

SPECIAL PROVISIONS
Long-Life Pavement Markings Contract, North – 2013
DP 13414

ROUTES NJ 10, NJ 12, NJ 19, NJ 20, NJ 27, NJ 27Z, NJ 28, NJ 53, NJ 59, NJ 62, NJ 63,
NJ 67, I-80, NJ 82, NJ 120, NJ 139, NJ 139U, NJ 163, NJ 165, NJ 173,
NJ 173Z, NJ 179, NJ 181Z, NJ 182, NJ 184, NJ 187, NJ 287

Bergen, Essex, Hudson, Hunterdon, Middlesex (Including and North of I-287), Morris, Passaic,
Somerset, Sussex, Union and Warren Counties

AUTHORIZATION OF CONTRACT

The Contract is authorized by the provisions of Title 27 of the Revised Statutes of New Jersey and supplements thereto, and Title 23 of the United States Code - Highways.

SPECIFICATIONS TO BE USED

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

These Special Provisions consist of the following:

Pages 1 to 29 inclusive.

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

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

The following Wholly State funded project Attachments that are located at the end of these Special Provisions:"

1. State of New Jersey Equal Employment Opportunity Special Provisions for Construction Contracts Funded by Wholly or partially State Funds.
2. Payroll Requirements for 100 Percent State Projects.
3. Americans with Disabilities Act for 100 Percent State Funded Contracts.
4. Small Business Enterprise Utilization Attachment for 100% State Funded Contracts.

DIVISION 100 – GENERAL PROVISIONS

SECTION 101 – GENERAL INFORMATION

101.03 TERMS

THE FOLLOWING TERMS ARE CHANGED.

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

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

101.04 INQUIRIES REGARDING THE PROJECT

1. Before Award of Contract.

THE FIRST PARAGRAPH IS CHANGED TO:

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

THE SECOND PARAGRAPH IS CHANGED TO:

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

2. After Award of Contract.

North Region
Mr. Carl F. Kneidinger, Regional Construction Engineer
200 Stierli Court
Mt. Arlington, NJ 07856-1322
Telephone: 973-770-5025

SECTION 102 – BIDDING REQUIREMENTS AND CONDITIONS

102.02 BIDDER REGISTRATION AND DOWNLOADING OF THE PROPOSAL DOCUMENTS

THE LAST SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

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

102.03 REVISIONS BEFORE SUBMITTING A BID

THE SECOND PARAGRAPH IS CHANGED TO:

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

SECTION 104 – SCOPE OF WORK

104.01 INTENT

THE FOLLOWING IS ADDED:

The Work to be performed within this contract shall consist of cleaning and preparing Concrete and Hot Mix Asphalt surfaces for the application of long-life pavement markings.

Long-life pavement markings consist of epoxy resin traffic stripes and thermoplastic traffic markings.

This Work shall include the removal of any pavement markings and raised pavement markers as determined by the RE.

The removal and replacement of raised pavement markers mono-directional and bi-directional lenses shall be required on all routes designated in these Special Provisions.

The cleaning, cutting, preparation of the road surface, and furnishing and installing raised pavement markers shall be required in locations where they do not exist, and as directed by the RE.

Long-life pavement markings shall be applied to lane lines, inside and outside edge lines, centerlines, acceleration and deceleration lanes, gore areas, symbols, ramps and jughandles.

Long-life pavement markings shall be applied before the placement of raised pavement markers.

Long-life pavement markings shall comply with Section 610 of the Standard Specifications.

Long Life Preformed Patterned Contrast Pavement Marking Tape or contrast epoxy application is for lane (skip) lines on concrete surfaces and in areas determined by the RE. The cleaning, cutting, and preparation of the road surface for the proposed application of Long Life Preformed Patterned Contrast Pavement Marking Tape shall be required.

Areas previously striped with epoxy may be restriped with new material only with the RE approval. After the RE determines that the existing epoxy stripe does not require removal before applying new material, the area shall be power broomed immediately before application of the epoxy stripe. Application of epoxy striping shall conform to standards as specified in Section 610 of the Standard Specifications. If removal of the existing epoxy stripe is required, as determined by the RE, removal shall conform to Subpart 610.03.08 of the Standard Specifications.

Areas previously marked with thermoplastic may be remarked with new material only with the RE approval. After the RE determines that the existing thermoplastic does not require removal before applying new material, the area shall be power broomed immediately before application of the thermoplastic markings. Application of thermoplastic markings shall conform to standards as specified in Section 610 of the Standard Specifications. If removal of the existing thermoplastic markings is required, as determined by the RE, removal shall conform to Subpart 610.03.08 of the Standard Specifications.

Intersection work shall include all traffic markings within the State's jurisdictional limits; signalized and non-signalized intersections maintained by the State within 100 feet of the intersection.

All intersection work shall be done under the direction of the RE.

All pavement markings and patterns shall be placed in accordance with standard construction details and the manual on uniform traffic control devices for streets and highways (M.U.T.C.D.).

All double yellow centerlines shall be separated by a six-inch separation.

On interstate highways, all permanent lane lines, longitudinal edge lines and edge lines on ramps shall be 6 inch wide long life epoxy resin traffic stripes. The traffic stripes shall be calculated in linear feet for each 6 inch width of actual stripe (gaps are not counted) under the item TRAFFIC STRIPES, LONG LIFE, EPOXY RESIN, 6 inch.

On non-interstate highways, all permanent longitudinal center, edge and lane lines, edge lines on ramps and left turn slots shall be 4 inch wide long life epoxy resin traffic stripes. The traffic stripes shall be calculated in linear feet for each 4 inch width of actual stripe (gaps are not counted) under the item TRAFFIC STRIPES, LONG LIFE, EPOXY RESIN, 4 inch.

All permanent gore lines, crosswalks, stop lines, words, arrows and other pavement symbols shall be long life thermoplastic traffic markings. If Work shall include the removal of gore lines as determined by the RE, the gore lines shall be of chevron design and shall be calculated in linear feet for each 4 inch width of actual stripe under the item TRAFFIC MARKINGS, LINES, LONG LIFE, THERMOPLASTIC (Linear Foot). The crosswalks and stop lines shall be calculated in linear feet for each 4 inch width of actual stripe under the item TRAFFIC MARKINGS, LINES, LONG LIFE, THERMOPLASTIC (Linear Foot). The words, arrows and other pavement symbols shall be calculated in square feet under the item TRAFFIC MARKINGS, SYMBOLS, LONG LIFE, THERMOPLASTIC (Square Foot).

The Contractor must be available to work within 10 days after execution of the Contract.

Once epoxy application on a specific route has commenced, work must continue to progress on that route until completion unless otherwise directed by the RE.

The Contractor shall measure the initial retroreflectivity of the long-life epoxy resin and thermoplastic markings for the purpose of determining final payment. All retroreflectivity values shall be certified by a professional engineer, licensed in the State of New Jersey, with the original certified documents sent directly to the RE.

Due to roadway maintenance or construction, including shoulder surface treatment, which may be performed on certain roadways within the limits of the proposed work, portions of the proposed application, may be deleted from this contract. Deletions in the removal or application of the pavement markings, which may occur within the specified limits, shall be determined by the RE or his duly authorized representative.

The Department reserves the right to perform any traffic marking work within the limits of this contract whenever it is determined that it is in the interest of public safety as specified in these Special Provisions.

The Department has designated the quantity of all Items in the Proposal of this Contract as “if and where directed” quantity as specified in Subsection 102.06 of the Standard Specifications.

The following are proposed locations and limits for this contract:

ROUTE	REGION	M.P.	TO	M.P.
NJ 10	NORTH	10.00	TO	23.51
NJ 12	NORTH	0.95	TO	11.69
NJ 19	NORTH	0.00	TO	2.92
NJ 20	NORTH	0.00	TO	4.00
NJ 27	NORTH	20.84	TO	38.53
NJ 27Z	NORTH	33.59	TO	34.06
NJ 28	NORTH	17.26	TO	26.44
NJ 53	NORTH	0.00	TO	4.66
NJ 59	NORTH	0.00	TO	0.15
NJ 62	NORTH	0.00	TO	0.47
NJ 63	NORTH	0.00	TO	3.09
NJ 67	NORTH	0.00	TO	1.86
I-80	NORTH	0.50	TO	68.54
NJ 82	NORTH	0.00	TO	4.92
NJ 120	NORTH	0.00	TO	2.65

NJ 139	NORTH	0.00	TO	1.45
NJ 139U	NORTH	0.00	TO	0.83
NJ 163	NORTH	0.00	TO	0.30
NJ 165	NORTH	0.00	TO	0.26
NJ 173	NORTH	0.00	TO	11.70
NJ 173	NORTH	12.81	TO	14.62
NJ 173Z	NORTH	0.00	TO	1.67
NJ 179	NORTH	0.00	TO	7.46
NJ 181Z	NORTH	0.00	TO	0.12
NJ 182	NORTH	0.00	TO	0.96
NJ 184	NORTH	0.00	TO	1.37
NJ 187	NORTH	0.00	TO	0.40
I-287	NORTH	0.00	TO	67.54

104.03.03 Types of Changes

3. Changes in the Character of Work.

a. Differing Site Condition.

THE SECOND PARAGRAPH IS CHANGED TO:

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

104.03.04 Contractual Notice

THE SECOND PARAGRAPH IS CHANGED TO:

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

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

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

104.03.09 Delay Damages

1. Non-Productive Activity.

e. Equipment.

THE FIRST SENTENCE IS CHANGED TO:

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

SECTION 105 – CONTROL OF WORK

105.07.01 Working in the Vicinity of Utilities

A. Initial Notice.

B. Locating Existing Facilities.

2.

Bureau of Traffic Operations, North Region (TOCN)
670 River Drive
Elmwood Park, NJ 07407-1347
Telephone: 201-797-3575

Bureau of Traffic Operations, South Region (TOCS)
1 Executive Campus-Route 70 West
Cherry Hill, NJ 08002-4106
Telephone: 856-486-6650

3.

Bureau of Electrical Maintenance, North Region
200 Stierli Court
Mt. Arlington, NJ 07856-1322
Telephone: 973-770-5065

Bureau of Electrical Maintenance, Central Region
100 Daniels Way
Freehold, NJ 07728-2668
Telephone: 732-625-4350

FOR WEIGH IN MOTION AND TRAFFIC VOLUME SYSTEMS CONTACT:

Bureau of Transportation Data Development
PO Box 600
Trenton, NJ 08625
609-530-3522

FOR ROAD WEATHER INFORMATION SYSTEMS CONTACT:

Bureau of Maintenance Engineering & Support - Electrical Section
PO Box 600
Trenton, NJ 08625
609-530-5728

Bureau of Maintenance Engineering & Support - Electrical Section
PO Box 600
Trenton, NJ 08625
609-530-5728

C. Protection of Utilities.

THE SECOND PARAGRAPH IS CHANGED TO:

Protect and support existing Department electrical and ITS facilities and ensure that there is no interruption of service. Use hand tools only while working within two feet of the fiber optic network. At least 30 days before beginning the work, submit a plan to the RE for approval showing the method of support and protection.

THE FOURTH PARAGRAPH IS CHANGED TO:

Access within railroad right-of-way is restricted. Before beginning work within the railroad ROW or on railroad facilities, obtain the railroad's written approval for access, the method of construction, and the schedule of the work. Provide a copy of the submittal and approval to the RE. Comply with the railroad's requirements for working within the railroad right-of-way.

THE FOLLOWING IS ADDED TO THE SIXTH PARAGRAPH

Ensure that the work is performed following the railroad's access and safety restrictions.

SECTION 106 – CONTROL OF MATERIAL

106.03 FOREIGN MATERIALS

THE FOLLOWING IS ADDED AFTER THE FIRST PARAGRAPH:

For steel and iron products incorporated into the Project, provide a certification from the manufacturer stating the country where the steel or iron product was melted and manufactured including application of coatings which protect or enhance the value of the material. Ensure that 4 copies of the manufacturer's certification are provided with each delivery of steel and iron products. Retain 1 copy and submit 3 copies to the RE. Ensure that the certification includes, materials description, quantity of material represented by the certification, country of manufacture, and notarized signature of a person having legal authority to bind the supplier. If a Certification of Compliance as specified in 106.07 contains a statement regarding the country of manufacture, a separate certification is not necessary.

106.09 SUBSTITUTES FOR PROPRIETARY ITEMS

No substitution is permitted.

SECTION 107 – LEGAL RELATIONS

107.04 NEW JERSEY CONTRACTUAL LIABILITY ACT

THE FOURTH PARAGRAPH IS CHANGED TO:

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

107.09 INDEPENDENT CONTRACTOR

THE ENTIRE SUBSECTION IS CHANGED TO:

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

107.11 RISKS ASSUMED BY THE CONTRACTOR

1. Damage Caused by the Contractor.

THE FOLLOWING IS ADDED:

For any damages by the Contractor to the fiber optic network along below specified Route/s, also notify the Adesta Network Operations Center at 877-637-2344 within two hours. Only Adesta will be allowed to complete repairs on that respective section of the fiber optic network. Directly pay Adesta within 30 days

from the receipt of Adesta's invoice for such repairs, and provide the RE with a copy of the transmittal letter. If the Contractor does not make payment within 30 days, the Department may recover the costs incurred for repairs from the Contract.

I-80 MP 57.5 TO 68.3

107.12.01 Satisfying the Notice Requirements

THE FOLLOWING IS ADDED TO THE SECOND PARAGRAPH:

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

107.12.02 Steps

3. Step III, Claims Committee.

THE SECOND PARAGRAPH IS CHANGED TO:

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

THE FOLLOWING SUBSECTION IS ADDED

107.17 COMMUNICATION WITH THE NEWS MEDIA

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

SECTION 108 – PROSECUTION AND COMPLETION

108.01 SUBCONTRACTING

1. Values and Quantities.

THE FOLLOWING IS ADDED TO FIRST PARAGRAPH

1. There are no Specialty Items in this Project.

THE THIRD PARAGRAPH IS CHANGED TO:

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

THE FOURTH PARAGRAPH IS CHANGED TO:

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

108.02 COMMENCEMENT OF WORK

THE SUBPART 4 IN THE FIRST PARAGRAPH IS CHANGED TO:

4. Progress schedule as specified in 153.03

108.06 NIGHT OPERATIONS

2. Visibility Requirements for Workers and Equipment.

THE FIRST PARAGRAPH IS CHANGED TO:

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

108.08 LANE OCCUPANCY CHARGES

THE SECOND PARAGRAPH IS CHANGED TO:

The RE will keep record of each occurrence as well as the cumulative amount of time that a lane is kept closed beyond the lane closure schedule and provide the record to the Contractor. The Department will calculate the lane occupancy charge by multiplying the length of time of the delayed opening, in minutes, by the rate of \$10 per minute per lane, unless otherwise specified in the Special Provisions. The total amount per day for the lane occupancy charge that the Department will collect will not exceed \$10,000.00.

THE FOLLOWING IS ADDED:

The rate to calculate the Lane Occupancy Charge is as follows:

Description	Rate
Overrun of Allowable Time Limits for 2 Lane Closures	\$40.00 / Minute
Overrun of Allowable Time Limits for 1 Lane and Ramp Closures	\$10.00 / Minute

108.09 MAINTENANCE WITHIN THE PROJECT LIMITS

THE FOLLOWING IS ADDED TO THE FIRST PARAGRAPH:

6. Access to ITS devices and their respective controllers and meter cabinets is maintained throughout the duration of the project.

108.10 CONTRACT TIME

- A. Complete all work required for Interim Completion on or before **November 30, 2013.**
- B. Achieve Completion on or before **December 31, 2013.**

108.11.01 Extensions to Contract Time

B. Types of Delays.

1. Non-Excusable Delays.

THE FOLLOWING IS ADDED:

For work performed by Utilities, delays up to 30 percent of the estimated duration specified in 105.07.02 are considered non-excusable. The duration includes both the advance notice and the completion of the work by the Utility.

For delays caused by Railroads, delays up to 30 percent of the estimated availability specified in 105.07 are considered non-excusable.

2. Excusable, Non-Compensable Delays.

b. Utilities.

THE FOLLOWING IS ADDED:

For delays caused by Railroads, when the availability to access is reduced by more than 30 percent greater than the estimated availability specified in 105.07.

THE LAST PARAGRAPH IS CHANGED TO:

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

108.14 DEFAULT AND TERMINATION OF CONTRACTOR'S RIGHT TO PROCEED

LIST (1) OF THE FIRST PARAGRAPH IS CHANGED TO:

1. Fails to begin construction operations within 10 days of execution of the Contract.
THE FOLLOWING IS ADDED AFTER THE 2ND PARAGRAPH:

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

108.19 COMPLETION AND ACCEPTANCE

THE FOLLOWING IS ADDED:

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

108.20 LIQUIDATED DAMAGES

Liquidated damages are as follows:

- A. For each day that the Contractor fails to complete the work as specified in Subpart A of Subsection 108.10 of these Special Provisions, for Interim Completion, the Department will assess liquidated damages in the amount of \$1,400.00.
- B. For each day that the Contractor fails to complete the work as specified in Subpart B of Subsection 108.10 of these Special Provisions, for Substantial Completion, the Department will assess liquidated damages in the amount of \$700.00.

THE FOLLOWING IS ADDED:

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

SECTION 109 – MEASUREMENT AND PAYMENT

109.01 MEASUREMENT OF QUANTITIES

THE SECOND PARAGRAPH IS CHANGED TO:

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

109.02 SCOPE OF PAYMENT

THE THIRD SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

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

109.05 ESTIMATES

THE SECOND PARAGRAPH IS CHANGED TO:

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

- 1. Each subcontractor or supplier has been paid the amount due from the previous progress payment and shall be paid the amount due from the current progress payment and that full payment for any retainage withheld from a

subcontractor has been or will be made within 30 days after the subcontractor's work has been satisfactorily completed; or

2. There exists a valid basis under the terms of the subcontractor's or supplier's contract to withhold payment from the subcontractor or supplier, and therefore payment is withheld.

THE NINTH PARAGRAPH IS CHANGED TO:

In the first Estimate following installation of all landscape work, the Department will reduce the retainage withheld to one percent of the total adjusted Contract price, excluding subcontracted work on Federally funded projects, unless it has been determined by the Department that the withholding of additional retainage is required. If retainage is held in cash withholdings, the reduction is to be accomplished by payment under the next Estimate. If retainage is held in bonds, the Department will authorize a reduction in the escrow account.

THE TENTH PARAGRAPH IS CHANGED TO:

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

109.07 BONDS POSTED IN LIEU OF RETAINAGES

THE FIRST PARAGRAPH IS CHANGED TO:

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

109.09 AUDITS

THE FOLLOWING IS ADDED:

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

150 – CONTRACT REQUIREMENTS

SECTION 151 – PERFORMANCE BOND AND PAYMENT BOND

151.03.01 Performance Bond and Payment Bond

THE LAST SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

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

151.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM'S PAY UNIT IS REVISED TO:

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

SECTION 152 – INSURANCE

152.03.01 Owner's and Contractor's Protective Liability Insurance

A. Policy Requirements.

THE FOURTH SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

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

B. Types

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

THE ENTIRE TEXT IS CHANGED TO:

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

Ensure the policy is endorsed to include per project aggregate.

152.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEMS' PAY UNITS ARE REVISED TO:

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

THE LAST PARAGRAPH IS CHANGED TO:

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

SECTION 153 – PROGRESS SCHEDULE

153.03.03 Bar Chart Progress Schedule and Updates

A. Schedule.

THE THIRD SENTENCE OF THE THIRD PARAGRAPH IS CHANGED TO:

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

THE FOLLOWING IS ADDED:

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

SECTION 155 – CONSTRUCTION FIELD OFFICE

155.03.01 Field Office

4. Communication Equipment.

- a. **Telephones.** Provide _3_ cordless phones with auto-switching.
- c. **Cell Phones.** Provide __6_ cellular phones. Ensure the cellular phone plan provides for unlimited mobile to mobile in-network usage, unlimited push-to-talk/ walkie-talkie usage and an anticipated monthly usage of 900 any-time minutes for each phone. Ensure the phones are on the same plan. Ensure the cellular phone plan has a home rate with no roaming charges within the state. Ensure each cellular phone has the following features:
 - 1. Push to Talk / Walkie-Talkie capable
 - 2. Camera with 1 megapixel picture capability
 - 3. Battery life capable of 180 minutes of continuous use and 72 hours of standby use
 - 4. Equipped with a hands-free headset
 - 5. Base charger and car charger
- d. **Computer System.** Provide a computer system meeting the following requirements:

2 computer configurations each meeting the following:

- 1. Equipped with an Intel Pentium _IV_ processor with Hyper Threading technology having a clock speed of _3.5_ GHz or faster, _2_ GB RAM, _512_ MB Video RAM, _200_ Gigabyte hard drive designated as drive C, one DVD (+/-) Writer Drive, one CD-R Recordable Drive. Ensure the system is USB 2.0 compatible and has at least two front USB ports Include Keyboard, optical mouse and 2 piece desktop speakers.
- 2. Wireless Ethernet Hub Switch with appropriate number of ports and cables and a print server.
- 3. High-speed broad band connection and service with a minimum speed of _3_ Megabits per second (mbps) with dynamic IP address for the duration of the project.
- 4. 19 inch or larger Flat Screen LCD monitor with tilt/swivel capabilities.
- 5. _250_ Megabyte or larger Zip Drive internal or external with backup software for MS-Windows and DOS, and fifteen corresponding formatted data cartridges corresponding to the tape drive size.
- 6. _1_ Flatbed USB version 2.0 or greater Color Scanner with automatic document feed.
- 7. Uninterruptible power supply (UPS).
- 8. Surge protector for the entire computer configuration to be used in conjunction with the UPS.
- 9. _2_ Computer workstation, chair, printer stand, and/or table having both appropriate surface and chair height.
- 10. One can of compressed air and screen cleaning solution every other month of the duration of the contract.

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

Also provide:

10 USB _2_ GB Flash/Jump memory drives
150 CD-R _700_ MB (or larger) recordable CD's compatible with the CD drive and _100_ recordable DVD's.
1 CD/DVD Holder (each holds 50)

1 color laser printers and supplies as follows:

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

Software as follows:

1. Microsoft Windows, latest version with future upgrades for the duration of the entire project. Ensure 1 computer has a Microsoft Windows XP 32 Bit Operating System for ACES, Extra and Groupwise.
2. Microsoft Office Professional, latest version.
3. Norton's System Works for Windows, latest version, or compatible software package with future upgrades and latest virus patches.
4. Anti-Virus software, latest version with monthly updates for the duration of the contract.
5. Visio Professional Graphics Software for Windows, latest version
6. Primavera Project Management, latest version
7. Adobe Acrobat Professional, latest version, for Scanner

1 notebook computer such as Dell Latitude D630 including but not limited to the following:

- a. Intel® Core™ 2 Duo T7100 (1.80GHz) 2M L2 Cache, 800MHz Dual Core, 200Gb Hard Drive, Fixed Internal CD-RW/DVD Combination Drive, 15" Ultra XGA TFT Display With 1600x1200 Resolution, Modular Zip Drive, 32 Mb Ati Mobility –M4 3d Video, 4x AGP, High Speed Wireless with Broadband Access, Internal 56k Capable Mini-Pci Fax Modem With Internet Capabilities And Any Software Necessary.
- b. Software Package, Latest Version Installed
 1. Microsoft Windows, latest version with future upgrades for the duration of the project.
 2. Microsoft Office Professional, latest version.
 3. Anti-Virus software, latest version with monthly updates for the duration of the contract.
 4. VisionProfessional Graphics Software for Windows, latest version.
 5. PC Anywhere latest version with future upgrades.
 6. Norton's System Works for Windows, latest version, or compatible software package with future upgrades and latest virus patches.
 7. MS Project latest version with future upgrades.
 8. Laplink for windows with cable latest version with future upgrades.
 9. Winfax latest version with future upgrades.
 10. Absolute Software – Lo/Jack for Laptops with future upgrades.
 11. Adobe Systems Professional, latest version with future upgrades.
- c. Additional Accessories And Supplies
 1. 1 Car Adapter Cable.
 2. 1 Custom Leather Carrying Case.
 3. 1 59 Work Hr Lith. Ion Battery W/Express Charge Technology.
 4. 1 AC Mobile Adapter for each notebook.
 5. Belkin 4 port Hi-Speed USB 2.0 Pocket Hub and Travel Surge Protector Bundle.
 6. Notebook Expansion Dock w/ Stand.
 7. Creative Labs CB 2530 Digital Wireless Headphones w/ Bluetooth.
 8. Complete Care Accidental Damage Service to 1Yr Limited Warranty.

THE THIRD PARAGRAPH IS CHANGED TO:

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

6. Office Equipment.

2. _1_ digital camera(s). Ensure each digital camera has auto-focus, with rechargeable batteries and charger, _256_ MB memory card, USB Memory Card Reader compatible with camera and field office computer, 1.5 inch LCD monitor, _5_ mega pixel resolution, _10_ X optical zoom lens, built in flash, image stabilization, computer connections, and a carrying case

3. _0_ video camcorder(s).

7. Inspection Equipment.

1. _6_ Calculators with trigonometric capability
2. _1_ Date/ Received stamp and ink pad
3. _6_ Carpenter rulers
4. _6_ Steel tape, 100 feet
5. _6_ Illuminated measuring wheel
6. _6_ Surface thermometer
7. _6_ Hard hats - orange, reflectorized hard hats according to ANSI Z89.1.
8. _6_ Safety garments – orange, reflectorized, 360° high visibility safety garments according to ANSI/ISEA Class 3, Level 2 standards. To be replaced yearly for the duration of the contract.
9. _6_ Sets of rain gear with reflective sheeting
10. _6_ Sets of hearing protection with a NRR rating of 22 dB
11. _6_ Sets of eye protection according to ANSI Z87.1
12. _1_ Light meter - capable of measuring the level of luminance in foot-candles
13. _6_ Lantern flashlight, 6V with monthly battery replacements
14. Testing equipment and apparatus conforming to AASHTO T23, T119, T152

155.03.03 Telephone Service

THE CONTENT OF THIS SUBSECTION IS DELETED

155.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM IS DELETED:

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

THE THIRD PARAGRAPH IS DELETED.

SECTION 156 – MATERIALS FIELD LABORATORY AND CURING FACILITY

No materials field office and/or curing facility needed.

SECTION 157 – CONSTRUCTION LAYOUT AND MONUMENTS

157.03.01 Construction Layout

THE SEVENTH PARAGRAPH IS CHANGED TO:

Provide the Utilities with the layout needed to install relocated utility facilities and coordinate the Work. Ensure that relocated facilities do not conflict with proposed construction, including High Voltage Proximity Act conflicts.

157.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM'S PAY UNIT IS REVISED TO:

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

THE SECOND PARAGRAPH IS CHANGED TO:

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

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

Where:

CL = Adjusted payment for CONSTRUCTION LAYOUT.

CL_B = Bid price for CONSTRUCTION LAYOUT.

C_O = Original Contract Price.

C_F = Final Contract Price.

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

E_O = Total of CL_B

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

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

158.03.02 SESC Measures

19. Oil-Only Emergency Spill Kit.

THE SECOND SENTENCE OF THE FIRST PARAGRAPH IS CHANGED TO:

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

SECTION 159 – TRAFFIC CONTROL

159.03.02 Traffic Control Devices

6. Traffic Control Truck with Mounted Crash Cushions.

THE LAST SENTENCE IS CHANGED TO:

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

159.03.08 Traffic Direction

A. Flagger.

THE LAST SENTENCE IS CHANGED TO:

Ensure that the flagger is equipped with a STOP/SLOW paddle and follows MUTCD flagging procedures.

159.03.10 Lane Closure Hours

ROUTE	REGION	M.P.	TO	M.P.	Numb. of Lanes	Single lane closures	Double lane closures	Shoulder closures
10	NORTH	10.00	TO	23.51	2 (1)	8:00 PM to 6:00 AM (Next Day) On the one lane section, alternating traffic: 9:00 PM to 5:00 AM	N/A	9 AM - 3 PM

12	NORTH	0.95	TO	11.69	1 (2)	9:00 AM to 3:00 PM & 7:00 PM to 6:00 AM (Next Day) On the one lane section, alternating traffic: 8:00 PM to 6:00 AM	N/A	9 AM - 3 PM
19	NORTH	0.00	TO	2.92	2	8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
20	NORTH	0.00	TO	4.00	2	9:00 AM to 3:00 PM & 7:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
27	NORTH	20.84	TO	38.53	1 (2)	9:00 AM to 3:00 PM & 7:00 PM to 6:00 AM (Next Day) On the one lane section, alternating traffic: 8:00 PM to 6:00 AM	N/A	9 AM - 3 PM
27Z	NORTH	33.59	TO	34.06	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
28	NORTH	17.26	TO	26.44	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
53	NORTH	0.00	TO	4.66	1 (2)	9:00 AM to 3:00 PM & 7:00 PM to 6:00 AM (Next Day) On the one lane section, alternating traffic: 8:00 PM to 6:00 AM	N/A	9 AM - 3 PM
59	NORTH	0.00	TO	0.15	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
62	NORTH	0.00	TO	0.47	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
63	NORTH	0.00	TO	3.09	1	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
67	NORTH	0.00	TO	1.86	2 (4)	9:00 AM to 3:00 PM & 7:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
80	NORTH	0.50	TO	68.54	2(3, 4)	10:00 PM to 5:00 AM (Next Day)	11:00 PM to 5:00 AM (Next Day)	9 AM - 3 PM
82	NORTH	0.00	TO	4.92	2	9:00 AM to 3:00 PM & 7:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
120	NORTH	0.00	TO	2.65	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
139	NORTH	0.00	TO	1.45	2	10:00 PM to 5:00 AM (Next Day)	N/A	9 AM - 3 PM
139U	NORTH	0.00	TO	0.83	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
163	NORTH	0.00	TO	0.30	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
165	NORTH	0.00	TO	0.26	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
173	NORTH	0.00	TO	11.70	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
	NORTH	12.81	TO	14.62	1	Altern. Traffic. 9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM

173Z	NORTH	0.00	TO	1.67	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
179	NORTH	0.00	TO	7.46	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
181Z	NORTH	0.00	TO	0.12	2	9:00 AM to 3:00 PM & 7:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
182	NORTH	0.00	TO	0.96	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
184	NORTH	0.00	TO	1.37	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
187	NORTH	0.00	TO	0.40	2	9:00 AM to 3:00 PM & 8:00 PM to 6:00 AM (Next Day)	N/A	9 AM - 3 PM
287	NORTH	0.00	TO	67.54	2 (3, 4)	9:00 PM to 6:00 AM (Next Day)	10:00 PM to 5:00 AM (Next Day)	9 AM - 3 PM

- No lane or ramp closures will be permitted on the following holidays:
 - Easter Sunday (including 6:00 AM Saturday until Noon Monday)
 - Memorial Day (See Note Below)
 - July 4th (See Note Below)
 - Labor Day (See Note Below)
 - Election Day (6:00 AM until 8:00 PM the day of)
 - Thanksgiving Day (See Note Below)
 - Christmas Day (See Note Below)
 - New Years Day (See Note Below)

NOTE:

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

- No temporary shoulder closures shall be permitted between 7:00 AM and 9:00 AM and 4:00 PM and 6:00 PM.
- Ramps may be closed between the hours of 10:00 PM and 6:00 AM the next day. A signed detour is required

for all ramp closures. Two consecutive ramps may not be closed at the same time.

- Lane closures must be coordinated with other projects that may be underway at the same time in the project area.
- Access to residences, businesses and emergency lanes must be maintained at all times.

159.04 MEASUREMENT AND PAYMENT

THE SECOND PARAGRAPH IS CHANGED TO:

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

DIVISION 200 – EARTHWORK

SECTION 201 – CLEARING SITE

201.01 DESCRIPTION

THE FOLLOWING IS ADDED:

This work shall consist of the mechanical sweeping, collection and proper disposal of accumulated dirt and debris along barrier curb, ramps, gore areas, and shoulder areas as directed by the RE.

201.03.09 Disposal of Removed Materials and Debris

THE FOLLOWING IS ADDED:

- A. **Disposal of Road Waste.** Dispose of road waste accumulated by machine sweeping operations according to Solid Waste Management Act (N.J.S.A. 13:1 E-1) and N.J.A.C 7:26 *et seq.* and according to the solid waste management plan developed by the solid waste management district of origin. Submit proper documentation from the disposal facility to the RE within 1 day of acceptance at the disposal facility.

Road waste being disposed of as solid waste in accordance with N.J.A.C. 7:26 must be transported only by licensed solid waste transporters in registered solid waste vehicles. Transport of road wastes destined for recycling centers, or uses authorized by the NJDEP, is not subject to the solid waste transporter licensing requirements. The contractor shall be responsible for adherence to transportation weight restrictions. The contractor shall supply portable axle scale(s) sufficient to provide laden weight prior to transport of road waste to a disposal facility.

Road waste shall be disposed of as ID 10 (municipal waste) or recycled as appropriate

- B. **Recycling of Road Waste.** Road waste accumulated from machine sweeping operations may be recycled in accordance with NJDEP rules and regulations and the requirements of the recycling facility. The recycling facility shall be a facility approved by NJDEP for recycling road waste or ID 27. Submit proper documentation from the recycling facility to the RE.

201.04 MEASUREMENT AND PAYMENT

THE FOLLOWING IS ADDED:

Clearing site for the removal of debris along barrier curb, ramps, gore areas, and shoulder areas will be measured and payment will be made on a linear foot basis.

The Department will measure and make payment for Items as follows:

Item
CLEARING SITE

Pay Unit
LINEAR FOOT

DIVISION 600 – MISCELLANEOUS CONSTRUCTION

SECTION 610 – TRAFFIC STRIPES, TRAFFIC MARKINGS, AND RUMBLE STRIPS

610.03 CONSTRUCTION

THE FOLLOWING IS ADDED TO SUBPARTS 610.03.01 AND 610.03.02:

The contractor shall furnish initial retroreflectance values for all traffic stripes and markings constructed under this contract.

All retroreflectivity shall be measured in the direction of traffic using a Mobile retroreflectometer and a Handheld retroreflectometer “LTL-2000 Retrometer”.

Retroreflectance readings for long-life epoxy resin stripes shall not be taken within 14 days of application. All retroreflectance values shall be certified by a professional engineer, licensed in the State of New Jersey, with the original certified documents sent directly to the RE.

The color shall show no appreciable discoloration due to aging during the life of this contract. The pavement markings will be checked visually throughout the duration of this contract. If the markings appear to fade or darken beyond levels acceptable to the RE, the CIE Chromaticity Coordinate Limits will be checked using a BYK-Gardener Color-Guide Instrument. The contractor shall use a BYK-Gardener Color-Guide Instrument (color measurement device) to determine if the color of the traffic stripes and markings comply to the contract documents. All color readings shall be documented. Color readings shall be certified by a professional engineer, licensed in the State of New Jersey, with the original certified documents sent directly to the RE.

610.03.04 Removal of RPMs

THE ENTIRE TEXT IS CHANGED TO:

Remove RPMs as directed by the RE. Dispose of RPMs as specified in 201.03.09. If directed by the RE, fill the hole with HMA patch as specified in 159.03.07 except sawcutting is not required.

610.03.06 Ground Mounted Flexible Delineators

THE FIRST PARAGRAPH IS CHANGED TO:

Use white retroreflective sheeting for delineators located on the right side when facing in the direction of traffic. Use yellow retroreflective sheeting for delineators located on the left side when facing in the direction of traffic.

THE FOLLOWING SUBPART IS ADDED:

610.03.09 Long-Life Preformed Patterned Contrast Pavement Marking Tape

- A. Description.** This work shall consist of furnishing and installing long life preformed patterned contrast pavement marking tape.
- B. Materials.** The long life preformed patterned contrast pavement marking tape shall consist of white film with clear and/or yellow-tinted microcrystalline ceramic beads incorporated to provide immediate and continuing retroreflection and a black preformed patterned film border, bonded to the edges to form a continuous roll. These films shall be manufactured without the use of lead chromate pigments or other similar, lead-containing chemicals.

The total width of the long-life preformed patterned contrast pavement marking tape shall be 7 inches wide and 9 inches wide. The additional 3 inches width shall be a black non-reflective film with 1.5 inches on both sides of the 4 inches and 6 inches white film.

The long life preformed patterned contrast pavement marking tape shall be capable of being adhered to Portland Cement Concrete (PCC) by a pre-coated pressure sensitive adhesive. A primer shall be used to precondition the pavement surface. The long life preformed patterned contrast pavement marking tape shall conform to pavement contours by the action of traffic. Following proper priming, application, and tamping, the long-life preformed patterned contrast pavement marking tape shall be immediately ready for traffic. The bidder, when bidding, shall identify proper solvents and/or primers to be applied at the time of application, all equipment necessary for proper application, and recommendations for application that will assure effective product performance.

The long life preformed patterned contrast pavement marking tape shall consist of durable retroreflective white pliant polymer with durable matte black, non-reflective pliant polymer borders. This material shall be designed for typical longitudinal pavement marking (skip lines for lane delineation).

C. Determination of Acceptability.

1. **Composition.** The white retroreflective patterned pliant polymer pavement markings shall consist of a mixture of high-quality polymeric materials, pigments and glass beads distributed throughout its base cross-sectional area, with a reflective layer of microcrystalline ceramic beads bonded to a durable polyurethane topcoat surface.

The patterned surface shall have approximately 50% + or - 15% of the surface area raised and presenting a near vertical face (β angle of 0° to 60°) to traffic from any direction. The channels between the raised areas shall be substantially free of exposed beads or particles.

The black, patterned pliant polymer shall consist of a mixture of high quality polymeric materials, pigments and inorganic fillers distributed throughout its cross-sectional area, with a matte black non-reflective top layer. The patterned surface shall have a minimum of 20% of the surface area raised to provide a non-glare surface.

2. **Reflectivity.** The white portion of the markings shall have an initial expected retroreflectance values as measured in accordance with the testing procedures of ASTM D4061. The photometric quantity to be measured shall be coefficient of retroreflected luminance (R_L) and shall be expressed as 500 millicandelas per square foot per foot-candle [$(\text{mcd} \cdot \text{ft}^{-2}) \cdot \text{fc}^{-1}$]. The metric equivalent shall be expressed as millicandelas per square meter per lux [$(\text{mcd} \cdot \text{m}^{-2}) \cdot \text{lx}^{-1}$]. The test distance shall be 98.4 feet (30 m), as measured with a LTL-2000 Retroreflectometer.

The test instrument shall use an Entrance Angle of 88.76° and Observation Angle of 1.05° which represent a simulated driver viewing geometry at a 30 meter distance.

3. **Beads.** Index of Refraction - All microcrystalline ceramic beads bonded to the polyurethane-coated, patterned surface of the material shall have a minimum index of refraction of 1.75 when tested using the liquid oil immersion method. The glass beads mixed into the pliant polymer shall have a minimum index of refraction of 1.5 when tested by the liquid oil immersion method.

The size and quality of the beads shall be such that the performance requirements for the retroreflective pliant polymer shall be met.

4. **Acid Resistance.** The beads shall show resistance to corrosion of their surface after exposure to a 1% solution (by weight) of sulfuric acid.
5. **Color.** The preformed markings shall consist of white film with pigments selected and blended to conform to standard highway colors and a black preformed patterned film border.
6. **Skid Resistance.** The patterned surface of the retroreflective pliant polymer shall provide an initial average skid resistance value of 45 BPN when tested according to ASTM E303 except values shall be taken

in one direction and then at a 45° angle from that direction. These two values shall then be averaged to find the skid resistance of the patterned surface.

7. Patchability. The pavement marking material shall be capable of use for patching worn areas of the same type in accordance with manufacturer's instructions.

8. Thickness. The patterned material without adhesive shall have a minimum caliper of .065 inch at the thickest portion of the patterned cross-section and a minimum caliper of 0.02 inch at the thinnest portion of the cross-section.

D. Surface Preparation. The contractor shall remove, immediately prior to marking the pavement surface, all dirt, oil, grease, existing types of traffic markings, and other foreign material, including curing compound on new portland cement concrete, from the surface areas on which the various traffic stripes and traffic markings are to be placed. The surface shall be cleaned 1 inch beyond the perimeter of where the stripe or marking is to be placed. The contractor shall apply a primer-sealer conforming to NJDEP volatile organic content (VOC) requirements to the areas of portland cement concrete surfaces where traffic stripes or markings are to be placed.

E. Installation. The long life preformed patterned contrast pavement marking tape shall be applied to the pavement in contractor-installed grooves.

The groove shall be made in a single pass, dry and or wet cut using stacked diamond cutting heads mounted on a floating head with controls capable of providing uniform depth and alignment. The dry cutting equipment shall be self- vacuuming and leave the cut groove ready for tape installation. Dry cut grooving, without a vacuum, or wet cut grooving shall be allowed if markings run perpendicular to the roadway, such as, "Stop bars", legends, and symbols or on any pcc surfaces. The equipment and method used shall be approved by the tape manufacturer. The bottom of the groove shall have a fine corduroy finish. If a course tooth pattern is present, increase the number of blades and decrease the thickness of the spacers on the cutting head. The pavement marking tape shall be placed in the grooves the same day as the cut, unless wet cut. The grooves shall be clean and dry prior to tape application.

Cutting Head:	Gang stacked 1/4 - 1/2-inch wide diamond tipped cutting blades. The spacers between each blade must be such that there is less than a 10 mil raise in the finished groove between the blades.
Groove Width:	Tape width plus 1 inch +/- 1/4 inch
Groove Depth:	100% of tape thickness +/- 30%.
Groove Length:	Full length of tape + 3 inches grooving transition on either end.
Groove Position:	Minimum of 2 inches from the edge of the longitudinal seam.
Finished Surface:	The bottom of the groove should have a smooth/flat-finished surface. If a course tooth pattern is present increase the number of blades and decrease the thickness of the spacers used on the cutting head.
Groove Cleaning:	Dry cut grooves must be cleaned by using a broom and/or high-pressure air blower. If cooling the blades with water is necessary, flush the groove with water immediately after grooving to clean the surface. Allow to dry for 24 hours before tape application or after two hours visibly dry surface and a successful moisture test is completed.

The long life preformed patterned contrast pavement marking tape shall be applied according to the tape manufacturer's installation instructions. The use of primers or other adhesion promoting agents shall be used according to the recommendations of the tape and primer/agent manufacturers. Applied stripes and markings shall

be free from snaking, air bubbles, loose edges or any other condition that may cause early failure as determined by the RE.

Tape shall be applied at least 3 inches away from longitudinal joints. In areas where it is not possible to avoid a joint beneath the tape, such as transverse construction joints, short lengths of longitudinal joints or other pavement depressions and irregularities directly beneath the tape, the tape shall be cut or treated according to the tape or marking manufacturer's recommendations. In no case shall more than two continuous feet of striping tape be placed over a longitudinal joint.

- F. Defective Stripes or Markings.** The contractor shall replace the long-life preformed patterned contrast pavement marking tape determined to be in nonconformance with the specifications.

The contractor shall replace the long-life preformed patterned contrast pavement marking tape determined not to be in the locations specified.

The contractor shall replace the long-life preformed patterned contrast pavement marking tape determined not to be in the dimensions specified.

The contractor shall replace the long-life preformed patterned contrast pavement marking tape if the white portion of the marking does not have an average initial retroreflectivity value of 500 millicandelas per square meter per square foot per foot-candle $[(\text{mcd} \cdot \text{ft}^{-2}) \cdot \text{fc}^{-1}]$. The metric equivalent shall be expressed as millicandelas per square meter per lux $[(\text{mcd} \cdot \text{m}^{-2}) \cdot \text{lx}^{-1}]$. The test distance shall be 98.4 feet (30 m), as measured with a LTL-2000 Retroreflectorometer. Three random retroreflectance measurements will be made for each 3.048-meter broken line.

Replace the entire 10-foot broken line if the line has been determined to have a deficiency.

Remove the defective stripes or markings as specified in subpart 610.03.08 of the Standard Specifications.

THE FOLLOWING SUBPART IS ADDED:

610.03.10 Measurements in Test Segments

A. General.

1. Description. This work shall consist of the measuring of pavement marking retroreflectivity to determine nighttime brightness. These readings will establish the retroreflective qualities of the installed pavement markings so that Quality assurance/Quality acceptance may be established. Marking retroreflectivity shall be measured with mobile and portable handheld retroreflectometers and then compared to the initial values specified so that DOT minimum specifications for new pavement markings are established. The various associations and publications listed below form a part of this specification to the extent referenced. The publications are referenced in the text by the basic designation only.

All reading shall be done in accordance with American Society for Testing and Materials (i.e., ASTM) and International Committee on Illumination (i.e., CIE) standard specifications for reading of pavement markings. Readings will be completed on the roads as shown in the contract or as prescribed by the Resident/Project Engineer. All services will conform to the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U.S. Department of Transportation, Federal Highway Administration, and any DOT supplemental specifications.

2. Equipment.

a. Handheld retroreflectometers "LTL-2000 Retrometer" shall conform to Manufactures specifications and to ASTM and CIE specifications.

b. Mobile retroreflectometers shall conform to Manufactures specifications, and to ASTM (i.e., **ASTM E 1710**) and CIE specifications for determining for retroreflectivity values. Only reflectometers that conform to 30 meter geometry and utilize two person crews shall be used.

- 3. Initial/installed levels of retroreflectivity.** All data collected under this contract for both the mobile and Handheld readings taken under this contract shall be taken within the specified // 1/10 // mile intervals. For handheld instruments a minimum of 10 readings shall be taken and recorded for each line per 1/10 mile of readings. For the mobile equipment the total readings per // 1/10 // mile interval per line shall be a minimum of // 50 // per interval. Mobile instruments shall read the entire continuous length of the long line applications.

The pavement markings being read under this contract shall be taken at the specified intervals, and the intervals shall be broken down into the specified ranges. These ranges shall be used to compare the results of the installed markings and the departments specified ranges for newly installed markings. The minimum specific luminance for the markings under this contract call for // 85% // of all White markings intervals (i.e., interval 5) to be greater then // 374 // and // 85% // (i.e., interval 4) of all the Yellow markings to be greater then // 249 // mcd/m²/lux.

The total number of intervals shall be computed and then broken into // 6 // ranges. The following interval ranges shall apply to all markings read under this contract.

Following values are stated in Specific Luminance (mcd/m²/lux)

Total readings broken into // 1/10 // mile intervals and intervals broken into the following

1. // < 100 //
2. // >or= 100 and <200 //
3. // >or= 200 and <or= 249 //
4. // >249 and <or= 299 //
5. // >299 and <or= 374 //
6. // >374 //

- 4. Contractor expectations.** The contractor shall provide both the equipment and trained personal sufficient to perform the quality assurance, quality control, data acquisition inspections listed in this contract. The contractor shall provide two operators to operate the mobile equipment. Each mobile van shall have at least one experienced technician that is thoroughly familiar with equipment, materials, and marking layouts such that they shall safely control the mobile and handheld retroreflectometers and perform data collection inspections within the stated parameters.

All personal performing inspection duties under this contract shall have knowledge/training sufficient to properly complete all tasks of data collection processes. This includes, but not limited to, the following:

Sufficient knowledge of mobile equipment to assure:

- a. Contract parameters are understood, which include:
 - i. Location of readings
 - ii. Contract parameters (e.g., intervals, limits)
 - iii. Contract special provisions followed
- b. Equipment, properly set up and data collection procedures followed
- c. Drivers shall operate the vehicles in a safe and efficient manor such that all State and local traffic laws are adhered (e.g., no cell phones or text messages shall be allowed during data collection operations), and the Manual on Uniform Traffic Control devices is followed.
- d. Computer software is set to department specifications
- e. Readings taken only within specified parameters (e.g., markings must be in place a minimum of // 10 // days)
- f. Data bases maintained at proscribed levels

B. Reporting.

All pavement marking inspections shall be collected, referenced, and hard copies or electronic reports will include:

1. Elements of the report (Long Lines)

Standard data collection procedures:

All of the following shall be collected and reported for each highway under this contract:

- Route Number
- Route Direction
- Line type
- Color of the line
- Beginning and end mile post
- Specific/unique file number for each line read
-
- Date survey took place
- District, Region, Traffic Control Center, County, etc.
- Contract number
- Time of Survey
- Reference system

Route by mile marker (MM) / reference points (RP)

Electronic copies of the raw data shall also be made available to the NJDOT on a CD. Contractors shall retain copies of all data collected for a period of 2 years. The electronic files shall be in "Character-separated value (.csv) format, compatible with Microsoft Office Excel and shall follow the below stated criteria for labeling procedure.

The *NAME.csv* file name shall be reflected in the "A1" and "B3" cells of the same file.

The file name shall follow exactly the below stated format.

Example: Rt 555 SB YCL mp 0.0 to 99.9

The following line presents instructional notation of the file format.

Rt|_|route no.|_|direction|_|Stripe type|_|**mp**|_|beginning milepost|_|**to**|_|end milepost

Words in bold such as, ("**Rt**", "**mp**", "**to**") should be entered as seen, letter for letter into the file name.

The symbol |_| represents space generated by the spacebar key. (Do not enter the vertical lines)

Italicized words should be replaced with accurate information.

Route no.: Route number consists of 3 characters and shall be in numerical form only.

Direction: Direction shall be entered as one of the following (NB, SB, EB, WB), (maximum of 2 characters.)

Stripe type: Stripe type description shall be entered as one of the following: (maximum of 3 characters)

"YCL" - Yellow Center Line

"YEL" - Yellow Edge Line

"YSL" - Yellow Skip Line

"WCL" - White Center Line

"WEL" - White Edge Line

"WSL" - White Skip Line

beg. milepost: – Beginning milepost shall reflect the physical milepost of the location where the retroreflectivity inspection has begun for the particular route. The milepost shall be written out to exactly one hundredth of a mile.

end milepost: – End milepost shall reflect the physical milepost of the location where the retroreflectivity inspection has ended for the particular route.

2. Elements of the report (Messages/Symbols)

- Pavement marking messages:
 - The retroreflectivity of a message shall be determined from a minimum of // 2, 3, or 5 // readings taken on the each message. A minimum representative sample of // 75% // of all the messages on a specific route will be sampled. Mobile readings will be set so that only messages are included in the readings.
 - Types of messages shall be include, but are not limited to the following:
 - Turn arrows
 - Word Messages
 - RR & Pedestrian X-ings
 - Gore areas
 - Stop bars
 - Horizontally applied signs
 - Data collected and reported shall include:
 - Highway
 - Message type
 - Date
 - Time
 - Specific file number
 - Color
 - Location //GPS //
 - Individual, and average MCD readings

3. Final Engineering Reports

The Final Engineering Report shall be certified by a Registered Professional Engineering with current New Jersey License or Comity.

Final reports will have all the raw data summarized with respect to DOT performance levels for each line type, color, and material for both the long lines and pavement messages.

Electronic copies of the raw data and final reports shall also be made available to the NJDOT on a CD. Contractors shall retain copies of all data collected for a period of 2 years.

610.04 MEASUREMENT AND PAYMENT

THE FOLLOWING ITEM IS DELETED:

<i>Item</i>	<i>Pay Unit</i>
RPM, BI-DIRECTIONAL, WHITE LENS	UNIT

THE FOLLOWING IS ADDED:

Long life preformed patterned contrast pavement marking tape will be measured in linear foot complete-in-place.

Long life preformed patterned contrast pavement marking tape will be paid for at the contract unit price, which shall be full compensation for cleaning and preparing the pavement surface, for furnishing and placing all materials, and for all materials, labor, tools, equipment and incidentals necessary to complete the work.

The Department will measure and make payment for Items as follows:

<i>Item</i>	<i>Pay Unit</i>
TRAFFIC MARKINGS, LINES, THERMOPLASTIC	LINEAR FOOT
REMOVAL OF TRAFFIC MARKINGS, LINES	LINEAR FOOT
LONG LIFE PREFORMED PATTERNED CONTRAST PAVEMENT MARKING TAPE ____	LINEAR FOOT
REMOVAL OF LONG-LIFE PREFORMED PATTERNED CONTRAST PAVEMENT MARKING TPAE	LINEAR FOOT

MOBILE RETROREFLECTOMETER SERVICE

LUMP SUM

The Department will measure traffic markings of the various types and materials for diagonal or chevron gore lines, crosswalks, or stop lines by the linear foot for each 4-inch width of actual stripe.

DIVISION 900 – MATERIALS

912.03.01 Epoxy Traffic Stripes

B. Glass Beads.

THE FOLLOWING IS ADDED TO THE FIRST PARAGRAPH:

Ensure that glass beads do not contain more than 200 ppm of lead, 200 ppm of antimony, or 200 ppm of arsenic.

912.03.02 Thermoplastic Traffic Markings

THE FOLLOWING IS ADDED TO THE FIRST PARAGRAPH:

Ensure that glass beads do not contain more than 200 ppm of lead, 200 ppm of antimony, or 200 ppm of arsenic.

912.04.01 Latex Paint

THE FOLLOWING IS ADDED TO THE SECOND PARAGRAPH:

Ensure that glass beads do not contain more than 200 ppm of lead, 200 ppm of antimony, or 200 ppm of arsenic.

STATE ATTACHMENT NO. 1

STATE OF NEW JERSEY EQUAL EMPLOYMENT OPPORTUNITY SPECIAL PROVISIONS FOR CONSTRUCTION CONTRACTS FUNDED BY WHOLLY OR PARTIALLY STATE FUNDS

I. GENERAL

It is the policy of the New Jersey Department of Transportation (hereafter "NJDOT") that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the NJDOT 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 NJDOT'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 NJDOT'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 <http://NJ.gov/jobCentralNJ>;

Note: Posting shall not be required where the employer intends to fill the job opening with a present employee, a laid-off former employee, or a job candidate from a previous recruitment, where pre-existing legally binding collective bargaining agreements provide otherwise, or where an exception has been granted to the NJDOT by the Department of Labor and Workforce Development.

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 NJDOT with proof of solicitation 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 NJDOT 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.

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

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

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

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

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

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

1. The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. 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.
2. The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.
3. The Contractor or subcontractor, 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.
4. The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.
5. When hiring or scheduling workers in each construction trade, the Contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the The Division of Public Contracts Equal Employment Opportunity Compliance (hereafter "Division") 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 Division is satisfied that the Contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, 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 to 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 or is so notified by the Division 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 Division, 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 State and Federal 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 Division. 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 paragraph (i) above whenever vacancies occur. At the request of the Division, 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 Division.
 - (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, and on forms made available by the Division and submitted promptly to the Division upon request.
- c. The Contractor or subcontractor agrees that nothing contained in (b) above shall preclude the Contractor or subcontractor from complying with the 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 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 Division an initial project workforce report (Form AA 201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The Contractor and each subcontractor must submit monthly employment and wage data to the Department via a web based application using electronic Form CC-257R. Instructions for registering and receiving the authentication code to access the web based application can be found at:

<http://www.state.nj.us/transportation/business/Civilrights/pdf/CC257.pdf>

Instructions on how to complete Form CC-257R are provided in the web application. Submit Form CC-257R through the web based application within 10 days following the end of the reporting month.

All employment and wage data must be accurate and consistent with the certified payroll records. The Contractor is responsible for ensuring that their subcontractors comply with these reporting requirements. Failure by the Contractor to submit Monthly Employment Utilization Reports may impact the contractor's prequalification rating with the Department.

- d. The Contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division 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 Public

Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code (NJAC 17:27)**.

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

II. EQUAL EMPLOYMENT OPPORTUNITY POLICY

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

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

III. EQUAL EMPLOYMENT OPPORTUNITY OFFICER

The Contractor will designate and make known to the Department contracting officers an Equal Employment Opportunity Officer (hereafter "EEO Officer") who will have the responsibility for and must be capable of effectively administering and promoting an active Equal Employment Opportunity program and be assigned adequate authority and responsibility to do so.

IV. DISSEMINATION OF POLICY

- A. All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, will be made fully cognizant of, and will implement, the Contractor's Equal Employment Opportunity Policy and contractual responsibilities to provide Equal Employment Opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - 1. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every 6 months, at which time the Contractor's Equal Employment Opportunity Policy and its implementation will be reviewed and explained. The EEO Officer or other knowledgeable company official will conduct the meetings.
 - 2. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the Contractor's Equal Employment Opportunity obligations within 30 days following their reporting for duty with the Contractor.
 - 3. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the Contractor's Procedures for locating and hiring minority and women workers.
- B. In order to make the Contractor's Equal Employment Opportunity Policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies,

labor unions (where appropriate), college placement officers, etc., the Contractor will take the following actions:

1. Notices and posters setting forth in the Contractor's Equal Employment Opportunity policy, as set forth in Section 2 of these Equal Employment Opportunity Special Provisions will be placed in conspicuous places readily accessible to employees, applicants for employment and potential employees.
2. The Contractor's Equal Employment Opportunity Policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate channels.

V. RECRUITMENT

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

VI. ESTABLISHMENT OF GOALS FOR CONSTRUCTION CONTRACTORS

- A. The New Jersey Department of Transportation has established, pursuant to N.J.A.C. 17:27-7.2, the minority and women goals for each construction contractor and subcontractor based on availability statistics as reported by the New Jersey Department of Labor, Division of Planning and Research, in its report, "EEO Tabulation - Detailed Occupations by Race/Hispanic Groups" as follows:

MINORITY AND WOMEN EMPLOYMENT GOAL OBLIGATIONS FOR CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

COUNTY	MINORITY % PERCENTAGE	WOMEN % PERCENTAGE
Atlantic	18	6.9
Bergen	22	6.9
Burlington	15	6.9
Camden	19	6.9
Cape May	5	6.9
Cumberland	27	6.9
Essex	53	6.9
Gloucester	9	6.9
Hudson	60	6.9
Hunterdon	3	6.9
Mercer	30	6.9
Middlesex	24	6.9
Monmouth	15	6.9
Morris	16	6.9
Ocean	7	6.9
Passaic	36	6.9
Salem	10	6.9
Somerset	20	6.9
Sussex	4	6.9
Union	45	6.9
Warren	5	6.9

The Division of Public Contracts Equal Employment Opportunity Compliance has interpreted Section 7.2 of the State of New Jersey Affirmative Action Regulations as applicable to work hour goals for minority and women participation.

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

- B. The State Division of Public Contracts Equal Employment Opportunity Compliance may designate a regional goal for minority membership for a union that has regional jurisdiction. No regional goals shall apply to this project unless specifically designated elsewhere herein.
- C. When hiring workers in the construction trade, the Contractor and/or subcontractor agree to attempt, in good faith, to employ minority and women workers in each construction trade, consistent with the applicable county or, in special cases, regional goals.
- D. It is understood that the goals are not quotas. If the Contractor or subcontractor has attempted, in good faith, to satisfy the applicable goals, he will have complied with his obligations under these EEO Special Provisions. It is further understood that if the Contractor shall fail to attain the goals applicable to this project, it will be the Contractor's obligation to establish to the satisfaction of the Department of Transportation that it has made a good faith effort to satisfy such goals. The

Contractor or subcontractor agrees that a good faith effort to achieve the goals set forth in these special provisions shall include compliance with the following procedures:

1. Requests shall be made by the Contractor or subcontractor to each union or collective bargaining unit with which the Contractor or subcontractor has a referral agreement or arrangement for the referral of minority and women workers to fill job openings. Requests shall also be made for assurances for the referral of minority and women workers to fill job openings. Requests shall also be made for assurances from such unions or collective bargaining units that they will cooperate with the Contractor or subcontractor in fulfilling the Affirmative Action obligations of the Contractor or subcontractor under this contract. Such requests shall be made prior to the commencement of construction under the contract.
2. The Contractor and its subcontractors shall comply with Section IX, Unions of these EEO Special Provisions and, in particular, with Section IX, Paragraph D, if the referral process established in any collective bargaining arrangement is failing to provide the Contractor or subcontractor with a sufficient number of minority and women referrals.
3. The Contractor and its subcontractors shall notify the Department's Compliance Officer, the Division of Public Contracts Equal Employment Opportunity Compliance of the Department of Treasury and at least one approved minority referral organization of the Contractor's or subcontractors work force needs and of the Contractor's or subcontractor's desire for assistance in attaining the goals set forth herein. The notifications should include a request for referral of minority and women workers.
4. The Contractor and its subcontractors shall notify the Department's Compliance Officer and the Division of Public Contracts Equal Employment Opportunity Compliance of the Department of Treasury in the event that a union or collective bargaining unit is not making sufficient minority and women referrals to enable the Contractor or subcontractor to attain the workforce goals for the Project.
5. The Contractor and its subcontractors shall make standing requests to all local construction unions, the state training and employment service and other approved referral sources for additional referrals of minority and women workers until such time as the project workforce is consistent with the work hour goals for the project.
6. The Contractor and its subcontractors shall make standing requests to all local construction unions, the state training and employment service and other approved referral sources for additional referrals of minority and women workers until such time as the project workforce is consistent with the work hour goals for the project.
7. In the event that it is necessary to lay off some of the workers in a given trade on the construction site, the Contractor and its subcontractors shall ensure that fair layoff practices are followed regarding minority, women and other workers.
8. The Contractor and its subcontractors shall comply with the other requirements of these EEO Special Provisions.

VII. PERSONNEL ACTIONS

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

- A. The Contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- B. The Contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

- C. The Contractor will periodically review selected personnel actions in-depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- D. The Contractor will promptly investigate all complaints of alleged discrimination made to the Contractor in connection with his/her obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Contractor will inform every complainant of all of his/her avenues of appeal.

VIII. TRAINING AND PROMOTION

The Contractor will assist in locating, qualifying, and increasing the skills of minority group and women workers, and applicants for employment.

Consistent with the Contractor's workforce requirements and as permissible under State regulations, the Contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs, for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

The Contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

The Contractor will periodically review the training and promotion potential of minority group and women workers and will encourage eligible employees to apply for such training and promotion.

IX. UNIONS

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

- A. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding, a notice advising the labor union or workers' representative of the Contractor's commitments under both the law against discrimination and this contract and shall post copies of the notice in conspicuous places readily accessible to employees and applicants for employment. Further, the notice will request assurance from the union or worker's representative that such union or worker's representative will cooperate with the Contractor in complying with the Contractor's Equal Employment Opportunity and Affirmative Action obligations.
- B. The Contractor will use their best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- C. The Contractor will use their best efforts to incorporate an Equal Employment Opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their age, race, color, creed, sex, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, or nationality.
- D. The Contractor is to obtain information as to the referral practices and policies of the labor union except to the extent that such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Contractor, the Contractor shall so certify to the NJDOT and shall set forth what efforts have been made to obtain such information.

- E. In the event the union is unable to provide the Contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Contractor will, through independent recruitment efforts, fill the employment vacancies without regard to age, race, color, creed, sex, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, or nationality making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The US Department of Labor has held that it shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees). In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these Special Provisions, such Contractor shall immediately notify the NJDOT.

X. SUBCONTRACTING

- A. The Contractor will use his best efforts to solicit bids from and to utilize minority group and women subcontractors or subcontractors with meaningful minority group and women representation among their employees. Contractors may use lists of minority owned and women owned construction firms as issued by the NJDOT and/or the New Jersey Unified Certification Program (NJUCP).
- B. The Contractor will use his best efforts to ensure subcontractor compliance with their Equal Employment Opportunity obligations.

XI. RECORDS AND REPORTS

- A. The Contractor will keep such records as are necessary to determine compliance with the Contractor's Equal Employment Opportunity obligations. The records kept by the Contractor will be designed to indicate:
 - 1. The work hours of minority and non-minority group members and women employed in each work classification on the project;
 - 2. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Contractors who rely in whole or in part on unions as a source of their workforce);
 - 3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and women workers; and
 - 4. The progress and efforts being made in securing the services of minority group and women subcontractors or subcontractors with meaningful minority and women representation among their employees.
- B. All such records must be retained for a period of 3 years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the NJDOT.
- C. The Contractor shall submit monthly reports to the NJDOT after construction begins for the duration of the project, indicating the work hours of minority, women, and non minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on a form supplied by the NJDOT.

XII SPECIAL CONTRACT PROVISIONS FOR INVESTIGATING, REPORTING AND RESOLVING EMPLOYMENT DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINTS

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

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

1. Within one (1) working day commence an investigation of the complaint, which will include but not be limited to interviewing the complainant, the respondent, and all possible witnesses to the alleged act or acts of discrimination or sexual harassment.
2. Prepare and keep for its use and file a detailed written investigation report which includes the following information:
 - a) Investigatory activities and findings.
 - b) Dates and parties involved and activities involved in resolving the complaint.
 - c) Resolution and corrective action taken if discrimination or sexual harassment is found to have taken place.
 - d) A signed copy of resolution of complaint by complainant and Contractor.
(In addition to keeping in its files the above-noted detailed written investigative report, the Contractor shall keep for possible future review by the NJDOT all other records, including, but not limited to, interview memos and statements.)
3. Upon the request of the NJDOT provides to the NJDOT within ten (10) calendar days a copy of its detailed written investigative report and all other records on the complaint investigation and resolution.
4. Take appropriate disciplinary actions against any Contractor employee, official or agent who has committed acts of discrimination or sexual harassment against any Contractor employee or person working on the project. If the person committing the discrimination is a subcontractor employee, then the Contractor is required to attempt to effectuate corrective and/or disciplinary action by the subcontractor in order to establish compliance with project's contract requirements.
5. Take appropriate disciplinary action against any Contractor employee, official or agent who retaliates, coerces or intimidates any complainant and/or person who provides information or assistance to any investigation of complaints of discrimination or sexual harassment. If the person retaliating, coercing or intimidating a complainant or other person assisting in an investigation is a subcontractor's employee, then the Contractor is required to attempt to effectuate corrective and/or disciplinary action taken by the subcontractor in order to establish compliance with the project's contract requirements.
6. Ensure to the maximum extent possible that the privacy interests of all persons who give confidential information in aid of the Contractor's employment discrimination investigation are protected.
7. In conjunction with the above requirements, the Contractor herein agrees to develop and post a written sexual harassment policy for its workforce.
8. The Contractor also agrees that its failure to comply with the above requirements may be cause for the New Jersey Department of Transportation to institute against the Contractor any and all enforcement proceedings and/or sanctions authorized by the contract or by state and/or federal law.

STATE ATTACHMENT NO. 2

PAYROLL REQUIREMENTS FOR 100% STATE PROJECTS

1. Each contractor and subcontractor shall furnish the RE with payroll reports for each week of contract work. Such reports shall be submitted within 10 days of the date of payment covered thereby and shall contain the following information:
 - A. Each employee's full name and the last four digits of social security number of each such employee.
 - B. Each employee's specific work classification (s).
 - C. Entries indicating each employee's basis hourly wage rate(s) and, where applicable, the overtime hourly wage rate(s). Any fringe benefits paid to the employee in cash must be indicated.
 - D. Each employee's daily and weekly hours worked in each classification, including actual overtime hours worked (not adjusted).
 - E. Each employee's gross wage.
 - F. The itemized deductions made.
 - G. The net wages paid.
2. Each contractor or subcontractor shall furnish a statement each week to the RE with respect to the wages paid each of its employees engaged in contract work covered by the New Jersey Prevailing Wage Act during the preceding weekly payroll period. The statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractors who supervises the payment of wages. Contractors and subcontractors must use the certification set forth on New Jersey Department of Transportation Form FA-7 "Statement of Compliance," or the same certification set forth on (1) U.S. Department of Labor Form WH-348, (2) the reverse side of U. S. Department of Labor Form WH-347, or (3) any form with identical wording.
3. Contractor and subcontractor shall maintain complete social security numbers and home address for employees. Government agencies are entitled to request or review all relevant payroll information, including social security numbers and addresses of employees. Contractors and subcontractors are required to provide such information upon request.

STATE ATTACHMENT NO. 3

AMERICANS WITH DISABILITIES ACT 100% STATE FUNDED CONTRACTS

Equal Opportunity For Individuals With Disabilities.

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

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

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

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

STATE ATTACHMENT NO. 4

SMALL BUSINESS ENTERPRISE UTILIZATION ATTACHMENT 100% STATE-FUNDED CONTRACTS

I. UTILIZATION OF SMALL BUSINESS ENTERPRISE (SBE) BUSINESSES AS CONTRACTORS, MATERIAL SUPPLIERS AND EQUIPMENT LESSORS.

The New Jersey Department of Transportation advises each contractor or subcontractor that failure to carry out the requirements set forth in this attachment shall constitute a breach of contract and, after notification to the applicable State agency, may result in termination of the agreement or contract by the Department or such remedy as the Department deems appropriate. Requirements set forth in this section shall also be included in all subcontract agreements in accordance with State of New Jersey requirements.

II. POLICY

It is the policy of the New Jersey Department of Transportation that Small Business Enterprises, as defined in N.J.A.C. 12A: 10A-1.2 et seq., and N.J.A.C. 17:14-1.2 et seq., shall have the maximum opportunity to participate in the performance of contracts financed wholly with 100% state funds.

III. CONTRACTOR'S SMALL BUSINESS OBLIGATION

The New Jersey Department of Transportation and its Contractor agree to ensure that Small Business Enterprises (SBE), as defined in N.J.A.C. 12A: 10A-1.2 et seq., and N.J.A.C. 17:14-1.2 et seq., have maximum opportunity to participate in the performance of contracts and subcontracts financed wholly with 100% state funds. In this regard, the New Jersey Department of Transportation and all Contractors shall take all necessary and reasonable steps to ensure that Small Business Enterprises are utilized on, compete for, and perform on NJDOT construction contracts. The New Jersey Department of Transportation and its Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of State-funded contracts.

IV. COMPLIANCE

To signify and affirm compliance with the provisions of this attachment, the bidder shall complete the Schedule of Small Business Participation "Form CR-266S" included in the Proposal and all forms and documents required in Sections VII and VIII of these provisions which will be made a part of the resulting contract.

V. SMALL BUSINESS GOALS FOR THIS PROJECT

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

- A. This project includes a goal of awarding 0 % percent of the total contract value to subcontractors qualifying as **SMALL BUSINESSES**.
- B. Only Small Business Enterprises registered prior to the date of bid, or prospective Small Business Enterprises that have submitted to the New Jersey Commerce and Economic Growth Commission on or before the day of bid, a completed "State of New Jersey Small Business Vendor Registration Form" and all the required support documentation, will be considered in determining whether the contractor has met the established goals for the project. Early submission of required documentation is encouraged.
- C. If a prospective Small Business Enterprise fails to meet the eligibility standards for participation the department's Small Business Program, the contractor shall, prior to the award, make reasonable outreach efforts to replace that ineligible subcontractor with a registered Small Business whose participation is sufficient to meet the goal for the contract.

- D. Prospective Small Businesses whose registration applications are denied or rejected by the New Jersey Commerce and Growth Commission are ineligible for participation on the project to meet Small Business goals, regardless of any pending appeal action in progress.
- E. A directory of registered Small Businesses Enterprise firms is available upon request to the New Jersey Commerce and Growth Commission or the New Jersey Department of Transportation, Division of Civil Rights/Affirmative Action. The directory is to be used as a source of information only and does not relieve the Contractor of their responsibility to seek out Small Businesses Enterprises not listed.

VI. COUNTING SMALL BUSINESS ENTERPRISE PARTICIPATION

- A. Each Small Business Enterprise (SBE) is subject to a registration procedure to ensure their SBE eligibility prior to the award of contract. In order to facilitate this process, it is advisable for the bidder to furnish the names of proposed SBEs to the Department before bid opening. Once a firm is determined to be a bona fide SBE by the New Jersey Commerce and Growth Commission, the total dollar value of the contract awarded to the SBE is counted toward the applicable goal.
- B. The Contractor may count toward its SBE goal only expenditures to SBEs that perform a commercially useful function in the work of a contract. A SBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibility by actually performing, managing and supervising the work involved. To determine whether a SBE is performing a commercially useful function, the Contractor shall evaluate the amount of work subcontracted, industry practice and other relevant factors.
- C. If an SBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the SBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.
- D. If a Contractor is part of a Joint Venture and one or more of the Sole Proprietorships, Partnerships, Limited Liability companies or Corporations comprising the Joint Venture is a registered SBE, the actual payments made to the Joint Venture for work performed by the SBE member, will be applied toward the goal. Payments made to the Joint Venture for work performed by a non-small business firm will not be applied toward the applicable goal.
- E. If the Contractor is a registered SBE, payments made to the Contractor for work performed by the Contractor will be applied toward the SBE goal. Payments made to the Contractor for work performed by non-SBE's will not be applied toward the goal.
- F. When a SBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted towards the SBE goals only if the SBE's subcontractor is also a SBE. Work that a SBE subcontracts to a non-SBE firm does not count toward the assigned goal.

VII. SUBMISSION OF CONTRACTOR'S AFFIRMATIVE ACTION PLANS

- A. Contractors are required to submit annually on their due date, their firm's Affirmative Action Program to the Division of Civil Rights/Affirmative Action. Contractors must have an **approved** Affirmative Action Program in the Division of Civil Rights/Affirmative Action no later than seven (7) State business days after receipt of bids. No recommendations to award will be made without an approved Affirmative Action Program on file in the Division of Civil Rights/Affirmative Action.
- B. The Annual Affirmative Action Program will include, but is not limited to the following:
 - 1. The name of the company's Liaison Officer who will administer the Small Business Enterprise Program.
 - 2. An explanation of the affirmative action methods used in seeking out and considering Small Business Enterprises as subcontractors, material suppliers or equipment lessors.

3. An explanation of affirmative action methods which will be used in seeking out future Small Business Enterprises as subcontractors, material suppliers or equipment lessors after the award of the contract and for the duration of said project.
- C. The following shall be submitted either with the bid or to the Division of Civil Rights/Affirmative Action no later than seven (7) state business days after the receipt of bids.
1. SBE FORM CR-266S Schedule of SBE Participation. The Contractor shall list all SBEs that will participate in the contract including scope of work, actual dollar amount and percent of total contract to be performed. This form should be submitted only if the goal level established for the contract has been met or exceeded;
Note: If a change occurs to the Contractor's original Form A submission which was previously approved by the Division of Civil Rights/Affirmative Action, a Revised Form CR-266S must be submitted naming the replacement Small Business Enterprise subcontractors. A written explanation should be included with the submission of the revised Form CR-266S.
 2. Request for Exemption - In the event the Contractor is unable to meet the specified goal level, that Contractor must submit a written request for a partial or full exemption from the SBE goal. This request shall include the names of all SBE firms that the contractor will utilize on the contract and shall describe the specific work to be performed by each SBE together with the actual dollar amount of that work. Additionally, this request must address the Contractor's efforts to make Reasonable Outreach Efforts as enumerated in Section VIII.
 3. Additional Information - The Department in its sole discretion may request additional information from the Contractor prior to award of the contract in order to evaluate the Contractor's compliance with the SBE requirements of the bid proposal. Such information must be provided within the time limits established by the department. The Contractor shall, prior to the award of the contract, submit a completed SBE "Form CR-266S", even if it has been granted an exemption from the SBE goal.

VIII. REASONABLE OUTREACH EFFORTS

If a Contractor fails to meet the goal for Small Business Enterprise participation, the Contractor shall document its reasonable outreach efforts to meet the SBE goal. Reasonable outreach shall include, but not be limited to the following:

- A. Attendance at a pre-bid meeting, if any, scheduled by the Department to inform SBE's of subcontracting opportunities under a given solicitation.
- B. Advertisement in general circulation media, trade association publications, and small business enterprise-focus media for at least 20 days before bids are due. If 20 days are not available, publication for a shorter reasonable time is acceptable.
- C. Written notification to SBE's that their interest in the contract is solicited;
- D. Efforts made to select portions of the work proposed to be performed by SBEs in order to increase the likelihood of achieving the stated goal;
- E. Efforts made to negotiate with SBE's for specific sub-bids including at a minimum
 1. The names, addresses and telephone numbers of SBE's that were contacted;
 2. A description of the information provided to SBE's regarding the plans and specifications for portions of the work to be performed; and
 3. A statement of why additional agreements with SBE's were not reached;
- F. Information regarding each SBE the bidder contacted and rejected as unqualified and the reasons for the bidder's conclusion;
- G. Efforts made to assist the SBE in obtaining bonding or insurance required by the Bidder or the Department.

IX. ADMINISTRATIVE RECONSIDERATION

- A. If the Division of Civil Rights/Affirmative Action determines that the apparent successful bidder has failed to make reasonable outreach efforts to meet the requirements of this section, the Department must, before awarding the contract, provide the bidder an opportunity for administrative reconsideration.
- B. As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. NJDOT will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the SBE goal or make an adequate good faith effort to do so.
- C. Within seven (7) State business days of being informed by the Division of Civil Rights/Affirmative Action that it is not a responsible bidder because it has not made or documented sufficient outreach efforts to SBEs, a bidder may make a request in writing to the Director, Division of Procurement, PO Box 605, Trenton, New Jersey, 08625-0605; Telephone (609) 530-6355. The Director, Division of Procurement, does not participate in the initial determination of whether reasonable outreach was performed by the Contractor.

X. RESPONSIBILITY AFTER AWARD OF THE CONTRACT

If at any time following the award of contract, the Contractor intends to sublet any portion(s) of the work under said contract, or intends to purchase material or lease equipment not contemplated during preparation of bids, said Contractor shall take affirmative action:

- A. To notify the RE, in writing, of the type and approximate value of the Contractor intends to accomplish by such subcontract, purchase order or lease.
- B. To signify and affirm compliance with the provisions of this Section, the Contractor shall submit the Post-Award SBE Certification Form to the Regional Supervising Engineer with his application to sublet or prior to purchasing material or leasing equipment. Post Award SBE forms may be obtained from the RE.
- C. To give small business enterprise firms equal consideration with non-small business firms in negotiation for any subcontracts, purchase orders or leases.

XI. CONSENT BY DEPARTMENT TO SUBLETTING

- A. The Department will not approve any subcontracts proposed by the Contractor unless and until said contractor has complied with the terms of this SBE Utilization Attachment.
- B. The Contractor shall provide the RE with a listing of firms, organizations or enterprises to be used as subcontractors on the proposed project. Such listing shall clearly delineate which firms are classified as SBEs.
- C. Notification of a subcontractor's termination shall be sent to the Department by the Contractor through the RE.

XII. CONCILIATION

In cases of alleged discrimination regarding these and all equal employment opportunity provisions and guidelines, investigations and conciliation will be undertaken by the Division of Civil Rights/Affirmative Action, New Jersey Department of Transportation.

XIII. DOCUMENTATION

- A. Records and Reports

The Contractor shall keep such records as are necessary to determine compliance with its Small Business Enterprise Utilization obligations. The records kept by the Contractor will be designed to indicate:

1. The names of the small business enterprise subcontractors, equipment lessors and material suppliers contacted for work on this project.
 2. The type of work to be done, materials to be utilized or services to be performed other than by the prime contractor on the project.
 3. The actual dollar amount of work awarded to SBE's.
 4. The progress and efforts being made in seeking out and utilizing Small Business Enterprise firms. This would include solicitations, quotes and bids regarding project work items, supplies, leases, etc.
 5. Documentation of all correspondence, contacts, telephone calls, etc, to obtain the services of Small Business Enterprise firms on this project.
- B. The contractor shall submit reports, as required by the Department, on those contracts and other business transactions executed with Small Business Enterprise firms in such form and manner as may be prescribed by the Department.
- C. All such records must be maintained for a period of three (3) years following acceptance of final payment and will be available for inspection by the Department.

XIV. PAYMENT TO SUBCONTRACTORS

The Contractor agrees to pay its subcontractors in accordance with the Specifications.

XV. SANCTIONS

Failure of a Contractor to comply with these provisions may result in bid rejection, reduced classification, suspension, debarment, or the institution of other appropriate action by the New Jersey Department of Transportation.