this Contract shall be void unless made pursuant to advance written consent from the other Party.

8.6. Force Majeure. Neither Party shall be responsible for damages or delay caused by extraordinary events that are beyond its reasonable control and due care (as nonexclusive examples, war, terrorism, and natural disasters).

8.7. Choice of Law. The Standard of Professional Care applicable to the Services shall be supplied by the law of the state in which the Site is located. The remainder of this Contract shall be governed by the laws of the State of New York when the Site is located in New York, or by the laws of the State of New Jersey for all other Projects.

8.8. Choice of Forum. The Parties agree that the courts of New York State shall have jurisdiction over the Parties and their disputes arising under or related to this Contract as it pertains to any Site in New York State, and consent to the jurisdiction of said courts. Any New York litigation arising under or related to this Contract shall be filed in a court located in Nassau County, New York, or any New York county in which H2M maintains a permanent office at the time such litigation is commenced. The Parties agree that the courts of New Jersey shall have jurisdiction over the Parties and their disputes arising under or related to this Contract as it pertains to any Site outside New York State, and consent to the jurisdiction of said courts. Any non-New York litigation arising under or related to this Contract shall be filed in a court located in Morris County, New Jersey, or any New Jersey county in which H2M maintains a permanent office at the time such litigation is commenced.

9. Construction-Related Terms

9.1. Construction and Site Safety. Client represents that it is the Owner of the Site, or has the Owner's permission to control the Site. Nothing in this Contract or otherwise shall be interpreted to give H2M responsibility for safety upon the Site, nor for any means, methods, techniques, sequences, or procedures used, or failed to be used, in any Contractor Activity or other activity on the Project or Site (including, but not limited to shoring, bracing, scaffolding, underpinning, excavating, temporary retaining, erecting, staging, etc.). H2M employees shall comply with Site safety programs, when applicable.

9.2. Contractor's Insurance. Client is responsible for determining and demanding Contractor insurance that sufficiently protects Client. Additionally, to protect H2M, the Client shall cause any Contractor to procure, prior to commencing any Contractor Activity, at least the following insurance coverage, which must remain in force during all such activity and its associated guarantee:

9.2.1. Workers' Compensation and Disability coverages with limits at least in the amount required by law.

9.2.2. Employers' Liability coverage with policy limits not less than one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) each employee, and one million dollars (\$1,000,000) policy limit.

9.2.3. Automobile Liability coverage for Contractor owned and non-owned vehicles utilized in performance of the Contract Activity, meeting statutorily required coverage, and with policy limits not less than one million dollars (\$1,000,000) each accident for bodily injury, death of any person and property damage.

9.2.4. Commercial General Liability coverage with policy limits of not less than one million dollars (\$1,000,000) each occurrence and three million dollars (\$3,000,000) in the aggregate for bodily injury and property damage, and which includes the following features:

9.2.4.a. Explosion, Collapse and Underground coverage, whenever such would apply to the Contractor Activity;

9.2.4.b. Pollution Liability coverage, whenever such would apply to the Contractor Activity;

9.2.4.c. Contractual Liability coverage sufficient to insure the indemnity required by 7.4. below; and

9.2.4.d. Additional Insured coverage for H2M, by endorsement using ISO Form CG 20 32 04 13, specifying each of the entities listed in 3.2. above, as well as all of their directors, officers and employees.

9.2.5. Professional Liability coverage, whenever such would apply to the Contractor Activity, for negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate.

9.3. Contractor's Indemnity. Client shall require each of its Contractors to agree, via a written contract executed prior to commencing any Contractor Activity, to defend and indemnify the Client and the "H2M Indemnitees" (including each of the entities listed in 3.2. above, as well as all of their directors, officers, employees, consultants and agents) against all claims, liabilities and costs arising, or alleged to arise, from the negligence of the Contractor (including its owners, directors, employees, contractors and any others for whom the Contractor is legally responsible) in its Contractor Activity or any of its other activities

concerning the Project or Site. This obligation does not apply to such claims, liabilities and costs that are caused by the sole negligence of the H2M Indemnitee itself.


9.4. Cost Opinions. Any opinion of cost that H2M prepares is merely an estimate supplied for the Client's general guidance. H2M has no control over variations in market conditions, suppliers' or contractors' bidding strategies, nor the impacts that these and other variables have on the actual cost of labor and materials. Therefore, H2M cannot guarantee the level of accuracy of any such estimates. If greater accuracy is required, the Client shall separately engage an independent cost estimator.

9.5. Bid Process. If H2M is to participate in Contractor bid process, Client shall provide H2M with standard bid documents required and advertise for proposals from bidders, open the proposals at the appointed time and place and pay costs incident thereto. The Client shall hold all required special meetings, serve all required public and private notices, receive and act upon all protests and fulfill all requirements necessary in the development of the contracts and pay all costs including application and permit fees incident thereto.

9.6. Construction Observation Services. If the Services include H2M providing construction observation services, H2M shall provide such services over a period defined in, and on a frequency defined in the proposal. Regardless of the required frequency, H2M shall observe the Contractors' work only for general conformance with the plans and specifications. Such Services do not include any obligation to review any Contractors' construction means, methods, techniques, sequences or procedures, or any safety precautions and programs in connection with the Project or Site. H2M is not responsible for any Contractors' failure to carry out its work in accordance with the construction contracts. If the construction schedule is extended for any reason (except due to H2M's own negligence) H2M shall be entitled to payment for its extended effort as additional services pursuant to 4.1. above, regardless of whether Client seeks reimbursement from the responsible party.

Accepted and Agreed

Client	New Jersey Department of Environmental Protection
Signature	
By: Name	
Title	
Date	

H2M	H2M Associates, Inc.
Signature	
By: Name	Patrick K. Cole, P.E., CME, CPWM
Title	Vice President, Deputy Market Director of Water and Waste
Date	04/14/23

Contract Reservations

H2M reserves the right to negotiate reasonable insurance, liability, and claims provisions that are consistent with industry standards and the standard of professional care applicable by law.

[illegible]



State of New Jersey Standard Terms and Conditions

(Revised June 21, 2023)

STATE OF NEW JERSEY

DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

1.0 STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

The following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. The State's terms and conditions shall prevail over any conflicts set forth in a Contractor's Quote or Proposal.

2.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

The statutes, laws, regulations or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the Contractor and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the Contractor who shall provide it to the State.

The contractor shall maintain and submit to the State a list of subcontractors and their addresses that may be updated from time to time with the prior written consent of the Director of the Division of Purchase and Property (Director) during the course of contract performance. The contractor shall submit to the State a complete and accurate list of all subcontractors used and their addresses before final payment is made under the contract.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the Use Tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

2.2 OWNERSHIP DISCLOSURE

Pursuant to N.J.S.A. 52:25-24.2, in the event the Contractor is a corporation, partnership or limited liability company, the Contractor must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Contractor's failure to submit the completed and signed form prior to or with its Quote will result in the Contractor being ineligible for a Contract award, unless the Division of Purchase and Property (Division) has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, a Contractor with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

2.3 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Pursuant to N.J.S.A. 52:32-58, the Contractor must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Contractor, nor one (1) 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 the Contractor, nor one (1) of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Contractor is unable to so certify, the Contractor shall provide a detailed and precise description of such activities as directed on the form. A Contractor's failure to submit the completed and signed form will preclude the award of a Contract to said Contractor.

2.4 ANTI-DISCRIMINATION

All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions

Contracts (Exhibit B and Exhibit C - Executive Order 151 Requirements) as appropriate.

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.

2.5 AFFIRMATIVE ACTION

In accordance with N.J.A.C. 17:27-1.1, prior to award, the Contractor and subcontractor must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Contractors or subcontractors not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at https://www.state.nj.us/treasury/contract_compliance/.

2.6 AMERICANS WITH DISABILITIES ACT

The contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.7 MACBRIDE PRINCIPLES

The Contractor must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.8 PAY TO PLAY PROHIBITIONS

New Jersey law insulates the negotiation and award of State contracts from political contributions that pose a risk of improper influence, purchase of access or the appearance thereof. P.L.2005, c.51, as amended by the Elections Transparency Act, P.L.2023, c.30, codified at N.J.S.A. 19:44A-20.13 to 20.25 ("Chapter 51") and Executive Order 333 (2023).

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L.2005, c.51, rev. P.L.2023, c.30), a "fair and open process" means, at a minimum, that the contract shall be: publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and publicly opened and announced when awarded. A contract awarded under a process that includes public bidding or competitive contracting pursuant to State contracts law shall constitute a fair and open process. N.J.S.A. 19:44A-20.23. The agency conducting the procurement will need to determine whether the procurement meets the Election Transparency Act definition of a "fair and open process" and instruct vendors on the applicability of Chapter 51.

A. For Contracts Awarded Pursuant to a Fair and Open Process

Pursuant to P.L.2005, c.51, as amended by the Elections Transparency Act, P.L.2023, c.30, codified at N.J.S.A. 19:44A-20.13 to 20.25 ("Chapter 51"), and Executive Order No. 333 (2023), contracts awarded pursuant to a fair and open process do not require a certification or disclosure of any solicitation or contribution of money, or pledge of contribution, including in-kind contributions.

B. For Contracts Awarded Pursuant to a Non-Fair and Open Process

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L.2005, c.51, rev. P.L.2023, c.30), and Executive Order 333 (2023), the State shall not enter into a Contract to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a Continuing Political Committee or to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor during certain specified time periods. It shall be a breach of the terms of the contract for the Business Entity to:

- (1) Make or solicit a contribution in violation of the statute;
- (2) Knowingly conceal or misrepresent a contribution given or received;
- (3) Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- (4) Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor or Lieutenant Governor;
- (5) Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
- (6) Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- (7) Engage in any exchange of contributions to circumvent the intent of the Legislation; or
- (8) Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the Contract, and any extension(s) thereof, at the time any such contribution is made.

A "Continuing Political Committee" means any political organization (a) organized under section 527 of the Internal Revenue Code; and (b) consisting of any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$5,500 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined to be a Continuing Political Committee by the New Jersey Election Law Enforcement Commission under N.J.S.A.19:44A-8. A Continuing Political Committee does not include a "political party committee," a "legislative leadership committee," or an "independent expenditure committee," as defined in N.J.S.A. 19:44A-3.

Prior to awarding any Contract or agreement to any Business Entity pursuant to a non-fair and open process, the Business Entity proposed as the intended Contractor of the Contract shall submit the Two-Year Chapter 51 /Executive Order 333 Vendor Certification and Disclosure of Political Contributions for Non-Fair and Open Contracts, certifying either that no contributions to a Continuing Political Committee or to a candidate committee or election fund of a gubernatorial candidate have been made by the Business Entity and reporting all qualifying contributions made by the Business Entity or any person or entity whose contributions are attributable to the Business Entity. The required form and instructions, available for review on the Division's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>.

2.9 POLITICAL CONTRIBUTION DISCLOSURE

The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L.2005, c.271, rev. P.L.2023, c.30) if in a calendar year the contractor receives one or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at <http://www.elec.state.nj.us/>.

2.10 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

- A. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g;
- B. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards, now known as the State Ethics Commission;
- C. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, now known as the State Ethics Commission, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;
- D. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;
- E. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and
- F. The provisions cited above in paragraphs 2.8A through 2.8E shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards, now known

as the State Ethics Commission may promulgate under paragraph 3c of Executive Order No. 189.

2.11 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION

The Treasurer has established a business ethics guide to be followed by a Contractor in dealings with the State. The guide can be found at: <https://www.nj.gov/treasury/purchase/pdf/BusinessEthicsGuide.pdf>.

2.12 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

2.13 COMPLIANCE - LAWS

The contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

2.14 COMPLIANCE - STATE LAWS

It is agreed and understood that any contracts and/or orders placed as a result of [this proposal] shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

2.15 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

2.16 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS

The Contractor should submit the Disclosure of Investigations and Other Actions Form which provides a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If a Contractor does not submit the form with the Quote, the Contractor must comply within seven (7) business days of the State's request or the State may deem the Quote non-responsive.

2.17 DISCLOSURE OF PROHIBITED ACTIVITIES WITH RUSSIA OR BELARUS

Pursuant to N.J.S.A. 52:32-60.1 (P.L. 2022, c.3), a person or entity seeking to enter into or renew a contract for the provision of goods or services shall certify that it is not identified on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Activities in Russia or Belarus. If the Contractor is unable to so certify, the Contractor shall provide a detailed and precise description of such activities. A Contractor's failure to submit a certification will preclude the award or renewal of a Contract to said Contractor.

3.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT

3.1 COMPLIANCE - CODES

The contractor must comply with New Jersey Uniform Construction Code and the latest National Electrical Code 700®, B.O.C.A. Basic Building code, Occupational Safety and Health Administration and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

3.2 PREVAILING WAGE ACT

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq., is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The Contractor's signature on [the proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [the proposal] has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the Contractor's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by [the proposal] shall comply with

the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

3.3 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance.

3.4 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

- A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this 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, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree as follows:

- A. 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. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;
- B. 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;
- C. The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, 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, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:
 1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;
 2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis 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 discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;
 3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and
 4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.5 BUILDING SERVICE

Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor

or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

3.6 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.

3.7 SERVICE PERFORMANCE WITHIN U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b) (1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

3.8 BUY AMERICAN

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States, whenever available, and the contractor shall be required to so certify.

3.9 DOMESTIC MATERIALS

Pursuant to N.J.S.A. 52:33-2 et seq., if the contract is for the construction, alteration or repair of any public work, the contractor and all subcontractors shall use only domestic materials in the performance of the work unless otherwise noted in the specifications.

3.10 DIANE B. ALLEN EQUAL PAY ACT

Pursuant to N.J.S.A. 34:11-56.14 and N.J.A.C. 12:10-1.1 et seq., a contractor performing "qualifying services" or "public work" to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see <https://nj.gov/labor/equalpay/equalpay.html>.

3.11 EMPLOYEE MISCLASSIFICATION

In accordance with Governor Murphy's Executive Order #25 and the Task Force's July 2019 Report, employers are required to properly classify their employees. Workers are presumed to be employees and not independent contractors, unless the employer can demonstrate all three factors of the "ABC Test" below:

- A. Such individual has been and will continue to be free from control or direction of the performance of such service, but under his or her contract of service and in fact; and
- B. Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all places of business of the enterprise for which such service is performed; and
- C. Such individual is customarily engaged in an independently established trade, occupation, profession or business.

This test has been adopted by New Jersey under its Wage & Hour, Wage Payment and Unemployment Insurance Laws to determine whether a worker is properly classified. Under N.J.S.A. 34:1A-1.17-1.19, the Department of Labor and Workforce Development has the authority to investigate potential violations of these laws and issue penalties and stop work order to employers found to be in violation of the laws.

3.12 CYBERSECURITY INCIDENT REPORTING REQUIREMENT

Pursuant to N.J.S.A. 52:17B-193.2 et seq. (P.L.2023, c.19), Contractors that have access to, or host the State's network(s), system(s), application(s), or information shall report Cybersecurity Incidents to the New Jersey Office of Homeland Security and Preparedness (NJ OHSP) at <https://www.cyber.nj.gov/report/> within 72 hours of when the Contractor reasonably believes that a Cybersecurity Incident has occurred.

Consistent with N.J.S.A. 52:17B-193.2, "Cybersecurity Incident" means a malicious or suspicious event occurring on or conducted through a computer network that jeopardizes the integrity, confidentiality, or availability of an information system or the information the system processes, stores, or transmits.

Consistent with N.J.S.A. 52:17B-193.3(f), any Cybersecurity Incident notification submitted to the NJ OHSP shall be deemed confidential, non-public, and not subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the New Jersey Open Public Records Act, as amended and supplemented, and may not be discoverable in any civil or criminal action or subject to subpoena, unless the subpoena is issued by the New Jersey State Legislature and deemed necessary for the purposes of legislative oversight.

This reporting required by N.J.S.A. 52:17B-193.2 et seq. (P.L.2023, c.19) to NJ OHSP is in addition to the Contractor's responsibility to report Security Incidents as may be set forth in Contract Scope of Work or the Waivered Contracts Supplement to the State of New Jersey Terms and

Conditions. If the Waivered Contracts Supplement is not made part of the contract and a notification period is not specified in the Contract Scope of Work, the Contractor shall give notice of the Cybersecurity Incident to the Using Agency as soon as practicable, but no less than one business day, after the Contractor reasonably believes that a Cyber Security Incident has occurred.

4.0 INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

The contractor's liability to the State and its employees in third party suits shall be as follows:

- A. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;
- B. The contractor's indemnification and liability under subsection (A) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions; and
- C. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor's insurer cannot provide 30 days' written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancellation shall be emailed to the State at: ccau.certificate@treas.nj.gov

The insurance to be provided by the contractor shall be as follows:

- A. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;
- B. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;
- C. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 1. \$1,000,000 BODILY INJURY, EACH OCCURRENCE;
 2. \$1,000,000 DISEASE EACH EMPLOYEE; and
 3. \$1,000,000 DISEASE AGGREGATE LIMIT.

This \$1,000,000 amount may be raised when deemed necessary by the Director;

In the case of a contract entered into pursuant to N.J.S.A. 52:32-17 et seq., (small business set asides) the minimum amount of insurance coverage in subsections A, B, and B. above may be amended for certain commodities when deemed in the best interests of the State by the Director.

5.0 TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

The contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 FORCE MAJEURE

Neither party will be liable to the other for any delay or inability to perform its obligations if such delay or inability arises from any act of God, fire,

natural disaster, act of war (declared or undeclared), act of terrorism (domestic or international), riot, civil disturbance, pandemic or other public health crisis (arising during the term of the contract) In the event of such a delay or inability to perform, the time for performance will be extended by an amount reasonable under the specific circumstances and mutually agreed-upon date sufficient to allow Vendor to perform the work delayed by the force majeure.

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director's intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the Director believes should be the corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- A. If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and
- B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

Any changes or modifications to the terms of this Contract shall be valid only when they have been reduced to writing and signed by the Contractor and the Director.

5.5 CHANGE IN LAW

If, after award, a change in applicable law or regulation occurs which affects the Contract, the parties may amend the Contract, whether including new work required by the change in law or to eliminate work no longer required by the change in law along with a commensurate price change. The parties shall negotiate the terms of the change in good faith, however if agreement is not possible after reasonable efforts, the Director shall make a prompt decision taking all relevant information into account, and shall notify the Contractor of the final adjusted scope of work and contract price.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance.

5.7 TERMINATION OF CONTRACT

- A. For Convenience:
Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than 30 days written notice to the contractor;
- B. For Cause:
 1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond; and
 2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.
- C. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond; and
- D. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING

The Contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such

consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws. Nothing contained in any of the contract documents, shall be construed as creating any contractual relationship between any subcontractor and the State.

5.9 RESERVED

5.10 MERGERS, ACQUISITIONS AND ASSIGNMENTS

If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than 30 days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the Director.

The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor hereby certifies that:

- A. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice;
- B. All equipment supplied to the State and operated by electrical current is UL listed where applicable;
- C. All new machines are to be guaranteed as fully operational for the period stated in the contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location;
- D. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters;
- E. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice;
- F. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract; and
- G. All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

5.12 DELIVERY REQUIREMENTS

- A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;
- B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;
- C. Items delivered must be strictly in accordance with the contract; and
- D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

5.13 APPLICABLE LAW AND JURISDICTION

This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.

5.15 MAINTENANCE OF RECORDS AND AUDITS

- A. Pursuant to N.J.A.C. 17:44-2.2, the contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.
- B. The State may request, receive, review, and audit copies of any and all records and documents related to a State contract at any time. The Contractor shall make a good faith effort to cooperate with the request and upon receipt of the request, the Contractor shall promptly provide

the requested records and documents free of charge in the time, place, and manner specified. Failure of the contractor to comply with the request or the audit may be used by the State to establish contract non-compliance, to take any action, or seek any remedy available under the contract, at law, or in equity.

5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)

The contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract.

In connection with this assignment, the following are the express obligations of the contractor:

- A. It shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder;
- B. It shall advise the Attorney General of New Jersey:
 1. In advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action; and
 2. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
- C. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice shall be sent to the Attorney General of New Jersey; and
- D. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

5.17 NEWS RELEASES

The Contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this Contract without the prior written consent of the Director.

5.18 ADVERTISING

The Contractor shall not use the State's name, seal, or logos as a part of any commercial advertising without first obtaining the prior written consent of the New Jersey Secretary of State. The Contractor shall not use a Department or Using Agency's name, seal, logos, images, or any data or results arising from this Contract as a part of any commercial advertising without first obtaining the prior written consent of the Department.

5.19 ORGAN DONATION

As required by N.J.S.A. 52:32-33.1, the State encourages the contractor to disseminate information relative to organ donation and to notify its employees, through information and materials or through an organ and tissue awareness program, of organ donation options. The information provided to employees should be prepared in collaboration with the organ procurement organizations designated pursuant to 42 U.S.C. 1320b-8 to serve in this State.

5.20 LICENSES AND PERMITS

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this Contract. Notwithstanding the requirements of the Bid Solicitation, the Contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to this Contract award. All costs associated with any such licenses, permits, and authorizations must be considered by the Contractor in its Quote.

5.21 CLAIMS AND REMEDIES

- A. All claims asserted against the State by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.
- B. Nothing in this Contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.
- C. In the event that the Contractor fails to comply with any material Contract requirements, the Director may take steps to terminate this Contract in accordance with the SSTC, authorize the delivery of Contract items by any available means, with the difference between the price paid and the defaulting Contractor's price either being deducted from any monies due the defaulting Contractor or being an obligation owed the State by the defaulting Contractor, as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

5.22 ACCESSIBILITY COMPLIANCE

The Contractor acknowledges that the State may be required to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. The Contractor agrees that any information that it provides to the State in the form of a Voluntary Product Accessibility Template (VPAT) about the accessibility of the Software is accurate to a commercially reasonable standard and the Contractor agrees to provide the State with technical information available to support such VPAT documentation in the event that the State relied on any of Contractor's VPAT information to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794. In addition, Contractor shall defend any claims

against the State that the Software does not meet the accessibility standards set forth in the VPAT provided by Provider in order to comply with the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. §794 and will indemnify the State with regard to any claim made against the State with regard to any judgment or settlement resulting from those claims to the extent the Provider's Software provided under this Contract was not accessible in the same manner as or to the degree set forth in the Contractor's statements or information about accessibility as set forth in the then-current version of an applicable VPAT.

5.23 CONFIDENTIALITY

- A. The obligations of the State under this provision are subject to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., the New Jersey common law right to know, and any other lawful document request or subpoena;
- B. By virtue of this Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose to each other only information that is required for the performance of their obligations under this Contract. Contractor's Confidential Information, to the extent not expressly prohibited by law, shall consist of all information clearly identified as confidential at the time of disclosure Vendor Intellectual Property ("Contractor Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this Contract are subject to disclosure under OPRA, the common law right to know, and any other lawful document request or subpoena;
- C. The State's Confidential Information shall consist of all information or data contained in documents supplied by the State, any information or data gathered by the Contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not);
- D. A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party, except that if the information is personally identifying to a person or entity regardless of whether it has become part of the public domain through other means, the other party must maintain full efforts under the Contract to keep it confidential; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party;
- E. The State agrees to hold Contractor's Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;
- F. In the event that the State receives a request for Contractor Confidential Information related to this Contract pursuant to a court order, subpoena, or other operation of law, the State agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such order of law. Contractor shall take any action it deems appropriate to protect its documents and/or information;
- G. In addition, in the event Contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such order of law. The State shall take any action it deems appropriate to protect its documents and/or information; and
- H. Notwithstanding the requirements of nondisclosure described in this Section, either party may release the other party's Confidential Information:
 - (i) If directed to do so by a court or arbitrator of competent jurisdiction; or
 - (ii) pursuant to a lawfully issued subpoena or other lawful document request:
 - (a) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in Section 5.23(F), or if Contractor is unsuccessful in defending its rights as described in Section 5.23(F); or
 - (b) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights described in Section 5.23(G), or if the State is unsuccessful in defending its rights as described in Section 5.23(G).

6.0 TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract. In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) days of the effective date. Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

In an exceptional situation the State may consider a price adjustment. Requests for price adjustments must include justification and documentation.

6.2 TAX CHARGES

The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

6.3 PAYMENT TO VENDORS

- A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract

resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;

- B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the Bill of Lading, and/or other documentation to confirm shipment and receipt of contracted goods must be received by the using agency prior to payment. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work and must be in strict accordance with the firm, fixed prices submitted for each task or subtask. When applicable, invoices should reference the appropriate task or subtask or price line number from the contractor's proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;
- C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and
- D. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Office of Diversity and Inclusion.
- E. The Contractor shall have sole responsibility for all payments due any Subcontractor

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds \$5.00 per properly executed invoice. Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenue.

7.0 TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Section of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

Pursuant to 2 CFR 200.321, the State must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Accordingly, if subawards are to be made the Contractor shall:

- (1) Include qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
- (5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

7.2 DOMESTIC PREFERENCE FOR PROCUREMENTS

Pursuant to 2 CFR 200.322, where appropriate, the State has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). If subawards are to be made the Contractor shall include a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United

States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

7.3 PROCUREMENT OF RECOVERED MATERIALS

Where applicable, in the performance of contract, pursuant to 2 CFR 200.323, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

To the extent that the scope of work or specifications in the contract requires the contractor to provide recovered materials the scope of work or specifications are modified to require that as follows.

- i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
- ii. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

7.4 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." See, 2 CFR Part 200, Appendix II, para. C.

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor 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 race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,

regulations, and orders.

- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.5 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$ 2,000 shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

7.6 COPELAND ANTI-KICK-BACK ACT

Where applicable, the Contractor must comply with Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

- a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.
- b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

7.7 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of \$ 100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The unauthorized user shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7.8 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 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 issued by the awarding agency.

7.9 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Where applicable, Contract and subgrants of amounts in excess of \$150,000, must comply with the following:

Clean Air Act

- 7.9.1.1 The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- 7.9.1.2 The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- 7.9.1.3 The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Division of Purchase and Property and understands and agrees that the Division of Purchase and Property will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7.10 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the State or authorized user. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or authorized user, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.11 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee

of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

7.12 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in *Public Law 115-232*, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

EXHIBIT A - GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.A.C. 17:27 et seq.

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

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. Except with respect to affectional or sexual orientation and gender identity or expression, 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, 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.

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.

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 of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis 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 discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval;
- Certificate of Employee Information Report; or
- Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase and Property, CCAU, EEO Monitoring Program as may be requested by the office 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 Division of Purchase and Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1 et seq.

EXHIBIT B - CONSTRUCTION CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.S.A. 10:5-39 et seq. (P.L. 1983, c. 197)

N.J.A.C. 17:27-1.1 et seq.

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

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. Except with respect to affectional or sexual orientation and gender identity or expression, 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, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up grading, 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.

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.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of \$250,000 to guarantee equal employment opportunity to veterans.

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.

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.

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 Dept. of LWD, 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 Dept. of LWD, 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 Dept. of LWD, 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 subcontractor 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 subcontractor 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 Dept. of LWD, 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 Dept. of LWD, 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 (i) above, whenever vacancies occur. At the request of the Dept. of LWD, 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 Dept. of LWD, 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 Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, 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 apprenticeship 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.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

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.

- (D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, 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 Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXHIBIT C - EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property 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 Division of Purchase and Property'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 Division of Purchase and Property'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 State Job bank website, managed by the Department of Labor and Workforce Development, available online at <https://newjersey.usnlx.com/>;
2. The Contractor shall keep specific records 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 Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media; professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.

State of New Jersey Standard Terms and Conditions

(Revised June 21, 2023)

I HEREBY ACCEPT THE TERMS AND CONDITIONS OF THIS CONTRACT

Signature



8/9/2023

Date

Patrick K. Cole, P.E., CME, CPWM, Vice President

Print Name and Title

H2M Associates, Inc.

Print Name of Contractor



**WAIVERED CONTRACTS SUPPLEMENT TO THE
STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**

(Revised January 11, 2022)

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

This Supplement to the State of New Jersey Standard Terms and Conditions ("Supplement") shall apply to all contracts or purchase agreements made with the State of New Jersey ("State") under N.J.S.A. 52:34-9 or -10 ("Waiverd Contracts"). The terms in this Supplement are in addition to, or modify the State of New Jersey Standard Terms and Conditions (SSTCs) as applicable and noted below.

I. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL WAIVERED CONTRACTS

A. ORDER OF PRECEDENCE

The "Contract" shall consist of the following documents: (1) this Supplement; (2) the State of New Jersey Standard Terms and Conditions; (3) the agency's scope of work; and, (4) the Contractor's proposal including any attachments or documents incorporated by reference. In the event of a conflict in the terms and conditions among the documents comprising this Contract, the order of precedence, for purposes of interpretation thereof, listed from highest ranking to lowest ranking as noted above.

B. NO ARBITRATION

Notwithstanding anything to the contrary in Contractor's Standard Form Agreement ("SFA") or Scope of Work ("SOW"), the State does not agree to binding arbitration.

C. NO AUTO-RENEWAL

Notwithstanding anything to the contrary in Contractor's SFA or SOW, the State does not agree to auto-renewal of any services, standard software maintenance, technical support or service fees.

II. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR WAIVERED CONTRACTS, AS APPLICABLE

A. STATE'S RIGHT TO INSPECT CONTRACTOR'S FACILITIES

The State reserves the right to inspect the contractor's establishment before making an award, for the purposes of ascertaining whether the contractor has the necessary facilities for performing the Contract. The State may also consult with clients of the contractor to assist the State in making a contract award that is most advantageous to the State.

B. STATE'S RIGHT TO REQUEST FURTHER INFORMATION

The Director reserves the right to request all information which may assist him or her in making a contract award, including factors necessary to evaluate the contractor's financial capabilities to perform the Contract. Further, the Director reserves the right to request a contractor to explain, in detail, how the proposal price was determined.

C. DELIVERY TIME AND COSTS

Unless otherwise noted elsewhere in the scope of work, all delivery times are 30 calendar days after receipt of order (ARO) and prices for items in proposals shall be submitted Freight On Board (F.O.B.) Destination (30 calendar days ARO/F.O.B.). The contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's Using Agency or designated purchaser. Thirty calendar days ARO/F.O.B. does not cover "spotting" but does include delivery on the receiving platform of the Using Agency at any destination in the State of New Jersey unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the contractor's convenience when a single shipment is ordered. The weights and measures of the State's Using Agency receiving the shipment shall govern.

D. COLLECT ON DELIVERY (C.O.D) TERMS

C.O.D. terms will not be accepted.

E. CASH DISCOUNTS

The contractor is encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts. Should the contractor choose to offer cash discounts the following shall apply:

1. Discount periods shall be calculated starting from the next business day after the Using Agency has accepted the goods or services, received a properly signed and executed invoice and, when required, a properly executed performance security, whichever is latest; and
2. The date on the check issued by the State in payment of that invoice shall be deemed the date of the State's response to that invoice.

F. PERFORMANCE SECURITY

If performance security is required, such security must be submitted with the bid in the amount listed in the scope of work. N.J.A.C. 17:12-2.5. Acceptable forms of performance security are as follows:

1. A properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey,

2. A certified or cashier's check drawn to the order of "Treasurer, State of New Jersey," or
3. An irrevocable letter of credit issued by a federally insured financial institution and naming "Treasurer, State of New Jersey," as beneficiary.

The Performance Security must be submitted to the State within 30 days of the effective date of the Contract award and cover the period of the Contract and any extensions thereof. Failure to submit performance security may result in cancellation of the Contract for cause and nonpayment for work performed.

Although the performance bond is required for the full term of the Contract, the Director recognizes that the industry practice of sureties is to issue a one (1) year performance bond for goods and services contracts. Thus, the contractor is permitted to submit a one (1) year performance bond for the amount required under the Contract and, on each succeeding anniversary date of the Contract, provide a continuation or renewal certificate to evidence that the bond is in effect for the next year of the Contract. This procedure will remain in place for each year of the Contract thereafter until the termination of the Contract. Failure to provide such proof on the anniversary date of the Contract shall result in suspension of the Contract, and possibly, termination of the Contract.

For performance bonds based on a percentage of the total estimated Contract price. On each anniversary of the effective date of the Contract, the amount of the required performance bond, unless otherwise noted, is calculated by applying the established RFQ performance bond percentage to the outstanding balance of the estimated amount of the Contract price to be paid to the contractor.

In the event that the Contract price is increased by a Contract Amendment, the contractor may be required to provide, within 30 calendar days of the effective date of the Contract Amendment, performance bond coverage for the increase in Contract price. The required increase in the performance bond amount is calculated by applying the established bond percentage set forth above to the increase in Contract price. Failure to provide such proof to the Director of this required coverage may result in the suspension of payment to the contractor until such time the contractor complies with this requirement.

G. RETAINAGE

If retainage is required on the Contract as stated in the scope of work, the state and/or agency will retain the stated percentage or retainage from each invoice. Payment of retainage will be authorized after satisfactory completion and submission of all services, deliverables or work products by the contractor and acceptance by the agency of all services, deliverables or work products required by the Contract.

For ongoing contracts, the agency will retain the stated percentage of each invoice submitted. At the end of the three (3) month period after payment of each invoice, the agency will review the contractor's performance and if performance has been satisfactory, the agency will release the retainage for the preceding three (3) month period. Following the expiration of the Contract, retained fees will be released to the contractor after certification by the agency's project manager, if any, that all services have been satisfactorily performed.

H. AUDIT NOTICE AND DISPUTE RESOLUTION

To the extent the contractor's proposal or Standard Form Agreement permits the contractor to conduct periodic audits of the State's usage of the Contractor Intellectual Property provided thereunder, such provision is amended to include the following audit notice and dispute resolution process:

1. **AUDIT NOTICE** -- Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, in the event that the contractor seeks to exercise a right in its proposal or Standard Form Agreement to audit the State's use of Contractor Intellectual Property, the contractor shall deliver simultaneous written notice, no less than thirty days in advance of the audit start date (unless the contractor's notice provides a longer notice period), to the: Agency requesting the waiver contract.
2. The notice shall reference the specific audit provision(s) in the contractor's proposal or Standard Form Agreement being exercised and include copies of same, specify the means by which the contractor will conduct the audit, and shall require the audit to be conducted in accordance with generally accepted standards in the field of such audits.
3. **AUDIT DISPUTE RESOLUTION** -- If the State, in good faith, provides the contractor with written notice of an alleged error in the amount of underpaid fees due the contractor as a result of an audit (the "dispute"), then the parties will endeavor to resolve the dispute in accordance with this paragraph. Each party will appoint a Vice President, Assistant Director, or the equivalent (hereinafter referred to as "Representative") to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such Representative concludes, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. In addition, the parties shall refrain from exercising any termination right related to the dispute being considered under this paragraph and shall continue to perform their respective obligations under the Contract while they endeavor to resolve the dispute under this paragraph.
4. **STATE NOT LIABLE FOR AUDIT COSTS** -- Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, the State will not reimburse the contractor for any costs related to an audit.
5. **NO AUDIT RIGHT CREATED** -- In the event that the contractor's proposal or Standard Form Agreement does not permit audits of the State's usage of Contractor Intellectual Property, Section 5.19 of this Supplement shall not be interpreted to provide such an audit right.

III. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES CONTRACTS

A. INSURANCE FOR PROFESSIONAL SERVICES CONTRACTS

Section 4.2 Insurance of the SSTC is supplemented with the following:

Professional Liability Insurance

The Contractor shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Contractor from any liability arising out the professional obligations performed pursuant to the requirements of this Contract. The insurance shall be in the amount of not less than \$1,000,000 and in such policy forms as shall be approved by the State. If the Contractor has claims-made coverage and subsequently changes carriers during the term of this Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

B. LIMITATION OF LIABILITY FOR PROFESSIONAL SERVICES CONTRACTS

Section 4.0 Indemnification and Insurance of the SSTC is supplemented with the following:

4.3 LIMITATION OF LIABILITY

The Contractor's liability to the State for actual, direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to this Contract, for any and all claims, shall be limited in the aggregate to 200% of the total value of this Contract. This limitation of liability shall not apply to the following:

- A. The Contractor's obligation to indemnify the State of New Jersey and its employees from and against any claim, demand, loss, damage, or expense relating to bodily injury or the death of any person or damage to real property or tangible personal property, incurred from the work or materials supplied by the Contractor under this Contract caused by negligence or willful misconduct of the Contractor;
- B. The Contractor's breach of its obligations of confidentiality; and
- C. The Contractor's liability with respect to copyright indemnification.

The Contractor's indemnification obligation is not limited by but is in addition to the insurance obligations.
The Contractor shall not be liable for special, consequential, or incidental damages.

IV. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL INFORMATION TECHNOLOGY CONTRACTS

A. DEFINITIONS

The following definitions shall apply to information technology contracts:

1. The term "Acceptance" means the written confirmation by an Agency that the contractor has completed a Deliverable according to the specified requirements.
2. As defined by N.J.S.A. 56:8-161, the term "Breach of Security" means unauthorized access to electronic files, media, or data containing Personal Data that compromises the security, confidentiality, or integrity of Personal Data when access to the Personal Data has not been secured by encryption or by any other method or technology that renders the Personal Data unreadable or unusable. Good faith acquisition of Personal Data by an employee or agent of the Provider for a legitimate business purpose is not a Breach of Security, provided that the Personal Data is not used for a purposes unrelated to the business or subject to further unauthorized disclosure.
3. The term "Contractor Intellectual Property" means any intellectual property that is owned by the contractor and contained in or necessary for the use of the Deliverables or which the contractor makes available for the State to use as part of the work under the Contract. Contractor Intellectual Property includes COTS or Customized Software owned by the contractor, the contractor's technical documentation, and derivative works and compilations of any Contractor Intellectual Property.
4. The term Commercial Off the Shelf Software ("COTS") means Software provided by the contractor that is intended for general use.
5. The term "Custom Software" means Software and Work Product that is developed by the contractor at the request of the Agency to meet the specific requirements of the Agency and is intended for its use.
6. The term "Customized Software" means COTS that is adapted by the contractor to meet specific requirements of the Agency that differ from the standard requirements of the base product.
7. The term "Deliverable" means the goods, products, Services and Work Product that the contractor is required to deliver to the State under the Contract;
8. The term "End User" means the user of the Provider's solution.
9. The terms "goods" and "products" shall be deemed to include, without limitation, Software and Hardware.
10. The term "Hardware" shall be deemed to include computer equipment and any Software provided with the Hardware that is necessary for the Hardware to operate.
11. The term "Information Technology Contract" shall mean, notwithstanding any definition in New Jersey Statutes, a Contract for one or more of the following: Hardware, Software, Services, telecommunication goods and services, and all related goods.
12. The term "Mobile Device" means any device used by Provider that can move or transmit data, including but not limited to laptops, hard drives, and flash drives.
13. The term "Non-Public Data" means data, other than Personal Data, that is not subject to distribution to the public as public information. Non-Public Data is data that is identified by the State as non-public information or otherwise deemed to be sensitive and confidential by

the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

14. The term "Personal Data" means:

- a. "Personal Information" as defined in N.J.S.A. 56:8-161, means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number, (2) driver's license number or State identification card number or (3) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. Dissociated data that, if linked would constitute Personal Information is Personal Information if the means to link the dissociated were accessed in connection with access to the dissociated data. Personal Information shall not include publicly available information that is lawfully made available to the general public from federal, state or local government records, or widely distributed media.
 - b. data, either alone or in combination with other data, that includes information relating to an individual that identifies the person or entity by name, identifying number, mark or description that can be readily associated with a particular individual and which is not a public record, including but not limited to, Personally Identifiable Information (PII); government-issued identification numbers (e.g., Social Security, driver's license, passport); Protected Health Information (PHI) as that term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 and defined below; and Education Records, as that term is defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.
15. The term "Personally Identifiable Information" or "PII," as defined by the U.S. Department of Commerce, National Institute of Standards and Technology, means any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information,
16. The term "Protected Health Information" or "PHI," has the same meaning as the term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 means Individually Identifiable Health Information (as defined below) transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer. The term "Individually Identifiable Health Information" has the same meaning as the term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 and means information that is a subset of Protected Health Information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
17. The term "Recovery Time Objective" or "RTO," means the maximum tolerable length of time that the Provider's solution may be unavailable after a failure or disaster occurs.
18. The term "Security Incident" means the potential access by non-authorized person(s) to Personal Data or Non-Public Data that the Provider believes could reasonably result in the use, disclosure, or access or theft of State's unencrypted Personal Data or Non-Public Data within the possession or control of the Provider. A Security Incident may or may not turn into a Breach of Security.
19. The term "Service Level Agreement" or "SLA," means the document that is part of the Provider's SFA that typically includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.
20. The terms "Services" shall be deemed to include, without limitation (i) Information Technology ("IT") professional services; (ii) Software and Hardware-related services, including without limitation, installation, configuration, and training and (iii) Software and Hardware maintenance and support and/or Software and Hardware technical support services.
21. The term "Software" means, without limitation, computer programs, source codes, routines, or subroutines supplied by the contractor, including operating software, programming aids, application programs, application programming interfaces and software products, and includes COTS, Customized Software and Custom Software, unless the context indicates otherwise.
22. The term "State Data" means all data and metadata created or in any way originating with the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, the Provider's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Provider. State Data includes Personal Data and Non-Public Data.
23. The term "State Intellectual Property" means any intellectual property that is owned by the State. State Intellectual Property includes any derivative works and compilations of any State Intellectual Property.
24. The term "Third Party Intellectual Property" means any intellectual property owned by parties other than the State or the contractor and contained in or necessary for the use of the Deliverables. Third Party Intellectual Property includes COTS owned by Third Parties, and derivative works and compilations of any Third Party Intellectual Property.
25. The term "Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, Software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by the

contractor or the contractor's subcontractors or a third party engaged by the contractor or its subcontractor pursuant to the Contract. Notwithstanding anything to the contrary in the preceding sentence, Work Product does not include State Intellectual Property, Contractor Intellectual Property or Third Party Intellectual Property.

B. INDEMNIFICATION FOR STANDARD TECHNOLOGY CONTRACTS

Section 4.1 Indemnification of the SSTC is deleted in its entirety and replaced with the following:

4.1 INDEMNIFICATION

The Contractor's liability to the State and its employees in third party suits shall be as follows:

- A. The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State and its officers, agents, servants and employees, from and against any and all third party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
 - 1. For or on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under this Contract or the order; and
 - 2. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopied composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of this Contract; and
 - 3. The Contractor's indemnification and liability under subsection (A) is not limited by, but is in addition to the insurance obligations.
- B. In the event of a claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may:
 - 1. procure for the State the legal right to continue the use of the product;
 - 2. replace or modify the product to provide a non-infringing product that is the functional equivalent; or
 - 3. In the event that the Contractor cannot do (1) or (2) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.
- C. The State will:
 - 1. promptly notify Contractor in writing of the claim or suit;
 - 2. give Contractor shall have control of the defense and settlement of any claim that is subject to Section 4.1(a); provided; however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at its expense.
- D. Notwithstanding the foregoing, Contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from:
 - 1. the State's unauthorized combination, operation, or use of a product supplied under this Contract with any product, device, or Software not supplied by Contractor;
 - 2. the State's unauthorized alteration or modification of any product supplied under this Contract;
 - 3. the Contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides Contractor with such designs, specifications, requests, or instructions, Contractor reviews same and advises that such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the Contractor to proceed with one (1) or more designs, specifications, requests or instructions that present potential issues of patent or copyright infringement; or
 - 4. the State's failure to promptly implement a required update or modification to the product provided by Contractor after the Contractor has given written notice to the State of a need for such an update or modification.
- E. Contractor will be relieved of its responsibilities under Subsection 4.1(a)(i) and (ii) for any claims made by an unaffiliated third party that arise solely from the actions or omissions of the State, its officers, employees or agents.
- F. Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Subsection 4.1(a)(i) and (ii) which results in an unaffiliated third party claim. This is Contractor's exclusive remedy for these claims;
- G. This section states the entire obligation of Contractor and its suppliers, and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and Contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product; and
- H. Furthermore, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey or any Authorized Purchaser, nor purport to act as legal representative of the State of New Jersey or any Authorized Purchaser, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of the Division of Purchase and Property. The State of New Jersey may, at its election and expense, assume its own defense and settlement; and
- I. The State of New Jersey will not indemnify, defend, pay or reimburse for claims or take similar actions on behalf of the Contractor.

C. INSURANCE FOR STANDARD TECHNOLOGY CONTRACTS

Section 4.2 Insurance of the SSTC is supplemented with the following:

Professional Liability Insurance

The Contractor shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Contractor from any liability arising out the professional obligations performed pursuant to the requirements of this Contract. The insurance shall be in the amount of not less than \$1,000,000 and in such policy forms as shall be approved by the State. If the Contractor has claims-made coverage and subsequently changes carriers during the term of this Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

D. LIMITATION OF LIABILITY FOR STANDARD TECHNOLOGY CONTRACTS

Section 4.0 Indemnification and Insurance of the SSTC is supplemented with the following:

4.3 LIMITATION OF LIABILITY

The Contractor's liability to the State for actual, direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to this Contract, for any and all claims, shall be limited in the aggregate to 200% of the total value of this Contract. This limitation of liability shall not apply to the following:

- A. The Contractor's obligation to indemnify the State of New Jersey and its employees from and against any claim, demand, loss, damage, or expense relating to bodily injury or the death of any person or damage to real property or tangible personal property, incurred from the work or materials supplied by the Contractor under this Contract caused by negligence or willful misconduct of the Contractor;
- B. The Contractor's breach of its obligations of confidentiality; and
- C. The Contractor's liability with respect to copyright indemnification.

The Contractor's indemnification obligation is not limited by but is in addition to the insurance obligations.

The Contractor shall not be liable for special, consequential, or incidental damages.

E. PERFORMANCE GUARANTEE OF THE CONTRACTOR

Section 5.11 Performance Guarantee of the Contractor of the SSTC is supplemented with the following:

1. COTS and Customized Software

- a. Unless the Contractor Standard Form Agreement provides greater coverage as determined by the State, in its sole discretion, the contractor warrants that COTS and Customized Software products licensed to the State shall operate in all material respects as described in the Solicitation and/or contractor technical documentation for ninety (90) days after Acceptance. The State shall notify the contractor of any COTS or Customized Software product deficiency within ninety (90) days after Acceptance. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.
- b. Except for the portion of the contractor's COTS or Customized Software product that intentionally contains one or more of the following for the purpose of anti-virus protection, the contractor warrants that, at the time of delivery and installation of the COTS or Customized Software provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the COTS or Customized Software, collect unlawful personally identifiable information on users, or prevent the COTS or Customized Software from performing as required under the Contract.
- c. In the event of any breach of this warranty, the contractor shall correct the product errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may end its usage and recover the fees paid to the contractor for the license and any unused, prepaid, technical support fees paid. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.
- d. The contractor does not warrant that COTS or Customized Software is error-free or that it will operate uninterrupted.

2. Custom Software

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that Custom Software Deliverables shall operate in all material respects as described in the applicable specification documentation for one hundred and eighty (180) days after Acceptance. The State shall notify the contractor of any Custom Software deficiency within one hundred and eighty (180) days after Acceptance of the Custom Software Deliverable (the "Notice Period"). Where the contractor is providing multiple Custom Software Deliverables over the term of the Contract, the Notice Period shall begin to run after the Acceptance of the final Custom Software Deliverable under the Contract. At that time, the State may assert defect claims relating to any and all of the Custom Software Deliverables provided under the Contract; however, the State may also assert claims earlier, in its discretion, without waiving the Notice Period.
- b. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized

Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.

- c. The contractor warrants that, at the time of Acceptance of the Custom Software Deliverable provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Custom Software, collect unlawful personally identifiable information on users, or prevent the Custom Software from performing as required under the Contract. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.
 - d. In the event of any breach of this warranty, the contractor shall correct the Custom Software errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may recover a portion of the fees paid to the contractor for the Custom Software with the uncorrected defect or in the event that the Custom Software is still deemed, by the State in its sole discretion, to be usable by the State even with the uncorrected defect, the State may recover a portion of the fees paid to the contractor for the Custom Software (up to the total amount of such charges for such Custom Software) to reflect any reduction in the value of the Custom Software Deliverable as a result of the uncorrected defect. Under no circumstances does this warranty provision limit the contractor's obligations in the event of a breach of confidentiality.
 - e. The contractor does not warrant that Custom Software is error-free or that it will operate uninterrupted.
3. IT Services
- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that all Services will be provided in a professional manner consistent with industry standards. The State shall notify the contractor of any Services warranty deficiencies within ninety (90) days from performance of the deficient Services.
 - b. In the event of any breach of this warranty, the contractor shall re-perform the deficient Services, or if the contractor cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to the contractor for the deficient Services.
4. Hardware
- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that the equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.
 - b. The contractor warrants that all equipment supplied to the State and operated by electrical current is UL listed where applicable.
 - c. The contractor warrants that all new machines are to be guaranteed as fully operational for one (1) year from time of Acceptance by the State. For the avoidance of doubt, Acceptance with respect to Hardware in this subsection (d) shall occur no later than sixty (60) days after delivery, as evidenced by a signed delivery receipt. The contractor shall render prompt service without charge, regardless of geographic location.
 - d. The contractor warrants that sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters.
 - e. The contractor warrants that trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.
 - f. The contractor warrants that all Software included with the Hardware shall perform substantially in accordance with specifications, for one (1) year from the time of Acceptance. The contractor warrants that Software media will be free from material defects in materials and workmanship for a period of one (1) year from the date of Acceptance.
 - g. In the event of any breach of this warranty, the contractor shall promptly repair, replace or refund the purchase price of product rejected for failure to conform with the contractor's product specifications.
5. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND THE CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

V. ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL INFORMATION TECHNOLOGY CONTRACTS WHICH INCLUDE SOFTWARE AS A SERVICE (SAAS)/CLOUD SOLUTION

A. ADDITIONAL TERMS FOR A CONTRACTOR'S DATA PROTECTION OBLIGATIONS

1. Data Ownership: The State will own all right, title and interest in its State Data that is related to the services provided by this contract. The Provider shall not use or access State user accounts or State Data, except (i) in the course of data center operations, (ii) in response to service or technical issues, (iii) as required by the express terms of this contract, or (iv) at the State's written request.

Provider shall not collect, access, or use State Data except as strictly necessary to provide its solution to the State. No information regarding the State's use of the solution may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this contract.

2. Data Protection: Protection of personal privacy and data shall be an integral part of the business activities of the Provider to ensure that there is no inappropriate or unauthorized use of State Data at any time. To this end, the Provider shall safeguard the confidentiality, integrity, and availability of State Data and comply with the following conditions:

- a. The Provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized good industry practice and not less stringent than the measures the Provider applies to its own Personal Data and Non-Public Data of similar kind.
 - b. All Personal Data shall be encrypted at rest and in transit with controlled access. Provider is responsible for encryption of the Personal Data. The level of protection and encryption for all Personal Data shall be identified and made a part of this contract.
 - c. Provider shall encrypt all Non-Public Data at rest and in transit. The level of protection and encryption for all Non-Public Data shall be identified and made a part of this contract.
 - d. Personal Data shall not be stored on Mobile Devices. Where Mobile Devices are required for Provider to accomplish the work, the Provider shall ensure the Mobile Device is hard drive encrypted consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all Personal Data.
 - e. At no time shall any data or processes, which either belongs to or are intended for the use of State or its officers, agents, or employees, be copied, disclosed, or retained by the Provider or any party related to the Provider for subsequent use in any capacity that does not include the State.
3. Data Location: Provider shall provide its services to State and its End Users solely from data centers in the U.S. Storage of State Data at rest shall be located solely in data centers in the U.S. Provider shall not allow its personnel or contractors to store State Data on Mobile Devices, including personal computers, except for devices that are used and kept within the physical structure of its U.S. data centers. Provider shall permit its personnel and contractors to access State Data remotely only as required to provide technical support or upon prior notice and approval. The Provider may provide technical user support on a seven-day by 24-hour basis, unless otherwise prohibited in this contract.
4. Security Incident and Breach of Security Responsibilities.
- a. Security Incident Reporting Requirements: Once Provider reasonably determines that a Security Incident occurred, the Provider shall report a Security Incident to the appropriate State identified contact within 24 hours by the agreed upon method as defined in the contract. Provider will provide the State regular updates and all available relevant information including a description of the incident and those measures taken by Provider in response to the Security Incident.
 - b. Breach of Security Reporting Requirements: If the Provider confirms or reasonably believes that there has been a Breach of Security, the Provider shall (1) immediately notify the appropriate State identified contact by the agreed upon method within 24 hours, unless a shorter time is required by applicable law, (2) take commercially reasonable measures to address and investigate the Breach of Security in a timely manner and (3) cooperate with the State as reasonably requested by the State and/or law enforcement to investigate and resolve the Breach of Security. Provider will provide the State regular updates and all available information to assist the State with notification to law enforcement and third parties as required by applicable law, including a description of the Breach of Security and those measures taken by Provider in response to the Breach of Security.
 - c. Incident Response: When commercially reasonable to do so, Provider may communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries (subject to preapproval by the State if Provider specifically identifies the State or State Data), and seeking external expertise as mutually agreed at the time, defined by law, or contained in the SLA. Discussing Security Incidents with the State should be handled on an urgent as needed basis, as part of Provider communication and mitigation processes as mutually agreed at the time, defined by law, or contained in the SLA.
 - d. Following a Security Incident or Breach of Security, Provider shall promptly implement necessary remedial measures, if necessary, and document responsive actions taken related to the Security Incident or Breach of Security, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
5. Termination and Suspension of Service:
- a. In the event of termination of the contract, the Provider shall implement an orderly return of State Data in a mutually agreeable format and the subsequent secure disposal of State Data remaining in Provider's possession.
 - b. Suspension of services: During any period of suspension, the Provider shall not take any action to intentionally erase any State Data.
 - c. Unless otherwise stipulated, in the event of termination of any services, SLA, or this contract in its entirety, the Provider shall not take any action to intentionally erase any State Data for a period of:
 - 1) 10 business days after the effective date of termination, if the termination is in accordance with the expiration of the defined contract term;
 - 2) 30 business days after the effective date of termination, if the termination is for convenience; or
 - 3) 60 business days after the effective date of termination, if the termination is for cause.

After such period, the Provider shall have no obligation to maintain or provide any State Data and shall thereafter, unless legally prohibited, delete all State Data in its systems or otherwise in its possession or under its control in accordance with subsection (e) below.

- d. Post-Termination Assistance: The State shall be entitled to any post-termination assistance with respect to the services unless a unique data retrieval arrangement has been established as part of the contract.
- e. Secure Data Disposal: When requested by the State, the provider shall destroy all requested data in all of its forms, including but not limited to: disk, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be

recoverable, according to National Institute of Standards and Technology (NIST) approved methods and certificates of destruction shall be provided to the State.

6. **Background Checks:** The Provider shall conduct criminal background checks and not utilize any staff, including sub-contractors, to fulfill the obligations of the contract who has been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or any misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The Provider shall promote and maintain an awareness of the importance of securing the State's Data among the Provider's employees and agents.
7. **Access to security logs and other reports:** The Provider shall provide logs and reports to the State in a format as specified in the contract and agreed to by both the Provider and the State. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State Data related to this contract, including but not limited to data, file management, transactions, or tools used to provide, manage, secure, or analyze the State's Data. The Provider shall maintain the reports and logs for the contract term and for two (2) years after the conclusion of the term, and shall provide them to the State in the course of a State audit or upon written request from the State.
8. **Service Level Audit:** The Provider shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion, at the State's expense.
9. **Data Center Audit:** The Provider shall have an independent third party audit of its data center(s) performed at least annually at their own expense, and provide the audit report to the State upon request.
10. **Change Control and Advance Notice:** The Provider shall give advance notice to the State of any upgrades (e.g. major upgrades, minor upgrades, system changes) that may impact service availability and performance. Said notice shall be provided at least thirty days in advance of the upgrade, unless otherwise agreed in the SLA.
11. **Security:** The Provider shall disclose its non-proprietary security processes and technical limitations to the State by completing the State's Security Controls Checklist or equivalent system security document, available upon request from the Office of Information Technology, as updated from time to time, such that adequate protection and flexibility can be attained between the State and the Provider.
12. **Non-disclosure and Separation of Duties:** The Provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of State Data to that which is absolutely needed to perform job duties.
13. **Import and Export of Data:** The State shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the Provider. This includes the ability for the State to import or export data to/from other Providers.
14. **Responsibilities and Uptime Guarantee:** The Provider shall be responsible for the acquisition and operation of all hardware, software, and network support related to the services being provided. The technical and professional activities required for establishing, managing, and maintaining the environment are the responsibilities of the Provider. The system shall be available 24 hours per day, 365 days per year (with agreed-upon maintenance downtime), and Provider shall provide service to the State as defined in the Service Level Agreement.
15. **Right to Remove Individuals:** The State shall have the right at any time to require that the Provider remove from interaction with the State any Provider representative who the State believes is detrimental to its working relationship with the Provider. The State will provide the Provider with notice of its determination, and the reasons it requests the removal. If the State signifies that a potential security violation exists with respect to the request, the Provider shall immediately remove such individual. The Provider shall not assign the person to any aspect of the contract or future work orders without the State's consent.

Business Continuity and Disaster Recovery: The Provider shall provide a business continuity and disaster recovery plan upon request and ensure that the State's Recovery Time Objective (RTO) is met. The RTO shall be defined in the SLA.

B. INDEMNIFICATION FOR SAAS

Section 4.1 Indemnification of the SSTC is deleted in its entirety and replaced with the following:

4.1 INDEMNIFICATION

- A. **CONTRACTOR RESPONSIBILITIES** - The Contractor's liability to the State and its employees in third party suits shall be as follows:
 1. The Contractor shall indemnify, defend, and save harmless the State and its officers, agents, servants and employees, from and against any and all third party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
 - i. For or on account of the loss of life, tangible property (not including lost or damaged data) or injury or damage to the person, body or property (not including lost or damaged data) of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under this Contract; and

- ii. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of the contract; and
 - iii. For or on account of a Breach of Security resulting from Contractor's breach of its obligation to encrypt Personal Data or otherwise prevent its release or misuse; and
 - iv. The Contractor's indemnification and liability under Section 4.1(A)(1) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of the State Standard Terms and Conditions.
2. In the event of a claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may: (1) procure for the State the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties. The State will: (1) promptly notify Contractor in writing of the claim or suit; (2) Contractor shall have control of the defense and settlement of any claim that is subject to Section 4.1(A)(1); provided, however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at its expense. Furthermore, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey, nor purport to act as legal representative of the State of New Jersey, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of DPP. The State of New Jersey may, at its election and expense, assume its own defense and settlement.
 3. Notwithstanding the foregoing, Contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from: (1) the State's unauthorized combination, operation, or use of a product supplied under this contract with any product, device, or software not supplied by Contractor; (2) the State's unauthorized alteration or modification of any product supplied under this contract; (3) the Contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides Contractor with such designs, specifications, requests, or instructions, Contractor shall review same and advise if such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the Contractor to proceed with one or more designs, specifications, requests or instructions that present potential issues of patent or copyright infringement; or (4) the State's failure to promptly implement a required update, use a new version of the product, or to make a change or modification to the product if requested in writing by Contractor.
 4. Contractor will be relieved of its responsibilities under Subsection 4.1(A)(1)(i), (ii), and (iii) for any claims made by an unaffiliated third party that arise solely from the actions or omissions of the State, its officers, employees or agents.
 5. This section states the entire obligation of Contractor and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and Contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product.
 6. The provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in the Contract, 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 the contract or otherwise at law or equity.
 7. The Contractor agrees that any approval by the State of the work performed and/or reports, plans or specifications provided by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract.
 8. The State of New Jersey will not indemnify, defend or hold harmless the Contractor. The State will not pay or reimburse for claims absent compliance with Section 4.1(B) below and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.
- B. **STATE RESPONSIBILITIES** - Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Section 4.1(A)(1)(i), (ii), and (iii) which results in an unaffiliated third party claim. This is Contractor's exclusive remedy for these claims.

B. **INSURANCE FOR SAAS**

Section 4.2 Insurance of the SSTC is supplemented with the following:

1. **Professional Liability Insurance**
The Contractor shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Contractor from any liability arising out of the professional obligations performed pursuant to the requirements of this Contract. The insurance shall be in the amount of not less than \$1,000,000 and in such policy forms as shall be approved by the State. If the Contractor has claims-made coverage and subsequently changes carriers during the term of this Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.
2. **Cyber Breach Insurance**
The Contractor shall carry Cyber Breach Insurance in sufficient to protect the Contractor from any liability arising out of its performance pursuant to the requirements of this Contract. The insurance shall be in an amount of not less than \$2,000,000 in such policy forms as shall be approved by the State. The insurance shall at a minimum cover the following: Data loss, ransomware and similar breaches to computers, servers and software; Protection against third-party claims; cost of notifying affected parties; cost of providing credit

monitoring to affected parties; forensics; cost of public relations consultants; regulatory compliance costs; costs to pursue indemnity rights; costs to Data Breach and Credit Monitoring Services analyze the insured's legal response obligations; costs of defending lawsuits; judgments and settlements; regulatory response costs; costs of responding to regulatory investigations; and costs of settling regulatory claims.

C. LIMITATION OF LIABILITY FOR SAAS

Section 4.0 Indemnification and Insurance of the SSTC is supplemented with the following:

4.3 LIMITATION OF LIABILITY

- A. The Contractor's liability for actual, direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to, the Contract for any and all third party claims, shall be limited in the aggregate to 200% of the fees paid by the State during the previous twelve months to Contractor for the products or services giving rise to such damages. Notwithstanding the preceding sentence, in no event shall the limit of liability be less than \$1,000,000. This limitation of liability shall not apply to the following:
 - i. The Contractor's indemnification obligations as described in Section 4.1; and
 - ii. The Contractor's breach of its obligations of confidentiality described in this Bid Solicitation.
- A. Notwithstanding the foregoing exclusions, where a Breach of Security is a direct result of Contractor's breach of its contractual obligation to encrypt Personal Data pursuant to this Bid Solicitation or otherwise prevent its release as reasonably determined by the State, the Contractor shall bear the costs associated with (1) the investigation and resolution of the Breach of Security; (2) notifications to individuals, regulators, or others required by federal and state laws or as otherwise agreed to; (3) a credit monitoring service required by state or federal law or as otherwise agreed to; (4) a website or a toll-free number and call center for affected individuals required by federal and state laws — all not to exceed the average per record, per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute for the public sector at the time of the Breach of Security; and (5) completing all corrective actions as reasonably determined by Contractor based on root cause of the Breach of Security.
- B. The Contractor shall not be liable for punitive, special, indirect, incidental, or consequential damages.

I HEREBY ACCEPT THE TERMS AND CONDITIONS OF THIS CONTRACT

Signature

Patrick K. Cote, P.E., CME, CPWM, Vice President

Print Name and Title

H2M Associates, Inc.

Print Name of Contractor

8/9/2023

Date